

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria
On Tuesday, 18 February 2020

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Ms M. Tittensor
Counsel for Victoria Police	Mr S. Holt QC Ms R. Enbom SC Mr A. Purton
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr P. Collinson QC
Counsel for DPP/SPP	Mr P. Doyle
Counsel for CDPP	Ms A. Haban-Ber
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for AFP	Ms I. Minnett
Counsel for Chief Commissioner of Police	Mr A. Coleman SC Mr P. Silver

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

09:36:20 1 COMMISSIONER: Yes, the appearances are largely as they
09:36:23 2 have been, save that we have Mr Collinson this morning for
09:36:26 3 Ms Gobbo.
4

09:36:29 5 There's an application for leave to appear in respect
09:36:31 6 of Mr Leane, Mr Cartwright and Mr O'Connell from PII
09:36:38 7 Counsel assisting does not oppose. So unless anyone wants
09:36:42 8 to say anything about that leave will be given. I
09:36:45 9 understand Mr Leane is here and ready to enter the witness
09:36:51 10 box. You'll take the oath, Mr Leane?---Yes.
11

09:36:54 12 Yes. If you could hold the Bible in your right hand, thank
09:37:00 13 you.
14

09:37:01 15 <STEPHEN FREDERICK LEANE, sworn and examined:
09:37:12 16
09:37:13 17 MR HOLT: I appear for Mr Leane, Commissioner.
18

09:37:16 19 COMMISSIONER: Thanks very much, Mr Holt.
09:37:20 20

09:37:20 21 MR HOLT: Your full name is Stephen Frederick
09:37:23 22 Leane?---That's correct.
23

09:37:25 24 You were, until very recently, an Assistant Commissioner of
09:37:27 25 Victoria Police?---Yes.
26

09:37:28 27 You hold the appointment as Road Safety Camera Commissioner
09:37:32 28 for the State of Victoria?---That's right.
29

09:37:34 30 Mr Leane, for the purposes of this Royal Commission did you
09:37:36 31 prepare and sign a statement, that you should have in front
09:37:38 32 of you there, dated 3 December 2019?---I did.
33

09:37:42 34 Is the statement true and correct to the best of your
09:37:44 35 knowledge and belief?---To the best of my knowledge and
09:37:46 36 belief it is.
37

09:37:47 38 Thank you. Commissioner, I tender that statement.
09:37:49 39

09:37:50 40 #EXHIBIT RC1276 - Statement of Stephen Leane dated
09:37:57 41 3/12/19.
09:37:57 42

09:37:58 43 That's the evidence-in-chief, may I please the
44 Commissioner.
45

09:37:59 46 COMMISSIONER: Thanks, Mr Holt. Yes, Mr Winneke.
09:37:59 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1 <u>CROSS-EXAMINED BY MR WINNEKE:
2

09:38:00 3 Thanks Commissioner. Mr Leane, you were chief of staff to
09:38:03 4 Mr Overland from November 2009 through to January 2011; is
09:38:07 5 that correct?---That's correct.
6

09:38:09 7 Then in the period from September 2013 to December 2014 you
09:38:20 8 were Assistant Commissioner with responsibilities for
09:38:23 9 Professional Standards Command; is that right?---That's
09:38:25 10 correct.
11

09:38:26 12 You, in that position, were introduced to Operation
09:38:32 13 Loricated in around September 2013; is that right?---That's
09:38:36 14 right.
15

09:38:37 16 In that capacity - and what was your position on that
09:38:44 17 steering committee?---For Loricated?
18

09:38:49 19 Yes?---As the Assistant Commissioner Professional Standards
09:38:51 20 there were some issues around whether or not there was
09:38:55 21 corruption or other behaviours by serving police officers.
22

09:39:01 23 It was in that position you would regularly attend steering
09:39:07 24 committee meetings; is that right?---There were a number
09:39:09 25 between - from September onwards until we closed down the
09:39:13 26 steering committee.
27

09:39:14 28 You learnt that Mr Comrie had conducted a review of human
09:39:18 29 source management?---That's correct.
30

09:39:19 31 The focus of his review was on governance issues which had
09:39:24 32 been raised by an examination of the management of Ms Gobbo
09:39:28 33 as a human source?---Yes, I believe that's right.
34

09:39:31 35 I take it you read the Comrie review early on in your role
09:39:38 36 on the steering committee?---Well no, I didn't actually get
09:39:42 37 a copy of the Comrie review, but certainly the
09:39:46 38 recommendations that that steering committee, Loricated,
09:39:49 39 was dealing with. So it became isolated as far as the
09:39:51 40 recommendations went.
41

09:39:53 42 Can I ask you this: your committee, Loricated, was dealing
09:39:59 43 with recommendations, or at least the first recommendation
09:40:04 44 primarily of Mr Comrie. Did you not, or were you not
09:40:09 45 provided with a copy of his review?---I was not provided
09:40:12 46 with a copy of his review at that time, no.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

09:40:15 1 Why not?--Well that was some of the questions that I was
09:40:19 2 asking along the way over the next several months.
3
09:40:22 4 Do you mean to say that when you started on the review you
09:40:25 5 were briefed with - what were you briefed with, what
09:40:28 6 materials were you provided with?--So I was new in the
09:40:32 7 position and this was a standing body that had already been
09:40:35 8 running.
9
09:40:36 10 Yes?--So I was brought into the first meeting without much
09:40:38 11 notice apart from the fact it was in my diary and it was
09:40:45 12 something I should attend.
13
09:40:47 14 And you took over from Emmett Dunne?--Yes.
15
16 Did you have a discussion with him prior to
09:40:52 17 commencing?--No, no, I didn't get a chance to have a
09:40:55 18 discussion with Emmett Dunne about, in this, in relation to
09:40:55 19 this issue about hand over, about Loricated. So it was
09:40:57 20 just sort of in the background.
21
09:40:59 22 Yes?--Found myself in the room and was briefed almost in
09:41:03 23 the room about the nature of what was occurring.
24
09:41:05 25 Did it occur to you in those, if not the first briefing, in
09:41:08 26 the next few briefings, that there were issues over and
09:41:12 27 above those issues which Loricated was dealing with, that
09:41:15 28 is with the first Term of Reference of Comrie?--Yes, it
09:41:18 29 became apparent to me over the next several meetings and
09:41:21 30 the next several months that this was broader than just
09:41:24 31 sitting on one steering committee looking at one
09:41:27 32 recommendation of a report that had been done some time
09:41:31 33 previous.
34
09:41:32 35 When did you get a copy of the Comrie review?--Look, I
09:41:35 36 can't recall, I really can't recall exactly the timing of
09:41:38 37 it, but I know it wasn't in the first, you know, three or
09:41:42 38 so months.
39
09:41:44 40 Do you believe that you got a copy of the Comrie review
09:41:47 41 prior to the commencement of Operation Bendigo?--I know
09:41:51 42 I've seen a copy of the Bendigo review but I can't recall
09:41:54 43 exactly and the positioning of when.
44
09:41:56 45 Of the Comrie review?--Of the Comrie review.
46
09:42:00 47 Were you ever provided with a letter which Mr Gleeson had

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

09:42:04 1 written to Mr Pope, I think on 22 June 2012, which was
09:42:11 2 called an out of scope letter or report, if you like, which
09:42:18 3 raised concerns about the conduct of police officers who
09:42:23 4 had been involved in the management of Ms Gobbo?---No, I
09:42:26 5 wasn't.
6
09:42:30 7 You were in charge of Professional Services Command,
09:42:37 8 Standards Command, I mean surely if there was a document
09:42:41 9 which suggested that particular police officers might have
09:42:45 10 engaged in inappropriate conduct, that's the sort of
09:42:48 11 document that should have been brought to your attention,
09:42:50 12 would you accept that?---If it was actually - I don't know
09:42:54 13 if it was actually at Professional Standards or whether it
09:42:56 14 was provided to Mr Dunne previous to me.
15
09:42:59 16 Yes?---So I'm not sure even today whether it's on record at
09:43:04 17 Professional Standards.
18
09:43:05 19 Right. I get the impression that you were trying to
09:43:12 20 uncover or you got a feeling that there were matters that
09:43:15 21 were more significant than simply putting together a
09:43:19 22 database. Did you get the impression that things weren't
09:43:27 23 being provided to you for any particular reason?---No, and
09:43:32 24 I don't think that's fair of the people that were involved
09:43:35 25 at the time.
26
09:43:38 27 Yes?---I joined the party late. So it was about assumed
09:43:41 28 knowledge in the room, I think, it was more about that.
29
09:43:43 30 All right?---Than it was about being excluded or not
09:43:46 31 provided with anything.
32
09:43:47 33 Okay. Who did you understand was responsible for briefing
09:43:51 34 you and providing relevant materials to you?---So as far as
09:43:55 35 - I do recall Steve Fontana, Assistant Commissioner Steve
09:44:01 36 Fontana, was part of Loricated. My recollection is he may
09:44:05 37 very well have been chairing it, I'm not sure, but he gave
09:44:08 38 me a verbal briefing at the opening of the first meeting I
09:44:10 39 attended and then we had a number of conversations around
09:44:14 40 it over the progress.
41
09:44:18 42 You say in your statement that in early 2014 it had become
09:44:28 43 apparent that the steering committee was dealing with much
09:44:30 44 broader issues than the Comrie recommendations, that is
09:44:36 45 recommendation 1?---Yes.
46
09:44:38 47 And including, firstly, Ms Gobbo's safety. It appeared to

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

09:44:45 1 you that she was talking to journalists and putting herself
09:44:48 2 at risk?---That's right.
3
09:44:49 4 Secondly, it became apparent to you that the steering
09:44:51 5 committee was considering whether the project or the
09:44:56 6 committee was the appropriate forum to deal with complex
09:44:59 7 legal issues around Gobbo's role?---Yes.
8
09:45:03 9 I take it the complex legal issues were the disclosures
09:45:10 10 that Ms Gobbo had made to Victoria Police in her capacity
09:45:13 11 as an informer and potentially as a legal representative of
09:45:17 12 the people who she was informing against; is that
09:45:20 13 right?---That was a significant part of it. There was also
09:45:23 14 the issues around the fact that journalists were running
09:45:28 15 stories that were putting her at risk. So some of those
09:45:31 16 discussions started to creep into the room.
17
09:45:35 18 Right?---So from a governance point of view Loricated had a
09:45:40 19 very narrow scope. It was headed by an Assistant
09:45:43 20 Commissioner. It didn't have the Terms of Reference to
09:45:44 21 deal with those issues.
22
09:45:45 23 No?---And from my perspective it wasn't appropriate to
09:45:49 24 shove those issues in.
25
09:45:50 26 Yes?---Essentially because from a - you know, Victoria
09:45:54 27 Police is made up of Command and Executive Command and
09:45:58 28 Executive Command is the Chief Commissioner and Deputies.
09:46:01 29 On that basis there was limited visibility of a Deputy
09:46:07 30 Commissioner and therefore Executive Command about those
09:46:09 31 issues being dealt with appropriately.
32
09:46:11 33 Did you try and determine whether issues such as legal
09:46:15 34 conflict issues, that is Ms Gobbo, Victoria Police's - I
09:46:18 35 withdraw that. I'm focusing on the legal conflict issues
09:46:25 36 that Gobbo had, that is informing against people. Did you
09:46:28 37 get the impression that those matters were simply not being
09:46:31 38 dealt with anywhere within Victoria Police at that
09:46:34 39 time?---I wasn't quite sure. I was told about historical
09:46:39 40 issues that had been dealt with.
41
09:46:40 42 Such as?---The fact that there'd been some oversight
09:46:44 43 governance of Executive Command; that Comrie had been
09:46:48 44 called in. I was advised at one stage that OPI, the
09:46:53 45 previous OPI had been notified and that they'd been told
09:46:55 46 about it.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

09:46:56 1 Yes?---But then I was unsettled, is probably the most
09:47:01 2 appropriate way, I suppose, to put it, I was unsettled
09:47:05 3 personally around not being able to reconcile what was
09:47:09 4 happening and what this might have actually looked like.
5
09:47:12 6 Yes. Did you understand or did you ever - were you ever
09:47:17 7 told that a barrister, Mr Maguire, had provided an advice
09:47:23 8 around November of 2011 which had in effect led to the
09:47:27 9 establishment of the Comrie review?---No. I hadn't got
09:47:30 10 those pieces. And I don't think it was till some time
09:47:34 11 later on that that became known.
12
09:47:37 13 Righto?---Or known to me.
14
09:47:40 15 When was it drawn to your knowledge that there was a
09:47:46 16 potential for criminal cases to have been affected by the
09:47:51 17 conduct of Ms Gobbo in conjunction with Victoria
09:47:58 18 Police?---From a personal point of view it took several
09:48:02 19 months to unpick this.
20
09:48:04 21 Yes?---So, you know, in my statement I talk about the fact
09:48:08 22 that I was the chief of staff to the then Chief
09:48:11 23 Commissioner Simon Overland.
24
09:48:12 25 Yes?---There was a settling of a writ.
26
09:48:14 27 You were generally aware of that at the time, although not
09:48:18 28 across the details?---No, and for me I was essentially, you
09:48:20 29 know, managing the paperwork in and out.
30
09:48:22 31 Yes?---There were eminent lawyers and other that dealt with
09:48:29 32 it. There was no need for me to read the writ, you know,
09:48:31 33 even the letters that came I just handed them over and they
09:48:32 34 were dealt with.
35
09:48:33 36 You didn't know she was an informer at that stage, is that
09:48:35 37 right?---My understanding is she was a witness. So I was -
09:48:37 38 you know, you live in Melbourne and you're interested in
09:48:40 39 police and legal matters, and lawyer matters, you're well
09:48:44 40 aware in the media about all the different people that were
09:48:47 41 involved in the underworld killings and who was who. So I
09:48:50 42 was aware, I had an awareness of who she was.
43
09:48:52 44 Yes?---And that was the reconciliation. From my
09:48:56 45 perspective she was a witness and somehow had been - and I
09:48:59 46 made assumptions, and I think, probably, I think it's fair,
09:49:03 47 and I think most people do, I made an assumption that she

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

09:49:06 1 made a statement about issues that had happened while she
09:49:09 2 was socialising.
3
09:49:12 4 Yes?---That she'd been - you know, it had been known that
09:49:13 5 lawyers were running with these criminal types, both in the
09:49:16 6 legal profession, but also at all hours afterwards. And I
09:49:20 7 assumed that was the case. So I really was blind to that.
8
09:49:24 9 But that became apparent to you as 2013 progressed, and
09:49:28 10 certainly into the early part of 2014, it was apparent to
09:49:31 11 you that not only was she providing that sort of
09:49:34 12 information but she was providing information in a much
09:49:37 13 broader way than simply Dale?---It was apparent to me
09:49:41 14 through Loricated that there was a mass of material. I
09:49:46 15 wasn't across the detail because it was really difficult at
09:49:49 16 that time to understand, to drill into the detail of what
09:49:51 17 it was about.
18
09:49:52 19 Yes?---I was suspicious, I think would be one way I would
09:49:58 20 put it. I was the head of Professional Standards, it's my
09:50:01 21 job to be suspicious. I was suspicious - - -
22
09:50:02 23 Exactly?---- - - around reconciling how a lawyer could
09:50:05 24 operate in that fashion without threatening issues around
09:50:08 25 privilege.
26
09:50:09 27 Yes?---And around conduct of cases.
28
09:50:11 29 Yes?---I wasn't certain. I was suspicious.
30
09:50:15 31 Who were you asking questions of?---So I started to ask
09:50:19 32 questions of the members of the steering committee.
33
09:50:21 34 Including?---Steve Fontana was part of the group.
35
09:50:24 36 Yes?---Finn McRae was part of the group.
37
09:50:26 38 Yes?---So I started to ask questions over a period of time
09:50:30 39 and unpick things.
40
09:50:32 41 Yes?---And I think it got to the point, as thing started
09:50:35 42 to escalated through media appearances and threats and
09:50:39 43 risk, it just got to the point where I just didn't think it
09:50:43 44 was appropriate and at one stage I think Finn and I went to
09:50:46 45 visit Tim Cartwright, who I know has already given
09:50:50 46 evidence, the former Acting Chief Commissioner and was then
09:50:53 47 Acting Deputy Commissioner I think. We went to have a

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

09:50:56 1 conversation with him and I raised with Finn concerns that
09:51:01 2 I had not just about the fact that this was possible, and
09:51:05 3 it may very well be real, but also around the governance
09:51:09 4 about how we were managing this from a Victoria Police
09:51:12 5 point of view.
6
09:51:12 7 Right. Loricated, as I understand it, and I don't need to
09:51:18 8 go to the Term of Reference, but generally speaking was the
09:51:21 9 - the idea was to pull together all of the information that
09:51:26 10 the SDU had acquired to place it in a database which was
09:51:33 11 searchable?---Yes.
12
09:51:34 13 And compendious and included all the information of all
09:51:41 14 sorts of media, all types of media; is that right?---That's
09:51:42 15 correct.
16
09:51:43 17 And grouping together the types of information; is that
09:51:46 18 right?---That's correct.
19
09:51:47 20 There was a dissemination plan, I think, which was dated 6
09:51:55 21 March 2014. If we can have a look at this,
09:52:02 22 VPL.0005.0003.0494. What did you understand a
09:52:08 23 dissemination or the dissemination plan to be?---I haven't
09:52:11 24 got the document.
25
09:52:17 26 This is called "A Dissemination plan theme information -
09:52:25 27 Operation Loricated".
28
09:52:27 29 MR HOLT: Sorry, Commissioner, in fairness to the witness
09:52:30 30 can I just indicate Mr Leane was only asked to make himself
09:52:33 31 available I think about lunchtime on Friday and we were
09:52:36 32 provided with a couple of very discrete topics so he could
09:52:41 33 properly be prepared with documents. This wasn't one of
09:52:46 34 them, so if he won't have seen this.
35
36 MR WINNEKE: I apologise.
37
38 MR HOLT: No, I'm not being critical, I'm just indicating
39 as to why he might need a moment with the document.
40
41 COMMISSIONER: Thanks, Mr Holt.
42
09:52:49 43 MR WINNEKE: What I'll do - I think one of the issues that
09:52:50 44 you were concerned about, Mr Leane, was how these issues
09:52:54 45 concerning professional conflict and other matters were
09:52:59 46 going to be dealt with?---Yes.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

09:53:03 1 And who was going to be the recipient of information about
09:53:06 2 these things and what was going to get done, what's the
09:53:10 3 next stage, is that right, is that what you were concerned
09:53:13 4 about?---That was part of my concern.
5

09:53:15 6 If we look at p.497 we'll see the issue of legal conflict
09:53:21 7 professional issues, and you'll see there that a number of
09:53:24 8 issues exist which relate to both legal conflict and legal
09:53:28 9 professional ethics. "Director of Legal Services Findlay
09:53:32 10 McCrae has provided a definition of legal conflict to the
09:53:36 11 project team as follows", and you'll see that, "Where a
09:53:39 12 lawyer has potentially passed on information in relation to
09:53:43 13 a client she was formally representing", in other words, is
09:53:47 14 it known that the information related I think to a paid
09:53:51 15 client of a lawyer. Was that something that you were
09:53:57 16 across, that particular issue was something that you were
09:53:59 17 aware of?---Look, I'm aware of it.
18

09:54:02 19 Yes. There's a note here with respect to dissemination.
09:54:15 20 Perhaps if we go further on. "Whilst ethical issues in
09:54:18 21 most cases are readily apparent legal conflict is more
09:54:23 22 difficult to determine. As such it's suggested that
09:54:26 23 grouped themed information pertaining to legal conflict and
09:54:32 24 legal profession be disseminated to Legal Services in its
09:54:37 25 entirety for consideration and review. It's suggested that
09:54:39 26 this information requires detailed analysis by a
09:54:43 27 qualified", I think it's "qualified", or "suitably" or
09:54:50 28 whatever it might say", legal professional as questions of
09:54:54 29 ethics and conflict are present throughout Victoria
09:54:56 30 Police's dealings with 3838". Then there's a dissemination
09:55:02 31 plan there, right? "It's recommended that a new
09:55:11 32 investigation name be created within this security group
09:55:16 33 and any IRs, documents, et cetera, be allocated to this
09:55:23 34 investigation shell. Each file generated should be
09:55:27 35 recorded as a task. A task report can be created utilising
09:55:34 36 the report's function and exported to a task" - it's
09:55:38 37 difficult to read underneath that. But was it your
09:55:41 38 expectation that this project would continue and the
09:55:43 39 information would be disseminated to Mr McCrae to deal
09:55:52 40 with?---I'm not sure of the date. What date did you say
09:55:55 41 this was?
42

09:55:56 43 This is 6 March 2014?---And who's the author of this and
09:56:00 44 where did it go?
45

09:56:01 46 If we go down to the bottom I think we'll see it's the
09:56:06 47 project manager. Mr Damian Jackson. Do you think you

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

09:56:12 1 would have been provided with that?---I think we might have
09:56:16 2 - I think the minutes may have it there.
3
09:56:18 4 Yes?---It certainly did exist in relation - there was a
09:56:22 5 body of work that was created in relation to legal
09:56:25 6 professional privilege and there's a note in my statement.
7
09:56:27 8 Yes?---In relation to a Mr Shaun Le Grand.
9
09:56:30 10 Yes?---From the VGS0 in relation to a discussion around, to
09:56:34 11 make sense of these issues.
12
09:56:37 13 Right?---And to determine, as an avenue of inquiry, using a
09:56:41 14 detective language, about what - to get to the bottom of
09:56:44 15 it. So it is consistent with that. How much of that plan
09:56:46 16 was actually implemented, being mindful of the timing of
09:56:50 17 this report and then the creation of Bendigo, I'm not sure
09:56:54 18 how much was carried through.
19
09:56:55 20 Right?---But certainly there was that discussion and I was
09:56:59 21 present at one discussion with Mr Le Grand around trying to
09:57:02 22 scope up what that might look like and could we get a view.
23
09:57:07 24 I tender that, Commissioner.
09:57:10 25
09:57:11 26 #EXHIBIT RC1277A - (Confidential) Dissemination plan dated
09:51:55 27 6/03/14, VPL.0005.0003.0494
09:57:13 28
09:57:13 29 #EXHIBIT RC1277B - (Redacted version.)
09:57:15 30
09:57:15 31 The next thing I want to ask you about is a meeting on 21
09:57:18 32 March 2014 and prior to that, or at that meeting were you
09:57:24 33 provided with what's known as an Operation Completion
09:57:29 34 Report, Operation Loricated Completion Report? Do you
09:57:32 35 recall ever seeing that document?---I recall the term.
36
09:57:35 37 All right?---If I was to see it I could be refreshed.
38
09:57:38 39 Let's have a look at it, VPL.2000.0002.0406. It's a fairly
09:57:46 40 lengthy document. If we go to the second page you'll see
09:57:49 41 that there's an index, table of contents, and there are a
09:57:55 42 number of different phases. If we have a look at the
09:58:00 43 introduction on p.3 of the document, it sets out
09:58:03 44 Mr Comrie's Terms of Reference which I've discussed
09:58:06 45 already. And then if we go to a paragraph underneath
09:58:15 46 Mr Comrie's report, or reference to a report, "The project
09:58:20 47 team acknowledges these findings, many of which will

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

09:58:24 1 require further review and consideration by Command, yet
09:58:29 2 are outside the scope of Operation Loricated Terms of
09:58:32 3 Reference and objectives". Did you understand that those
09:58:42 4 were the sorts of issues - perhaps I'll go back. In the
09:58:54 5 paragraph above that it talks about findings having wide
09:58:58 6 ranging implications for the management of human sources
09:59:01 7 and the findings - in the next paragraph, reference to the
09:59:05 8 fact that they're out of scope for this rather limited
09:59:08 9 review, the Loricated review?---Yes.
10
09:59:11 11 You're aware of that?---Yes.
12
09:59:15 13 If we go through to p.5, that document sets out the Terms
09:59:21 14 of Reference and the objectives of Loricated. If we
09:59:27 15 continue through we get to p.11 which talks about phase 3,
09:59:35 16 executive summary, do you see that?---Yes.
17
09:59:38 18 Under phase 3 it points out that, "There are a number of
09:59:44 19 legal and ethical issues being identified that require
09:59:47 20 further review by appropriately qualified persons. A risk
09:59:50 21 assessment and dissemination plan was prepared in relation
09:59:53 22 to the further review of this information with Intelligence
09:59:57 23 and Covert Support Command identified as the appropriate
09:59:59 24 information owner to progress this review". It appears,
10:00:04 25 therefore, that those matters, the legal and ethical issue
10:00:10 26 matters were going to be in effect provided to I&CS, is
10:00:19 27 that your understanding?---Intelligence and Covert - - -
28
10:00:21 29 Yes?---I think that was - the issue was to roll this up and
10:00:25 30 finalise the project team.
31
10:00:26 32 Yes?---And then there has to be an owner of it.
33
10:00:31 34 Right?---And Intel and Covert Support were the original
10:00:37 35 creators of it, and they were suggesting it should go back
10:00:39 36 there and be held there. And I think that makes sense.
37
10:00:41 38 Was there a discussion within the committee as to who
10:00:44 39 should deal with these issues? Was it going to be
10:00:48 40 external, that is lawyers, or was it going to be internal,
10:00:49 41 that is Mr McRae, or Intel and Covert Support? Who was
10:00:54 42 going to deal with it? Was that something that was being
10:00:56 43 discussed?---I think they were ongoing discussions. I
10:01:01 44 don't think it was as crystal clear as that and it wasn't a
10:01:06 45 step-by-step process for me.
46
10:01:08 47 Right?---It was more of a coming together of multiple

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:01:10 1 streams of information and advice and getting to a point
10:01:13 2 where it was not sustainable. So this is another piece in
10:01:16 3 that.
4
10:01:17 5 All right. Had you seen the Comrie review by that stage?
10:01:19 6 One assumes you would have, wouldn't you?---I can't recall
10:01:22 7 exactly.
8
10:01:24 9 Do you expect it's likely you would have seen it?---It's
10:01:27 10 likely. I mean over the period of time - I've seen so many
10:01:30 11 things over the period of time I can't recall exactly when
10:01:33 12 I saw it.
13
10:01:34 14 Righto?---I do have a recall that it was the first three or
10:01:38 15 so months of this steering committee. We were -
10:01:39 16 essentially my advice was we were wrapping this up and it
10:01:47 17 was going to be finished.
18
10:01:49 19 And then there was going to be a decision about what was
10:01:51 20 going to happen next, and that seems to be happening around
10:01:54 21 this meeting on 21 March?---Correct.
22
10:01:56 23 If we go further through to p.16 of the document, there's a
10:01:58 24 bit more development of phase 3, and you'll see the bottom
10:02:01 25 dot point there reflects, the legal and ethical issues
10:02:05 26 identified during the theme review, prevalent throughout
10:02:09 27 3838's file, are best referred to Legal Services for full
10:02:12 28 review by an appropriately qualified legal professional,
10:02:17 29 that seems to be the situation?---That's right.
30
10:02:22 31 Then if we go to p.19, this is a further examination of, in
10:02:31 32 effect, what's been found in phase 3. You'll see the
10:02:34 33 heading "Legal conflict", you see that?---Yes.
34
10:02:38 35 And some of those issues are set out there. Arrest of
10:02:42 36 Mr Karam, containers, representation of the same, do you
10:02:47 37 see that?---Yes.
38
10:02:48 39 And there's a person called PII [REDACTED] and her
10:02:54 40 relationship/representation of the same. Potential
10:02:57 41 conflict with respect to criminal identities who we call
10:03:01 42 PII [REDACTED] and PII [REDACTED], do you see that?---Yes.
43
10:03:04 44 Were they matters that had been discussed during the course
10:03:07 45 of the meetings?---I do recall this - I've got a
10:03:13 46 recollection of this document and it would have been part
10:03:15 47 of the discussion, I imagine, at the steering committee

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:03:18 1 around how to treat that.
2
10:03:23 3 Was it these sorts of issues that you felt were simply not
10:03:25 4 appropriately being examined?---I wasn't - at that point I
10:03:30 5 wasn't personally satisfied that they'd been dealt with
10:03:33 6 appropriately. Others were more confident.
7
10:03:36 8 Yes?---You know, they'd been through the journey and they
10:03:38 9 believed that through that governance process they had that
10:03:42 10 certain things had happened and this was decided and this
10:03:46 11 is what they'd do and that way they'd close it up.
12
10:03:50 13 Did you feel that you were getting resistance from within
10:03:52 14 the committee?---I think I was a different voice for a
10:03:57 15 while.
16
10:03:57 17 Yes?---I don't - I wouldn't describe it as resistance.
18
10:04:03 19 Who would you say was more confident that these issues had
10:04:06 20 been dealt with?---I think those who had been involved
10:04:10 21 longer.
22
10:04:10 23 Yes?---And particularly those who had - you know, from the
10:04:14 24 operational field who were doing this, doing this process.
25
10:04:21 26 If we have a look at - if we go to p.9 of the document it
10:04:31 27 sets out - there's obviously the staffing on the previous
10:04:34 28 page and then the work group oversight. Who would you say
10:04:39 29 amongst the work group oversight steering committee were
10:04:45 30 you - would you put into the category of people who felt
10:04:49 31 that the issues had already appropriately been dealt
10:04:52 32 with?---I don't know if it's fair at this time to actually
10:04:57 33 reflect on that.
34
10:04:58 35 Yes. Do you have a view about that? When you say it might
10:05:02 36 not be fair, putting aside fairness, do you have a view
10:05:06 37 about any of the people there who you felt were of the view
10:05:09 38 that things had appropriately been dealt with already?---I
10:05:12 39 think there was more assumptions in the room.
40
10:05:14 41 Yes?---And what I would say is that out of that group
10:05:19 42 probably Steve Fontana and Finn McRae I started to test my
10:05:24 43 thinking with.
44
10:05:26 45 Right. Do you think that those two were of the view that
10:05:32 46 there was no need to pursue it further?---I think Steve's
10:05:36 47 view, Steve Fontana's view was there had been a big process

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:05:40 1 and he had confidence in the process and believed it was
10:05:44 2 right.
3
10:05:44 4 Mr McRae?---Mr McRae was open to be challenged.
5
10:05:46 6 All right, okay. You challenged it, did you? You felt
10:05:52 7 that you were needing to push?---Well I think part of -
10:05:56 8 it's also, part of my role in these steering committees was
10:06:03 9 to actually, you know, we use the word black hat.
10:06:05 10 Sometimes part of my role was actually to sit there and ask
10:06:10 11 hard questions of people who hadn't thought about it and
10:06:14 12 make sure that we're right.
13
10:06:15 14 If we then move on to p.20 of the document. You'll see
10:06:21 15 that there's a heading again "Legal conflict professional
10:06:25 16 issues", so that forms a discrete topic again in phase 3 of
10:06:31 17 the document. You'll see a repetition of what had been
10:06:36 18 written elsewhere, do you see that?---Yes.
19
10:06:40 20 Then if we go over to dissemination - - - ?---Sorry, if I
10:06:44 21 can stop you there.
22
10:06:46 23 Yes, certainly?---So part of my understanding was that
10:06:49 24 first sentence of the last paragraph.
25
10:06:51 26 Yes?---Which is problematic, is that, "While ethical issues
10:06:55 27 in most cases are readily apparent, legal conflict is more
10:06:58 28 difficult to determine".
29
10:07:03 30 Yes?---I think that really is where people were at, and
10:07:09 31 many people that I spoke to over this journey were at that
10:07:12 32 point about ethical issues around how Ms Gobbo conducted
10:07:17 33 her practice.
34
10:07:18 35 Yes?---And how she engaged. The issue around the conflict
10:07:22 36 issues wasn't readily grasped and it wasn't readily grasped
10:07:26 37 even when we spoke to people and explained that this is
10:07:31 38 what we thought it was.
39
10:07:32 40 The conflict issues were those issues, for example, that
10:07:36 41 I've referred to where Gobbo is informing against Karam,
10:07:40 42 for example, and representing him, where she's informing
10:07:43 43 against PII [REDACTED] and representing him. Those were the
10:07:46 44 issues which concerned you I take it; is that right?---Yes.
45
10:07:51 46 And those issues had the potential to interfere with the
10:07:53 47 course of justice?---Yes.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
10:07:55 2 And you felt these things should be properly investigated;
10:07:58 3 is that right?---Well yes. I don't remember disagree with
10:08:03 4 that.
5
10:08:04 6 And you didn't think they had been looked at to this point
10:08:07 7 sufficiently, would that be fair to say?---They certainly
10:08:09 8 hadn't been, which is why there were other steps taken
10:08:13 9 after this to take more steps to actually pull the
10:08:16 10 information together and make it clear exactly what we were
10:08:20 11 looking at.
12
10:08:20 13 If you go over the page to "Dissemination", there's a note
10:08:26 14 about the dissemination of, one assumes information which
10:08:34 15 had been produced in this report, or the operation; is that
10:08:39 16 right?---Yes.
17
10:08:43 18 It says - it's a reference to themes and acknowledged that
10:08:55 19 further work surrounding these crime themes was
10:08:58 20 necessarily. "The work extends beyond the scope of the
10:09:04 21 project's existing Terms of Reference and objectives. It
10:09:06 22 was agreed that the project team had fulfilled their
10:09:09 23 requirement to group relevant issues into crime themes and
10:09:10 24 this raised the question surrounding responsibility for
10:09:14 25 follow up enquiries derived from the review". And there
10:09:18 26 were two proposals, one is that information is disseminated
10:09:22 27 to appointed liaison officers from relevant work groups for
10:09:23 28 consideration and review. It is suggested that this
10:09:26 29 process would also include legal advisors. And the other
10:09:30 30 proposal was information is disseminated to ICSC for
10:09:36 31 consideration and review. Can you explain what that's all
10:09:40 32 about?---So if I can put it in practical terms from a
10:09:46 33 management point of view. There's a team of people who had
10:09:49 34 been pulled off operational policing to go and do a task.
10:09:53 35 They had a narrow set of Terms of Reference on that task.
10:09:56 36 They believed they got to the end of that task.
37
10:09:58 38 Yes?---And they wanted to go back to their day jobs and
10:10:01 39 they were giving management options about "what you could
10:10:05 40 do with this product we've now provided". So they were
10:10:09 41 given two options.
42
10:10:13 43 One is to liaise with officers from relevant work groups,
10:10:18 44 including legal advisors. Would that be the appropriate
10:10:21 45 course if one wanted to get to the bottom of the ethical
10:10:25 46 and conflict issues?---No.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:10:28 1 No?---That's an - probably an imprecise way to go about it.
2
10:10:33 3 Right?---I mean I think there's discussion around this in
10:10:37 4 the steering committees as they morphed, around what does
10:10:41 5 it actually mean and what are we doing with this ?
10:10:44 6
10:10:45 7 Right?---Because, as I presume the Commission here has
10:10:47 8 found, that ICRs themselves in a group don't make a lot of
10:10:51 9 sense.
10
10:10:52 11 No?---But this working group Loricated only dealt with the
10:10:55 12 ICRs.
13
10:10:56 14 Right. I follow that?---So it only gave one side of the
10:10:59 15 picture.
16
10:11:02 17 All right. In any event, given risk, et cetera, certainly
10:11:09 18 according to this report the determination was that
10:11:13 19 proposal 2 was appropriate, that is that information is
10:11:16 20 disseminated to ICSC for consideration and review?---I
10:11:21 21 think that's the case. I know that Intel and Covert
10:11:23 22 Support maintained carriage and ownership of the database
10:11:27 23 for some time.
24
10:11:28 25 All right. At the meeting, and I think there are minutes
10:11:33 26 of the meeting of 21 March, there was clearly discussion
10:11:41 27 about this. Perhaps if we have a look at - I tender that
10:11:44 28 document, Commissioner.
10:11:46 29
10:11:50 30 #EXHIBIT RC1278A - (Confidential) VPL.2000.0002.0406.
10:11:52 31
10:11:53 32 #EXHIBIT RC1278B - (Redacted version.)
10:11:55 33
10:12:06 34 If we go to the minutes of the meeting on 21 March 2014,
10:12:13 35 VPL.0005.0018.0898. If we go down the page there's a
10:12:30 36 reference - can we scroll down, I'm sorry. Keep going.
10:12:35 37 There's a reference there to a dissemination plan.
10:12:39 38 "Dissemination plan provided to the steering committee for
10:12:41 39 approval. Document remains within the Loricated security
10:12:48 40 group in Interpose. Plan approved by steering committee".
10:12:53 41 Was that the 6 March plan, do you recall or not, I might be
10:12:57 42 taxing your memory?---No.
43
10:13:00 44 Further it says that, "Only issues not allocated in the
10:13:04 45 plan relate to courts, legal conflict, legal profession,
10:13:11 46 FM" - I assume that's Finn McRae, is it?---Yes.
10:13:14 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:13:14 1 "Will be provided with a hard drive of IRs data relating to
10:13:17 2 these themes and will have each item independently assessed
10:13:24 3 to determine if further action/investigation referral is
10:13:28 4 required". Is that the state of play as of 21 March
10:13:34 5 2014?---Yes, that's consistent with I think where that
10:13:37 6 group would have got to.
7
10:13:41 8 I tender that, Commissioner.
9
10:13:46 10 COMMISSIONER: Minutes of meeting, what was it?
11
10:13:50 12 MR WINNEKE: 21 March 2014.
13
10:13:51 14 COMMISSIONER: Not the date, what is the meeting of?
15
10:13:54 16 MR WINNEKE: Operation Loricated steering committee.
10:13:57 17
10:13:58 18 #EXHIBIT RC1279A - (Confidential) Operation Loricated
10:13:56 19 steering committee minutes of meeting
10:13:59 20 21/03/14.
10:13:59 21
10:13:59 22 #EXHIBIT RC1279B - (Redacted version.)
10:14:02 23
10:14:03 24 WITNESS: I note Finn McRae is not even in the room on this
10:14:07 25 one. He's not present.
26
10:14:08 27 MR WINNEKE: He's not present. One assumes - he's on the
10:14:12 28 steering committee. Would he have been provided with the
10:14:14 29 minutes?---He would have been. And I think after this date
10:14:17 30 we start to have more broad conversations.
31
10:14:19 32 Right?---So I think we've preserved these, wrapped them up
10:14:23 33 and they're contained, and then it was to provide them to
10:14:28 34 Finn.
35
10:14:28 36 Yes?---Reading it now I reflect, I think I influenced a bit
10:14:32 37 of that.
38
10:14:32 39 Yes?---And then from there we have a, Finn and I have a
10:14:37 40 range of discussions leading into the fateful discussion
10:14:41 41 with Deputy Commissioner Cartwright around this is just not
10:14:44 42 working and we need to do something else.
43
10:14:47 44 Right. Was that before the Herald Sun article or after the
10:14:52 45 Herald Sun article?---I'm not sure. I think this was
10:14:56 46 happening all along, I'm not sure. I think it was
10:14:59 47 progressive media over a sustained period of time. I think

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:15:03 1 it was happening all along and around from my recollection.
2
10:15:07 3 Just before I move on, are you able to say what the
10:15:14 4 intention was with respect to the other grouped areas of
10:15:19 5 intelligence, for example, homicide, corruption, drugs, et
10:15:27 6 cetera, what was the intention with respect to that
10:15:31 7 information?---I'm not sure of the sequencing of it or what
10:15:41 8 actually happened.
9
10:15:42 10 Was it the intention that that information be retained in
10:15:45 11 Victoria Police holdings for use into the future?---I think
10:15:50 12 that was the intention at that stage.
13
10:15:53 14 Do you believe that that was, that did occur?---I don't
10:15:57 15 know if it was followed through with.
16
10:16:04 17 Do you know whether there were any instructions or whether
10:16:10 18 it was intended that there be instructions to the effect
10:16:12 19 that the information could be used or could be accessible
10:16:18 20 to investigators?---That's why I say I don't think, I don't
10:16:23 21 know if it was followed through with and I'm not sure of -
10:16:28 22 the concept troubled me.
23
10:16:31 24 Right?---Then, it gave me a - you know when you have that
10:16:35 25 strange feeling that this is not quite right.
26
10:16:37 27 Because this is information which has come from a
10:16:40 28 lawyer?---Yes.
29
10:16:41 30 And potentially from clients?---So we're doubling up on the
10:16:44 31 problem we've already got.
32
10:16:45 33 "Having obtained the information we're putting it into a
10:16:48 34 database which can be readily accessed and used"?---Yes,
10:16:51 35 it's problematic.
36
10:16:52 37 Right. So was there any resistance to that idea, in your
10:16:58 38 understanding, on the steering committee?---I know we
10:17:02 39 talked through the risks around it. I'm not sure - I don't
10:17:08 40 know if it was actually followed through.
41
10:17:10 42 Yes?---I know that I had conversations about this doesn't
10:17:12 43 make sense.
44
10:17:13 45 Who did you have conversations with?---I certainly had
10:17:17 46 conversations with Finn McRae.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:17:19 1 Yes?---And they were side conversations, they weren't
10:17:23 2 minuted meetings.
3
10:17:26 4 COMMISSIONER: You said a couple of times, I'm going back
10:17:28 5 earlier, that you weren't given, you didn't have all the
10:17:34 6 information that you would have liked. You didn't - I
10:17:39 7 guess what troubles me a little is that you didn't ask for
10:17:42 8 that information. You say that you don't think there was
10:17:45 9 anything deliberate in you not having information provided
10:17:49 10 once you became head of Professional Standards Command, but
10:17:55 11 you obviously didn't feel able to just ask for it?---No, I
10:18:00 12 wouldn't put it that way, Commissioner. I think it was
10:18:03 13 more these things were all happening in the group in the
10:18:08 14 room, they were, all assumed that everybody knew everything
10:18:12 15 that was going on, so I was given a briefing. It wasn't an
10:18:17 16 extensive multi-hour briefing with a package of documents.
10:18:21 17 That's what I didn't get.
18
10:18:23 19 No?---In hindsight it would have been really helpful, but
10:18:28 20 there's lots and lots of, you've seen over the history of
10:18:33 21 all this, there's lots and lots of people come in and out
10:18:36 22 of the process. I'm not critical of the way that I was
10:18:38 23 treated and nor do I think anything was intentional.
24
10:18:41 25 No. It would seem to me obvious, I suppose, with hindsight
10:18:44 26 that you should have just said, "Well, hang on, I'll need
10:18:47 27 this material", and you ask for it and get it, that's what
10:18:51 28 you'd expect in a functional organisation?---Yes, but it's
10:18:55 29 also - I'd probably couch that in a few ways. One, that I
10:18:58 30 was new, I was a new Assistant Commissioner, and I had lots
10:19:02 31 of other things that were happening. This was one meeting
10:19:03 32 that I was sent to among 20 others. So I was just making
10:19:08 33 sense of things.
34
10:19:09 35 I understand?---Had I made sense of it much quicker - you
10:19:13 36 know, I arrived in September, took several months over that
10:19:18 37 time, and these meetings didn't happen often, they were 20
10:19:20 38 minute meetings once every two months. So I presume in
10:19:23 39 hindsight it would have been much better had I asked those
10:19:26 40 questions and if I could live my life again I probably
10:19:29 41 would.
42
10:19:30 43 Yes, okay?---To be more thorough. But you don't know what
10:19:33 44 you don't know until you see it.
45
10:19:35 46 No, all right. I understand. But similarly, later, in the
10:19:39 47 period now that Mr Winneke is asking you about, you had

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:19:45 1 this troubling feeling about keeping this information for
10:19:48 2 ready use in the future. You had some side conversations.
10:19:52 3 Again, it doesn't seem that you felt comfortable to
10:19:54 4 actually raise that squarely in the meeting?---Well I think
10:20:00 5 the context of that too is also Victoria Police staff, and
10:20:05 6 I can't name them, but there was a general feeling from
10:20:08 7 investigators and intelligence people that there was no
10:20:11 8 problem. There was no issues with this. We'd dealt with
10:20:18 9 it. And I know you've heard witnesses from Victoria Police
10:20:21 10 over and over again who acted in good faith, did what they
10:20:24 11 believed was right, and they continued that then. So while
10:20:28 12 I said I was troubled, it wasn't until we get to later on
10:20:33 13 when we actually ask for the case studies so that we could
10:20:37 14 have a tangible document that laid this out so that there
10:20:41 15 was no argument about what we had and what we didn't have,
10:20:44 16 because there were too many pieces in the ether over the 10
10:20:49 17 years that had got to that point.
18
10:20:52 19 Thank you.
20
10:20:56 21 MR WINNEKE: Certainly if we look at the closure report,
10:20:59 22 there are references, as I took you to, of those sorts of
10:21:03 23 conflict issues. So clearly those were within the
10:21:10 24 knowledge of the steering committee throughout the period
10:21:14 25 that Loricated was - - - ?---Yes, so they were there but
10:21:18 26 there were also these assurances that everything was okay.
27
10:21:23 28 Where were the assurances coming from?---They were
10:21:26 29 filtering up through investigators and others.
30
10:21:29 31 Did you know that in - I took - I asked you about what has
10:21:35 32 been described as the out of scope report of Mr Gleeson's
10:21:37 33 in 2012, the previous year, where Mr Gleeson had felt it
10:21:41 34 appropriate to report his concerns that senior police
10:21:47 35 officers or police officers involved in the management of
10:21:49 36 Ms Gobbo may have engaged in misconduct sufficient to
10:21:54 37 enliven his obligations under the *Police Regulation Act*.
10:21:58 38 Was that ever brought to your attention?---No, it wasn't.
10:22:05 39 Had it been I would have a completely broader mind-set from
10:22:08 40 day one.
41
10:22:09 42 Even without that you say you had sort of nagging concerns,
10:22:12 43 I take it?---Yes.
44
10:22:14 45 Do you believe that that information should have been
10:22:15 46 brought to your attention?---Well it would have been
10:22:18 47 helpful. I mean there's lots of things that would have

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:22:22 1 been helpful, but yeah. It took - we got to March or April
10:22:27 2 before we really made, we really took a grasp of this and
10:22:31 3 escalated it to deal with the broader issues, not just the
10:22:35 4 narrow.

5
10:22:35 6 Mr Comrie had said in his report at, I think it was at p.17
10:22:45 7 of his report, having dealt with the issues that concerned
10:22:48 8 him, that is the possibility that Ms Gobbo was providing
10:22:52 9 privileged information and the possibility that fair trials
10:22:55 10 had been interfered with, he said that, "Full expiration of
10:23:00 11 the nature and impacts of these discussions is not within
10:23:03 12 the Terms of Reference for this review, which is primarily
10:23:05 13 focused on system and process issues associated with human
10:23:09 14 source management. Furthermore, full explanation of such
10:23:11 15 matters would entail substantial investigation and the
10:23:14 16 review of a variety of other records, however the potential
10:23:17 17 significance of such actions by 3838 and the police members
10:23:20 18 involved is duly recognised as matters for Victoria Police
10:23:24 19 to further consider". I take it ultimately you would have
10:23:27 20 read that at some stage during the course of your time on
10:23:33 21 Loricated?---Not on Loricated. We need to be really clear.
10:23:37 22 I'm not sure when I saw Comrie and it may very well have
10:23:42 23 been years after.

24
10:23:44 25 Can I suggest to you that that appears to be inadequate.
10:23:47 26 If you're on a steering committee which is seeking to put
10:23:49 27 into place one of Mr Comrie's recommendations, surely - and
10:23:56 28 you'd want to read his review and see what he'd found?---In
10:24:02 29 hindsight that made complete sense. When I got there, this
10:24:05 30 was a matter that was nearly - I was told was nearly over,
10:24:09 31 they had a function, they oversighted the function, there'd
10:24:14 32 been a massive review, it had been an issue for the
10:24:17 33 organisation, and this was closing down, this one
10:24:19 34 recommendation. So on that basis, when that's your
10:24:21 35 briefing, you walk in the door and say, "Okay, this is a
10:24:25 36 functionary process. I'll go through the function and then
10:24:28 37 we'll move on."

38
10:24:29 39 What you say at paragraph 24 is, "The issues of concern
10:24:34 40 were the subject of many informal discussions that I had
10:24:37 41 with Findlay McCrae and Deputy Commissioner Cartwright and
10:24:42 42 others in the first few months of 2014. General consensus
10:24:45 43 that the issue should be escalated into a new committee and
10:24:49 44 to be chaired by a Deputy Commissioner with broader Terms
10:24:53 45 of Reference than the existing Loricated steering
10:24:56 46 committee". And that committee was formed in April 2014 as
10:24:59 47 the Bendigo committee?---Yes.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
10:25:01 2 Can I suggest that it appears though that the impetus to
10:25:05 3 form that committee doesn't arise until after these media
10:25:11 4 articles and calls in the press, in the media for a Royal
10:25:16 5 Commission about the management by Victoria Police of a
10:25:20 6 human source at that stage called Lawyer X? Do you agree
10:25:25 7 with that or not?---When you're trying to influence you
10:25:28 8 grab burning platforms.
9
10:25:30 10 Say that again?---So when you're trying to influence you
10:25:34 11 grab burning platforms.
12
10:25:37 13 Effectively what you say there is, "Here's an opportunity
10:25:41 14 for me actually to get some traction with my
10:25:44 15 concerns"?---No. I know Mr Cartwright really well, and I
10:25:47 16 have to declare he's a personal friend of mine, and we'd
10:25:51 17 worked together over many years, but we'd also worked on
10:25:54 18 the affidavit issue that's been raised before here.
19
10:25:57 20 Yes?---And how we ran affidavits was a very tight
10:26:00 21 governance process, really clear, and not accepting no for
10:26:04 22 an answer and having a really open mind to what it actually
10:26:07 23 looked like. So we started with three people said they
10:26:11 24 didn't do it. We took the view that we don't believe
10:26:15 25 that's true, because if we believe it's true we'd be
10:26:19 26 blind-sided. So we took it wide. So Tim was involved that
10:26:23 27 and Finn was involved in that. So over the period we'd
10:26:25 28 have nattering conversations around how it's going. When
10:26:28 29 this happened, this was an opportunity to say, "Right, we
10:26:31 30 can't leave this any longer. This is the right time to
10:26:34 31 formalise it because we'll get support from Executive
10:26:38 32 Command, from outside Victoria Police to really progress
10:26:41 33 this."
34
10:26:42 35 Yes. So that was going on in 2011, the previous
10:26:49 36 year?---The affidavit stuff?
37
10:26:51 38 Affidavit stuff?---In the affidavit stuff I had no
10:26:54 39 knowledge of this Gobbo stuff.
40
10:26:56 41 No, I understand that. But the affidavit stuff - - -
10:26:59 42 ?---I'm saying that was a model. Using that as a model
10:27:02 43 talking to Tim Cartwright and Finn - so we should use that
10:27:07 44 model and get a steering committee chaired by a Deputy
10:27:10 45 Commissioner, broaden the Terms of Reference and deal with
10:27:13 46 all of these issues because they're just obviously not
10:27:17 47 resolved and they're still hanging out there.

.18/02/20

14270

LEANE XXN

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
10:27:19 2 You would have appreciated with the affidavit controversy,
10:27:24 3 if I can call it that, that Mr Mokbel was using that as an
10:27:29 4 attempt to set aside his plea of guilty?---There was media
10:27:33 5 reports of that. You might correct me, did he actually
10:27:38 6 make an application in court, I'm not sure?
7
10:27:40 8 He did?---He did.
9
10:27:42 10 It went on for quite some time, there were Purana witnesses
10:27:45 11 called?---Right.
12
10:27:46 13 It went on in the latter of parts of 2011 and finally
10:27:52 14 resolved in 2012?---Right.
15
10:27:54 16 That was argument based entirely on or at least
10:27:55 17 significantly on the affidavit issue?---On the affidavit
10:27:57 18 issue, yes.
19
10:28:05 20 The next thing occurs, you say, is the Herald Sun breaks
10:28:10 21 the Lawyer X story on 31 March. You attend a series of
10:28:13 22 meetings and you attended upon the OPP with Mr McRae on 1
10:28:19 23 April; is that right?---Yes.
24
10:28:22 25 You've been good enough over the weekend I think to
10:28:26 26 transcribe your notes of the meeting with the OPP. Have
10:28:31 27 you got those there, your transcription?---I haven't got my
10:28:35 28 transcription. I've got my diary.
29
10:28:38 30 Right. I think - - -
10:28:43 31
10:28:44 32 MR HOLT: We have a clean copy of this, Commissioner.
33
10:28:46 34 MR WINNEKE: Thanks.
10:28:46 35
10:28:47 36 MR HOLT: Could I ask, if it's possible, for an estimate of
10:28:50 37 time? The initial indication was an hour and it seems
10:28:54 38 likely to take more than that.
39
10:28:57 40 MR WINNEKE: Yes, it's going to take a bit more. I would
10:28:59 41 hope that I'll be finished in the next half hour.
42
10:29:07 43 COMMISSIONER: Yes.
44
10:29:09 45 MR WINNEKE: I'm not going to take you through all of those
10:29:12 46 notes. But I think your diary goes over to another page
10:29:18 47 which you haven't transcribed; is that right?---No, I

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:29:25 1 didn't. Our lawyers only sent me a number of pages so I'm
10:29:31 2 happy to - if you want me to translate my terrible writing.
3
10:29:36 4 If you wouldn't mind. You have a meeting with Mr McRae,
10:29:40 5 with Mr Champion, with Mr Gardiner at 10 am,
10:29:46 6 correct?---Yes, that's correct.
7
10:29:47 8 And you've - I think you've interpreted the first page of
10:29:52 9 your notes and down to, "Precedent in UK, law clerk
10:29:57 10 assisted police, followed an inquiry. Law Reform addressed
10:30:03 11 legal and client privilege"?---That's right.
12
10:30:05 13 You haven't addressed the next page of the notes concerning
10:30:09 14 that meeting. Can you just interpret those?---There's a
10:30:14 15 dash, it's a heading, it's "Consideration".
16
10:30:16 17 Yes?---"Give to IBAC for consideration." Then the other
10:30:18 18 one is "advice for lawyer".
19
10:30:20 20 Yes?---The next is "DPP to consider action and come back".
21
10:30:25 22 Yes?---So the plus sign is an and in my shorthand.
23
10:30:28 24 Yes?---"DPP does have procedure and policy for miscarriage
10:30:35 25 of justice. Disclosure provision would depend on nature of
10:30:40 26 information."
27
10:30:40 28 Yes, thanks very much. Commissioner, I tender the
10:30:47 29 transcribed document
30
10:30:49 31 MR HOLT: Commissioner, why don't we - I'm sure Mr Leane
10:30:52 32 wouldn't mind just adding that the last half of few notes
10:30:55 33 to it so it's a complete record and we can do that later.
34
10:31:01 35 MR WINNEKE: Can you do that in legible handwriting? Is
10:31:05 36 that what you're suggesting?
37
10:31:05 38 MR HOLT: Yes. Well, no, we might do it in a typed version
39 produced at a later time.
40
10:31:08 41 MR WINNEKE: Yes, we can do that.
42
10:31:08 43 #EXHIBIT RC1280A - (Confidential) Transcribed diary notes
10:31:12 44 of Mr Leane.
45
10:31:12 46 #EXHIBIT RC1280B - (Redacted version.)
10:31:13 47
10:31:15 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:31:15 1 MR WINNEKE: Whilst you've got your diary there, it appears
10:31:18 2 that you then - just excuse me. You attend an internal
10:31:24 3 briefing with Mr Cartwright, Mr Klegg, Mr Fontana, Mr McRae
10:31:33 4 at 3.25 pm. You've got a note of that, do you?---Yes,
10:31:40 5 that's - Mr Cartwright's Acting Chief Commissioner at that
10:31:43 6 time.
7
10:31:43 8 What does that note say?---You have to turn the page.
9
10:31:46 10 Yes, p.197, is that right, or 198?---198. My notes are -
10:31:57 11 sorry, I've only just seen this right this minute, so it
10:32:00 12 even takes me a while to transcribe my own writing. The
10:32:03 13 first word is "Finn, outline meeting with DPP". Next dot
10:32:08 14 point is, "Haven't spoken to Legal Services Commissioner.
10:32:11 15 View that has nothing to act on as doesn't have a
10:32:16 16 complaint". This relates to the Legal Services
10:32:21 17 Commissioner and what role they might play.
18
10:32:23 19 Yes?---The next dot point is "obtaining advice from counsel
10:32:27 20 re possible injunction", INJ.
21
10:32:30 22 That's against the Herald Sun?---Yea, against the Herald
10:32:33 23 Sun. Next dot point is, "Breach of confidence and a risk
10:32:35 24 to her life".
25
10:32:36 26 Yes?---Then Steve Fontana, he made some comments in the
10:32:39 27 meeting that I made a note of it. He talks about witness
10:32:42 28 relocation and security by Crime Command.
29
10:32:45 30 Right?---Witness Witsec and discussion around that. Do you
10:32:48 31 need me to read those out?
32
10:32:50 33 No, that's okay. Then later on in the day you have a
10:32:53 34 meeting with Finn McRae at IBAC; is that correct?---IBAC at
10:33:00 35 16:30, so 4.30 in the afternoon.
36
10:33:04 37 Right. You discuss the Comrie review - no, the current
10:33:10 38 media issue; is that right?---Yes. Discussion re current
10:33:15 39 media issues.
40
10:33:16 41 Yes?---Then Finn McRae outlined the history. It's
10:33:26 42 discussed individual - something order issue.
43
10:33:31 44 Righto, you can't read that?---No, sorry.
45
10:33:34 46 Thanks very much. I tender those diary notes,
10:33:38 47 Commissioner.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:33:40 1
10:33:41 2 #EXHIBIT RC1281A - (Confidential) Handwritten diary notes
10:33:45 3 of Mr Leane.
10:33:48 4
10:33:48 5 #EXHIBIT RC1281B - (Redacted version.)
10:33:50 6
10:33:50 7 The next thing I want to ask you about is the 3 April 2014.
10:33:55 8 A letter is written by the Director of IBAC to Acting Chief
10:34:00 9 Commissioner Cartwright. This is VPL.0015.0004.0001. If
10:34:11 10 we have a look at - if we go over the page, please. Sorry,
10:34:31 11 just go back. Can we go to p.13 of that. You'll see if we
10:34:43 12 go over to - down the - no, sorry, back to the first page.
10:34:51 13 He refers to, he's writing - "Further, a briefing provided
10:34:55 14 to me by Assistant Commissioner Fontana, Stephen Leane,
10:35:01 15 Director of Legal Service Finn McRae on Tuesday 1 April",
10:35:03 16 so with respect to the meeting that you'd just had?---Yes.
17
10:35:06 18 "Briefing related to current public and media interests and
10:35:09 19 so-called Lawyer X matter. In the briefing Mr McRae stated
10:35:14 20 Victoria Police had undertaken extensive reviews of witness
10:35:18 21 protection and human source management programs in recent
10:35:22 22 years leading to a number of reforms to Victoria Police
10:35:26 23 policies and procedures. Nonetheless, in view of the
24 allegations and suggestions regarding the management of
10:35:28 25 Lawyer X Victoria Police had undertaken a review of those
10:35:30 26 criminal prosecutions in which Lawyer X had acted for
10:35:34 27 defendants. Mr McRae indicated that Victoria Police would
10:35:37 28 soon be completing a report as a result of its review which
10:35:43 29 would be made available to IBAC. What Mr O'Brien was
10:35:46 30 seeking was clarification as to the envisaged reporting,
10:35:49 31 including the nature and circumstances in which the review
10:35:51 32 was commissioned, Terms of Reference, the scope of the
10:35:55 33 review and subsequent report, those Victoria Police
10:35:59 34 officers or others being tasked to undertake the review and
35 prepare the envisaged report, timing of the report and
10:36:06 36 expected date of delivery to IBAC". And he said that, "As
10:36:11 37 you'd appreciate IBAC has a direct interest in the matter".
10:36:14 38 I take it you saw that letter?---I do - I recall it.
39
10:36:21 40 Ultimately I think you were involved in preparing a
10:36:23 41 response to that letter?---Yes.
42
10:36:24 43 Would it be fair to say that that caused some difficulties
10:36:28 44 in terms of how to respond to that letter?---It may have,
10:36:33 45 yeah. It was a difficult time.
46
10:36:37 47 Did you agree with the proposition that Victoria Police had

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:36:41 1 undertaken a review of those criminal cases in which Lawyer
10:36:44 2 X had acted for defendants?---I wouldn't have been as
10:36:47 3 certain as that.
4

10:36:48 5 Well I mean the reality is Victoria Police hadn't done
10:36:51 6 so?---No.
7

10:36:52 8 At that stage. Do you agree with that?---Well with the
10:36:56 9 Loricated stuff. If that's what he was referring to.
10

10:36:59 11 It may well be, but do you accept the proposition that
10:37:03 12 Loricated had not been a review of criminal prosecutions in
10:37:07 13 which Lawyer X had acted for defendants?---No. That would
10:37:13 14 be a misapprehension by the IBAC Commissioner.
15

10:37:16 16 So that appears to be a misapprehension from the
10:37:21 17 Commissioner?---Yeah, based on the briefing from the day
10:37:23 18 before I presume.
19

10:37:25 20 Was that pointed out do you believe?---I'd have to look at
10:37:28 21 the next letter that went back.
22

10:37:30 23 I tender that letter, Commissioner.
24

10:37:36 25 COMMISSIONER: It's 3 April 14, letter.
10:37:38 26
10:37:41 27 #EXHIBIT RC1282A - (Confidential) Letter dated 3/04/14.
10:37:43 28
10:37:43 29 #EXHIBIT RC1282B - (Redacted version.)
10:37:45 30

10:37:46 31 MR WINNEKE: Then what you say is, in your statement - I'll
10:37:53 32 come to the letter in due course BUT if I can just take you
10:37:58 33 sequentially through it. After the meeting, if we go to
10:38:01 34 paragraphs 36 and 37 of your statement, you say that on 7
10:38:10 35 April, around 3.30, you and Mr McRae met with Mr Sutton at
10:38:14 36 IBAC?---That's at 35, paragraph 35.
37

10:38:18 38 Yes?---Yes.
39

10:38:20 40 To the best of your recollection, "We discussed historical
10:38:22 41 IBAC matters related to Ms Gobbo". Then after the meeting
10:38:27 42 you met with Deputy Commissioner Cartwright in his
10:38:30 43 office?---M'hmm.
44

10:38:30 45 Is this the meeting that you're talking about before, that
10:38:34 46 I think you described it - did you say a fateful meeting or
10:38:37 47 a significant meeting?---I'd have to check the formation of

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:38:46 1 Bendigo. There were a number of discussions.
2
10:38:48 3 Right. And you say, "What started as a general
4 conversation about issues related to Gobbo 's safety became
5 a brain storming session about how to manage a whole range
10:38:57 6 of governance issues surrounding not only her safety but
10:39:01 7 the ongoing interaction between by VicPol and other
8 agencies, future management of the various issues that had
10:39:09 9 been managed by Operation Loricated to this point". Then
10:39:11 10 Mr Fontana was called in in relation to protection issues.
10:39:15 11 Assistant Commissioner Tracey Linford joined the
10:39:19 12 conversation and it was agreed that there needed to be a
10:39:23 13 new steering committee?---Yes.
14
10:39:24 15 Is it the case that this was the meeting which generated
10:39:29 16 Operation Bendigo?---This was the last meeting, the last
10:39:32 17 discussion.
18
10:39:32 19 Yes, right. You say that there'd been discussions before
10:39:36 20 that generally about the need to establish a new committee
10:39:44 21 or a new platform, if you like?---I think the general - the
10:39:49 22 discussions were around how are we dealing with this and
10:39:53 23 are we dealing with it appropriately ?
10:39:55 24
10:39:55 25 Right?---I think Tim was thinking through it. So I was
10:39:58 26 challenging, "Are we doing it appropriately?" So it may
10:40:03 27 have taken a little time to get there.
28
10:40:05 29 Right. Later that evening you spoke to Chief Commissioner
10:40:11 30 Lay about the various issues, including the formation of
10:40:13 31 the steering committee?---Yes.
32
10:40:19 33 Then was it at that stage that it was determined that the
10:40:24 34 steering committee would in fact be set up?---Yes. Well I
10:40:29 35 think it already been determined. I think we had agreement
10:40:34 36 with the Deputy Commissioner. I think we assumed the Chief
10:40:36 37 Commissioner would agree. I spoke to Ken Lay about
10:40:38 38 something else but I think he took the opportunity to sound
10:40:42 39 me out around this.
40
10:40:44 41 All right then. Then you drew up a document which
10:40:49 42 contained the Terms of Reference, is that right, or at
10:40:52 43 least which set out the issues discussed the previous
10:40:55 44 day?---Yes, that's correct. A thumbnail sketch of what
10:41:00 45 should be included.
46
10:41:00 47 If we have a look at VPL.0100.0039.2487. That's the

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:41:12 1 document, is it?---That's the transcribed document.
2
10:41:16 3 Right?---I think from recollection I may have typed this
10:41:19 4 myself.
5
10:41:20 6 Right?---My notes - it's similar to the notes I've taken in
10:41:26 7 my diary where I've tried to structure it as people were
10:41:30 8 talking and I was thinking.
9
10:41:32 10 You've got notes of that discussion I take it?---On the 7th
10:41:35 11 of - so the 7th of April discussion?
12
10:41:37 13 Yes?---So in my diary, I don't know if it's available, but
10:41:41 14 I've actually drafted a thumbnail sketch of what that is.
15
10:41:45 16 All right?---Directly into my diary trying to understand
10:41:48 17 all the different issues.
18
10:41:51 19 We have limited time. What I might ask you to do if you
10:41:55 20 could would be to translate those diary entries and provide
10:41:59 21 those to the Commission. Are you happy to do that?---I am.
10:42:00 22 I presume someone's keeping track of this list of
10:42:04 23 transcriptions that you want.
24
10:42:05 25 Yes, thanks very much. I tender that document. That's not
10:42:10 26 your handwriting, I take it, is that right? It doesn't
10:42:13 27 appear to be?---That's Tim Cartwright's handwriting on it
10:42:18 28
10:42:19 29 #EXHIBIT RC1283A - (Confidential) VPL.0100.0039.2487.
10:42:22 30
10:42:23 31 #EXHIBIT RC1283B - (Redacted version.)
10:42:25 32
10:42:25 33 Thanks Commissioner. If we quickly look at the first
10:42:29 34 minutes of the meeting, first meeting of Operation Bendigo
10:42:33 35 which was the following day, 8 April. VPL.0005.0018.0095.
10:42:47 36 If we see firstly the attendees. You're there, Mr Fontana
10:42:53 37 there, the Chair is Mr Cartwright. Tracey Linford and Finn
10:43:01 38 McRae and Superintendent Dean Stevenson. If we go to topic
10:43:10 39 7, "Court proceedings". Keep going. There was discussion
10:43:13 40 on, "Criminal matters before the courts as to the possible
10:43:17 41 impact if the identity of 3838 becomes public knowledge on
10:43:20 42 current matters before the courts and concluded that
10:43:23 43 matters where conviction recorded, whether knowledge of
10:43:31 44 3838 could result in matters being struck out or appealed.
10:43:35 45 Discussed current matters involving Milad Mokbel and
10:43:38 46 broader discussion around any obligation of VicPol to look
10:43:42 47 back at concluded matters to see if there are other matters

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:43:45 1 that may be affected. It was agreed look at the Mokbel
10:43:48 2 matter but no obligation compels us to look at any other
10:43:51 3 matters and they would be dealt with if and when they come
10:43:55 4 up"; is that right?---That's what it says.
10:43:57 5
10:43:57 6 That was the conclusion of those present; is that
10:44:00 7 right?---At that meeting at that minute, that was the
10:44:03 8 advice.
9
10:44:03 10 So the advice, was that, I assume, coming from Mr McRae,
10:44:07 11 was it?---I presume so.
12
10:44:09 13 So there was no need to look at any matters which had gone
10:44:12 14 but - and they would only be dealt with if and when they
10:44:17 15 came up?---That was the advice at that time.
16
10:44:20 17 Did you agree with that advice?---I was still reflecting on
10:44:23 18 it.
19
10:44:24 20 Right. Effectively that was a case of, "Look, we're not
10:44:28 21 going to make any disclosure. It's just a question of
10:44:31 22 whether it comes up, then we might have to deal with
10:44:36 23 it"?---M'hmm.
24
10:44:40 25 Did you think that was appropriate or not?---I was still
10:44:43 26 not quite sure. It was still early so I was working
10:44:45 27 through it and I was still asking questions.
28
10:44:48 29 Yes?---I'm trying to reflect on how we got there but the
10:44:51 30 point that we asked for the case studies was when I was
10:44:54 31 more clear.
32
10:44:55 33 All right. "Discussion on suppression order and whether we
10:44:59 34 can apply public interest immunity, PII. Mr McRae advised
10:45:05 35 still deciding who is to be called but 3838 is not on the
10:45:08 36 witness list and that we can claim PII on our information."
10:45:15 37 Do you know what that related to?---One of those defendants
10:45:20 38 I think you've mentioned I think.
39
10:45:22 40 Milad Mokbel?---I presume it's one of those. There was a
10:45:26 41 matter running.
42
10:45:27 43 Yes?---So I'm not sure.
44
10:45:29 45 "She's not on the witness list and we can claim PII in any
10:45:32 46 event"?---Well it may not be one that Oyou mentioned but it
10:45:35 47 was one of the notable defendants.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
10:45:39 2 Right?--And an action was running, but I can't recall what
10:45:44 3 the action was.
10:45:44 4
10:45:45 5 MR HOLT: Sorry, Commissioner, I hesitate to rise given the
10:45:48 6 timing issues. But Mr Leane was called at very short
10:45:51 7 notice on the basis of some very narrow issues that were
10:45:55 8 particularly put on that basis. He hasn't had the
10:45:57 9 opportunity to go through these documents in this kind of
10:46:00 10 detail as any other witness would. We were told what this
10:46:04 11 was to be about and that it was going to take 30 minutes,
10:46:07 12 or up to 60 minutes potentially. It's now an in-depth
10:46:11 13 cross-examination on documents the witness hasn't had the
10:46:14 14 chance to see we did everything we could, and Mr Leane did,
15 to have him available, having been asked on Friday
10:46:17 16 afternoon. I'm not asking for this to stop, I'm simply
10:46:20 17 indicating that there may well be a need for a
10:46:22 18 supplementary from Mr Leane, given that these documents,
10:46:27 19 and the time period and detail, were not things we were
10:46:29 20 given notice of.
21
10:46:30 22 COMMISSIONER: All right. Let's get on with it.
23
10:46:33 24 MR WINNEKE: If we go to topic 8. "Consultation with
10:46:36 25 stakeholders. DPP agree will raise issues" - look, I take
10:46:41 26 it you were at this meeting?---Yes.
27
10:46:44 28 I'm simply putting a document you which reflects a meeting
10:46:47 29 that you were at?---That's right.
30
10:46:48 31 "Agreed DPP will raise issues with us as required and no
10:46:50 32 requirement for us to provide any formal advice at this
10:46:53 33 stage. Finn McRae will liaise with the DPP as", I assume,
10:46:57 34 "courtesy. Agreed that Chief Commissioner of Police to
10:47:00 35 write to IBAC requesting they pick up the investigation
10:47:04 36 into leaks of information. Finn McRae advised that", I
10:47:07 37 assume, "IBAC should also pick up final investigations of
10:47:10 38 Loricated report to do with privilege". That was the
10:47:14 39 meeting that concluded at 3 pm?---Yes.
40
10:47:17 41 I tender that.
10:47:20 42
10:47:21 43 #EXHIBIT RC1284A - (Confidential) VPL.0005.0018.0095.
10:47:22 44
10:47:22 45 #EXHIBIT RC1284B - (Redacted version.)
10:47:25 46
10:47:37 47 A letter was then received, if I can deal with this

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:47:40 1 briefly, a letter was received from - I withdraw that.
 10:47:56 2 There's a meeting between Mr Lay, yourself and Mr O'Brien
 10:48:04 3 and Mr McLean at IBAC on 10 April 2014. You attended that
 10:48:09 4 meeting I take it?---Yes.
 5
 10:48:20 6 Is it the case at that meeting there was in effect a
 10:48:23 7 request to IBAC that they undertake an investigation into
 10:48:30 8 the leaks?---Yes, it seemed to be predominantly around the
 10:48:36 9 leaks.
 10
 10:48:36 11 And also asked IBAC to conduct a post implementation
 10:48:41 12 review, that is in effect you were keen for IBAC to take on
 10:48:46 13 an investigation into the privilege issues?---That's
 10:48:50 14 correct.
 15
 10:48:54 16 It became apparent, I think later on in the day, you had
 10:49:02 17 discussions with Mr Lay and it had been conveyed to him
 10:49:06 18 that IBAC wasn't prepared to conduct an investigation into
 10:49:10 19 the leaks; is that right?---That's right. I think we left
 10:49:13 20 the meeting and the IBAC Commissioner was going to reflect
 10:49:16 21 on it and by the end of the day had made a decision and
 10:49:19 22 contacted the Chief Commissioner.
 23
 10:49:20 24 Yes, and effectively he said, "Look, we're not going to
 10:49:24 25 take on the leaks investigation and as to the
 10:49:28 26 implementation, the post Comrie review implementation, what
 10:49:33 27 I would like to see is the report that Mr McRae had told me
 10:49:38 28 about when we first met with him on 1 April", I think, is
 10:49:42 29 that your recollection?---I'd have to see it but it makes
 10:49:45 30 sense if that's what the IBAC Commissioner has written.
 31
 10:49:53 32 The letter that was written to IBAC, to Mr O'Brien, I think
 10:50:03 33 is - just excuse me - if we can have a look at this.
 10:50:12 34 VPL.6022.0062.1065. Now that's - I think you were involved
 10:50:30 35 in settling the letter?---Yes.
 36
 10:50:31 37 And if we have a look at the next document, 66. 1066.
 10:50:44 38 6022.0062.1066. I think you'd been provided with an
 10:51:00 39 undercooked or a half cooked letter and then you finalise
 10:51:04 40 the letter and it was then - - - ?---Got it to final.
 41
 10:51:13 42 That letter was provided later on in the day, is that
 10:51:15 43 right? The meeting was in the morning and then the letter
 10:51:18 44 was provided later on in the day?---Based on the timing, so
 10:51:22 45 it's 10 April at half past 3.
 46
 10:51:26 47 Yes, that's the - - - ?---That would be, if that's the

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:51:29 1 final, that's the final letter.
2
10:51:31 3 Thanks very much. I tender those.
10:51:37 4
10:51:38 5 #EXHIBIT RC1285A - (Confidential) emails and attached
10:51:41 6 letter, 6022.0062.1066.
10:51:42 7
10:51:42 8 #EXHIBIT RC1285B - (Redacted version.)
10:51:44 9
10:51:46 10 It becomes apparent then that, can I suggest, that IBAC's
10:51:51 11 not going to look into this issue, there's a lot of work
10:51:55 12 going to have to be done and it's going to have to be
10:51:59 13 Victoria Police to carry out the task?---That's correct.
14
10:52:02 15 And then I think the Bendigo document management working
10:52:04 16 group is then set up?---That's right.
17
10:52:08 18 As a response effectively of IBAC saying, "Look, this is a
10:52:11 19 matter for Victoria Police"?---That's right. What's an
10:52:14 20 appropriate step for Victoria Police to take from here? I
10:52:18 21 appreciate years have passed but at that of point what's an
10:52:21 22 appropriate step? So we've gone to oversight bodies, have
10:52:25 23 got no interest. They left it with us, congratulations,
10:52:28 24 it's now with you, or still with you. And this is where we
10:52:31 25 take steps to actually pull things together, so (a) we can
10:52:35 26 get a real understanding of at least some examples of
10:52:38 27 what's doing, but also preserve documents, which is why the
10:52:41 28 document working group was put together, was to make sure
10:52:47 29 we preserve these things.
30
10:52:48 31 You received a formal response from IBAC on 15 April 2014,
10:52:53 32 I think it's been tendered already, Commissioner, but if it
10:52:57 33 hasn't VPL.0015.0004.0001. That was the response to the
10:53:20 34 letter and the meeting of 10 April 2014.
35
10:53:34 36 COMMISSIONER: Is it already tendered, do we know? I don't
10:53:37 37 think so, no.
38
10:53:38 39 MR WINNEKE: If it hasn't I tender it.
10:53:40 40
10:53:41 41 #EXHIBIT RC1286A - (Confidential) VPL.0015.0004.0001.
10:53:42 42
10:53:42 43 #EXHIBIT RC1286B - (Redacted version.)
10:53:44 44
10:53:44 45 If we go to the second page, it says in relation to your
10:53:47 46 second notification request, "I'd be pleased to consider a
10:53:50 47 post implementation review of the recommendations contained

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:53:52 1 in the Comrie report once Deputy Commissioner Cartwright
10:53:56 2 has completed his appointment. In the meantime, and as
10:53:59 3 noted above, I would appreciate an earlier submission on
10:54:01 4 the results of Operation Loricated, the Interpose
10:54:10 5 database". I tender that.
6
10:54:12 7 COMMISSIONER: It's tendered.
8
10:54:19 9 MR WINNEKE: I think around that time you understand that a
10:54:23 10 legal advice had been sought from the VGSO, I think from
10:54:27 11 Mr Le Grand, about the appropriate way in which the
10:54:29 12 investigation could be carried out, do you agree with
10:54:33 13 that?--I'm not sure. I made comment in my statement with
10:54:40 14 regard to how we treat some of these ICRs.
15
10:54:42 16 Yes?---But I'm not quite - I don't recall that amount of
10:54:46 17 exact detail if that's what you're putting to me.
18
10:54:50 19 As things went on the case studies were produced and you
10:54:54 20 read the case studies I take it?---Yes.
21
10:55:04 22 You understood that those case studies, in particular a
10:55:09 23 case study concerning PII [REDACTED], contained quite a
10:55:13 24 suggestion that Ms Gobbo had in effect been working for the
10:55:17 25 police and purportedly advising PII [REDACTED] at the same
10:55:24 26 time?---That's right.
27
10:55:40 28 You understood that IBAC was conducting an investigation at
10:55:47 29 that time which was in effect parallel to your
10:55:51 30 investigation; is that right?---Depending on the timing.
10:55:56 31 Are you referring to the Kellam - Mr Kellam's appointment?
32
10:55:59 33 Yes?---We'd have to look at the dates but initially IBAC
10:56:05 34 said no and then they came back and took over and did the
10:56:08 35 Kellam review.
36
10:56:09 37 Right?---But Kellam still didn't look at the leaks issue.
10:56:14 38 That sat aside. It was more the broader issues.
39
10:56:16 40 It was looking at the conduct of police officers?---Yes.
41
10:56:19 42 In the management of Ms Gobbo?---Yes.
43
10:56:21 44 And what you say is that around, I think at paragraph 53,
10:56:26 45 "Around this time it dawned on me that while IBAC had set
10:56:30 46 up an inquiry it was an inquiry into the Victoria Police
10:56:35 47 response to matters that related to Ms Gobbo, not and

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:56:37 1 inquiry into matters themselves"?--Yes.
2
10:56:40 3 In other words, as far as you understood when you say it
10:56:42 4 dawned on you they weren't looking at whether or not cases
10:56:46 5 had been affected by the conduct of Victoria Police and
10:56:49 6 Ms Gobbo, rather they were looking at the management of
10:56:54 7 Ms Gobbo by Victoria Police, is that what you mean by
10:56:59 8 that?--Yes, and we're probably still there today.
9
10:57:02 10 Sorry?--We're probably still there today in a way.
11
10:57:05 12 Yes?--I know it's a broad Terms of Reference to this
10:57:08 13 Commission, this Royal Commission, but they weren't looking
10:57:10 14 at those individual cases. So there was no either
10:57:13 15 definitive decision about appropriateness or otherwise of
10:57:16 16 behaviours.
17
10:57:16 18 Yes?--And then what do you actually then do with that in
10:57:20 19 relation to how do you treat with defence counsel and
10:57:23 20 notification, which then we get into those issues with the
10:57:27 21 DPP around notification.
22
10:57:30 23 You go on and say, "This meant that Victoria Police and the
10:57:36 24 Chief Commissioner were left to investigate this matter on
10:57:39 25 their own and while IBAC remained prepared to oversight our
10:57:41 26 response, they were of the opinion that it was not their
10:57:41 27 role to conduct that investigation"?--Yes.
28
10:57:43 29 You say that was unsatisfactory in your statement?--I felt
10:57:47 30 it was to me, based on the touch points that had been
10:57:53 31 through OPI and then IBAC.
32
10:57:54 33 Yes?--And the nature and the level of the officers that
10:58:00 34 were involved, and you've had a number of Chief
10:58:03 35 Commissioners and Deputy Commissioners give evidence here I
10:58:06 36 think in the nature of that.
37
10:58:07 38 Yes?--It would be in the best thing for Victoria Police if
10:58:10 39 it was externalised and an agency like IBAC took
10:58:14 40 responsibility for it with police resources to support it.
41
10:58:17 42 I follow that but ultimately the question was whether cases
10:58:21 43 had been affected by the conduct of Victoria Police and
10:58:23 44 Ms Gobbo, that's the issue you're talking about, isn't
10:58:26 45 it?--I'm looking at it holistically, and I think we're
10:58:32 46 still dealing with it in chunks.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

10:58:33 1 Right. Are you suggesting that it was unsatisfactory that
10:58:37 2 IBAC did not take it upon itself to examine whether or not
10:58:42 3 Victoria Police should make disclosure to either the OPP,
10:58:47 4 State, Commonwealth, the courts, is that what you're
10:58:52 5 suggesting?---I think it could have been part of their
10:58:55 6 consideration.
7

10:58:55 8 Right?---And while we hadn't, as an oversight body.
9

10:59:00 10 But wasn't it the obligation on Victoria Police to look at
10:59:02 11 what had occurred to examine its files to see - - - ?---No,
10:59:07 12 I'm not obfuscating from that. I'm thinking that - the
10:59:10 13 police is an agency that has oversight, and so these
10:59:13 14 oversight agencies were doing limited slivers of the
10:59:17 15 broader issues.
16

10:59:18 17 Yes?---And the result is that you end up, which is where we
10:59:21 18 are today, a Royal Commission of the broad issues, and
10:59:24 19 you've got all these layers over all these years of slivers
10:59:29 20 of activity. But the holistic issue is not being dealt
10:59:32 21 with so if you take - so for me, take another sliver, this
10:59:32 22 is like death by a thousand cuts. We're off in that
10:59:37 23 direction and we'll get a report in regard to that sliver,
10:59:41 24 but we've still got this underlying issue that hasn't been
10:59:44 25 resolved, a big issue.
26

10:59:45 27 If we go back, for example - I take it you've seen - do you
10:59:46 28 say you've never seen the Maguire advice in - - - ?---I've
10:59:50 29 never seen the Maguire advice.
30

10:59:52 31 Maguire says in 2011 there's a potential that Mr Mokbel's
10:59:56 32 case has been affected because Ms Gobbo was acting for
11:00:01 33 him?---I understand that's the case.
34

11:00:02 35 Why not simply examine that see whether that's the case and
11:00:03 36 make a disclosure to the OPP about that, like occurred in
11:00:07 37 Mr Dale's case, the ACC case?---It makes complete sense to
11:00:12 38 me now.
39

11:00:12 40 Right, okay. In any event, at that stage you think, "Look,
11:00:15 41 we've got to go and see the DPP" again?---Yes.
42

11:00:19 43 That happens on 25 November?---Right.
44

11:00:21 45 And what you say in your statement is that you had - you
11:00:30 46 attended the meeting with five case studies?---We had
11:00:34 47 extracts at least of the case studies. I think the case

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:00:37 1 studies were quite complex but we had material with us and
11:00:40 2 Finn had it in his possession.
3
11:00:42 4 What material do you believe you had with you?---I thought
11:00:45 5 they were summaries from recollection. I don't exactly
11:00:49 6 recall but we certainly had things with us I'm sure.
7
11:00:52 8 Do you say you've seen the documents yourself? There are
11:00:57 9 summaries which run to about 18, 19 pages in some cases,
11:01:02 10 some of them I think are 13, 14 pages. Are they the
11:01:05 11 summaries that you - - - ?---I believe I've seen the
11:01:08 12 summaries, yes.
13
11:01:09 14 There are issue cover sheets which run to one or two pages.
11:01:12 15 Do you know whether it was the cover sheets, the larger
11:01:15 16 documents? It certainly wasn't the folders, was it?---It
11:01:18 17 wasn't the folders. It was one or the other, I can't
11:01:20 18 recall.
19
11:01:20 20 You say that, "We met to discuss the progress of Victoria
11:01:24 21 Police's response relating to Ms Gobbo", this is paragraph
11:01:29 22 55. You say, "We attended the meeting with five case
11:01:33 23 studies which we intended to offer the DPP". You say,
11:01:36 24 "During the meeting the DPP declined to accept the case
11:01:39 25 studies, told us that he wanted to consider the matter
11:01:43 26 further and take it to the DPP executive
11:01:46 27 committee"?---Right.
28
11:01:47 29 I take it you took a diary note of that meeting?---Yes.
30
11:01:50 31 In the note did you indicate that you had offered the case
11:01:53 32 studies and that they were declined?---There's another
11:01:59 33 transcription.
34
11:02:00 35 Yes?---Which I've got possession of. I presume it's been
11:02:03 36 made available ?
37
11:02:04 38 Yes?---So some of this is shorthand. Yeah, I believe I
11:02:08 39 did. I believe we did. I've got a recollection, and I can
11:02:13 40 picture the room, the DPP's room, it's quite an eminent
11:02:18 41 office with a very large board table, and you're some
11:02:22 42 distance away from the DPP himself. But certainly there
11:02:25 43 were offers made.
44
11:02:26 45 When you say there were offers made, one would assume that
11:02:29 46 if you're providing something, if you're seeking to provide
11:02:32 47 something to the Director of Public Prosecutions by way of,

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:02:39 1 one assumes, an obligation of disclosure or - - - ?---Yes.
2
11:02:44 3 - - - providing him with material which you regard as
11:02:45 4 significant, a refusal to take that material would warrant
11:02:48 5 a note, wouldn't it?---In what sense?
6
11:02:57 7 Would you not make a note in your diary to the effect that,
11:03:01 8 "We offered to provide these case studies and the DPP
11:03:05 9 refused to take them"?---The language about refused to take
11:03:11 10 them I think is rather strong.
11
11:03:13 12 Well declined you say?---I say declined. I think the DPP
11:03:16 13 and Bruce Gardiner were very thoughtful people.
14
11:03:21 15 Right?---So it was a discussion where the DPP considered
11:03:26 16 things and if we get to the end of the meeting the
11:03:28 17 consideration is to step away again and further consider
11:03:31 18 them, which one would expect the DPP to do.
19
11:03:34 20 Yes?---I've made a note about - I've got question marks in
11:03:40 21 my diary around one case study. So there was a discussion
11:03:43 22 at one point about, "Would you like one case study?"
11:03:46 23
11:03:46 24 Yes?---And it wasn't forcefully put by Finn McRae. It was
11:03:53 25 that we've got, would you like - I think it was one that we
11:03:56 26 discussed and, "Would you like that case study", and it was
11:03:59 27 as simple as the DPP, as I demonstrate, it was as simple as
11:04:04 28 the DPP, the way they do, is put their hand up and being
11:04:09 29 reflective saying, "I don't know, not at this" - and then
11:04:12 30 move on to how we're going to deal with this.
31
11:04:15 32 What you say is he put his hand up. Did he say, "No, I
11:04:18 33 don't want" - or was it a - - - ?---I can't recall the
11:04:20 34 exact words.
35
11:04:20 36 Right?---But there was a polite offer from Finn McRae in
11:04:24 37 relation to one, at least one of the case studies that we
11:04:28 38 had available with us, and there was a polite, very polite,
11:04:31 39 thoughtful - - -
40
11:04:34 41 Movement of the hand which indicated, you say - - - ?---I'm
11:04:38 42 saying, well no, that doesn't mean no later, but no, not at
11:04:42 43 this time. And then the meeting continued to, you know,
11:04:46 44 where do we go to from here ?
45
11:04:48 45
11:04:54 46 Are you able to say whether you had the case studies or the
11:04:57 47 case - the summaries?---They weren't case studies. And

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:05:04 1 I've made a note of case studies and I think that's wrong.
11:05:07 2 I think that's slang that I've used in my notes. They were
11:05:13 3 extracts. I wouldn't have thought they were the ICS,
11:05:17 4 because a lot of those ICSs have a lot of opinions of the
11:05:23 5 members themselves. So we wouldn't imagine we'd provide
11:05:25 6 that. From recollection I think it was a summary document.
7
8 The one page document or the second page document?---I
9 think they were the more fulsome ones, whatever that was.
10
11:05:31 11 Do you know whether the documents that Mr McRae had with
11:05:36 12 him were documents that Mr McRae had created or were they
11:05:39 13 documents which had been provided to Mr McRae by the
11:05:42 14 various officers who were conducting the case, the
11:05:45 15 studies?---I think by that stage they were the actual case
11:05:48 16 studies, the five selected cases that had been pulled out.
17
11:05:52 18 Right. When you say the case studies, are you talking
11:05:55 19 about the cover sheet or - - - ?---No, I don't believe they
11:06:01 20 were the cover sheet. I think they were more than that.
21
11:06:04 22 19, 20 page document?---I believe so. I think Finn had
11:06:09 23 quite a few documents with him.
24
11:06:12 25 Okay. In any event, you've transcribed your diary entry.
11:06:20 26 There is nothing in the diary to the effect that the case
11:06:23 27 studies were offered and declined, do you accept
11:06:27 28 that?---No, I don't agree with that.
29
11:06:29 30 What do you say in your diary reflects - - - ?---In my
11:06:33 31 diary towards the bottom of the note I make the dot point
11:06:36 32 one case study two question marks, which for me is would
11:06:40 33 you like one case study? That's my diary note, that's my
11:06:43 34 recollection. It's a shorthand note, not Pitman's
11:06:48 35 shorthand, but in my abbreviated notes.
36
11:06:52 37 Right?---I say that's my note and then I recall the,
11:06:55 38 "Thanks but no thanks, I've got other things I'm thinking
11:06:59 39 about", which is where they were at.
40
11:07:02 41 Do you think it might also mean perhaps with respect to one
11:07:06 42 case study the view was that there were real question
11:07:08 43 marks?---No.
44
11:07:08 45 That is the case study with respect to PII [REDACTED]?---No,
11:07:12 46 no, I don't. I don't, because if you look through my
11:07:14 47 notes, the two question marks - there's an issue around

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:07:16 1 privilege, so there were questions around privilege. So
11:07:19 2 that means there was a discussion around - the issues
11:07:23 3 around privilege were considered. The DPP talked about
11:07:26 4 process. I've got two question marks, which means the DPP
11:07:30 5 obviously said some issues around process and was thinking
11:07:32 6 through out loud, and whether Bruce was offering assistance
11:07:36 7 or not, it may have happened while we were sitting there.
11:07:40 8 So that means that. The one case study means offered one
11:07:43 9 case study, there was a consideration, a discussion around
11:07:46 10 the one case study, and I know that we didn't leave a case
11:07:49 11 study with the DPP when we left.
12

11:07:51 13 The evidence is, as I understand it, with respect to one of
11:07:54 14 the case studies there were, it was quite apparent on that,
11:07:58 15 certainly with respect to PII [REDACTED] that there were real
11:08:02 16 problems with respect to that case study?---That was the
11:08:05 17 purpose of doing the case studies, was to crystallise this.
11:08:09 18 Apart from that it had been hearsay and denial and
11:08:13 19 assurances that everything was fine.
20

11:08:16 21 Right.
22

11:08:20 23 COMMISSIONER: Do you want to tender those?
24

11:08:22 25 MR WINNEKE: I tender those notes, Commissioner.
26

11:08:25 27 COMMISSIONER: Diary notes. Is there a handwritten version
11:08:27 28 of this, a typewritten version of this as well?
29

11:08:30 30 MR WINNEKE: Yes, there is, Commissioner.
31

11:08:33 32 #EXHIBIT RC1287A - (Confidential) Handwritten and typed
11:08:41 33 diary notes of Mr Leane.
34

11:08:43 35 #EXHIBIT RC1287B - (Redacted version.)
36

11:08:45 37 I think that's just about it. Just excuse me. Yes, thanks
11:09:32 38 very much.
39

11:09:33 40 COMMISSIONER: Mr Collinson.
41

11:09:36 42 <CROSS-EXAMINED BY MR COLLINSON:
43

11:09:37 44 A few questions on one paragraph if the Commission pleases.
11:09:41 45 Mr Leane, my name is Collinson, I'm one of the counsel for
11:09:45 46 Ms Gobbo. Could you turn please to paragraph 25 of your
11:09:48 47 statement?---Yes.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
11:09:55 2 You'll see this is the event where the Herald Sun publishes
11:10:00 3 an article referring to Lawyer X on 31 March 2014 and, as
11:10:06 4 you say in your paragraph there, that immediately gave rise
11:10:09 5 to a concern about Ms Gobbo's safety?---Yes.
6
11:10:14 7 I want to ask you first of all, paragraph 34, which you
11:10:21 8 have there, refers to the fact that you become aware, don't
11:10:27 9 you, that someone from within Victoria Police has given the
11:10:32 10 journalist at the Herald Sun some information about Lawyer
11:10:37 11 X?---There were concerns. I wouldn't put it as clear
11:10:41 12 evidence.
13
11:10:42 14 Yes?---There was concerns that there was a leak from within
11:10:45 15 Victoria Police.
16
11:10:46 17 Yes?---Because journalists had, according to the detectives
11:10:50 18 or the investigators, had more information than what would
11:10:55 19 normally be available to them.
20
11:10:56 21 Are you aware that Ms Gobbo has deposed that the lawyer -
11:11:01 22 sorry, the journalist from the Herald Sun told her that a
11:11:07 23 senior police officer was the source of the information for
11:11:10 24 the journalist?---Sorry, I'm not up with that evidence, no.
25
11:11:13 26 What about the fact that the journalist from the Herald Sun
11:11:16 27 was able to tell Ms Gobbo her registration number
11:11:21 28 3838?---Okay.
29
11:11:22 30 You weren't aware of that?---At that time?
31
11:11:24 32 Yes?---No, at that time I had no knowledge - well, I can't
11:11:29 33 recall if I had knowledge at that time.
34
11:11:32 35 My question on paragraph 34 is it seems - do you see
11:11:36 36 towards the end of the paragraph you say that this was not
11:11:39 37 a significant issue, do you see that, you say on the
11:11:42 38 second-last line?---What does that relate to, sorry?
39
11:11:51 40 I was going to ask you that, but I assume you're saying
11:11:55 41 that you did not regard the question of whether there was a
11:11:58 42 police officer giving information to journalists about
11:12:02 43 Lawyer X as a significant issue, that's what you're
11:12:05 44 saying?---I see. So you want context around that, what
11:12:09 45 does that mean?
46
11:12:11 47 I can perhaps ask you more directly. If that's what you

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:12:15 1 regarded as not a significant issue, wasn't it potentially
11:12:17 2 a significant issue given that you undeniably had a concern
11:12:26 3 at Victoria Police at this time about the possibility that
11:12:28 4 Ms Gobbo might be killed?---Yeah, and I'm thinking through
11:12:31 5 that sentence and why I included it in there in that
11:12:34 6 fashion. Well it obviously was a significant issue and I
11:12:38 7 probably would rephrase it.
8
11:12:39 9 All right?---Yeah.
10
11:12:42 11 That's sufficient for my purposes. My other question was
11:12:47 12 going back to paragraph 25, you'll see that, just to get
11:12:51 13 the timeline right, that the Lawyer X story breaks on 31
11:12:55 14 March?---Yes.
15
11:12:58 16 Then going back to paragraph 24, the preceding paragraph,
11:13:03 17 you talk about the setting up of the Bendigo steering
11:13:08 18 committee?---Yes.
19
11:13:10 20 In April 2014. See that in the last sentence?---Yes.
21
11:13:16 22 But isn't it the case that the Bendigo - a decision to set
11:13:20 23 up the Bendigo steering committee only occurred after the
11:13:24 24 Lawyer X story broke in the Herald Sun on 31 March?---It's
11:13:29 25 factually correct in timelines that it was established.
26
11:13:33 27 Yes?---I'd been having conversations with various people,
11:13:36 28 as I've outlined in my previous evidence, that we needed
11:13:39 29 to - Loricated wasn't fit for purpose.
30
11:13:42 31 All right. Going back to paragraphs 25 and looking at 26
11:13:49 32 to 28, it seems that Victoria Police only briefs the DPP
11:13:54 33 about these issues immediately after the Lawyer X story
11:13:59 34 breaks; is that right?---I'm not sure about the briefings
11:14:03 35 before because I wasn't involved in any discussions with
11:14:06 36 the DPP previously.
37
11:14:07 38 Yes?---But it was considered the nature of the - because
11:14:10 39 there'd been an injunction in the Supreme Court the night
11:14:13 40 before and there was trials on foot, it was seen
11:14:16 41 appropriate to, out of courtesy, to have a briefing with
11:14:20 42 the DPP. So that was the precipitation of that meeting.
43
11:14:24 44 I hear you on that?---Yes.
45
11:14:26 46 To your knowledge was there any briefing of the DPP prior
11:14:31 47 to the Lawyer X story breaking on 31 March?---I don't

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:14:37 1 recall being present. Honestly sitting here I don't recall
11:14:42 2 being present at one and I wouldn't know what others did.
3
11:14:45 4 Isn't it fair to say but for the Lawyer X story breaking in
11:14:50 5 the Herald Sun on 31 March, there wouldn't have ever been a
11:14:53 6 Bendigo steering committee and there wouldn't have ever
11:14:56 7 been a briefing of the DPP by Victoria Police?---No, I
11:15:01 8 don't concede that. We weren't - this wasn't going to be
11:15:04 9 let go.
10
11:15:05 11 Right?---So I wasn't going to - it wasn't going to - and
11:15:10 12 that's what I say, I'd talked to Tim Cartwright and given
11:15:13 13 him time to think, but there si no way that I would have
11:15:18 14 just let this just sit with what was happening.
15
11:15:20 16 But the timeline of events, you can see, can't you, seems
11:15:24 17 to indicate the Bendigo steering committee and the briefing
11:15:28 18 of the DPP only occurs after the *Herald Sun* story
11:15:31 19 breaks?---I see it does. As I've used the word before,
11:15:36 20 burning platform, it's a burning platform for getting
11:15:38 21 Bendigo up. So one view of it, if you look at it from the
11:15:39 22 outside, you could say that. But from where I sit, and the
11:15:42 23 discussions that I was having, is that these issues were
11:15:45 24 unresolved, we needed to deal with them appropriately.
11:15:48 25 Sooner or later we were going to get there. This just
11:15:51 26 brought it forward. How many days or weeks it brought it
11:15:55 27 forward, it brought it forward.
28
11:15:56 29 No further questions.
11:15:58 30
31 COMMISSIONER: Yes, Mr Coleman?
32
11:15:59 33 MR COLEMAN: I don't have any questions, thank you,
11:16:00 34 Commissioner.
11:16:00 35
11:16:01 36 COMMISSIONER: Mr Chettle.
11:16:03 37
11:16:04 38 MR CHETTLE: Three very small points.
39
11:16:06 40 MR WINNEKE: Sorry, Commissioner, before Mr Chettle starts
11:16:07 41 there is a matter I meant to deal with it. It's a discrete
11:16:10 42 matter. It's 21 January 2015. In your statement at
11:16:14 43 paragraph 57 you refer to a meeting with the Commonwealth
11:16:17 44 DPP that you attended with Mr McRae?---Right.
45
11:16:23 46 You say that you gave them a briefing and to the best of
11:16:27 47 your recollection you undertook to provide a copy of the

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:16:32 1 case study concerning Karam and you did provide that case
11:16:35 2 study?---I think that's right.
3
11:16:37 4 That's to the best of your recollection?---Yes.
5
11:16:40 6 Can I suggest you might be wrong about that? Mr McRae said
11:16:44 7 in his evidence that, "We described the case study to them,
11:16:51 8 we didn't give them the case study. The case study, after
11:16:54 9 the Kellam report, was delivered by the State DPP to the
11:16:58 10 Commonwealth"?---Right.
11
11:17:00 12 That's what he said?---He'd be more correct than me then.
13
11:17:05 14 Righto?---If we didn't give them one - I think my
11:17:06 15 recollection is we undertook to give them one in the room
11:17:11 16 but that things may have changed after we left around how
11:17:15 17 that happened and how disclosure occurred.
18
11:17:16 19 If Mr McRae's view is that it wasn't given, then you'd be
11:17:20 20 prepared to accept that; is that right?---I didn't provide
11:17:22 21 it, so I have to accept that.
22
11:17:29 23 Mr McRae had also in his statement concerning the State
11:17:34 24 DPP, that there would have been PII arguments if the OPP,
11:17:38 25 State DPP wanted to see the case studies. Was there any
11:17:43 26 discussion about that with you?---No, I don't recall that.
27
11:17:46 28 All right, thanks very much.
29
11:17:49 30 COMMISSIONER: Still no?
11:17:50 31
11:17:51 32 MR COLEMAN: Still no questions.
33
11:17:53 34 COMMISSIONER: Yes Mr Chettle.
11:17:54 35
36 <CROSS-EXAMINED BY MR CHETTLE:
37
11:17:55 38 Thanks, Commissioner. Mr Leane, during the course of
11:17:58 39 Operation Bendigo it would appear from evidence provided to
11:18:01 40 the Commission that Steve Gleeson located and sent to an
11:18:06 41 Assistant Commissioner a previous registration of Ms Gobbo
11:18:11 42 as a human source in 1999. Was that brought to your
11:18:14 43 attention?---I don't recall.
44
11:18:18 45 Jeff Pope had registered her as an informer in 1999?---I
11:18:24 46 know that's now the case.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:18:25 1 Yes?---I don't recall when I became aware of that or if I
11:18:28 2 became aware of that.
3
11:18:30 4 It seems that Mr Gleeson located it somewhere and sent it
11:18:34 5 to an Assistant Commissioner, I don't know which one it
11:18:38 6 was?---I hope it wasn't me because I can't recall it.
7
11:18:41 8 No, I'm not suggesting it was you. I don't think it was.
11:18:45 9 Would that be a matter that you should have been aware of
11:18:48 10 as the head of ESD?---Well, as seen from the formation of
11:18:53 11 this Royal Commission it was critically, it's critically
11:18:57 12 important.
13
11:18:57 14 It would be a matter of some concern, wouldn't it? It's in
11:19:00 15 the middle of doing a review of whether or not Victoria
11:19:03 16 Police had behaved appropriately in registering a
11:19:05 17 barrister, to have it drawn to your attention that it
11:19:10 18 happened before by a man who is now an Assistant
11:19:13 19 Commissioner?---I'm sorry, I didn't quite follow. I'm
11:19:16 20 sorry, I might be a bit slow this morning. I didn't quite
11:19:20 21 follow your question.
22
11:19:21 23 It would be a matter of concern to you if in the middle of
11:19:23 24 doing a review of Victoria Police's use of a criminal
11:19:26 25 barrister as an informer, that it came to your attention
11:19:30 26 they'd done it before?---Yes.
27
11:19:32 28 But no one brought it your attention as far as you're
11:19:36 29 concerned?---Not that I can recall.
30
11:19:39 31 Can I ask you, what are the obligations on a senior police
11:19:44 32 officer if they have reason to believe that a criminal
11:19:47 33 offence has been committed by another police officer?---Is
11:19:50 34 to report it. So Professional Standards Command has been
11:19:55 35 set up for that exact possible. If they're not comfortable
11:19:59 36 with that they can go to IBAC or OPI.
37
11:20:07 38 We know in this case there were some documents sent to IBAC
11:20:09 39 and IBAC said they're not interested initially. We know
11:20:13 40 that's the position because of your evidence before, but if
11:20:13 41 you were sitting as an AC and someone came to you said,
11:20:17 42 "Look, there's been a possible attempt to pervert the
11:20:20 43 course of justice here", the proper place to go would be to
11:20:25 44 report it to ESD for investigation?---Yes.
45
11:20:28 46 Had that occurred, in relation to the conduct of the SDU,
11:20:31 47 to your knowledge?---Not to my knowledge.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
11:20:33 2 Finally, in relation to the topic of leaks. Can I bring up
11:20:39 3 VPL.6069.0051.4768. This is an email chain that ends up
11:20:52 4 with Inspector Campbell at the top. That's not where I
11:20:56 5 want to go. If you go down to the bottom of that page
11:21:00 6 you'll see that Boris Buick sent an email to Steve Fontana,
11:21:08 7 Michael Frewen and Ian Campbell on 28 March 2014. If you
11:21:13 8 go over the next page there's a bit of history is set out.
11:21:18 9 Then down the bottom under the heading "Today", if that
11:21:22 10 could be amplified, please. "At 11.15 this day, 28 March
11:21:27 11 14, I was advised by Detective Senior Sergeant O'Connell as
11:21:32 12 to the following: Herald Sun journalist Anthony Dowsley
11:21:36 13 has in recent days contacted Detective Sergeant Sol Solomon
11:21:40 14 as Solomon was formerly a member of the Petra Task Force.
11:21:45 15 Dowsley conveyed to Solomon that F had disclosed to him
16 (Dowsley) that she had previously had a sexual relationship
11:21:51 17 with AC Pope". Just stopping there. Were you aware of
11:21:53 18 that allegation?---I'm now aware. I was aware along the
11:21:57 19 run of it. I'm not sure when I became aware.
11:21:59 20
11:22:01 21 "Dowsley conveyed to Solomon that he, Dowsley, had sought
22 comment from Pope about this matter and that Pope denied
11:22:07 23 the allegation. Dowsley conveyed that Pope disclosed to
11:22:09 24 him, Dowsley, that F was a registered human source and that
11:22:13 25 it was DC Ashton who had intervened and arranged for the
11:22:18 26 withdrawal of F as a witness in the Dale prosecution.
27 Solomon provided no information to Dowsley, diarised the
11:22:26 28 contact and briefed O'Connell". Do you see that?---Yes.
29
11:22:27 30 Was that drawn to your attention?---Not that I can recall.
31
11:22:30 32 That would be a serious breach of conduct, wouldn't it, if
11:22:33 33 Mr Pope had done what Mr Dowsley told - what got through to
11:22:38 34 Mr Buick?---In relation to the sexual relationship issue or
11:22:41 35 the - - -
36
11:22:42 37 No, disclosing that she was a source? "Pope disclosed to
11:22:49 38 him that F was a registered human source and Ashton had
11:22:53 39 intervened to arrange the withdrawal of her as a
11:22:55 40 witness"?---Yes.
41
11:22:56 42 I tender that document, Commissioner.
43
11:22:58 44 COMMISSIONER: We think it may already be part of Exhibit
11:23:01 45 716. It is.
11:23:03 46
11:23:03 47 MR CHETTLE: It is, thank you. Yes, I have no further

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:23:07 1 questions.
2
11:23:07 3 COMMISSIONER: Thank you.
11:23:11 4
11:23:11 5 MR DOYLE: With your leave, Commissioner, I've got a few
11:23:13 6 questions.
7
11:23:14 8 COMMISSIONER: Yes, sure. Mr Doyle. I'm not used to
11:23:16 9 having to ask you if have you any questions.
11:23:20 10
11 11 <CROSS-EXAMINED BY MR DOYLE:
12
11:23:22 13 Mr Leane, can I take you back to March 14, the first
11:23:27 14 meeting that you were involved with with the Director of
11:23:29 15 Public Prosecutions and the Office of Public
11:23:30 16 Prosecutions?---Yes.
17
11:23:30 18 I take it that was the first meeting you attended?---In
11:23:33 19 relation to this matter, yes.
20
11:23:34 21 Yes, with Mr Champion and Mr Gardiner?---Yes.
22
11:23:40 23 To set the context for that meeting, at that time, to your
11:23:43 24 knowledge, the OPI had been alerted to the issue of
11:23:49 25 Ms Gobbo's use as a source?---Well OPI had folded and
11:23:55 26 become IBAC, so my knowledge at that stage is in the
11:23:59 27 history of the running of this is that OPI themselves had
11:24:03 28 become aware of it and that any of and all of those files
11:24:07 29 would have been handed over to IBAC. So they had
11:24:10 30 knowledge. That's my assumption. Quite reasonably I think
11:24:13 31 is that OPI and therefore IBAC had knowledge.
32
11:24:16 33 And IBAC had the capacity to look into this by exercising
11:24:21 34 investigative powers?---Yes.
35
11:24:24 36 Finn McRae was contemplating briefing the VGS0?---Yes.
37
11:24:30 38 And perhaps counsel?---For advice, yes.
39
11:24:34 40 There was also talk of a referral to the Legal Services
11:24:38 41 Commissioner?---Yes.
42
11:24:39 43 And Victoria Police was conducting its own investigation
11:24:43 44 through Operation Loricated into its intelligence
11:24:47 45 holdings?---Yes.
46
11:24:48 47 In order to determine the facts of what had

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:24:50 1 occurred?---Yes.
2
11:24:52 3 And that process was ongoing?---Yes.
4
11:24:56 5 At the time you met with the Director and Bruce Gardiner on
11:25:02 6 1 April, I don't need to take you to the note, but Bruce
11:25:07 7 Gardiner took a note to the effect that it wasn't yet known
11:25:11 8 if Ms Gobbo had given police data regarding a person who
11:25:16 9 was then her client. Does that conform with your
11:25:21 10 recollection of the state of play back in April
11:25:24 11 2014?---Yes. That was the position that we were at, which
11:25:28 12 is we were trying to unpick it.
13
11:25:32 14 It was potentially going to be - the facts were going to be
11:25:37 15 illuminated in various ways potentially?---As you say, we
11:25:41 16 were going to everybody we could and getting them involved
11:25:45 17 and letting them know what was going on and where we were
11:25:48 18 going to go with this we didn't he no.
19
11:25:51 20 The position of the Director and Mr Gardiner at that stage
11:25:55 21 was they'd be happy to receive any further information you
11:25:57 22 had once the facts were better exposed?---Yes.
23
11:26:00 24 Moving ahead then in time. Firstly, the Herald Sun
11:26:10 25 publication which occurred at about that time prompted real
11:26:14 26 concern for the safety of Ms Gobbo?---Yes.
27
11:26:17 28 I think you described in your statement her safety being
11:26:20 29 the number one priority of the Bendigo steering
11:26:23 30 committee?---Yes.
31
11:26:24 32 Mr Winneke took you earlier to some documents which
11:26:28 33 revealed the committee's concern over the security of the
11:26:33 34 information which was being analysed during
11:26:36 35 Loricated?---Yes.
36
11:26:37 37 And so the security of the documents which recorded her
11:26:41 38 activities was a concern of the steering committee?---Yes,
11:26:44 39 so any link between her and police was a risk to her.
40
11:26:48 41 So who had access to those documents was something which
11:26:51 42 needed to be closely monitored?---Yes.
43
11:26:57 44 You were aware that in the lead up to the meeting that you
11:27:00 45 had with the Director and Mr Gardiner on 25 November 2014
11:27:04 46 that Finn McRae had alerted Mr Gardiner to the fact that he
11:27:08 47 wanted to discuss case studies?---I understand there was

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:27:12 1 correspondence, phone calls or emails between the two of
11:27:15 2 them before the meeting, we got to the meeting I
11:27:18 3 understand.
4

11:27:19 5 Have you seen any of that correspondence?---I've previously
11:27:23 6 seen some of it, I'm not - but if you want to lead me to
11:27:26 7 one, by all means.
8

11:27:28 9 Yes, I'll show you just a piece of it so you can get a feel
11:27:31 10 for it, Mr Leane. If Exhibit 1096 could be brought up,
11:27:37 11 please, and attachment 22 to that exhibit. The document
11:27:41 12 number, it's an RCMPPI document, 0104.0001.0155. Do you see
11:28:01 13 that that's an email from Finn McRae to Bruce Gardiner,
11:28:05 14 sent the day before the meeting?---Right.
15

11:28:08 16 With an attachment embedded called Legal Conflict Report,
11:28:12 17 example one to five?---Right.
18

11:28:14 19 That's in reply to an email that Mr Gardiner's sent which
11:28:18 20 says, "Yes, I think he would"?---Right.
21

11:28:21 22 If we scroll down, Mr Leane, you'll see what Mr Gardiner is
11:28:25 23 replying to, and that's an offer from Finn McRae for a list
11:28:29 24 of cases prior to the meeting, do you see that
11:28:32 25 email?---Yes.
26

11:28:33 27 Which Mr McRae sent on 21 November 2014?---Yes.
28

11:28:36 29 Mr McRae states, "We have chronologies and case studies
11:28:43 30 that I thought we could discuss and then consider next
11:28:46 31 steps, if any"?---Right.
32

11:28:48 33 Just pausing over those words for a moment. The words "if
11:28:51 34 any", does that reflect the fact that in light of the case
11:28:56 35 studies it still wasn't clear that any action needed to be
11:28:59 36 taken and that was a matter for further discussion?---You'd
11:29:03 37 have to ask Finn but it maybe just a polite way to write
11:29:11 38 not a directive sentence. "If any" may - I don't know why
11:29:16 39 you'd add that. I can't understand why the "if any", it
11:29:20 40 might be politeness to not state the bleeding obvious or
11:29:25 41 give the opportunity for the DPP to have a think.
42

11:29:29 43 I'll come back to what was to be done afterwards in a
11:29:32 44 moment. If we keep scrolling down there should be the
11:29:34 45 attachment there. The evidence is that this was the single
11:29:38 46 page that was attached to Mr McRae's email?---Right.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:29:41 1 That refers, doesn't it, to the case studies that were to
11:29:44 2 be discussed?---Yes.
3
11:29:50 4 Mr McRae's given evidence that the summaries themselves
11:29:54 5 were not documents that he was willing to email?---Right.
6
11:30:00 7 You'd understand that there'd be good reasons for giving
11:30:03 8 that evidence?---Yes.
9
11:30:04 10 Because the summaries themselves contained sensitive
11:30:08 11 information?---Yes.
12
11:30:10 13 And we're talking about the more lengthy summaries here.
11:30:13 14 Are you familiar with the way these case studies were set
11:30:16 15 out, firstly, with an issue cover sheet at the
11:30:20 16 beginning?---Right.
17
11:30:20 18 You agree that that document was a very short document
11:30:23 19 summarising the conclusion in the case study?---That's
11:30:25 20 right.
21
11:30:26 22 And sitting behind that was a more lengthy summary of what
11:30:29 23 the analysis of the material by investigators had
11:30:33 24 revealed?---That's correct.
25
11:30:34 26 That analysis contained extracts from ICRs?---That's right.
27
11:30:38 28 And that's sensitive material?---Yes.
29
11:30:42 30 The dissemination of which is carefully considered in light
11:30:46 31 of public interest immunity considerations?---That's right.
32
11:30:58 33 Is the position that you don't remember precisely which
11:31:02 34 parts of the case studies you had with you at the meeting
11:31:06 35 but you'd had some material from them, you recall that
11:31:09 36 much?---Yea. I believe we had the summaries and I wouldn't
11:31:11 37 have thought we'd had the, what they call the ICSs.
38
11:31:16 39 The summaries are the materials that Mr McRae's indicated
11:31:21 40 he didn't want to send via email?---Right.
41
11:31:26 42 He's also given evidence that those documents, as part of
11:31:38 43 the case studies which he had with him were, that is at the
11:31:44 44 meeting, were themselves subject to public interest
11:31:48 45 immunity considerations and couldn't necessarily just be
11:31:51 46 provided?---Okay.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:31:55 1 He referred to the fact that he had with him the head of
11:31:58 2 Ethical Standards, I presume he meant - - - ?---Me,
11:32:02 3 Professional Standards.
4

11:32:03 5 You were at Professional Standards at the time?---It was
11:32:05 6 once called Ethical Standards. Like government, we keep
11:32:10 7 changing names of everything.
8

11:32:11 9 As someone in that role you had a familiarity with the
11:32:14 10 constraints imposed by public interest immunity?---Yes.
11

11:32:17 12 And given your role in the Bendigo steering committee and
11:32:21 13 the evidence you've given this morning, you're aware of the
11:32:25 14 potential dangers around the information in the case
11:32:28 15 studies?---Right.
16

11:32:29 17 And summarised in the summaries, do you agree with
11:32:32 18 that?---Yes.
19

11:32:35 20 Mr McRae gave evidence that the documents he had, this is
11:32:39 21 at transcript 12951, weren't in a proper form for
11:32:43 22 disclosure, they would have needed to be reworked and
11:32:47 23 public interest immunity issues taken into account. If
11:32:50 24 that's a reference to documents which contained extracts
11:32:53 25 from ICRs and names of handlers, you'd agree with that
11:32:58 26 assessment?---Yes.
27

11:33:02 28 Are you aware, Mr Leane, of how this material was treated
11:33:06 29 during the litigation that occurred before Justice
11:33:10 30 Ginnane?---I understand it was locked away and legal
11:33:15 31 representatives were given access to it under strict
11:33:18 32 conditions.
33

11:33:19 34 Those conditions included that the material needed to be
11:33:21 35 stored in secure safes?---Yes.
36

11:33:24 37 And that was the position as late as late 2016?---I presume
11:33:28 38 so.
39

40 The purpose of discussing the case studies was to brief the
11:33:40 41 Director and Mr Gardiner on the results of the analysis so
11:33:41 42 far?---Right.
43

11:33:41 44 Do you agree with that?---Yeah.
45

11:33:45 46 And some of the studies themselves required ongoing
11:33:51 47 work?---Yeah, well, there was enough in the summaries to

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:33:56 1 draw conclusions, but there was a lot more work to be done
11:33:59 2 as far as securing the case study documents themselves and
11:34:04 3 making sure it was complete.
11:34:05 4
11:34:08 5 Mr McRae took a note of the meeting on 25 November and one
11:34:13 6 of the items in his file note is that the meeting involved
11:34:19 7 description of the ongoing work on the five case studies
11:34:23 8 identified in the Comrie Review?---Right.
11:34:27 9
11:34:27 10 Would you agree that the case studies were discussed in
11:34:31 11 those terms, that is some of them required ongoing analysis
11:34:37 12 and consideration?--Well I haven't got a note of it, but
11:34:41 13 I'm not sure exactly.
11:34:47 14
11:34:48 15 Mr McRae gave evidence that but for one case that was
11:34:54 16 potentially affected, there was no clear evidence in any of
11:34:58 17 the case studies of the outcome of court cases being
11:35:01 18 affected?---Right, okay.
11:35:04 19
11:35:04 20 Do you agree that that was the position with the five case
11:35:07 21 studies at the time?---By November?
11:35:10 22
11:35:10 23 That was transcript 12932. Yes, by November 2014?---No, no
11:35:18 24 clear - I think that was right. There was still work to be
11:35:22 25 done to piece together what, what actual evidence was led
11:35:26 26 and how, and what parts of it were led.
11:35:29 27
11:35:29 28 The most concerning case involved PII [REDACTED] ?---Right.
11:35:34 29
11:35:34 30 Do you agree with that?---Yes.
11:35:37 31
11:35:38 32 And you say that where your notes refers to one case study
11:35:43 33 and a question mark that would be the one that it's most
11:35:46 34 likely referring to because that would be the one of
11:35:49 35 greatest concern?---It may very well have been, yes.
11:35:52 36
11:35:52 37 If I could remind you of the content of the summary of
11:35:55 38 conclusions in that case, please, by showing you the issue
11:36:01 39 cover sheet at Exhibit 1127, please. Do you recognise
11:36:16 40 this, Mr Leane, as the issue cover sheet summarising the
11:36:21 41 results of the analysis of PII [REDACTED] 's case study?---I
11:36:25 42 recognise that it does relate to that. I think - this one
11:36:30 43 is PII [REDACTED].
11:36:32 44
11:36:32 45 COMMISSIONER: Just take that out, please from the record.
11:36:39 46 We'll give you the flash card.
11:36:45 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:36:45 1 MR HOLT: There's no issue with Exhibit 81 but I think this
11:36:48 2 is the only name, Commissioner.
11:36:49 3
11:36:49 4 COMMISSIONER: Yes.
11:36:54 5
11:36:54 6 WITNESS: Sorry, I'm with you now.
11:36:57 7
11:36:57 8 MR DOYLE: Apologies, Mr Leane, I thought it was
11:37:01 9 understood. Do you agree that you're looking at the
11:37:04 10 summary of the case study which was identified as perhaps
11:37:10 11 being of most concern as you understood the position back
11:37:14 12 in November 2014?---Yes.
11:37:19 13
11:37:23 14 And you see there that a question's raised. If we go two
11:37:30 15 paragraphs up from the recommendation. And it says, "The
11:37:39 16 question is whether the information she", that's a
11:37:44 17 reference to Ms Gobbo, "Received from PII [REDACTED] was subject
11:37:47 18 to legal professional privilege or is there a legal
11:37:51 19 conflict surrounding the information she provided to
11:37:54 20 police"?---Yes.
11:37:56 21
11:37:56 22 Do you see that there? There are a series of other
11:37:59 23 questions raised. Do you agree?---Yes.
11:38:03 24
11:38:04 25 And the conclusion is that, "Expert legal opinion would
11:38:09 26 need to be obtained to explore further the facts relating
11:38:14 27 to this example and provide advice on the dominant purpose
11:38:19 28 test and identify whether there was a legal professional
11:38:22 29 privilege or legal conflict breach"?---Yes.
11:38:24 30
11:38:25 31 Now, if we, having reminded you of the contents of that, go
11:38:32 32 back to your notes for a moment, please, Mr Leane. Have
11:38:36 33 you got a typed copy there, it might be most convenient?
11:38:49 34 Do you see under the name Finn McCrae?---Yes.
11:38:53 35
11:38:54 36 You've got a few points next to dashes. I want to take you
11:38:59 37 to the one next to "conclusions"?---Yes.
11:39:02 38
11:39:03 39 It says, "Four State, one Commonwealth"?---Yes.
11:39:05 40
11:39:05 41 You've got the word "findings" in inverted commas. Does
11:39:14 42 that reflect the fact that the findings weren't always
11:39:18 43 definitive?---I think the findings relate to these ICS's.
11:39:25 44 I can't see p.2 so I don't know who drafted it.
11:39:28 45
11:39:28 46 As we see in this example, there weren't definitive factual
11:39:33 47 findings made about, for example, whether she was acting

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:39:38 1 for PII [REDACTED] at the very same time at which she provided
11:39:41 2 information to Victoria Police about the very case in which
11:39:44 3 she was acting?---Yes, and that was the concern of the
11:39:48 4 writer of this, yes.
11:39:49 5
11:39:49 6 Where you've written the word "privilege" and two question
11:39:53 7 marks?---Yes.
11:39:53 8
11:39:54 9 That identifies, doesn't it, an issue raised with at least
11:39:57 10 one case study about whether legal professional privilege
11:40:00 11 was breached?---Well I think all five case studies deal
11:40:04 12 with the issue, and the question marks mean that we're in
11:40:08 13 this circle of whether, what is the actual nature of what
11:40:11 14 was received by some police, was it provided to other
11:40:14 15 police and then was it, you know, should it have been
11:40:17 16 disclosed or was it led in trial that led to a conviction.
11:40:21 17 So all those questions and the nature of the discussion
11:40:26 18 between Gobbo and the person. They're all the questions
11:40:29 19 that are raised. That is what the privilege two dot points
11:40:33 20 mean, it's an unresolved issue.
11:40:35 21
11:40:36 22 Similarly, Mr Leane, where you've said "discussed [REDACTED]
11:40:39 23 case" in these notes?---Yes.
11:40:40 24
11:40:41 25 "- interest of client question?"?---Yes.
11:40:44 26
11:40:44 27 That question mark again reflects the indeterminate nature
11:40:51 28 of the conclusions that were capable of being reached by
11:40:54 29 the investigators at that point in time?---The question
11:40:57 30 mark denotes that it's an unresolved issue.
11:41:04 31
11:41:04 32 That was conveyed to the Director and Mr Gardiner in this
11:41:07 33 meeting?---Right.
11:41:08 34
11:41:08 35 Do you agree with that?---Yes.
11:41:09 36
11:41:12 37 Finn McCrae noted that, "No evidence of deliberate attempt
11:41:21 38 to pervert the course of justice", does that accord with
11:41:25 39 your recollection of one of the things that was
11:41:28 40 conveyed?---It's consistent with the advice that we were
11:41:30 41 getting from inside Victoria Police, that that was the
11:41:34 42 position.
11:41:35 43
11:41:37 44 And both you and Mr McCrae were querying that, you didn't
11:41:42 45 take it as definitive yet?---No.
11:41:45 46
11:41:46 47 Because these matters were going to be the subject of

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:41:49 1 further investigation and analysis?---Yes, that was the
11:41:53 2 purpose of creating the case studies. We weren't going to
11:41:56 3 just leave it to the impression of the writer of the issue
11:42:01 4 cover sheet as far as that's it.
11:42:03 5
11:42:06 6 It was also, you also were considering to what extent there
11:42:12 7 was evidence of information obtained by Ms Gobbo passed on
11:42:18 8 to informants and investigators in cases?---Yes.
11:42:21 9
11:42:22 10 And at that time the state of knowledge was, or the
11:42:27 11 information you and Mr McRae had, was that Jim O'Brien was
11:42:30 12 privy to some information but there would be no record of
11:42:34 13 him passing that information on to informants?---I
11:42:37 14 certainly made notes about O'Brien so I know he came up,
11:42:42 15 but yes, that was the nature of what we were trying to
11:42:45 16 establish.
11:42:45 17
11:42:47 18 Was what I just put the nature of what you and Mr McRae
11:42:50 19 understood to be the position as at that date?---As of that
11:42:53 20 date, yes.
11:42:53 21
11:42:55 22 What we've just gone through, Mr Leane, that is the
11:42:58 23 identification of potential breaches of privilege,
11:43:02 24 potential conflicts of interest, whether or not there'd
11:43:06 25 been information passed to informants, these broad topics
11:43:12 26 were all raised during the meeting?---Yes.
11:43:15 27
11:43:50 28 It may be, Mr Leane, that beyond the summary document I've
11:44:00 29 just taken you to, there was nothing else you had with you
11:44:04 30 in a form which could be immediately handed over to the
11:44:07 31 Director for his further consideration?---No, I don't say
11:44:10 32 there was. It was only - I believe we had the summary
11:44:14 33 document and, as I've described, as the meeting progressed
11:44:17 34 it was offered and it was politely declined by the DPP.
11:44:21 35
11:44:26 36 Thanks Mr Leane. I have nothing further of Mr Leane,
11:44:28 37 Commissioner.
11:44:28 38
11:44:29 39 COMMISSIONER: Yes Mr Holt.
11:44:30 40
11:44:31 41 MR HOLT: About ten minutes, Commissioner. I'm conscious
11:44:33 42 we've been going for two and a quarter hours, would you
11:44:37 43 like to take a break now or attempt to finish?
11:44:39 44
11:44:40 45 COMMISSIONER: What would you prefer, Mr Leane?---I'm happy
11:44:42 46 to keep going, I'm in your hands.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1 Okay, we'll keep going and finish with this witness.

11:44:44 2
11:44:46 3 <RE-EXAMINED BY MR HOLT:
4

5 Again, as I indicated during the course of Mr Leane's
11:44:46 6 evidence there may be a need for a supplementary statement
11:44:50 7 on some issues that I simply can't adequately deal with in
11:44:52 8 re-examination in the circumstances but I'll do what I can.
9

10 Mr Leane, you were asked some questions about the
11:44:55 10 period of time when you came into Operation Loricated
11:44:57 11 steering committee effectively right towards the end of
11:45:02 12 that operation concluding?---Yes.
11:45:04 13

14 And you were asked questions about the process that you
11:45:06 15 were then engaged in which resulted ultimately in the
11:45:10 16 formation of Operation Bendigo, with its more senior
11:45:14 17 leadership and it's broader focus?---Yes.
11:45:18 18

19 Obviously you weren't there for what occurred before, but
11:45:21 20 were you aware that firstly Operation Loricated was focused
11:45:26 21 on the first recommendation of the Comrie Review?---Yes, it
11:45:31 22 had a narrow focus.
11:45:36 23

24 That was the creation of the SDU holdings and the creation
11:45:39 24 of a database that would allow these issues to be properly
11:45:40 25 explored?---That's right.
11:45:43 26
11:45:46 27

28 Mr McRae has given evidence, and indeed it's apparent on
11:45:47 29 the face of the Comrie Review that the expectation was that
11:45:50 30 that process of gathering all of the information together
11:45:55 31 so that further steps could be taken was expected to only
11:45:57 32 take a matter of a few months, three or four months?---Yes.
11:46:00 33

34 Obviously just from the timeline you've looked at it took
11:46:04 35 dramatically longer than that?---Yes.
11:46:07 36
11:46:10 37

38 But as you understood it was that still the same process,
11:46:13 39 it was the process that was expected of gathering all of
11:46:13 40 the information together so that further steps could be
11:46:16 41 taken?---Yeah, and part of that was IT related and part of
11:46:20 42 it was, you know, the resource capacity and people with
11:46:22 43 knowledge of the system. So it took much longer than was
11:46:27 44 anticipated.
45

46 As you understood it from the perspective of the senior
11:46:28 46 people on the steering committee, I'm speaking particularly
11:46:32 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:46:34 1 about Mr McRae, was it your understanding that the
11:46:37 2 expectation was create that database, lock it up in a room
11:46:41 3 and leave it alone or was your understanding that there'd
11:46:42 4 be more work done on it?---I think there was more - there
11:46:43 5 was more in the recommendation itself from Comrie, is to
11:46:46 6 consider it. I'd have to look at the exact nature of the
11:46:50 7 recommendation but there was a little bit more in it.
11:46:52 8
11:46:52 9 Sure. You were asked some questions by Mr Winneke about
11:46:56 10 the process that you went through as the kind of, I'm
11:47:00 11 paraphrasing, the sort of fresh eyes in looking at this
11:47:03 12 issue and asking questions. You were asked specifically
11:47:07 13 whether you were given access to a document we've been
11:47:11 14 referring to Mr Gleeson's out of scope document or report,
11:47:15 15 you indicated you hadn't seen that, do you recall
11:47:17 16 that?---That's right.
11:47:18 17
11:47:20 18 Did you, as you detailed in your statement, have a
11:47:22 19 conversation with Mr Gleeson, as you said in your statement
11:47:25 20 in paragraph 40, on 9 April 2014 about his involvement in
11:47:29 21 the Comrie Review and associated issues?---I did. So I've
11:47:34 22 known, been in the Police Force a long time, I've worked
11:47:38 23 with Gleeson before. I think he was away at some stage
11:47:41 24 during this time at another inquiry, he was assisting
11:47:44 25 Mr Comrie, it might have been bushfires or other inquiry.
11:47:48 26 But I was joining dots on what was going on and then
11:47:53 27 someone told me that Gleeson was involved, so I finally
11:47:57 28 managed to grab him and sit him down in my office and
11:48:00 29 actually ask him what his views was. I was keen to
11:48:03 30 understand his perspective of what he was saying.
11:48:06 31
11:48:07 32 Did you have any sense either on that occasion or by
11:48:09 33 reference to your knowledge of Mr Gleeson that there was
11:48:10 34 any reticence or lack of frankness in the things that
11:48:13 35 Mr Gleeson was saying to you?---He wasn't - and even today
11:48:16 36 I've learnt things through the evidence given, he wasn't
11:48:21 37 completely open to me on a number of matters and I
11:48:24 38 understand why, he has explained why, because of other
11:48:28 39 legislation he's not required to tell me about.
11:48:30 40
11:48:30 41 I see. So you're talking there specifically about things
11:48:33 42 that it would have been a criminal offence for him to
11:48:35 43 disclose?---Yes.
11:48:36 44
11:48:36 45 Other than those matters?---Yeah, so in relation to the
11:48:38 46 matters that I was asking him, and it was an open and frank
11:48:41 47 discussion about, I explained my sense of what I'm seeing

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:48:45 1 and then he explained his view of what was going on, which
11:48:48 2 was I had concerns, they had generated over a period of
11:48:52 3 time, they had crystallised and he was useful in me forming
11:48:56 4 a view that I was on the right track in continuing to
11:49:00 5 persist with this.

11:49:01 6
11:49:01 7 In terms of being on the right track and continuing to
11:49:04 8 persist, you specifically name Mr Cartwright and Mr McRae
11:49:08 9 as people who you were speaking regularly with during the
11:49:12 10 course of that period?---Yes.

11:49:13 11
11:49:13 12 Were they people who ultimately were found to be supportive
11:49:16 13 of the track that you were attempting to take things
11:49:20 14 down?---Yes, yeah, they were. How we got there, we've
11:49:22 15 probably each got a view about we all got there
11:49:23 16 individually, but I think it was a number of conversations
11:49:26 17 where we went, and when we got there I was comfortable we
11:49:30 18 were heading there.

11:49:30 19
11:49:31 20 You were asked some questions by Mr Chettle I think about
11:49:34 21 the obligation of police officers, just touching on this in
11:49:37 22 this time in terms of reporting?---Yes.

11:49:40 23
11:49:40 24 And that there was an obligation and remains an obligation
11:49:42 25 to report misconduct or criminal activity?---Yes.

11:49:47 26
11:49:48 27 Is it right though a person who is said or a police officer
11:49:52 28 who is suspected of having done an act of that kind, is of
11:50:01 29 the rank of Assistant Commissioner or higher, that that
11:50:02 30 report must be to the OPI, or now IBAC?---Yes.

31
11:50:04 32 Rather than internally?---Yes. So an Assistant
11:50:05 33 Commissioner, Deputy Commissioner and the Chief
11:50:09 34 Commissioner must be reported to OPI and now IBAC. As the
11:50:13 35 Assistant Commissioner Professional Standards if it came to
11:50:14 36 me then I'd walk straight up with a person to collect
11:50:17 37 whatever, you know, I would take immediate action and
11:50:20 38 collect whatever evidence was there and then take it on the
11:50:22 39 phone straight away up to IBAC.

11:50:24 40
11:50:25 41 We've heard about a process in this case which occurred in
11:50:28 42 2012 where Mr Gleeson, following a conversation with
11:50:31 43 Mr McRae, went in fact with Mr McRae himself to the OPI and
11:50:36 44 spoke with Vanessa Twigg about things that raised those
11:50:40 45 sorts of issues. Would that feel like to you, given your
11:50:43 46 experience, as being an appropriate or otherwise?---It's
11:50:48 47 compulsory under the Act so it's appropriate.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:50:50 1
11:50:51 2 Just on a specific issue. You were asked some questions,
11:50:54 3 and the time line here is important we'll just map it out,
11:50:57 4 about a dissemination plan which was part of the closure of
11:51:02 5 Operation Loricated which was shown to you in detail dated
11:51:06 6 6 March 2014, do you recall seeing that dissemination
11:51:08 7 plan?---Yes.
11:51:08 8
11:51:08 9 And specifically that referred to some steps at that point,
11:51:13 10 before any media reporting which our learned friend
11:51:16 11 Mr Collinson referred to, about the approach that might be
11:51:18 12 taken to the legal privilege issues effectively or the
11:51:21 13 conflict issues, do you recall that?---Yes.
11:51:23 14
11:51:23 15 We then go to a document which Mr Winneke showed you which
11:51:26 16 are some minutes of the steering committee meeting for
11:51:30 17 Operation Loricated on 21 March 2014, again recalling that
11:51:35 18 the media article that Mr Collinson was interested in
11:51:38 19 happens on 31 March, so ten days later. Could we have a
11:51:42 20 look, please, it was tendered as Exhibit 1279, it's
11:51:49 21 VPL.0005.0018.0898. It was referred to this morning if
11:52:08 22 that helps. Yes, thank you. Can we just scroll through,
11:52:17 23 please. Just pause there, please. Under "dissemination
11:52:21 24 plan", do you see there the bottom one, you were taken to
11:52:24 25 this, "FM, Finn McRae, will be provided with a hard drive
11:52:26 26 of IRs, data relating to these themes and will have each
27 independently assessed to determine if further action,
11:52:33 28 investigation, referral is required", do you see
11:52:34 29 that?---Yes.
11:52:35 30
11:52:35 31 Contrary to the suggestion that was being indicated nothing
11:52:38 32 occurs until the article about Lawyer X matter on 31 March,
11:52:42 33 does this indicate there's an action item that these
11:52:46 34 matters will be attended to ten days before then?---Yes.
11:52:49 35
11:52:49 36 On that, that process of being provided with, it says there
11:52:54 37 a hard drive, but ultimately do you recall there being, I
11:52:57 38 think it's referred to in your statement, do you recall
11:53:01 39 being provided with and you and Finn actually having a
11:53:04 40 bundle of extracts of ICRs?---I know that was the product
11:53:07 41 that I had in my hands. Whether Finn had made that happen
11:53:11 42 or not, I'm not sure, but certainly at one stage there I
11:53:15 43 sat in a room with Finn and a VGS0 representative looking
11:53:20 44 at this bundle of lines and dates and comments trying to
11:53:25 45 make sense of it.
11:53:26 46
11:53:26 47 Was it that which led ultimately, not even ultimately but

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:53:30 1 within a matter of weeks as the evidence shows in April of
11:53:33 2 2014 to Mr Le Grand giving advice that that material that
11:53:37 3 had been put together apparently as a result of that action
11:53:40 4 item in the steering group committee meeting, couldn't be
11:53:45 5 meaningfully assessed from a legal perspective, it required
11:53:48 6 police input and legal input, effectively a
11:53:51 7 multi-disciplinary input?---Yes, you couldn't make sense of
11:53:53 8 it or draw - a legal practitioner of any sort couldn't draw
11:53:59 9 reasonable conclusions on the questions we were asking
11:54:02 10 based on that material that was provided.

11:54:05 11
11:54:05 12 And is that why, as a direct line back, in effect, to what
11:54:07 13 we see in the steering committee meeting minute here, is
11:54:11 14 that ultimately what led to the development of the case
11:54:14 15 studies approach with a multi-disciplinary team
11:54:18 16 involved?---Yes, it was those elements that got brought
11:54:21 17 together about, "Let's create case studies", and they were
11:54:25 18 created for - essentially from my perspective they were
11:54:28 19 created for two purposes.

20
11:54:30 21 Yes?---You know, the most appropriate purpose was to make
11:54:32 22 sense of it and then to deal with the issues. But the
11:54:34 23 other part of it is that we still couldn't convince people
11:54:38 24 that this could be real.

11:54:39 25
11:54:40 26 You said something like that when Mr Winneke was asking you
11:54:43 27 questions. It wasn't completely clear to me, with respect,
11:54:46 28 from your answer whether you were talking about just people
11:54:49 29 internally to Victoria Police or otherwise?---Yes. So
11:54:52 30 people were incredulous and could not imagine that a legal
11:54:56 31 practitioner would behave in this way and so therefore it's
11:55:00 32 just foreign to any sort of common thinking. So when you
11:55:04 33 start to get into this issue about it could be possible,
11:55:07 34 you just can't even get there. We think through, what I
11:55:14 35 call the push back from IBAC, on reflection the IBAC
11:55:17 36 Commissioner couldn't make this jump to, "This could be
11:55:20 37 possible". The DPP couldn't make this jump, that this
11:55:24 38 could be possible. And internally when I talked to senior
11:55:28 39 managers internally, couldn't make this jump that this
11:55:32 40 could be possible, A, that they would behave in this
11:55:34 41 fashion and, B, police would then take it and then what
11:55:37 42 would happen after that, who knows? It's foreign to just
11:55:41 43 common thinking about how people conduct themselves.

11:55:43 44
11:55:44 45 A couple of issues that arise out of that. The first is
11:55:47 46 you were talking about steering committees that you were
11:55:50 47 sitting on with Mr McRae and then also other very senior

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:55:54 1 sworn police officers?---Yes.
11:55:54 2
11:55:55 3 Can you assist us, the Commission just generally with, in
11:55:58 4 terms of the legal services representative here Mr McRae,
11:56:01 5 was his role here on these steering committees a decision
11:56:07 6 making function, and perhaps give us a bit of context to
11:56:11 7 that?---I suppose in context to how a steering committee or
11:56:14 8 how governance operates within Victoria Police, is that the
11:56:17 9 chair of the steering committee is actually the decision
11:56:20 10 maker. So I mean you create a committee and people say
11:56:25 11 whose responsibility is it, but essentially when it was Tim
11:56:29 12 Cartwright, he was the deputy, he was the decision maker,
11:56:32 13 and then Shane Paton took over and was promoted and he was
11:56:35 14 the decision maker. I'm there as part of a group to
11:56:41 15 perform a role, Finn's there as part of the group to give
16 advice and to bring that advice and to go away and collect
11:56:43 17 it, and others had functions. But at the end of the day
11:56:46 18 the decision rested with the Deputy Commissioner of the day
11:56:49 19 and that's why a steering committee gathers clever people
11:56:55 20 around, hopefully clever people, around the Deputy
21 Commissioner and make informed decisions from all those
11:56:58 22 sources of good information.
11:56:58 23
11:56:59 24 Mr Collinson asked you some questions focused on the timing
11:57:03 25 of the Herald Sun Lawyer X article on 31 March 2014 and he
11:57:09 26 particularly put to you that the DPP had not earlier been
11:57:13 27 briefed. The evidence in this case, particularly from
11:57:18 28 Mr McRae, is that the DPP was briefed on various matters
11:57:23 29 but and in any event including the fact disclosing the fact
11:57:28 30 that Nicola Gobbo had been a human source and specifically
11:57:31 31 issues relating to the Tony Mokbel extradition and her
11:57:35 32 involvement with that as a human source as early as 2012.
11:57:39 33 Does that assist you with the question whether or not the
11:57:41 34 DPP would ever have learnt but for the Lawyer X
11:57:45 35 article?---So in response to my answer, I'm not suggesting
11:57:47 36 that the DPP wasn't. I know that Finn had regular meetings
11:57:50 37 with the DPP and that was part of his function. I know
11:57:55 38 that those issues may very well have been raised, but I
11:57:59 39 can't give evidence that I was in the room or I took notes
11:58:01 40 of it.
11:58:01 41
11:58:02 42 Thank you. Just two other brief issues. You were asked
11:58:06 43 some questions about the briefing of IBAC on these issues
11:58:14 44 which occurred on your evidence on 1 April 2014. You were
11:58:23 45 shown a letter from IBAC which recorded what you accepted
11:58:26 46 was a wrong view that the, that there was already a review
11:58:32 47 that had been undertaken and simply the results were

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

11:58:35 1 awaiting being written up in effect, do you recall
11:58:38 2 that?---Yes.
11:58:38 3
11:58:39 4 Firstly, were you present - you were present at that
11:58:42 5 meeting with IBAC?---Yes.
11:58:43 6
11:58:43 7 Is it your recollection either at the time - that is your
11:58:47 8 recollection either now or at the time anyone was
11:58:50 9 misleading IBAC about the work the police were doing?---No.
11:58:53 10
11:58:54 11 If I read to you what Assistant Commissioner Fontana, who
11:58:58 12 was already also present at that meeting, said in a
11:58:59 13 contemporaneous diary note of that meeting, suggested that
11:59:03 14 IBAC were advised that Victoria Police will analyse
11:59:07 15 information about effectively the effect of Gobbo on cases.
11:59:11 16 Does that support that view in effect?---Yes.
11:59:13 17
11:59:14 18 Just moving then to the meeting, the meetings with the DPP.
11:59:20 19 You've explained that there were two. Is it right that
11:59:24 20 effectively, in 2014 I mean, the first was a kind of
11:59:28 21 pre-finalisation of the case studies' immediate aftermath
11:59:32 22 of the Lawyer X article and then the second was intended to
11:59:35 23 be a more detailed discussion, having done the case study
11:59:38 24 work?---The case studies became available, so we were in a
11:59:42 25 position where we could have a meaningful discussion around
11:59:45 26 the ramifications of what we started to establish as known
11:59:49 27 issues rather than alleged or reputed or, you know,
11:59:53 28 headlines in newspapers.
11:59:55 29
11:59:55 30 In terms of that second meeting in particular, even looking
12:00:00 31 at the PII example which our learned friend Mr Doyle
12:00:04 32 took you to in terms of the issue cover sheet, that even on
12:00:08 33 the issue cover sheet indicates that Gobbo had provided
12:00:12 34 information to, which had led to the arrest of PII
12:00:16 35 and then had subsequently acted for him. Were at least
12:00:20 36 those facts to your knowledge known and discussed with DPP
12:00:24 37 in this meeting in 2014?---I think some of the facts were,
12:00:27 38 yes.
12:00:28 39
12:00:29 40 Now, obviously you weren't present at and can't give any
12:00:36 41 evidence about the meetings with the DPP that occurred all
12:00:40 42 the way back in 2012 about Ms Gobbo's role?---No, but for
12:00:44 43 the discussion on, in the November meeting, then the
12:00:48 44 PII case was part of the discussion and I made notes of
12:00:52 45 that.
12:00:52 46
12:00:54 47 Yes, thank you Commissioner.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:00:54 1
12:00:54 2 COMMISSIONER: Will you be long, Mr Winneke?
3
4 MR WINNEKE: No, Commissioner, I've just got a couple of
5 questions.
6
7 COMMISSIONER: Yes.
12:00:56 8
9 <RE-EXAMINED BY MR WINNEKE:
10
11 In your statement at paragraph 24 you talk about informal
12:01:05 12 discussions that you had with Mr McRae and Mr Cartwright
12:01:08 13 about complex legal issues and these were from the early
12:01:16 14 months of 2014?---H'mm.
12:01:18 15
12:01:19 16 Have you examined your diary and any other records
12:01:22 17 available to you to see whether you've made contemporaneous
12:01:26 18 notes of such discussions about those matters?---I haven't
12:01:33 19 in recent time.
12:01:34 20
12:01:34 21 In your diary are there notes of discussions with Mr McRae
12:01:38 22 about what might occur into the future with respect to
12:01:41 23 these issues?---I can't recall. I've got a diary here, I
12:01:47 24 can flick through it.
12:01:47 25
12:01:48 26 I'm not going to ask you to do that now, but if you do have
12:01:51 27 the opportunity and you do find any of those
12:01:53 28 discussions?---Yes.
29
12:01:53 30 It would certainly be useful - - - ?---On notice
31
12:01:55 32 - - - to the Commission if you could provide them - -
33 -?---Yes.
34
12:01:57 35 - - - to your lawyers and we can then be provided with them
12:02:01 36 in turn. Mr Holt, took you to, as I did, the minutes of
12:02:08 37 the meeting on 21 March 2014 where in effect this issue,
12:02:12 38 legal conflict, complex issues was going to be dealt with
12:02:15 39 by providing it to Mr McRae, that is the hard drive of
12:02:19 40 those sorts of matters, the themes and he'd have the
12:02:22 41 opportunity to independently have them assessed to
12:02:26 42 determine if further action/investigation, referral is
12:02:30 43 required?---Right.
12:02:30 44
12:02:31 45 Is that the state of play as at 21 March 2014, that
12:02:35 46 Mr McRae would get that material and he would look at them
12:02:39 47 and, if necessary, have them independently assessed?---As

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:02:44 1 of that date it was, yes.
12:02:45 2
12:02:45 3 As of that date?---Yes.
12:02:46 4
12:02:47 5 So as at that date there hadn't been a decision made to set
12:02:51 6 up a separate Task Force to deal with those matters, would
12:02:55 7 that be fair to say?---As of that date?
12:02:57 8
12:02:58 9 Yes?---No.
12:02:58 10
12:02:58 11 And it was in the aftermath of the articles which were
12:03:02 12 written on 30 and 31 March that steps were put in train
12:03:07 13 which ultimately led to the establishment of Operation
12:03:13 14 Bendigo?---I've described that position before, it was a
12:03:20 15 burning platform and it created that opportunity. Whether
12:03:22 16 it was going to be created on that day, I'm confident
12:03:26 17 sitting here now, as I have been through my police career,
12:03:30 18 and the matters that I've dealt with over the years, that
12:03:34 19 this, we would have escalated this and I had a sense of
12:03:37 20 that already from the discussions I was having with Finn
12:03:40 21 and Tim.
12:03:40 22
12:03:40 23 Right?---Is that none of us were completely comfortable
12:03:44 24 with where this was sitting and eventually we would have
12:03:46 25 got to that, we would have got to that point.
12:03:48 26
12:03:49 27 I follow that. It's just that when you look at the closure
12:03:53 28 report of Loricated, the final minutes or at least the
12:03:54 29 minutes of 21 March 2014, one doesn't get the sense that
12:03:57 30 the next step is the establishment of a separate Task
12:04:01 31 Force?---Not within Loricated, as. Far as Loricated was
12:04:05 32 concerned and the wrap up of Loricated that was an end
12:04:08 33 report, and as far as some of the people in the room, that
12:04:11 34 was the end of that. As far as I was concerned this wasn't
12:04:15 35 the end of the issue, it was the end of Loricated, and
12:04:18 36 Loricated wasn't the end of the issue.
12:04:21 37
12:04:22 38 Nonetheless what was determined insofar as the end of
12:04:26 39 Loricated so far as that matter was concerned, was that
12:04:29 40 these ICRs would be, and IRs, would be provided to
12:04:35 41 Mr McRae?---Yes.
12:04:35 42
12:04:36 43 In effect to determine - - -?---So we'd got to - - -
12:04:39 44
12:04:39 45 - - - the next step?---Yes.
12:04:41 46
12:04:41 47 You were asked questions about a meeting or a discussion

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:04:44 1 you had with Mr Gleeson and I think that occurred somewhere
12:04:50 2 around 9 April?---Yes.
12:04:53 3
12:04:55 4 Had you spoken to Mr Gleeson before this time?---I'd had
12:05:01 5 corridor conversations with him.
12:05:02 6
12:05:03 7 Yes?---In that he had concerns, but he wouldn't elaborate.
12:05:07 8 And this was the first opportunity I had to have a sit down
12:05:10 9 conversation with him properly as the Assistant
12:05:14 10 Commissioner Professional Standards to ask him direct
12:05:16 11 questions around his concerns around these issues.
12:05:19 12
12:05:19 13 Do you say that there was some legislative reason that
12:05:24 14 prevented him from telling you about his concerns which
12:05:29 15 suggested that you were on the right track?---Sorry, I'm
12:05:38 16 trying to phrase this in the right way without getting
12:05:41 17 myself into trouble.
12:05:42 18
12:05:43 19 We don't want that to occur?---There was two - the
12:05:46 20 predominant issues around the privilege, he was more than
12:05:51 21 helpful and able to express his views. So he was able to
12:05:54 22 assist with that.
12:05:55 23
12:05:55 24 Yes?---He had concerns, which he had reported to, which is
12:05:59 25 that other report which I still haven't seen that's been
12:06:02 26 referred to today.
12:06:03 27
12:06:03 28 The out of scope report?---The out of scope report, which
12:06:07 29 he did not elaborate on in the room with me, and I've only
12:06:10 30 really learnt the detail of some of that during the running
12:06:15 31 of this Royal Commissioner, because he was bound under an
12:06:18 32 Act of Parliament not to tell.
12:06:19 33
12:06:19 34 He couldn't tell you about that because he was obliged
12:06:22 35 pursuant to the Police Regulation Act I assume not to tell
12:06:26 36 you about those matters?---Yes, and so he complied with his
12:06:28 37 duty, but as far as I, I still had an inkling because there
12:06:33 38 were still people telling me this was fine.
12:06:36 39
12:06:36 40 What was fine?---That everything will be fine, we haven't
12:06:40 41 actually breached privilege.
12:06:40 42
12:06:43 43 Right?---So there was still a group of people within
12:06:45 44 Victoria Police, whether they had been involved in the
12:06:47 45 investigation or not, probably not, but were saying this
12:06:50 46 was fine and I was saying, I felt it couldn't be fine and
12:06:54 47 Gleeson was of a strict view that it's not fine.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:06:57 1
12:06:57 2 What you're saying to the Commission is it really wasn't
12:07:00 3 until 9 April 2014 when you had a discussion with
12:07:03 4 Mr Gleeson, and were told that your concerns were
12:07:06 5 justified, that is that you were on the right track, it
12:07:09 6 wasn't until then that you received a view to that
12:07:14 7 effect?---No, I'm not saying that.
12:07:16 8
12:07:16 9 You're not saying that?---No, no, I'm not saying that.
12:07:20 10 This is a learning over a period of time, and it adds to
12:07:23 11 your knowledge and confidence around an issue. So I was, I
12:07:26 12 was concerned early. My concern arose as I continued to
12:07:30 13 have conversations with Finn McCrae and then with Tim
12:07:33 14 Cartwright and then Gleeson was just another example of
12:07:37 15 assuring myself that I was on the right track. It wasn't a
12:07:40 16 light bulb moment that, "Oh my God, I hadn't seen it like
12:07:45 17 this before".
12:07:45 18
12:07:45 19 You understand that it had already been recognised by
12:07:49 20 others within Operation Loricated that conflict was an
12:07:52 21 issue?---Yes.
22
12:07:53 23 And indeed it's set out in the closure report?---Yes.
12:07:57 24
12:07:58 25 And it wasn't simply a question of legal professional
12:08:01 26 privilege, the mere fact of conflict, that is a barrister
12:08:06 27 acting as an informer whilst representing the same person,
12:08:09 28 that was an issue, that was something - - -?---No, no, when
12:08:12 29 you put it that way that's still an issue. The issue for
12:08:16 30 us was what are we going to do about it.
31
12:08:19 32 Yes?---Which is why I say the steering committee, Bendigo
12:08:22 33 was really important because it was nice to know these
12:08:25 34 things, but the issue is what are you actually - what is
12:08:26 35 Victoria Police actually going to do about this now. And
12:08:29 36 we've had numerous attempts to try and do it. What are we
12:08:32 37 actually going to do?
12:08:32 38
12:08:33 39 Victoria Police was aware of this back in 2011, if not
12:08:36 40 earlier?---Like I say, I was Johnny come lately to this.
41
12:08:41 42 No, I understand that?---And I was a fly in the ointment re
12:08:44 43 raising issues that people had told me had been resolved.
12:08:48 44
12:08:48 45 All right. Thanks very much.
12:08:49 46
12:08:49 47 COMMISSIONER: Thanks Mr Leane, you're excused and free to

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:08:51 1 go.
2
12:09:15 3 <(THE WITNESS WITHDREW)
12:09:15 4
12:09:16 5 COMMISSIONER: We'll take a 15 minute break.
12:09:18 6
12:09:18 7 (Short adjournment.)
12:29:41 8
12:29:41 9 COMMISSIONER: Yes Mr Winneke.
12:29:42 10
12:29:43 11 MR WINNEKE: Thanks Commissioner.
12:29:43 12
12:29:44 13 COMMISSIONER: Thanks Mr Cartwright, if you could return to
12:29:47 14 the witness box.
12:29:48 15
12:29:49 16 <TIMOTHY CARTWRIGHT, recalled:
12:29:52 17
12:29:52 18 Mr Cartwright, I was asking you questions about the meeting
12:29:55 19 that you had with Messrs Ashton and McRae on 3 November
12:30:01 20 2011, you recall?---I do, Mr Winneke.
12:30:03 21
12:30:05 22 A number of matters were discussed during the course of
12:30:08 23 that meeting and effectively they were the governance issue
12:30:14 24 which led to the Comrie Review. There's the Commonwealth
12:30:18 25 matter with Dale?---Yes.
12:30:20 26
12:30:20 27 Which was the immediate precipitator of that meeting, then
12:30:24 28 there was the concern raised by Mr Ashton, being the Inca
12:30:29 29 matter?---Yes.
12:30:29 30
12:30:30 31 And then there was the issue of the Maguire advice insofar
12:30:39 32 as it touched upon problems with Mr Mokbel and the fact
12:30:41 33 that Ms Gobbo had potentially been providing information to
12:30:47 34 police whilst representing Mr Mokbel, do you accept
12:30:50 35 that?---Yes, we discussed that. The notes I don't think
12:30:54 36 were quite as extensive. I'm not even sure my notes
12:30:58 37 reflected on a discussion around Mokbel.
12:31:00 38
12:31:01 39 No. Now, I just wanted to, before I moved on, get an
12:31:07 40 understanding about where the responsibilities lay with
12:31:12 41 respect to taking actions. What you say is insofar as Inca
12:31:19 42 was concerned, "I asked Mr McRae to consider the
12:31:22 43 possibility, to consider the situation there and the
12:31:26 44 expectation was that if it was necessary to make
12:31:30 45 disclosure, or take further action", that would arise
12:31:34 46 following your action item concerning that matter to
12:31:37 47 Mr McRae?---That would have been my expectation, yes.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:31:39 1
12:31:42 2 Obviously Mr McRae has given evidence about what he says
12:31:45 3 was a misunderstanding?---Yes.
12:31:47 4
12:31:47 5 Which may or may not have been the case?---(Witness nods.)
12:31:50 6
12:31:51 7 Insofar as the matter of Paul Dale was concerned, you
12:31:55 8 understood that the Commonwealth prosecutor and I think the
12:32:00 9 solicitor for the prosecution was coming to see the logs of
12:32:03 10 the source management logs later that day on the
12:32:08 11 3rd?---Around that time, yep.
12:32:10 12
12:32:15 13 Mr Ashton has given evidence that his recollection is that
12:32:22 14 insofar as the State DPP was concerned, that is concerning
12:32:27 15 the Mokbel matter, he had a belief that he may have tasked
12:32:32 16 Mr McRae to communicate with the State DPP. Now, do you
12:32:41 17 have a recollection of that or not?---No, I don't. I don't
12:32:45 18 have a recollection much outside the notes at all,
12:32:47 19 Mr Winneke.
12:32:48 20
12:32:48 21 I follow that. In terms of responsibilities, what do you
12:32:52 22 say should have occurred in terms of, if there was a view
12:32:56 23 taken at the meeting that it be followed up, how should it
12:33:00 24 have been dealt with and in effect run to ground, if you
12:33:03 25 like, to use that expression?---So talking generally or
12:33:07 26 talking about the specific action items?
12:33:09 27
12:33:09 28 Talking generally but bearing in mind that particular
12:33:12 29 issue, how would you expect that that should be dealt with
12:33:15 30 in terms of responsibilities?---Yes. So whoever had the
12:33:18 31 responsibility, for example, in my mind Finn had the
12:33:21 32 responsibility of following through on that second aspect
12:33:25 33 around Inca, would get on with it and if there were
12:33:29 34 problems would come back to me. So you've got an Assistant
12:33:33 35 Commissioner, you've got the head of our Legal Services,
12:33:36 36 very competent people, I would have thought unless there
12:33:38 37 was a problem they would get on with it. If there was a
12:33:41 38 problem they'd come back to me.
12:33:42 39
12:33:42 40 You say, "I'm entitled to assume that if it's been raised
12:33:47 41 in the meeting, the problem has been identified, then
12:33:50 42 Mr McRae, if he has been tasked to deal with it, would deal
12:33:53 43 with it and I would expect him to come back to me only if
12:33:57 44 there's a problem"?---Yes, if there's a problem or he
12:34:00 45 needed some more action from me or he needed some more
12:34:03 46 instructions, something like that. So if it could be
12:34:05 47 achieved without my involvement then it would have been.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:34:08 1
12:34:08 2 Would you say, "A matter such as this, I would expect to
12:34:11 3 see something about in the next, days, weeks", in any
12:34:14 4 event?---No, not necessarily. If I look back, and again
12:34:20 5 this is all with hindsight, if I look back the disclosure,
12:34:23 6 if we can call it that, has occurred with Dale. Why would
12:34:27 7 I think it wouldn't with Inca? There might be some more
12:34:32 8 complexities around it, but we've said with Dale the
12:34:36 9 Commonwealth DPP will receive a copy of the Maguire advice,
12:34:39 10 they'll get a view of the logs. I would just assume that
12:34:42 11 some sort of variation on that would then occur with Inca.
12:34:46 12
12:34:46 13 Right. And insofar as the State DPP is concerned, with
12:34:52 14 respect to the Mokbel matter, would you not expect to see
12:34:57 15 something about that in the days, weeks ahead because this
12:35:01 16 is a very high profile issue?---I don't recall the
12:35:05 17 conversation about Mokbel to that depth, Mr Winneke.
12:35:09 18 Certainly I don't recall Graham or Finn discussing it.
12:35:14 19
12:35:15 20 If Mr Ashton was to say, for example, with respect to the
12:35:19 21 Inca matter, I put to him, and this is at p.10888, "Do you
12:35:26 22 accept that it would have been entirely appropriate to
12:35:29 23 follow up, follow that up and ensure that the trials in the
12:35:33 24 Inca proceedings did not go ahead until there had been
12:35:37 25 appropriate disclosure made", I put to that
12:35:39 26 Mr Ashton?---Yes.
12:35:39 27
12:35:40 28 He said, "That would have been something that the Deputy
12:35:43 29 Commissioner would have had to consider in the context of
12:35:45 30 her safety as well, because that's what was acting on my
12:35:48 31 mind as well". What do you say about that
12:35:56 32 proposition?---Whether that specifically would have come
12:35:58 33 back to me - as I say, I don't recall the conversation.
12:36:02 34 Her safety at that stage was probably my most pressing
12:36:08 35 immediate concern.
12:36:08 36
12:36:09 37 Yes?---So I've, within days I've been told it's not a
12:36:14 38 question of if, it's a question of when she gets killed.
12:36:14 39
12:36:18 40 Yes?---So anything that would seriously compromise her
12:36:21 41 safety or potentially do so, yes, I probably would expect
12:36:25 42 that that might come back to me.
12:36:26 43
12:36:26 44 I pressed him about it, and I said, "Do you accept that it
12:36:30 45 was necessary for the prosecution in the Inca matter to
12:36:32 46 know of this information?" He said, "Along with the need
12:36:34 47 to keep her safe, yes. We take that for granted but do you

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:36:37 1 accept that the prosecution should have been aware of that
12:36:38 2 information? In the ordinary course of events, yes. Do
12:36:41 3 you accept that the prosecutor was not made aware of that
12:36:44 4 information prior to those trials proceeding? Well at the
12:36:46 5 time I brought that to the attention of the Deputy
12:36:49 6 Commissioner and the head of the Legal Services for
12:36:51 7 Victoria Police". Now, is that sufficient for Mr Ashton to
12:36:57 8 discharge his obligation by bringing it to your
12:37:00 9 attention?---No, I wouldn't have said so. It's a shared
12:37:04 10 responsibility.
12:37:04 11
12:37:04 12 Yes?---We all have knowledge of it, but with the greatest
12:37:08 13 of respect to Graham, he doesn't delegate up.
12:37:10 14
12:37:11 15 Yes, I follow that. All right. Can I move on now to 4
12:37:35 16 November. The issue with respect to the Dale proceeding
12:37:40 17 didn't resolve itself on 3 November, I take it you're aware
12:37:44 18 of that?---No, because there had to be exposure to the log
12:37:50 19 so there was more work to be done, then there was the
12:37:53 20 question about, yes, whether she would be a witness and if
12:37:55 21 she was what action we might take, yes.
12:37:58 22
12:37:58 23 You understood that having read the advice that the
12:38:01 24 likelihood was that Mr Dale would be maintaining in any
12:38:04 25 proceeding, "Look, any conversation that I had with
12:38:06 26 Ms Gobbo would be the subject of legal professional
12:38:08 27 privilege and therefore it couldn't be used against
12:38:12 28 me"?---That was what Maguire's advice indicated, yes.
12:38:15 29
12:38:16 30 I think Mr Maguire said he might have some difficulty
12:38:19 31 making that claim but nonetheless that was what he was
12:38:24 32 going to be claiming?---That was my recollection of
12:38:26 33 Mr Maguire's advice, yes.
12:38:27 34
12:38:28 35 I was asking you about making available the logs, the
12:38:31 36 source management logs. I take it you would say that
12:38:35 37 regardless of whether the source management logs were made
12:38:38 38 available, what Victoria Police had an obligation to do was
12:38:44 39 to provide to, in the first place, the Commonwealth Office
12:38:51 40 of Public Prosecutions, any material which may be relevant
12:38:54 41 to the defence that it was anticipated that Mr Dale might
12:38:58 42 run, would you agree with that?---So I don't have the
12:39:03 43 technical expertise as to what should be disclosed and what
12:39:08 44 not, but in a general principle then the prosecution should
12:39:11 45 be made aware so that the prosecution at the very least can
12:39:14 46 make the decision around full disclosure to the defence.
12:39:17 47 If there's material that's relevant then it should be

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:39:20 1 provided to the prosecution in the first instance and then
12:39:22 2 the decision can be made as to the dissemination or full
12:39:26 3 disclosure to defence counsel.
12:39:27 4
12:39:27 5 In this case what we do know is that the source management
12:39:30 6 logs contained some information about Ms Gobbo's
12:39:33 7 interactions with Paul Dale and the recording in the source
12:39:39 8 management log of that information, but behind the source
12:39:45 9 management log there was a wealth of other information in
12:39:49 10 the possession of Victoria Police which concerned or which
12:39:52 11 may have been relevant to the relationship between Ms Gobbo
12:39:55 12 and Mr Dale. Now, I take it you'd accept that's simply
12:39:59 13 providing to the Commonwealth prosecutors the source
12:40:03 14 management log and permitting them to read that over a
12:40:06 15 period of two hours would not ordinarily discharge an
12:40:08 16 obligation of disclosure by Victoria Police, assuming
12:40:12 17 there's other material which might be relevant?---I would
12:40:15 18 have thought it would be a starter to a conversation.
12:40:17 19
12:40:17 20 Right?---So what else, what else is there or the questions
12:40:20 21 would then flow from the prosecutors.
12:40:23 22
12:40:23 23 It might be thought that what was being done, that is
12:40:27 24 providing a taster, if you like, the source management log
12:40:30 25 to the Commonwealth DPP, was by way of a justification that
12:40:36 26 Victoria Police, or for Victoria Police's claim that they
12:40:39 27 did not want Ms Gobbo called as a witness in the
12:40:43 28 proceeding. Do you follow what I'm saying?---Yes.
12:40:45 29
12:40:45 30 So rather than a valued effort at making full disclosure,
12:40:50 31 this was an effort to support a claim that Ms Gobbo simply
12:40:54 32 not be called?---That's one way of interpreting, perhaps
12:40:57 33 another way is it's an alert to that if she is used, there
12:41:01 34 is additional risk to her safety.
12:41:03 35
12:41:03 36 Yes, I follow that. So you're not suggesting that the
12:41:09 37 provision of that material, the source management log, was
12:41:14 38 satisfactory to discharge any obligation of disclosure on
12:41:18 39 the part of Victoria Police?---I don't know if I turned my
12:41:21 40 mind to it, but I would say now that that wouldn't fully
12:41:25 41 acquit our responsibilities. Our responsibilities are
12:41:28 42 ongoing. Here's some material, then there would be a
12:41:31 43 discussion, particularly on this matter, whether or not we
12:41:33 44 call Ms Gobbo.
12:41:34 45
12:41:36 46 If, for example, if Ms Gobbo had said at one stage to the
12:41:40 47 handlers that she described the relationship I think as a

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:41:43 1 bizarre using relationship whereby Mr Dale would contact,
12:41:48 2 I'm paraphrasing, contact her and seek free legal advice,
12:41:54 3 that would be information which could well be of use to
12:41:57 4 Mr Dale in running a defence along the lines of that
12:42:00 5 suggested in the Maguire advice?---Mr Winneke, I don't know
12:42:06 6 what use that would be, I'm not making a judgment. I just
12:42:10 7 hadn't turned my mind to it and I probably - it's not my
12:42:13 8 field of expertise anyway.
12:42:15 9
12:42:15 10 Okay. Now, you had a meeting, I'm sorry - on 4 November
12:42:27 11 there was an email which was CCed to you, if we can look at
12:42:35 12 this, it's GLA.0004.0002.0001. This is an email from
12:42:48 13 Mr Ashton to Mr Pope, Mr Buick, Mr Kirne, Shane Kirne of
12:42:57 14 the Commonwealth DPP, Krista Breckweg and Vicki Argitis,
12:43:03 15 also of the Commonwealth DPP. "This email is to formally
12:43:07 16 advise you that it's the position of Victoria Police that
12:43:10 17 the committal proceedings for Paul Dale due to commence on
18 Monday morning only proceed on the counts that do not rely
12:43:15 19 on the evidence of the witness I'll refer to as Witness F.
12:43:18 20 The reason for this position is the risk of safety of
12:43:21 21 Witness F posed by the disclosure obligations"?---Yes.
12:43:25 22
12:43:27 23 So you understood that the position on the Friday was that
12:43:33 24 Victoria Police does not want Ms Gobbo called as a witness
12:43:36 25 because of safety issues which are posed if we have to make
12:43:40 26 disclosure?---Yes.
12:43:41 27
12:43:41 28 And that, you would say, is a valid position to
12:43:45 29 take?---Yes.
12:43:45 30
12:43:46 31 "If we do not want to expose our human source, then the
12:43:54 32 only alternative is to withdraw charges", or that's one of
12:43:59 33 them?---It's certainly one of the alternatives, yes.
12:44:02 34
12:44:02 35 The other alternative is to put the material before the
12:44:05 36 court and argue public interest immunity?---Yes.
12:44:06 37
12:44:07 38 In this particular case there were other charges it was
12:44:11 39 considered that could run without Ms Gobbo and that was
12:44:15 40 what was in effect being put to the CDPP?---Yes.
12:44:19 41
12:44:22 42 Whether or not those other charges required complete
12:44:25 43 disclosure and whether or not the Commonwealth DPP had been
12:44:30 44 provided with sufficient information for them to make a
12:44:34 45 decision as to whether or not they could proceed with those
12:44:38 46 charges without making further disclosure is a matter that
12:44:41 47 you didn't turn your mind to I assume, is that

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:44:44 1 right?---Correct, that would be fair to say, yep.
12:44:46 2
12:44:46 3 Did you have an understanding or was there an understanding
12:44:49 4 between the Victoria Police Force and the Commonwealth
12:44:54 5 prosecution department about what matters and when matters
12:44:59 6 were to be disclosed to them in proceedings which the
12:45:03 7 Commonwealth was prosecuting arising out of Victoria Police
12:45:06 8 investigations?---I don't know, Mr Winneke. I'd be
12:45:08 9 surprised if there's not, but I don't know.
12:45:11 10
12:45:11 11 All right. Did you understand that over the weekend
12:45:27 12 Mr O'Connor and Mr Sheridan were busily going through the
12:45:32 13 records of the SDU to in effect provide material that the
12:45:37 14 Commonwealth wanted to see which would enable them to make
12:45:42 15 a decision as to what disclosure needed to be made, were
12:45:46 16 you aware of that?---I don't know. I may have been, but -
12:45:51 17 - -
12:45:51 18
12:45:51 19 What eventually would have to be disclosed?---I don't know.
12:45:55 20
12:45:55 21 Okay?---I don't remember.
12:45:56 22
12:45:57 23 All right. Now, the evidence is that over that weekend
12:46:09 24 Messrs Sheridan and O'Connor in effect did a crash audit of
12:46:14 25 the SDU file and on the morning of 7 November Mr Sheridan
12:46:21 26 provided to Mr Ashton a document which had been produced
12:46:24 27 over the weekend in furtherance of the request made by the
12:46:27 28 Commonwealth DPP. Now, do you recall seeing the product of
12:46:36 29 that work over the weekend?---No, and I would be surprised
12:46:40 30 if I did see it.
12:46:42 31
12:46:46 32 Why do you say you'd be surprised?---Well that level of
12:46:50 33 detail not necessary for me to make the decisions I would
12:46:54 34 be making.
12:46:55 35
12:46:55 36 Yes?---Unless someone specifically came to me and sought
12:47:00 37 advice or a decision I wouldn't expect that sort of
12:47:03 38 material would normally come to me.
12:47:05 39
12:47:05 40 All right. What the document revealed, and Mr Ashton's
12:47:15 41 given evidence that it shocked him because it revealed the
12:47:18 42 full extent of Ms Gobbo's informing over the
12:47:24 43 years?---Right.
12:47:24 44
12:47:24 45 It revealed that she was an active human source managed by
12:47:30 46 the Source Development Unit from 16 September 2005 through
12:47:34 47 to 14 January 2009, three years and four months. And the

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:47:41 1 analysis of intelligence holdings by the Source Development
12:47:44 2 Unit pertaining to Witness F indicate that there were 319
12:47:48 3 information reports that had been disseminated to various
12:47:52 4 investigators that had come from information as supplied to
12:47:55 5 the handlers. Under the heading "source contact reports",
12:48:00 6 there are 172 source contact reports that vary in length to
12:48:05 7 two pages to in excess of 30 pages. Each source contact
12:48:09 8 report relates to a week long period where contact was made
12:48:13 9 between Witness F and the Source Development Unit, and it
12:48:19 10 went on to provide 164 names of people, including all of
12:48:24 11 the members of the Mokbel family, et cetera. Now, in the
12:48:30 12 note provided by Mr Sheridan, or indeed provided by
12:48:36 13 Mr O'Connor, it said, "It's difficult to assess the clear
12:48:39 14 intention of the contact between the parties, however the
12:48:43 15 Source Development Unit believes that in the main the
12:48:45 16 contact between the parties is driven by the fact that
12:48:49 17 Witness F was practising as a solicitor at the time of the
12:48:52 18 contacts and that her counsel was sought formally or
12:48:55 19 informally pertaining to the legal status of the persons
12:48:58 20 involved, eg pending charges, negotiations with
12:49:02 21 investigating police, plea opportunities, receiving and
12:49:05 22 passing on information", et cetera. Now, that was the
12:49:09 23 document which was produced over the weekend and provided
12:49:11 24 to Mr Ashton. Now, and as I say, Mr Ashton claims that
12:49:17 25 that document shocked him. Now, would you expect that that
12:49:23 26 sort of information would be brought to your
12:49:27 27 attention?---Not the detail but if it's enough to shock
12:49:32 28 Graham I would have thought there would be some, yes, I
12:49:35 29 would have thought at some stage it would have come to my
12:49:37 30 attention. Even if it wasn't specifically so there would
12:49:41 31 be general conversation around that.
12:49:42 32
12:49:44 33 This document, five or six pages in total, contained
12:49:56 34 information which may well have supported the concerns
12:50:01 35 raised by Mr Maguire's in his advice to the VGS0 4 October
12:50:07 36 2011, you'd agree with that?---Yes.
12:50:09 37
12:50:09 38 Can I suggest to you that document is the very sort of
12:50:12 39 document that should have been briefed up and shown to you,
12:50:15 40 if not officers more senior to yourself?---If it wasn't
12:50:21 41 that document I would expect, Mr Winneke, that there would
12:50:24 42 be a conversation. So it may well be Graham would go to
12:50:27 43 Finn, but I would have thought at some stage soon after
12:50:31 44 that I would have been advised.
12:50:33 45
12:50:33 46 All right?---Assuming I'm - we're talking mid-November and
12:50:37 47 I'm still in office there, in that role for another six

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:50:41 1 weeks.
12:50:41 2
12:50:42 3 Right. You were the Deputy Commissioner with
12:50:44 4 responsibilities for Crime and Covert Services?---Yes.
12:50:47 5
12:50:48 6 Also prosecutions?---Yes.
12:50:49 7
12:50:49 8 Isn't that the sort of document that should have been
12:50:52 9 provided to you?---Again, I wouldn't expect the document
12:50:57 10 but I would expect a conversation.
12:50:59 11
12:51:00 12 Why wouldn't it be a simple matter to provide you with the
12:51:04 13 document?---Well, because it's not the document itself that
12:51:09 14 I need to see, it's the issue that's raised by the
12:51:12 15 document.
12:51:12 16
12:51:13 17 Yes?---So I don't need to see the detail, I just need to
12:51:16 18 understand that there is a problem here and a significant
12:51:19 19 problem by the looks of it.
12:51:20 20
12:51:20 21 Right. And it certainly would indicate, wouldn't it, that
12:51:24 22 in light of the information that was then available to you,
12:51:28 23 that there could well be a significant problem?---Yes, it
12:51:33 24 would.
12:51:33 25
12:51:39 26 You at that stage - then you have a meeting I think with
12:51:46 27 Mr Ashton and Mr McRae on the following day, 8 November,
12:51:53 28 and that meeting concerns the question of whether or not
12:51:59 29 Ms Gobbo would be called as a witness, right?---I've seen
12:52:06 30 documentation as per my statement, I don't recall the
12:52:10 31 discussions but I understand that it took place.
12:52:13 32
12:52:13 33 All right. Look, if we can have a look at this document,
12:52:17 34 GLA.0003.0007.0433. You also received an email which was
12:52:27 35 forwarded from Mr Fryer?---Yes.
12:52:30 36
12:52:31 37 And it was sent to you on 8 November at about 2 o'clock and
12:52:37 38 if we just go down the page - or, firstly, stopping there.
12:52:46 39 The subject was Witsec assessments and ongoing issues
12:52:53 40 concerning Ms Gobbo obviously and witness protection. And
12:52:58 41 then if we go down to where the cursor is now, "It is
12:53:02 42 apparent that there are a number of areas within Victoria
12:53:07 43 Police that have had substantial historic contact with her,
12:53:11 44 where decisions, judgments, agreements and conflict has
12:53:14 45 occurred. I'm unaware of all of these details and doubt
12:53:17 46 anyone at the Driver Task Force is either". Obviously
12:53:21 47 that's an email which was provided to you?---Yes, it was.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:53:26 1
12:53:27 2 Now, can I suggest that as at 8 November there was now
12:53:40 3 mounting information available to senior members of
12:53:44 4 Victoria Police that Ms Gobbo had engaged in informing to
12:53:50 5 Victoria Police in such a way as to pose a real risk that
12:53:56 6 the course of justice had been interfered with by that
12:54:00 7 conduct?---So I would take that email as not providing that
12:54:06 8 concern.
12:54:06 9
12:54:06 10 I'm not talking about that email alone, I mean by this
12:54:09 11 stage you've got the Maguire advice?---Yes.
12:54:12 12
12:54:13 13 With the concerns raised in it. Certainly the document
12:54:18 14 that Mr Sheridan had produced over the weekend, you say you
12:54:23 15 mightn't have actually seen the document?---That's right.
12:54:25 16
12:54:25 17 But you believe you would have had discussions with - -
12:54:28 18 -?---I should have, I didn't say I would have. I said I
12:54:31 19 should have.
12:54:31 20
12:54:31 21 You should have?---Yes.
12:54:32 22
12:54:32 23 Do you believe you didn't have discussions?---I have - I
12:54:35 24 don't recall, and I don't recall from my statement or the
12:54:38 25 documents I've seen that we had that discussion.
12:54:40 26 Discussions evolved as well. It's difficult to remember
12:54:44 27 back to what I knew at what stage.
28
12:54:46 29 Yes?---But I don't recall having that sort of level of
12:54:49 30 discussion around that time.
12:54:51 31
12:54:51 32 All right. Mr Ashton ultimately, it appears, and he's
12:54:55 33 given evidence to the Commission, that he took the view
12:55:00 34 that he ought not have an ongoing involvement in matters
12:55:04 35 concerning, for example, the Comrie Review for a particular
12:55:09 36 reason that he'd had involvement previously as a Deputy
12:55:16 37 Director of the OPI?---Yes, I understand that.
12:55:19 38
39 Do you understand that?---Yes.
40
12:55:20 41 Did Mr Ashton make known to you that he had previously had
12:55:25 42 an involvement with Ms Gobbo in terms of being on the
12:55:30 43 steering committee of Briars and Petra, which steering
12:55:37 44 committees had been involved in investigations that used
12:55:40 45 Ms Gobbo?---No.
12:55:42 46
12:55:42 47 No?---I was aware of that, Mr Winneke, I can't remember how

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:55:45 1 I became aware of it, but I understood and certainly when I
12:55:49 2 acquired responsibility for Loricated.
12:55:51 3
12:55:51 4 Yes?---I certainly knew that then, when Graham was not able
12:55:55 5 to pick up what normally would have been his line
12:55:59 6 management for Loricated.
12:56:00 7
12:56:00 8 It appears he took the view he couldn't be involved in
12:56:03 9 Loricated because it concerned the management of
12:56:05 10 Ms Gobbo?---Yes.
12:56:05 11
12:56:06 12 Do you think that you would have been aware of that
12:56:11 13 disclosure, if you like, at around the period of the 4th to
12:56:15 14 the 8th of November?---I would have been concerned if
12:56:17 15 Graham was concerned because we'd already worked through
12:56:21 16 the allegations against Jeff Pope or we were working
12:56:24 17 through them, so issues of conflict of interest would have
12:56:27 18 been very alive.
12:56:28 19
12:56:28 20 Do you think, and it appears Mr Ashton was proactive in
12:56:35 21 taking steps to ensure that Ms Gobbo's role wasn't
12:56:41 22 disclosed because of the matter of the prosecution of Dale.
12:56:44 23 Do you think with the benefit of hindsight that's a matter
12:56:49 24 that he perhaps shouldn't have been involved in either?---I
12:56:51 25 don't know the extent of his involvement in earlier
12:56:54 26 matters, I trust his judgment on a lot of those things so I
12:56:57 27 wouldn't have necessarily taken that view.
12:56:59 28
12:57:00 29 You don't know whether his recusal of himself from matters
12:57:07 30 concerning Loricated and the reasons for it were conveyed
12:57:12 31 to you before 8 November?---Not that I remember, no.
12:57:15 32
12:57:21 33 Perhaps I'll ask you this. Do you know how it was conveyed
12:57:24 34 to you, that is Mr Ashton's perceived conflict?---There are
12:57:29 35 notes. There were notes around the formation of Loricated
12:57:33 36 and when I acquired the responsibility for that.
12:57:37 37
12:57:37 38 Yes?---So it was certainly conveyed to me that time, but
12:57:40 39 whether it was conveyed earlier, again, I don't know, and I
12:57:44 40 don't remember how it would have been conveyed to me if it
12:57:46 41 was before that, or even at the time that I picked up
12:57:49 42 Loricated.
12:57:49 43
12:57:49 44 All right. In your statement at paragraph 51 you make the
12:58:01 45 point that you do not think that you understood the extent
12:58:04 46 of Ms Gobbo's activity as a registered human source until
12:58:09 47 the provision of advice through the Bendigo steering

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

12:58:11 1 committee around 30 April 2014?---Yes.
12:58:15 2
12:58:16 3 One would assume that had you been shown the document
12:58:20 4 prepared by the SDU over that weekend, you might have had
12:58:24 5 an idea about the extent of Ms Gobbo's informing?---By the
12:58:29 6 sounds of that document, yes.
12:58:30 7
12:58:31 8 And it may well indicate that you weren't shown that
12:58:33 9 document or you weren't told of the contents of that
12:58:37 10 document?---I don't know how I can answer that, Mr Winneke.
12:58:43 11 This is, we struggled with this nine years ago, I don't
12:58:46 12 know. I would, I can't say categorically I wasn't told,
12:58:50 13 but I certainly don't recall being told about the contents
12:58:53 14 or the implications.
12:58:54 15
12:58:55 16 All right. Do you accept that as at around mid-November
12:59:13 17 2011 there was sufficient material available, if not to you
12:59:22 18 solely but you in conjunction with people such as
12:59:26 19 Mr Ashton, Mr McRae and others which would make it clear
12:59:32 20 that an investigation or inquiry needed to be set up which
12:59:37 21 would examine the extent to which Ms Gobbo had provided
12:59:41 22 information against her clients and whether or not
12:59:46 23 disclosure needed to be made to prosecuting
12:59:51 24 authorities?---From what you tell me about Paul Sheridan's
12:59:54 25 document, we needed to ask a lot more questions. If
12:59:58 26 nothing else then that I would have thought would start a
13:00:04 27 further investigation into Ms Gobbo's role with us and her
13:00:07 28 status within that role. To what extent was LPP breached,
13:00:12 29 what were the implications, all those questions needed to
13:00:17 30 be asked and then pursued.
13:00:18 31
13:00:18 32 If one looks at the Comrie Review and the Terms of
13:00:21 33 Reference, I think I've been through this at least to some
13:00:23 34 extent, those Terms of Reference simply don't cut the
13:00:26 35 mustard when it comes to dealing with the issues, certainly
13:00:30 36 can I suggest Victoria Police senior members, officers,
13:00:35 37 were aware of as at the middle of November?---When I go
13:00:39 38 back on the terms of reference, the first terms of the
13:00:43 39 draft Terms of Reference had that final paragraph, I think
13:00:48 40 it says "to provide legal advice" or something like that.
13:00:50 41 That would have implied that he was going to find things,
42 Neil Comrie was going to find things.
43
13:00:54 44 Yes?---That would require further legal advice. That
13:00:57 45 paragraph is not in the final Terms of Reference.
46
13:01:00 47 Right?---But I note the final Terms of Reference makes a

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

13:01:03 1 note to say, "And you need to understand that your report
13:01:07 2 may form the basis for further legal advice".
13:01:09 3
13:01:10 4 Yes?---That's as good as it gets.
13:01:12 5
13:01:12 6 Right. Which, in answer to my question it's really not
13:01:16 7 good enough, is it?---With hindsight I look back.
8
13:01:20 9 Yes?---But it's hindsight now, we've got clarity. I can
13:01:23 10 answer that easily and say I would have preferred to see
13:01:27 11 all that in there, but then obvious question is, "If I
13:01:30 12 preferred to see that in there now why didn't I pick it up
13:01:33 13 then?"
13:01:33 14
13:01:34 15 Why did you pick it up then? I mean you know, you've got
13:01:35 16 Maguire saying, "There's Mokbel, there's Inca, there's Dale
13:01:39 17 issues, there's now problems because the informing is
13:01:45 18 significant, sufficient to shock Mr Ashton"?---Yes.
13:01:48 19
13:01:49 20 And with the points made by Mr Sheridan, Mr O'Connor, those
13:01:53 21 sorts of concerns, can I suggest, ought to have been the
13:01:57 22 subject of a Term of Reference, if you like, if that was
13:02:00 23 the path that you were going to go down, to specifically
13:02:03 24 look into that area?---Yes. I don't know, I wasn't privy
13:02:06 25 to the discussion between, for example, Ken Lay and Neil
13:02:11 26 Comrie, I don't know whether that was discussed. But again
13:02:13 27 with the benefit of hindsight that would have been a good
13:02:18 28 place to start. Looking back, again looking back, there
13:02:22 29 were flags, sufficient flags there for us to ask for that
13:02:24 30 to be specifically addressed.
13:02:26 31
13:02:26 32 Do you think there was a disinclination on the part of
13:02:29 33 Victoria Police to go down that path?---No, I can't see why
13:02:34 34 there would be. So we've gone to the trouble of getting in
13:02:37 35 a former Chief Commissioner to do this, we've had that
13:02:40 36 discussion.
37
13:02:40 38 Yes?---We've already had some sort of disclosure to the
13:02:44 39 Commonwealth DPP, we've discussed further disclosure and
13:02:47 40 then at some stage around that time we also had some
13:02:52 41 discussion with OPI or IBAC, it doesn't feel like we're
13:02:56 42 reluctant to go down that path.
13:02:58 43
13:02:59 44 Can I tender the email from Doug Fryer to Graham Ashton
13:03:08 45 sent on to Mr Cartwright, GLA.00083.0007.0433.
13:03:18 46
13:03:21 47 #EXHIBIT RC1288A - (Confidential) Email from Doug Fryer to

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

13:06:33 1 accept that you were in fact or you were involved in
13:06:35 2 setting the Terms of Reference?---I'll just wait for the
13:06:39 3 email to come up, Mr Winneke, it's not there yet. I
13:06:43 4 certainly was CCed into the discussions. Without seeing
13:06:49 5 the email I presume it says that. I was certainly CCed
13:06:56 6 into some of the discussions.
13:06:58 7
13:07:00 8 There's a note from Mr Pope, who appears to have taken the
13:07:03 9 running on this, "Since Ken is meeting with Neil Comrie
13:07:08 10 tomorrow I undertook to have a solid draft of the proposal
13:07:08 11 in front of Ken by the end of the day for him to read for
13:07:12 12 tomorrow and give Neil a heads up. Grateful for comments".
13:07:16 13 And Mr McRae says, "Happy with the document, however it may
13:07:19 14 be worth reviewing three files as the subject matter of
13:07:25 15 this case was unusual" and your view was that you agree
13:07:28 16 with Mr McRae, "It's too specific to Ms Gobbo at the moment
13:07:32 17 and you suggest you amend the documents to indicate that
13:07:36 18 the situation with 3838 raised specific issues, we ask him
13:07:40 19 to review that case and the case of two others to be
13:07:43 20 provided by us to address the questions that are put later
13:07:46 21 in the documents, specifically around the legal advice for
13:07:50 22 3838 but more generally around policy formation, culture
13:07:54 23 and training"?---Yes.
13:07:55 24
13:07:55 25 What do you understand you were referring to to address the
13:08:01 26 questions that are put later in the document specifically
13:08:04 27 around the legal advice for 3838?---So I referred earlier
13:08:07 28 to the draft, without seeing the draft my memory was that
13:08:10 29 final dot point was, "Give us legal advice."
30
13:08:13 31 Yes?---There was some specificity about it but not, I don't
13:08:16 32 think it was particularly specific. But that would clearly
13:08:19 33 be around the potential for conflict of interest, more LPP
13:08:26 34 breaches, those sorts of things.
13:08:28 35
13:08:28 36 Yes. I'll find over lunch the earlier draft if you like so
13:08:34 37 you can look at it. Effectively you understood, did you,
13:08:37 38 that it would be appropriate for the Terms of Reference to
13:08:41 39 draw his attention, if you like, to the Maguire advice and
13:08:45 40 the matters raised in it?---Looking at that.
13:08:48 41
13:08:48 42 Yes?---Yes.
13:08:50 43
13:08:50 44 The earlier Terms of Reference makes specific reference to
13:08:54 45 the Maguire advice and the indication it would be provided
13:08:57 46 to Mr McRae?---It does, yes.
13:08:59 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

13:08:59 1 That doesn't find its way into the ultimate Terms of
13:09:03 2 Reference?---Okay. Sorry, what doesn't, that we'd provide
13:09:07 3 Mr Comrie with a copy of the Maguire advice?
13:09:10 4
13:09:10 5 Yes, the draft Terms of Reference makes specific reference
13:09:14 6 to the Maguire advice?---Yes.
13:09:16 7
13:09:16 8 And the fact that it would be provided to those conducting
13:09:19 9 the review?---Yes.
13:09:20 10
13:09:20 11 But subsequently in the final version of the TOR there is
13:09:25 12 no reference to the Maguire advice?---Okay.
13:09:28 13
13:09:28 14 Were you aware of that?---I don't know at the time but I
13:09:33 15 hadn't picked that up lately.
13:09:35 16
13:09:35 17 All right. Now, I tender that, Commissioner.
13:09:42 18
13:09:42 19 MR CHETTLE: It is tendered, Commissioner, 1142.
13:09:46 20
13:09:46 21 MR WINNEKE: Yes, thanks very much.
22
23 COMMISSIONER: Thank you.
24
13:09:48 25 MR WINNEKE: Can we have a look at an email dated 27
13:09:51 26 November 2011, VPL.6027.0026.1633. It's an email from you
13:09:58 27 to Mr Pope and Ashton. Have a look at this. If we start
13:10:09 28 at the bottom, what you're saying to Mr Pope and to
13:10:15 29 Mr Ashton is that you'd intended to write to direct Jeff's
13:10:21 30 return to the Driver steering committee after the
13:10:23 31 resolution of certain matters?---Yes.
13:10:25 32
13:10:26 33 "However given the status of Mokbel I think that we will
13:10:28 34 need to wait to see what eventuates in terms of a hearing
13:10:34 35 of his charges. If Mokbel does succeed in obtaining a
13:10:39 36 change of plea and subsequently a trial, that of itself
13:10:42 37 won't require that you stay off the steering committee,
13:10:42 38 Jeff, but we may need to consider some contingency
13:10:46 39 arrangement to ensure no perception of conflict of
13:10:50 40 interest". Can you explain what you meant by
13:10:52 41 that?---Mr Winneke, I don't recall seeing this recently,
13:10:55 42 I'd need to think on that.
43
13:10:57 44 Right?---But at first blush what I'm saying is, I gather,
13:11:02 45 there's a potential for, I'm gathering.
13:11:04 46
13:11:04 47 Yes?---I'm sort of speculating, I gather there's a

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

13:11:08 1 potential for Nicola Gobbo to be called at Mokbel, so that
13:11:11 2 reintroduces, potentially, the conflict of interest issue.
13:11:16 3 It focuses, or has a potential to focus on it, I presume.
13:11:21 4
13:11:21 5 Can I suggest to you that given what Mr Maguire had said,
13:11:24 6 and obviously 27 November is a lot closer to the time that
13:11:28 7 you read Mr Maguire's advice, what he was saying is that
13:11:33 8 Gobbo had acted for Mokbel and informed against him and
13:11:37 9 that raises a real concern. That's effectively what he's
13:11:40 10 saying?---Sorry, Mr Winneke, I got distracted, I'm just
13:11:44 11 reading the rest of the email. In fact Jeff Pope and
13:11:52 12 Graham are saying has Tim got her confused with Dale.
13:11:52 13
13:11:52 14 They might have got her confused but what I'm suggesting is
13:11:53 15 you didn't, and you weren't confused at all?---I don't - -
13:11:58 16 -
13:11:58 17
13:11:58 18 What I'm suggesting to you is that what you were saying is,
13:12:01 19 "I know that Mokbel is seeking to change his plea"?---Yes.
13:12:04 20
13:12:04 21 "And if he gets another trial, there may well be issues of
13:12:10 22 disclosure which will arise which will bring to light
13:12:16 23 Ms Gobbo's role in informing against him. Now that of
13:12:18 24 itself may well cause difficulties"?---Can I just stop you
13:12:23 25 while I think this through?
26
13:12:25 27 Yes, certainly?---So Dale had a committal, so I don't know
13:12:28 28 what - if it was Dale I was talking about
13:12:31 29
13:12:31 30 Yes?---I don't know if he had entered a plea of guilty,
13:12:37 31 this implies whoever it was has entered a plea of guilty
13:12:39 32 and they may well then want to contest. Now I don't know
13:12:43 33 if that fits Dale's circumstances.
13:12:45 34
13:12:46 35 No, it doesn't, Mr Cartwright. What was going on at the
13:12:48 36 time was that Mr Mokbel was making an application before
13:12:50 37 the Supreme Court to change his plea?---Right.
13:12:52 38
13:12:53 39 And the basis of his application was that Victoria Police
13:12:57 40 had obtained evidence improperly through police officers
13:13:01 41 purporting to swear affidavits when in fact they hadn't
13:13:05 42 done so?---Yes, so the affidavit issue was live at that
13:13:07 43 time.
13:13:07 44
13:13:07 45 Exactly?---Yes.
13:13:08 46
13:13:08 47 And then if he gets, if he succeeds in obtaining permission

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

13:13:13 1 in effect to change his plea and subsequently gets a trial,
13:13:16 2 that may well cause issues with respect to Mr Pope's
13:13:23 3 position because it brings Ms Gobbo in to the picture, do
13:13:26 4 you follow what I'm saying?---Yes, I follow what you're
13:13:29 5 saying, but I'm trying to - I'm reading this.
13:13:31 6
13:13:32 7 Yes, I know. I understand?---I'm trying to understand, I'm
13:13:35 8 trying to put a set of circumstances around that fit the
13:13:38 9 email. To be frank I'm struggling with that at the moment.
13:13:41 10
13:13:45 11 Right. What I'm suggesting to you though is that at that
13:13:48 12 time, bearing in mind your recent reading of Mr Maguire's
13:13:57 13 advice, you were cognisant of the fact that Ms Gobbo's role
13:14:00 14 with respect to Mokbel could well assume some significance
13:14:03 15 if he gets another trial?---Yes, assuming - there's the
13:14:09 16 other implication, which Mokbel it is, I think there were
13:14:12 17 several Mokbels - - -
13:14:14 18
13:14:14 19 It was only Tony Mokbel who was making application to
13:14:18 20 change his plea?---Okay, I didn't have that understanding
13:14:20 21 until you provided it to me, but thank you.
22
13:14:22 23 Yes?---Assuming that it is Tony Mokbel, certainly on one of
13:14:26 24 the set of circumstances it would fit that is as you
13:14:30 25 described, there is a potential for her to be a witness,
13:14:34 26 which then puts her at risk, potentially as it did with
13:14:38 27 Dale and with the Inca matters.
13:14:40 28
13:14:40 29 Right. But equally, if he gets another trial, given what
13:14:46 30 Mr Maguire's said, we're going to have to make disclosure
13:14:50 31 of the fact that Ms Gobbo was an informer against
13:14:54 32 him?---That would not form any of my decision making
13:14:58 33 concerns. If we have to disclose, then we have to
13:15:02 34 disclose. If we've made mistakes, we have to wear those
13:15:06 35 mistakes. That is not an issue that would drive me around
13:15:10 36 that. It would be more focussed on Nicola Gobbo's
13:15:13 37 potential to be exposed and be put at risk.
13:15:16 38
13:15:16 39 I note the time, Commissioner. Perhaps Mr Cartwright can
13:15:19 40 reflect on that over lunch and see what he thinks that
13:15:25 41 means, that email.
13:15:27 42
13:15:27 43 COMMISSIONER: All right then. We'll adjourn until 2.
44
13:15:30 45 <(THE WITNESS WITHDREW)
13:15:31 46
13:15:31 47 LUNCHEON ADJOURNMENT

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

13:15:31 1 .
14:03:45 2 UPON RESUMING AT 2.00 PM:
3
14:04:42 4 COMMISSIONER: Yes, Mr Winneke.
14:04:43 5
14:04:44 6 <TIMOTHY CARTWRIGHT, recalled:
7
14:04:51 8 MR WINNEKE: Mr Cartwright, do you want to see that email,
14:04:55 9 the one that we were looking at before lunch, immediately
14:04:56 10 before lunch?---It won't help me any more, Mr Winneke.
11
14:05:00 12 Even if Mr Pope and Mr Ashton appear not to grasp the
14:05:06 13 significance of what you're saying, it does appear that
14:05:08 14 you've got a focus on a particular matter and that is the
14:05:13 15 prospect that Mr Mokbel might get another trial if he
14:05:19 16 succeeds in changing his plea?---So my focus wasn't
14:05:24 17 necessarily on that, it was the implications.
18
14:05:26 19 Yes?---Yes.
20
14:05:27 21 What I'm suggesting to you is that the implications of
14:05:31 22 Mr Mokbel getting a plea in your mind at that stage were it
14:05:34 23 may be necessary for disclosure to be made which will
14:05:41 24 enliven issues concerning Ms Gobbo and the fact that she
14:05:46 25 was a registered human source and had provided information
14:05:49 26 against Mr Mokbel?---Again, I can only speculate.
27
14:05:53 28 Yes?---But that is one of the consistent interpretations
14:05:56 29 that I can draw from that, that's what that's about. We've
14:06:00 30 had the same issues with Dale, we've had the same issues
14:06:03 31 with Inca, we may potentially have the same issues if
14:06:07 32 Mokbel goes on.
33
14:06:09 34 And in your mind it may well have implications on whether
14:06:13 35 or not Mr Pope may or may not be able to engage in
14:06:17 36 decision-making around those matters?---Clearly from the
14:06:20 37 email. But reading it now I can't see why I would think
14:06:25 38 that as a particularly distinguishing point at that time,
14:06:29 39 but that's obviously at that time.
40
14:06:30 41 One assumes that you would have been aware of the fact that
14:06:33 42 Mr Mokbel was at the time before the Supreme Court seeking
14:06:36 43 to have his plea set aside?---Yes, I did not recall that
14:06:39 44 until you put it to me, but clearly I was aware.
45
14:06:43 46 I don't know whether I did tender that email but if I
14:06:46 47 haven't I'll do it.

.18/02/20

14333

CARTWRIGHT XXN

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
14:06:48 2 COMMISSIONER: I don't think so.
3
14:06:50 4 MR WINNEKE: I'll tender that, Commissioner.
14:06:52 5
14:06:54 6 #EXHIBIT RC1290A - (Confidential) Email dated 27/11/11,
13:09:51 7 VPL.6027.0026.1633
14:06:55 8
14:06:56 9 #EXHIBIT RC1290B - (Redacted version.)
14:06:57 10
14:06:58 11 The other point that might be made of that email is at that
14:07:03 12 stage you understood certainly that Mr Ashton was still
14:07:07 13 aware of and dealing with Mr Mokbel's matter?---It
14:07:11 14 certainly would appear that way, yes.
15
14:07:14 16 Before lunch I was asking you about a couple of documents.
14:07:20 17 I'd like to, if I could, take you to RC846. I didn't put
14:07:28 18 it to you but perhaps if you can have a look at this
14:07:33 19 document, VPL.0100.0001.3633. This is the document which
14:07:52 20 was produced over the weekend leading up to 7 November, the
14:07:57 21 Sheridan email. Just have a look at it because it's a
14:08:03 22 document which was produced by Mr Sheridan and it was sent
14:08:08 23 to Graham Ashton, "Summary re Witness F as requested by the
14:08:15 24 Commonwealth DPP". The note on it says, "That I have
14:08:24 25 encouraged AC Intel and Covert to conduct a review of", it
14:08:32 26 seems HSM of Witness F?---Yes, I read that as human source
14:08:39 27 management, HSM, yes.
28
14:08:41 29 That note reflects, I suggest, in effect what you'd been
14:08:46 30 discussing the previous week on 3 November?---Yes.
31
14:08:49 32 And it's dated later, 29 November. But if we then go
14:08:56 33 through the documents I'd just like you to have a look at
14:08:59 34 it and say positively whether you believe you've seen it or
14:09:02 35 not. Can we scroll through the document. Attached to it
14:09:08 36 is a document which had been prepared by Mr O'Connor. If
14:09:27 37 we can scroll through it reasonably quickly. I don't want
14:09:30 38 anyone to read it. But if we can scroll through the
14:09:34 39 document reasonably quickly. You'll see the names and then
14:09:37 40 you'll see just before - perhaps scroll up to that
14:09:40 41 paragraph that I took you to before, "Difficult to assess
14:09:43 42 the clear intention of the contact between the parties", et
14:09:47 43 cetera, do you see that?---Yes, I see that.
44
14:09:49 45 That document, are you able to say whether you have seen it
14:09:52 46 or not?---I'd be hesitant to say I've not seen it but I
14:09:57 47 don't recall seeing it, just because, as I've dealt with

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:09:59 1 other documents coming up before the Commission, I had no
14:10:02 2 memory of seeing them and clearly I have.
3
14:10:04 4 Right. If you go back through the names, you probably
14:10:10 5 wouldn't have been able to see the names, but if we can
14:10:15 6 just scroll through them so you can briefly cast your eye
14:10:20 7 across those names?---Yes.
8
14:10:24 9 You might understand why Mr Ashton has given evidence that
14:10:28 10 he was shocked when he saw that document?---Yes.
11
14:10:31 12 Yeah, all right. Thanks very much. What you say is it's a
14:10:39 13 relatively short document, the document should either, you
14:10:44 14 believe, have been shown to you or the contents of the
14:10:47 15 document should have been described to you, you
14:10:54 16 believe?---Yes, I didn't read the preamble so I presume in
14:10:57 17 there they're saying that this is bigger than we expected.
18
14:11:00 19 Let's have a look at the preamble perhaps?---Although
14:11:02 20 having said that I do recall now seeing that the basis for
14:11:06 21 the exchange was that she was a solicitor, I think I said.
22
14:11:11 23 Next page. Previous page?---Scroll through, please. Do
14:11:22 24 you mind if I just take this, Mr Winneke? Can we go to the
14:11:25 25 next page.
26
14:11:26 27 Yes, certainly?---And the one after that.
28
14:11:28 29 Yes, right?---Okay, stop there thank you. There was some
14:11:32 30 elusion to her, to Ms Gobbo being a solicitor.
31
14:11:36 32 I think it's the last paragraph. If we go right down to
14:11:40 33 the last paragraph at the bottom of the document?---Thank
14:11:43 34 you.
35
14:11:44 36 That's the paragraph there which eludes to her legal
14:11:51 37 status?---Yes, okay.
38
14:11:55 39 Practising as a solicitor at the time of the
14:11:58 40 contents?---Yes.
41
14:11:59 42 In light of what had been discussed in the lead up to the
14:12:06 43 meeting on the 3rd and then the events which were playing
14:12:09 44 out with respect to seeking to have Ms Gobbo withdrawn, if
14:12:15 45 a document of that sort has been produced setting out the
14:12:19 46 extent of the information that she's provided and at least
14:12:25 47 a perception at that stage, practising as a solicitor at

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:12:27 1 the time of the contacts, and that her counsel was sought
14:12:30 2 formally or informally pertaining to the legal status of
14:12:35 3 the persons involved, that would be very relevant, can I
14:12:38 4 suggest, to your position as the person ultimately or with
14:12:45 5 significant responsibilities for Covert Services, for Crime
14:12:49 6 and for Legal Prosecutions?---It would - certainly it's
14:12:53 7 another very strong flag that there are things that need to
14:12:56 8 be followed up.
9

14:12:57 10 Yes. What do you think that Mr Ashton should have done
14:13:04 11 with this document?---He should have considered - I presume
14:13:09 12 he would, if it was me, if I was the Assistant Commissioner
14:13:14 13 of Crime, I'd get that, I'd consider so what are the
14:13:15 14 implications of this? What do we know? What are we yet to
14:13:19 15 know? What action do we need to take ?
14:13:21 16

14:13:21 17 Yes. Bearing in mind Mr Ashton has at that stage been in
14:13:25 18 receipt of the Maguire advice?---Yes.
19

14:13:27 20 Mr Ashton is concerned about the possibility of the Inca
14:13:30 21 matters, he's aware of the Mokbel matters and then he gets
14:13:34 22 this advice which he says shocks him, what should he
14:13:39 23 do?---So one of his options, which is probably the one that
14:13:42 24 he would say, one of the ones that came out of this, was
14:13:45 25 get someone external to come and say, "Tell us what the
14:13:48 26 hell is going on? Go back, find the material, find the
14:13:51 27 trail if you can and tell us what's gone on"?---Right.
28

14:13:56 29 Certainly he should be briefing up about all of these
14:13:58 30 matters, shouldn't he?---Well, again I'm not sure he'd have
14:14:02 31 to brief me specifically on this but I would think that he
14:14:04 32 would say there is another flag that's come to our
14:14:09 33 attention.
34

14:14:09 35 Can I suggest this to you, and I don't want to be over
14:14:12 36 dramatic about it, but in light of the information that
14:14:15 37 leads up to this document, the prospect that Ms Gobbo's
14:14:17 38 involvement has affected proceedings now, he gets a
14:14:22 39 document that makes it clear it's not just Mokbel, it's not
14:14:26 40 just Inca potentially, it's not just Dale potentially, it
14:14:29 41 could be a huge amount of people?---Yes.
42

14:14:32 43 Now this, can I suggest, is a very significant
14:14:40 44 document?---Yes, I would say that's - particularly if you
14:14:43 45 look at it in the entirety of the material available, it is
14:14:46 46 a significant document.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:14:57 1 I was asking you about the draft Terms of Reference and an
14:15:07 2 email of 21 November. Could we have a look at another
14:15:13 3 email, VPL.6023.0041.1848. I'm sorry, 1847. It appears
14:15:29 4 that during the day there'd been draft Terms of Reference
14:15:37 5 prepared and it was - an email was sent to Mr Pope, which
14:15:46 6 was then forwarded to Mr McRae, which seemed to attach some
14:15:57 7 draft Terms of Reference. Could we have a look at the next
14:15:59 8 document which appears to be the Terms of Reference
14:16:02 9 attached to that which is this document,
14:16:11 10 VPL.6023.0041.1848. If you can have a look at that
14:16:14 11 draft?---Yes.
12
14:16:14 13 Is that the draft you believe that you were considering at
14:16:20 14 around 21 November?---Yes, it is.
15
14:16:25 16 I tender that, Commissioner.
14:16:29 17
14:16:29 18 #EXHIBIT RC1291A - (Confidential) Email and draft proposal
14:16:43 19 attached.
14:16:30 20
14:16:31 21 #EXHIBIT RC1291B - (Redacted version.)
22
14:16:38 23 I'll tender the email that goes with it, Commissioner.
24
14:16:41 25 COMMISSIONER: The email and draft proposal attached will
14:16:44 26 be 1291A and B.
27
14:16:53 28 MR WINNEKE: Then the Terms of Reference develop and if we
14:17:02 29 have a look at VPL.0100.0040.0568. It seems that you're
14:17:14 30 CC'd into what was at 8 February 2012 the latest version of
14:17:20 31 the ToRs which can I suggest is more or less perhaps the
14:17:33 32 final Terms of Reference, although I think there's some
14:17:36 33 change in the order of the terms. I take it you would have
14:17:39 34 been provided with the Terms of Reference in early February
14:17:44 35 2012?---If not from this email, then I was certainly
14:17:49 36 provided the final Terms of Reference. I can't say without
14:17:51 37 seeing the documentation, but somewhere around this time,
14:17:56 38 yes.
39
14:17:56 40 Thanks very much. I tender that.
14:17:58 41
14:17:58 42 #EXHIBIT RC1292A - (Confidential) VPL.0100.0040.0568.
14:18:00 43
14:18:01 44 #EXHIBIT RC1292B - (Redacted version.)
14:18:02 45
14:18:02 46 In June of 2012 you become the Deputy Commissioner for
14:18:06 47 Regional Operations?---Yes, I do.

.18/02/20

14337

CARTWRIGHT XXN

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
14:18:09 2 A number of things occur during the course of 2012. As
14:18:14 3 Mr Gleeson and Mr Comrie set about their task of
14:18:18 4 investigating what had occurred around June of 2012
14:18:28 5 Mr Gleeson becomes concerned that there may have been
14:18:30 6 improper conduct on the part of some police officers
14:18:34 7 managing Ms Gobbo and he provided a report or a letter to
14:18:39 8 Mr Pope setting out his concerns and that's been referred
14:18:42 9 to as the out of scope report, if you like. Do you recall
14:18:49 10 seeing that document around the time that it was produced
14:18:53 11 or not?---No, I don't.
12
14:18:54 13 Do you believe you would have or not?---I don't think I
14:18:58 14 did.
15
14:19:00 16 You know that the Comrie review I think was signed and
14:19:03 17 published somewhere around the end of July 2012?---Yes.
18
14:19:07 19 You believe that it's likely that you were given a copy of
14:19:10 20 the Comrie review although you say you can't specifically
14:19:13 21 recall?---I can't specifically recall so it wasn't my
14:19:16 22 direct line responsibility.
23
14:19:17 24 Yes?---Nor did I have Loricated at that time.
25
14:19:20 26 Yes?---But at some stage I've received a copy of it. It
14:19:23 27 may even be six months later.
28
14:19:25 29 All right. Would that have been around the time that you
14:19:31 30 became involved in the Loricated process?---I would think
14:19:34 31 so but again, Mr Winneke, I can only surmise.
32
14:19:37 33 No, I understand that. Nonetheless you believe that around
14:19:42 34 the time of the commencement of Loricated you would have
14:19:47 35 had cause to read the Comrie review?---Yes.
36
14:19:52 37 And you understood that Loricated, that operation was based
14:19:55 38 on the first recommendation of Mr Comrie?---Yes.
39
14:20:00 40 That is to compile in a compendious way all of the
14:20:07 41 information that had been gathered by the SDU concerning
14:20:10 42 Ms Gobbo?---Yes, that was the understanding.
43
14:20:12 44 You were the executive sponsor, is that right, of the
14:20:16 45 project or the operation?---Yes, I was.
46
14:20:18 47 If we can have a look briefly at VPL.0100.0132.0093. This

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:20:28 1 is described as the Human Source 3838 Document Review
14:20:32 2 Project Management Plan and you would have seen that I
14:20:43 3 assume?---I don't know, Mr Winneke. I'd need to look at
14:20:46 4 the rest of the document.
5
14:20:48 6 Perhaps if we go to p.8 of that document which contains the
14:20:54 7 project objectives, benefits and costs. The objectives are
14:21:00 8 to collect all the documents, including electronic files,
14:21:03 9 audio files, et cetera, catalogue, migrate, review,
14:21:07 10 identify relevant issues and group them in the established
14:21:11 11 investigation themes?---Yes.
12
14:21:12 13 Identify any opportunities to improve intelligence, et
14:21:14 14 cetera?---If I haven't seen that specific document I have
14:21:18 15 seen the objectives, certainly. Presumably the benefits.
16
14:21:21 17 The benefits are the implementation and completion of
14:21:25 18 recommendation 1 of the Comrie Human Source 3838 Review
14:21:30 19 Report, analysis of the complete data holdings, depended
14:21:31 20 upon the results of the analysis, possible identification
14:21:34 21 of prima facie criminal offending, breaches of professional
14:21:40 22 standards that may instigate further investigation by the
14:21:43 23 appropriate investigative body, possible identification of
14:21:46 24 opportunities to improve intelligence collection and
14:21:48 25 analysis in final human source's files and
14:21:53 26 management?---Yes.
27
14:21:54 28 Then over the page the project scope, right. You agree
14:21:59 29 that broadly they were the objects and terms of project
14:22:10 30 Loricated?---Yes.
31
14:22:11 32 Do you agree that this project wasn't designed to in effect
14:22:20 33 run to ground, if you like, the concerns that had been
14:22:23 34 raised by Mr Maguire and the various other documents that
14:22:31 35 had given rise to concerns about the use of Ms Gobbo?---It
14:22:35 36 wasn't specifically aimed at that.
37
14:22:37 38 No?---So they're clearly not in the objectives directly.
14:22:43 39 There's opportunity to identify issues and there I note in
14:22:47 40 one of the points around potential, I think it was,
14:22:50 41 breaches of confidentiality, some wording like that.
42
14:22:52 43 Yes?---So you could read into that the implication that it
14:22:56 44 was open to the project to pick up on those sorts of
14:23:01 45 issues.
46
14:23:02 47 All right. I tender that document, Commissioner.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:23:06 1
 14:23:06 2 #EXHIBIT RC1293A - (Confidential) Human Source 3838
 14:20:31 3 Document Review Project Management
 14:20:35 4 Plan.
 14:23:08 5
 14:23:09 6 #EXHIBIT RC1293B - (Redacted version.)
 14:23:10 7
 14:23:10 8 If we go to 14 March 2013, VPL.0005.0018.0833. There were
 14:23:17 9 some minutes of project Loricated, 14 March 2003. We'll
 14:23:24 10 scroll down to the heading of "Other business" which I
 14:23:28 11 think is - keep going. Keep going. Keep going. No. Wait
 14:23:37 12 on. Could we just go up, please. Just go up in the other
 14:23:45 13 direction. Right. Just stop there. In any event, that's
 14:24:20 14 a document which - would you have generally attended these
 14:24:25 15 meetings or not?---No, I wouldn't have.
 16
 14:24:28 17 Would you be provided with the minutes of meetings and
 14:24:33 18 agendas and so forth?---I'm just trying to recall whether I
 14:24:39 19 was. I was certainly briefed, I think I was briefed
 14:24:42 20 monthly.
 21
 14:24:43 22 Yes?---I can't recall whether I was provided the minutes
 14:24:45 23 routinely but I wouldn't be surprised if I was.
 24
 14:24:49 25 Right. I tender that document, Commissioner.
 14:24:54 26
 14:24:54 27 #EXHIBIT RC1294A - (Confidential) VPL.0005.0018.0833.
 14:24:55 28
 14:24:56 29 #EXHIBIT RC1294B - (Redacted version.)
 30
 14:25:08 31 You refer to some minutes of 6 June 2013 in your
 14:25:13 32 statement?---Yes.
 33
 14:25:15 34 They suggest that - if we can have a look at the document
 14:25:21 35 VPL.0002.0001.0250 - you had pointed those minutes out as
 14:25:32 36 being suggestive that concerns were being raised; is that
 14:25:37 37 right?---Yes.
 38
 14:25:40 39 If we just scroll down. Keep going. Keep going. Just
 14:26:03 40 stop there. There was a discussion regarding risks.
 14:26:12 41 "Agreed that legal issues i.e. past trials unfairly
 14:26:17 42 currently represent the greatest risk. Finn McRae and DF",
 14:26:21 43 is Doug Fryer, "have briefed the DPP on the issue.
 14:26:27 44 Discussion and agreement by the steering committee that the
 14:26:29 45 project team should complete their objectives in accordance
 14:26:32 46 with the Terms of Reference. This material should then be
 14:26:36 47 analysed and then any relevant matters would be presented

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:26:39 1 to the DPP or IBAC. This way a complete picture of events
14:26:43 2 will be revealed at the one time, however an exception to
14:26:47 3 this would be if a clear and serious issue arose that
14:26:49 4 required immediate intervention, notification to a relevant
14:26:54 5 individual or organisation"?---Yes.
6
14:26:55 7 You'd been, as executive sponsor, provided with a general
14:26:59 8 overview of the operation and have sought a full
14:27:03 9 brief?---Correct.
10
14:27:03 11 And that's the document that you thought was relevant to
14:27:11 12 this developing theme; is that right?---Yes, that's right.
13
14:27:15 14 I tender that, Commissioner.
14:27:16 15
14:27:17 16 #EXHIBIT RC1295A - (Confidential) VPL.0002.0001.0250.
14:27:19 17
14:27:20 18 #EXHIBIT RC1295B - (Redacted version.)
19
14:27:30 20 Then if we have a look at the minutes of 2 September 2013,
14:27:35 21 VPL.6112.0033.6398. Again, minutes of the steering
14:27:49 22 committee meeting. Again, you're not in attendance but you
14:27:52 23 believe you would have been provided with at least an
14:27:56 24 overview, if not the minutes themselves?---Yes, that's
14:28:00 25 right.
26
14:28:00 27 Did you keep a folder of minutes, do you believe?---I had a
14:28:05 28 number of folders, I certainly had a Driver, I would have
14:28:08 29 had a Loricated. I can't recall, it would probably be in
14:28:11 30 the documentation here, in my statement, but I can't recall
14:28:14 31 whether I had minutes in there. Having said that, the
14:28:18 32 previous set of minutes we just referred to were familiar
14:28:23 33 to me.
34
14:28:24 35 If we can scroll down we'll get - scroll down, thanks.
14:28:36 36 Just stop. Come back, come back. There was concern about
14:28:43 37 an assessment done because Mr Dale had written a book.
14:28:47 38 Mr McRae had had a meeting with the DPP on 28 August where
14:28:52 39 the issue of conflict of interest re issues with Witness F
14:28:56 40 was canvassed. "Advice from the Director was that where
14:28:59 41 clear conflict of interest in role of F and clients
14:29:04 42 identified by the project team to report back", do you see
14:29:06 43 that?---Yes, I do.
44
14:29:08 45 And can we just keep going down. Just stop there.
14:29:15 46 "Mr McRae provided advice to Damian Jackson of project team
47 re conflict of interest cover where Witness F was clearly

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:29:22 1 acting for persons, clients whoever they may be", do you
14:29:32 2 see that?---Yes, I do.
3
14:29:33 4 Was it your understanding at that stage that there was
14:29:35 5 information which had been gleaned which made it reasonably
14:29:38 6 apparent that Ms Gobbo had been providing information about
14:29:43 7 people for whom she'd been acting?---Yes. Again, the
14:29:47 8 extent of that information wasn't necessarily clear to me.
9
14:29:50 10 Yes?---But there was evidence that she'd been acting for
14:29:53 11 people.
12
14:29:54 13 Right?---Yes, and providing advice - providing information
14:29:57 14 to police on those people.
15
14:29:59 16 Righto. It appears though from the documents that we have
14:30:03 17 that there was no briefing of the DPP until 1 April 2014,
14:30:12 18 are you aware of that or not?---I thought there'd been
14:30:15 19 meetings with the DPP a number of times prior to that but
14:30:18 20 whether the content was a briefing, there was certainly, in
14:30:23 21 my recollection, times where Finn McRae had been to the
14:30:27 22 DPP.
23
14:30:27 24 Yes?---Or the OPP.
25
14:30:28 26 Yes?---And raised concerns and, for example, the discussion
14:30:33 27 around Inca and Dale.
28
14:30:35 29 Yes?---Although that was Federal DPP.
30
14:30:38 31 Yes?---My recollection was issues had been raised prior to
14:30:43 32 this date.
33
14:30:44 34 We know that obviously there was a meeting in August,
14:30:48 35 because it's reflected in that note there, where Mr McRae
14:30:50 36 was instructed to come back if there were clear examples of
14:30:53 37 conflict. We know that there was a meeting in September of
14:30:57 38 2012 and we know that there's a meeting on 1 April 2014.
14:31:04 39 Do you say that you had briefings that suggest there - from
14:31:10 40 Mr McRae suggesting there were meetings more regularly than
14:31:13 41 that?---No, but you're asking me - I think you implied that
14:31:16 42 this was the first time that the OPP was briefed.
43
14:31:19 44 I'm not suggesting that, no?---Oh, okay. Sorry, you're
14:31:23 45 suggesting that as a result of this Mr - - -
46
14:31:26 47 What I'm suggesting is there were no briefings of the OPP

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:31:29 1 after this time until 1 April 2014?---Right, okay.
2
14:31:36 3 That's what I'm suggesting?---Yeah, I don't know. I don't
14:31:38 4 know, Mr Winneke.
5
14:31:39 6 All right. Now then if we move on. We know that - perhaps
14:31:45 7 can I ask you this: do you accept that given these matters
14:31:53 8 were being considered by the steering committee, that there
14:32:01 9 was a developing concern about whether or not Ms Gobbo and
14:32:07 10 Victoria Police had affected trials?---Yes.
11
14:32:10 12 And did you have discussions with any of the people on the
14:32:15 13 steering committee about those matters in the latter part
14:32:18 14 of 2013 into 2014 to your recollection?---Not to my
14:32:23 15 recollection. Certainly nothing diaried or documented.
16
14:32:27 17 You've examined your diaries to see whether anyone had come
14:32:31 18 to you in the latter part of 2013, early 2014 and raised
14:32:35 19 with you concerns about possible interferences with the
14:32:40 20 course of justice?---Yes, I have and I haven't, other than
14:32:44 21 those described in my statement.
22
14:32:46 23 Yes?---I don't have a recollection of that happening.
24
14:32:48 25 All right. Do you believe that if someone had raised those
14:32:50 26 concerns you would have documented it in some way?---The
14:32:54 27 only possibility that I've reflected on, as I have been
14:33:00 28 coming before the Commission, is it was my habit to have
14:33:05 29 informal discussions with Finn McRae and Stephen Leane in
14:33:09 30 particular.
31
14:33:09 32 Yes?---If you like corridor discussions. It's possible
14:33:12 33 that there's been some general discussion in those sort of
14:33:15 34 corridor discussions, something like, "This looks bad" or
14:33:19 35 "It's looking worse" or something like that.
36
14:33:22 37 Yes?---But I haven't diaried it.
38
14:33:24 39 Yes, all right. What we do know is that there's newspaper
14:33:28 40 articles, the Lawyer X article occurs in late March of
14:33:35 41 2014, either 30 or 31 March 2014, and that certainly gets
14:33:40 42 things moving, do you accept that?---Yes. That brings
14:33:43 43 things to a head.
44
14:33:44 45 Yes, all right. It appears that there were a number of
14:33:52 46 meetings that you participated in in around that time; is
14:33:55 47 that right?---That's right.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
14:33:56 2 Just before I go to those can I tender the Loricated
14:34:00 3 steering committee minutes of 6 June and 2 September 2013.
4
14:34:09 5 COMMISSIONER: 6 June is already tendered, 1295. 2
14:34:13 6 September will be 1296A and B.
14:34:16 7
14:34:17 8 #EXHIBIT RC1296A - (Confidential) Loricated steering
14:34:00 9 committee minutes of 2/09/13.
14:34:18 10
14:34:18 11 #EXHIBIT RC1296B - (Redacted version.)
14:34:20 12
14:34:20 13 MR WINNEKE: You understand that the press at that time was
14:34:22 14 reporting in fairly excitable terms about the possibility
14:34:30 15 of criminals walking out of gaol, police going to gaol,
14:34:34 16 lawyers being thrown out of professions, Royal Commissions
14:34:37 17 and so forth. Do you recall that?---I don't recall the
14:34:43 18 specific content of the articles but I remember that it was
14:34:47 19 concerning.
20
14:34:48 21 Yes?---Importantly for us it raised the possibility of
14:34:55 22 Nicola Gobbo being identified and again putting her life at
14:34:57 23 risk.
24
14:34:59 25 That was obviously one aspect of it?---Yes.
26
14:35:00 27 But certainly the other aspects of it, the use by police of
14:35:03 28 a barrister informer is something at that stage which is
14:35:08 29 exciting the commentators?---Yes, I recall that.
30
14:35:12 31 There were calls for Royal Commissions, et cetera?---I
14:35:16 32 don't recall the call for a Royal Commission. I wouldn't
14:35:20 33 be surprised.
34
14:35:20 35 You understand that there was a meeting between I think
14:35:27 36 Mr Leane, Mr McRae, Mr Fontana and IBAC on 1 April 2014
14:35:35 37 which resulted in a letter being sent to you on 3 April
14:35:40 38 2014, do you recall that?---Yes, I was - I point out I was
14:35:46 39 Acting Chief Commissioner at that time during I think a
14:35:49 40 temporary leave or absence, Ken's absence, so it was sent
14:35:54 41 to me in that role.
42
14:35:55 43 The letter, which I think I tendered recently, which is
14:36:00 44 VPL.0015.0004.0013, indicated that Mr McRae had briefed the
14:36:13 45 Director of IBAC in terms that Victoria Police had
14:36:16 46 undertaken a review, at least this is how it's
14:36:20 47 reflected?---Yes.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
14:36:21 2 Victoria Police had undertaken a review of those criminal
14:36:23 3 prosecutions in which Lawyer X had acted for defendants and
14:36:26 4 Mr McRae indicated that Victoria Police would soon be
14:36:30 5 completing a report as a result of its review which would
14:36:34 6 be made available to IBAC?---Yes, that's what's contained
14:36:37 7 in the letter, yes.
8
14:36:38 9 Right. Did you speak to - and I think you said after you
14:36:41 10 received it you spoke to Mr McRae about it?---Yes, I did.
14:36:48 11 I asked him to prepare a response.
12
14:36:49 13 Did you ask him about what review had been undertaken with
14:36:55 14 respect to criminal prosecutions in which Lawyer X had
14:36:58 15 acted for defendants?---No, I don't recall that. I'm
14:37:02 16 reading into that now I would presume it's from Loricated's
14:37:08 17 work.
18
14:37:09 19 I take it you would accept the proposition that neither
14:37:12 20 Loricated nor Comrie was a review of cases that Ms Gobbo
14:37:16 21 had represented people in, was it?---I'd say that that was
14:37:21 22 a generous description, yes.
23
14:37:24 24 Yes, all right.
25
14:37:31 26 COMMISSIONER: That's Exhibit 1282.
27
14:37:34 28 MR WINNEKE: Yes, thanks Commissioner. Is what you
14:37:50 29 understand that Operation Bendigo comes about subsequent to
14:37:59 30 the media articles and the meetings with the OPP, with
14:38:05 31 Mr O'Brien?---Yes.
32
14:38:07 33 Do you believe that there had been, proposed prior to this
14:38:12 34 period, a particular form of inquiry which was going to
14:38:14 35 examine these matters, or not?---I think that would have
14:38:18 36 been a flow on from the work of Loricated regardless.
37
14:38:21 38 Yes?---You recall the Loricated minutes or somewhere in the
14:38:27 39 Loricated minutes it talks about themes are identified,
14:38:30 40 legal issues are one of them.
41
14:38:32 42 Yes?---So we would have needed to track that down
14:38:34 43 regardless.
44
14:38:35 45 Do I take it though that there had been discussion about
14:38:37 46 what form of inquiry that was going to take, or was it
14:38:41 47 still up in the air?---I don't know. It looks to me, going

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:38:44 1 back through the documentation, is we keep escalating so we
14:38:48 2 form Bendigo, Bendigo's not enough, we form the document
14:38:52 3 working group, that's not enough, we form the investigation
14:38:54 4 group. So we basically keep escalating the process.

5
14:38:58 6 What appears to be the case is that Victoria Police was
14:39:01 7 hoping that IBAC would investigate, one, the leaks from,
14:39:08 8 apparently from Victoria Police, and two, create an
14:39:13 9 investigation which might have the effect of getting to the
14:39:16 10 bottom of whether Ms Gobbo and Victoria Police had
14:39:19 11 interfered with the due course of justice?---Yes.

12
14:39:23 13 But what you were effectively told was, "Look, it's not
14:39:27 14 something that IBAC has jurisdiction to deal with, we don't
14:39:30 15 propose to do that"?---Yes.

16
14:39:31 17 Is that your recollection?---Yes, that's my recollection
14:39:33 18 and I think there's a response from IBAC at some stage in
14:39:36 19 the future here to say just that.

20
14:39:40 21 It seems that there were - that Operation Bendigo first met
14:39:48 22 subsequent to a discussion that had been had between
14:39:52 23 yourself, Mr McRae, Mr Leane on 7 April 2014, and
14:39:57 24 Mr Leane's given evidence that there was a general
14:40:01 25 conversation about the issues related to Ms Gobbo's safety
14:40:04 26 but it became a brainstorming session about how to manage a
14:40:08 27 whole range of governance issues surrounding not only her
14:40:12 28 safety, but ongoing interaction between Victoria Police and
14:40:14 29 other agencies and the future management of the various
14:40:16 30 issues that had been managed by Operation Loricated to that
14:40:20 31 point. It was at that time that the idea of setting up
14:40:31 32 another Task Force was germinated, do you accept that?---I
14:40:35 33 wouldn't dispute that. That was typically the way, when I
14:40:38 34 was in that role, we'd do things and Mr McRae and Mr Leane
14:40:42 35 were part of those discussions generally from memory.

36
14:40:46 37 If we have a look at the first minutes of that operation,
14:40:51 38 and it's VPL.0005.0018.0095. We see now that you're the
14:41:02 39 Chair, so you've been brought in to the meeting?---I don't
14:41:06 40 know if I've been brought in. I think I might have
14:41:09 41 convened the meeting, Mr Winneke.

42
14:41:13 43 In any event it now has the Deputy Commissioner as the
14:41:19 44 Chair of this operation?---Yes.

45
14:41:24 46 Can I just ask you about a couple of matters which are
14:41:27 47 reflected in those minutes. "The governance in Terms of

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:41:37 1 Reference are distributed, hand out a proposed ToRs and
14:41:42 2 governance, agreed ToRs as oversee the protection and
3 management of Ms Gobbo, assess the performance and
14:41:50 4 implementation against the Comrie review, Loricated, the
14:41:53 5 ██████████ review, coordination of interaction with other
14:41:57 6 agencies and stakeholders, that being IBAC, the DPP, the
14:42:00 7 Legal Services Commissioner. Oversee and coordinate any
14:42:05 8 legal actions, including suppression, civil litigation,
14:42:05 9 other inquiries and manage conflict of interest issues".
14:42:08 10 Those conflict of interest issues aren't of interest to
14:42:12 11 this Commission. They're conflict of interest - - -
14:42:16 12 ?---They're the internal ones.
13
14:42:17 14 Internal ones?---Yes.
15
14:42:18 16 Then if we look, go through the document, we see there's
14:42:22 17 been a number of areas of discussion, the safety of
14:42:26 18 Ms Gobbo. Then court proceedings. Do you see if we go
14:42:34 19 down to 7, "Discussion on criminal matters before the
14:42:39 20 courts as to possible impact if identity of 3838 becomes
14:42:44 21 public knowledge on current matters before the courts and
14:42:48 22 concluded matters where convictions recorded"?---Yes.
14:42:52 23
14:42:52 24 "Whether knowledge of '3838' could result in matters being
14:42:58 25 struck out or appealed. Discuss current matters involving
14:43:04 26 Milad Mokbel and broader discussion around any obligation
14:43:08 27 of VicPol to look back at concluded matters to see if there
14:43:13 28 are others that may be affected." And the agreement is to
14:43:15 29 look at the Mokbel matter, that is, one assumes, Milad
14:43:18 30 Mokbel, "But no obligation compels us to look at any other
14:43:22 31 matters"?---Yes.
32
14:43:23 33 They would be dealt with if and when they came up?---Yes.
34
14:43:26 35 What that appears to suggest is that as a result of the
14:43:28 36 meeting it was concluded that, "Look, we don't have any
14:43:34 37 obligation to make disclosure. We're not going to go round
14:43:37 38 and dig these things up with respect to people who have
14:43:40 39 already been convicted"?---M'mm.
40
14:43:42 41 And, in any event, we're looking at - do you accept
14:43:46 42 that?---I accept the reading.
43
14:43:48 44 Yes?---But I reject that that was the intention.
45
14:43:51 46 Right?---It doesn't fit with what's going on at the time.
14:43:55 47 The case - we'd been to IBAC.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
14:43:57 2 Yes?--We'd been to OPI - sorry, OPP.
3
14:44:01 4 Yes?--We're about to get the or about to launch, identify
14:44:06 5 the five worst cases.
6
14:44:07 7 Yes?---It certainly reads that way but it doesn't fit with
14:44:11 8 what's going on.
9
14:44:12 10 Can I suggest to you that what Mr McRae had been saying to
14:44:17 11 the DPP, certainly at 1 April 2014, was that there's
14:44:22 12 nothing at the moment which suggests that any case has been
14:44:26 13 affected. That's the gist of what he was saying to
14:44:31 14 Mr Champion on 1 April, nothing to see at this stage?---I
14:44:35 15 think it would be said in a way that, "Nothing to see at
14:44:38 16 this stage but we're still looking", because we were still
14:44:40 17 looking.
18
14:44:41 19 I follow what you say. But then a week later it appears to
14:44:45 20 be the case, if these minutes are to be accepted?---M'mm.
21
14:44:49 22 That the possible impact of the identity of Ms Gobbo
14:44:54 23 becoming public may lead to matters being struck out or
14:45:02 24 appealed and a discussion was had as to an obligation to
14:45:09 25 disclose and it really was only, according to this, in the
14:45:14 26 case of a current proceeding. That's how it reads?---Yes,
14:45:22 27 it does.
28
14:45:24 29 Do you say that those minutes weren't accepted?---I've
14:45:27 30 signed them off so they were taken, whoever took those
14:45:31 31 minutes.
32
14:45:31 33 Rite?---Regardless of whether, whatever they were.
34
14:45:35 35 Yes?---It's my responsibility to check the minutes. I
14:45:37 36 think if you go to the front of that document it notes that
14:45:40 37 they were received by Dennis Watson on - two weeks later.
38
14:45:44 39 Yes?---So I've seen them, and whether they're accurate or
14:45:48 40 not, it's my responsibility as the Chair of the committee
14:45:50 41 for having accurate reflection in the minutes.
42
14:45:53 43 Right?---But having read that, it just does not fit in any
14:45:57 44 way with what's happening at the time. Why would we put
14:46:00 45 together a steering committee, an investigation group, a
14:46:04 46 document group, to say that we have no obligation? I see
14:46:08 47 it reads that way. Sorry if I'm getting wound up on this,

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:46:13 1 because I read that with some horror and when it was
14:46:16 2 brought to my attention in producing this statement - - -
3
14:46:19 4 Yes?---- - - I would say I read it with some horror.
5
14:46:22 6 It may well be that if we think about the progression we
14:46:26 7 get to this, we get to, firstly, the feeling - certainly as
14:46:37 8 far as Mr McRae is concerned at that stage is, "That we
14:46:39 9 don't have anything to tell you, Mr Champion. We've been
14:46:47 10 to see IBAC", and it appears that Mr O'Brien's been told,
14:46:56 11 "We have conducted analyses of cases that Ms Gobbo has been
14:47:00 12 engaged in". It may well be that Mr O'Brien might have
14:47:04 13 misunderstood what was being put to him, although it
14:47:08 14 doesn't appear?---It doesn't read that way, does it?
15
14:47:11 16 It doesn't. And it doesn't appear from any responses by
14:47:14 17 way of letters written by Victoria Police back to
14:47:17 18 Mr O'Brien that he had been mistaken about it. It's simply
14:47:22 19 not addressed?---But why would - if you take that at its
14:47:27 20 reading, why would we go to IBAC to say, "We have a problem
14:47:30 21 here and we want you to pick it up for us?" Why would we
14:47:35 22 go on and devote resources to tracking down what we think
14:47:39 23 are the five worst cases.
24
14:47:42 25 That only happens, can I suggest, after it becomes apparent
14:47:45 26 to you that Mr O'Brien is saying, "We're not going to in
14:47:47 27 effect go and trail through your records and conduct an
14:47:51 28 investigation, that's a matter for you to look into"?---But
14:47:55 29 again, I say why then would Finn go to the OPP, what's the
14:48:01 30 purpose of saying, "John, there's nothing to see here"? It
14:48:06 31 doesn't gel with our actions and that's not my
14:48:09 32 interpretation. We need to follow this through, which
14:48:11 33 we're doing, and we try and alert others to our concerns.
14:48:14 34 It may well be, I don't know, I wasn't present and I don't
14:48:19 35 know what Finn's testimony was. It may well be to say,
36 "We're tracking this down. At this stage we've got nothing
14:48:23 37 concrete we can give you", and that comes back in the
14:48:24 38 correspondence, later on it comes back saying, "Nothing to
14:48:28 39 see here", from OPP and I think even from IBAC, "But tell
14:48:33 40 us more when it becomes available".
41
14:48:35 42 If there was advice being given to the Task Force to the
14:48:38 43 effect that there's no obligation on Victoria Police to
14:48:41 44 disclose matters which have already been, matters
14:48:46 45 concerning proceedings which have already been pursued to
14:48:50 46 conviction, and we will only deal with them as and when
14:48:54 47 they come up, once, if and when Ms Gobbo is outed, if you

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:48:58 1 like, as an informer?---Yes.
2
14:49:02 3 Where's that advice coming from that results in those
14:49:05 4 minutes?---All can I say is I think the minutes are wrong.
14:49:09 5 There's a misunderstanding of what was said. But that's my
14:49:12 6 responsibility. And again, I just go back and I say all
14:49:17 7 the other actions that I put in place and my colleagues had
14:49:20 8 put in place are not consistent with that in any shape or
14:49:24 9 form. And they're immediate actions, they're not remote,
14:49:29 10 they're not months before or months after, they're in the
14:49:31 11 weeks around this.
12
14:49:33 13 "Discussion on suppression order and whether we can apply
14:49:33 14 public interest immunity. Mr McRae advised still deciding
14:49:37 15 who is to be called but 3838 is not on the witness list and
14:49:41 16 that we can claim PII on our information." That no doubt
14:49:45 17 would be a reference to a proceeding against Milad Mokbel
14:49:49 18 in 2000 then going on?---Yes.
19
14:49:52 20 And Mr McRae advising that there's the ability to claim
14:49:57 21 public interest immunity to protect Ms Gobbo at that
14:50:00 22 stage?---Yes, consistent with early - actions earlier, we
14:50:04 23 go right back to the Commonwealth DPP prosecutions.
24
14:50:07 25 All right?---For the same approach.
26
14:50:08 27 Then if we go over the page to consultation with
14:50:11 28 stakeholders. "Agree the DPP will raise issues with us as
14:50:16 29 required and no requirement for us to provide any formal
14:50:19 30 advice at this stage. Finn McRae will liaise with the DPP
14:50:25 31 as a" - I assume that says courtesy?---Yeah.
32
14:50:27 33 "Agreed that CDDP to write to IBAC requesting they pick up
14:50:32 34 the investigation to leaks of information. Finn McRae
14:50:35 35 advised that IBAC should also pick up final investigations
14:50:38 36 of Loricated report to do with privilege"?---So, again,
14:50:42 37 that's not consistent with the previous statement, is it?
14:50:44 38 Why would we say that if we say nothing to see here, when
14:50:48 39 in fact what we're saying is we're going to ask IBAC to
14:50:51 40 pick up the final investigation, the exact opposite.
41
14:50:55 42 Two matters are being considered for IBAC, the first is the
14:51:00 43 leaks?---Yes.
44
14:51:02 45 And the second is the privilege issue?---Yes.
46
14:51:05 47 As we know, a letter - a meeting was held on 10 April 2014.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:51:13 1 I think Mr Lay and Mr Leane attended upon, and I stand to
14:51:20 2 be corrected, on 10 April and a letter was written to him
14:51:26 3 in effect responding to his letter of 3 April?---Yes.
4
14:51:30 5 And asking him to take on those two investigations and
14:51:37 6 that's the letter of VPL.0015.0004.0003. The evidence of
14:51:49 7 Mr Leane is that the meeting occurred on the 10th and it
14:51:52 8 became apparent pretty well on that day that Mr O'Brien was
14:51:55 9 effectively saying, "Look, it's not for us to examine
14:51:58 10 whether your conduct has affected cases. We're happy to
14:52:02 11 look into conduct of Victoria Police, whether it's proper
14:52:05 12 or improper, but that's a matter that we can't deal with",
14:52:10 13 do you accept that?---Yes, well the subsequent letter which
14:52:13 14 I've seen certainly reflects that view.
15
14:52:19 16 That's the letter of 15 April 2014?---Yes.
17
14:52:28 18 Perhaps we'll have a look at this, VPL.0015.0004.0001.
14:52:40 19 That's the letter you're referring to, is it?---Yes, it is.
20
14:52:46 21 It was apparent by 15 April that Victoria Police, and
14:52:50 22 indeed before 15 April, that Victoria Police was itself now
14:52:54 23 going to finally have to look into these matters and
14:53:00 24 determine whether or not there was information which
14:53:05 25 suggested that it positively had an obligation to make
14:53:10 26 disclosure to the OPP and to, if necessary, the
14:53:17 27 courts?---Yes.
28
14:53:17 29 Do you accept that?---Yes.
30
14:53:20 31 And that led to, or that view which was expressed can I
14:53:25 32 suggest on 10 April of Mr O'Brien's led to the
14:53:28 33 establishment of the Bendigo document management working
14:53:31 34 group?---Whether it led to that, it was around that time
14:53:35 35 and it would have been part of the consideration.
36
14:53:37 37 Yes?---I suspect we would have done that regardless.
38
14:53:40 39 Well, you'd certainly hope so?---Yes, we have to. I mean
14:53:45 40 at the very least IBAC is going to say, "Yes, we'll take it
14:53:50 41 on but we need to know more", and we'll be asked to provide
14:53:53 42 the more.
43
14:53:54 44 If we have a look at VPL.6023.0138.3604. These are the
14:54:04 45 Terms of Reference for the Operation Bendigo document
14:54:06 46 management working group. It's noted that, "In recent
14:54:12 47 times there's been significant external debate regarding

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:54:15 1 how Victoria Police managed its relationship with Witness
14:54:19 2 F. As a result by letter to IBAC dated 11 April the Chief
14:54:23 3 Commissioner indicated a complete detailed chronology of
14:54:25 4 the key issues and dates would be provided to IBAC by 5
14:54:28 5 May. Additionally, the Chief Commissioner requested that
14:54:30 6 IBAC consider taking primacy in the investigation into
14:54:34 7 potential leaks". That indication of the detailed
14:54:39 8 chronology was in effect what Victoria Police was going to
14:54:47 9 do, if you like, to meet Mr O'Brien's request in his letter
14:54:54 10 of 3 April, do you accept that?---I think it'd be partial
14:54:58 11 fulfilment.

12
14:54:59 13 Yes?---So I don't think the chronology would be enough
14:55:01 14 detail to understand Nicola Gobbo's role and what became of
14:55:06 15 the information, that sort of detail.

16
14:55:08 17 Righto. Then if we have a look at this document on 16
14:55:13 18 April 2014, this is an email or a letter from Stephen
14:55:19 19 Gleeson to Peter Trichias and can I suggest this reflects
14:55:23 20 the first proper attempt by Victoria Police to determine
14:55:27 21 what in fact had occurred with investigators and Ms Gobbo
14:55:34 22 in conjunction with the SDU, VPL.6072.0026.3152. If you go
14:55:47 23 to the bottom of this chain of emails, and it's from Peter
14:55:53 24 Lardner - I withdraw that. Peter Lardner. "As per
14:55:57 25 discussion I've been tasked to prepare a document in
14:55:59 26 relation to Witness F's involvement with Victoria Police.
14:56:02 27 This includes a chronology for the respective
14:56:04 28 investigations". Bear in mind I think at this stage
14:56:09 29 Mr Trichias was the head of Purana; is that right?---I
14:56:12 30 don't know.

31
14:56:13 32 He's asking to facilitate a search of Purana Task Force
14:56:16 33 holdings in relation to Witness F, provide a chronology of
14:56:19 34 any direct involvement Purana members had with Witness F,
14:56:22 35 provide an electronic catalogue of the documents contained
14:56:25 36 within Purana that relate to any direct involvement of
14:56:28 37 Purana members with Witness F, and if such documents do not
14:56:32 38 already exist in some other form, then please create in an
14:56:39 39 Excel spreadsheet. Then the material was required by, and
14:56:42 40 this is ambitious, 24 April 2014. Then he's indicating
14:56:49 41 that someone's going to be working with him?---Yes.

42
14:56:51 43 There's communications with Mr Gleeson and there was a
14:56:54 44 spreadsheet attached, and then if we go further down we'll
14:56:58 45 see Gleeson to Mr Trichias: "I perceive your difficulty
14:57:04 46 will be the issue of obscurity in terms of the actual
14:57:09 47 origins of any SDU information provided to Purana. Any

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:57:09 1 indication from SDU that information being passed on to
14:57:12 2 Purana was derived from a source is often, from what I have
14:57:16 3 observed to date, as good as you may get and the difficulty
14:57:19 4 will be linking any such instances to this particular
14:57:22 5 source", et cetera. What then develops, and it becomes
14:57:28 6 reasonably apparent if we scroll down, that there are going
14:57:32 7 to be quite a few difficulties in getting to the bottom of
14:57:35 8 the problem?---Yes.

9

14:57:38 10 Do I take you accept that, that it became apparent
14:57:42 11 reasonably soon that it was going to take a fair bit of
14:57:45 12 digging to uncover what had gone on?---I would have thought
14:57:49 13 it was already obvious to us. Looking back now on the
14:57:52 14 Comrie report, Steve Gleeson's out of scope report, it was
14:57:56 15 pretty obvious that it was going to be really challenging.

16

14:57:58 17 Yes. I tender that email chain, Commissioner.

14:58:02 18

14:58:02 19 #EXHIBIT RC1297A - (Confidential) VPL.6072.0026.3152.

14:58:03 20

14:58:04 21 #EXHIBIT RC1297B - (Redacted version.)

22

14:58:07 23 It seems that about this time also Mr McRae communicated
14:58:15 24 with Mr Le Grand, and if we have a look at a memorandum to
14:58:21 25 Mr McRae back from Mr Le Grand, so have a look at
14:58:27 26 VPL.0005.0003.5877. You'll see there that Mr Le Grand has
14:58:42 27 been asked, provided with pages of extracts from undated
14:58:47 28 coded logs to various source handlers of Victoria Police.
14:58:52 29 They've been instructed to review the material, to advise
14:58:56 30 how Victoria Police may determine whether there may have
14:58:59 31 been information obtained from the source, and what he
14:59:03 32 suggests is that, "We suggest the engagement of counsel to
14:59:09 33 provide a vetting framework for police members with
14:59:12 34 adequate knowledge of the source's material to identify
14:59:14 35 whether there's information disclosed by the source that
14:59:17 36 had the potential to interfere with justice", and they
14:59:20 37 suggest that Brian Dennis be briefed. So that then was the
14:59:27 38 - - - ?---Next step in the process, yes.

39

14:59:29 40 Next stage of the process?---Yes.

41

14:59:30 42 Was it your expectation that Mr Dennis would be involved
14:59:35 43 throughout, have a hands-on role, was that your
14:59:38 44 understanding or were you not - - - ?---I don't remember
14:59:41 45 but I know we had the discussion we needed independent
14:59:44 46 legal advice.

14:59:44 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

14:59:44 1 Yes?---That it was not a simple issue to understand the
14:59:48 2 potential conflicts of interest, and we needed expert
14:59:51 3 advice. So I think we've engaged Mr Dennis on that basis.
4
14:59:55 5 Right. I think Mr Dennis had a meeting I think somewhere
15:00:03 6 around the 12th of May of 2014 where he assisted in the
15:00:07 7 preparation of a number of questions that would be asked of
15:00:15 8 - would be considered by various police officers who were
15:00:17 9 carrying out their assessments, is that your
15:00:20 10 understanding?---I remember there was a filtering device,
15:00:25 11 which is the way I describe what you're saying Mr Dennis
15:00:28 12 provided. I don't recall Mr Dennis' involvement but I know
15:00:31 13 we produced that to help us triage, if you like, the
15:00:34 14 information that was coming in.
15
15:00:36 16 All right. I think that's been tendered, Commissioner.
17
15:00:55 18 COMMISSIONER: 1160 I'm told.
19
15:00:58 20 MR WINNEKE: Yes, thanks. If we then move forward to 12
15:01:03 21 May. If we have a look at VGS0.2000.1501.0167. These
15:01:26 22 appear to be notes I think of Mr Le Grand and there's a
15:01:40 23 reference to a meeting with Brian Dennis, Finn McRae,
15:01:47 24 Monique Swain and Steve Gleeson by phone. Various matters
15:01:51 25 are discussed and a number of legal conflict theme matters
15:01:55 26 have been identified, do you see that there?---Yes.
27
15:01:58 28 Do you believe that it was around this time that the
15:02:00 29 genesis of the five case studies which are ultimately
15:02:04 30 produced occurs?---Yes.
31
15:02:06 32 All right. I tender that, Commissioner.
15:02:09 33
15:02:10 34 #EXHIBIT RC1298A - (Confidential) VGS0.2000.1501.0167.
15:02:16 35
15:02:16 36 #EXHIBIT RC1298B - (Redacted version.)
15:02:18 37
15:02:18 38 I'm reminded, Commissioner, that I didn't tender the
15:02:21 39 Operation Bendigo document management working group ToR,
15:02:25 40 which is VPL.6023.0138.3604.
41
15:02:35 42 COMMISSIONER: Does that a date, that one? Maybe not.
15:02:40 43
15:02:41 44 MR WINNEKE: I can tell you, Commissioner, if it does.
15:02:44 45
15:02:45 46 #EXHIBIT RC1299A - (Confidential) Operation Bendigo
15:02:22 47 document management working group ToR,

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:02:28 1 VPL.6023.0138.3604.
15:02:46 2
15:02:47 3 #EXHIBIT RC1299B - (Redacted version.)
15:02:50 4
15:02:56 5 MR WINNEKE: I'll just find a date, Commissioner.
6
15:02:58 7 COMMISSIONER: Don't worry.
8
15:02:59 9 MR WINNEKE: If we have a look at Mr McRae's minutes I
15:03:02 10 think of that meeting, VPL.0100.0001.1201. I take it you
15:03:14 11 were briefed by Mr McRae about, or as matters continued,
15:03:18 12 would that be fair to say?---That would be normal and I see
15:03:22 13 in my statement I refer to a 27 May meeting of Bendigo
15:03:25 14 where we are told that Dennis has been engaged.
15
15:03:29 16 Yes?---So there'd be formal discussions and it would be
15:03:35 17 normal we'd have the odd corridor conference as well.
18
15:04:12 19 The three points are identified, five examples to be
15:04:17 20 investigated were discussed, and role of investigation
15:04:24 21 group, "To be ascertained whether 3838 was providing
15:04:26 22 information contrary to the interests of her client.
15:04:30 23 Breach of confidentiality and breach of LPP. Three points
15:04:33 24 identified that need to be answered. Was the information
15:04:36 25 provided to the police from 3838's clients? How was the
15:04:40 26 information used? Did the information have an impact on
15:04:45 27 court outcomes?" You understood that those questions were
15:04:52 28 the questions that the police, who were carrying out the
15:04:56 29 reviews, had to focus on?---I don't recall seeing the
15:05:00 30 minutes but generally that's the questions they would have
15:05:04 31 needed to track down for each case, yes.
32
15:05:07 33 All right. I tender that, Commissioner.
15:05:15 34
15:05:15 35 #EXHIBIT RC1300A - (Confidential) VPL.0100.0001.1201.
15:05:17 36
15:05:17 37 #EXHIBIT RC1300B - (Redacted version.)
15:05:19 38
15:05:23 39 You note in your statement that you got a memorandum from
15:05:31 40 Mr Gleeson on 5 May, or dated 5 May, but I think you
15:05:35 41 received it on 10 June. VPL.0002.0002.0037. This is when
15:05:45 42 you first learn that Ms Gobbo had been registered
15:05:48 43 previously; is that right?---I don't remember. I know that
15:05:52 44 somewhere in the documentation there's a suggestion that
15:05:58 45 she'd been registered in 99. Whether that was the first
15:06:05 46 time, I'm not sure.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:06:06 1 Do you have a recollection of the circumstances in which
15:06:07 2 you came to learn that or was it other than this
15:06:10 3 notification?---From going back through the documentation
15:06:14 4 there's a reference somewhere I think by Boris Buick that
15:06:17 5 she was registered in 99, but I don't know when that
15:06:20 6 occurred or when I saw it.
7

15:06:21 8 All right?---I'd have to go back and find it. I know that
15:06:25 9 Jeff Pope in his affidavit or his statement to me, sorry,
15:06:27 10 his conversation with me, said he'd had dealings with her
15:06:32 11 as a witness in 99.
12

15:06:33 13 Yes?---But it didn't suggest that she'd been recorded at
15:06:38 14 that time. I don't know, Mr Winneke, whether this is the
15:06:40 15 first time I knew it or not.
16

15:06:41 17 In any event, you say that this memo was provided to you
15:06:46 18 today, being 10 June, and the suggestion was that Mr Pope
15:06:55 19 had directed an Interpose administrator to undertake a
15:07:01 20 covert Interpose system check and report back to him on the
15:07:06 21 findings. Now, did you conduct any further inquiries about
15:07:11 22 that?---I think I just reviewed the case files.
23

15:07:16 24 Right?---So in my mind this was more about that aspect,
15:07:22 25 Pope's Interpose inquiry.
26

15:07:24 27 Yes?---Rather than the time she was registered.
28

15:07:26 29 Right. Obviously Mr Pope I think had left at this stage
15:07:31 30 and you didn't obviously have any discussions with
15:07:34 31 him?---No, when I reviewed the material, and I've
15:07:37 32 subsequently reviewed it in early 18 I think.
33

15:07:40 34 Yes?---It looks to me like the people he was checking on,
15:07:44 35 the words he was checking on had, as far as I could tell,
15:07:47 36 nothing to do with 3838, with Nicola Gobbo's informing or
15:07:52 37 client or anything like that.
38

15:07:53 39 Yes?---And it was consistent with what I would expect
15:07:58 40 someone in Pope's position to do when they come by
15:08:02 41 information which they need to check covertly for good
15:08:06 42 reason.
43

15:08:07 44 We understand, I think Mr Pope's now made a statement and
15:08:10 45 the explanation he gives is he had very good reason to
15:08:14 46 conduct that examination and it didn't concern
15:08:17 47 Ms Gobbo?---That was my quick assessment. I could see no

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:08:24 1 connections, nothing out of the ordinary. And I say that,
15:08:25 2 nothing to see here, move on.
3
15:08:29 4 Yes, and that appears to be the case. I tender that,
15:08:30 5 Commissioner.
15:08:31 6
15:08:32 7 #EXHIBIT RC1301A - (Confidential) VPL.0002.0002.0037.
15:08:35 8
15:08:36 9 #EXHIBIT RC1301B - (Redacted version.)
10
15:08:49 11 Did you - I take it you were provided with the case studies
15:08:58 12 as they were produced, do you recall that or not?---I doubt
15:09:01 13 if I would have. I think they would have been voluminous
15:09:04 14 but I don't recall. I would have got a summary but I don't
15:09:07 15 think I was provided with the case studies.
16
15:09:09 17 All right. Do you believe that - well, do you have any
15:09:14 18 recollection of what you were told about with respect to
15:09:17 19 those case studies?---Other than what's reflected in the
15:09:27 20 minutes.
21
15:09:28 22 Yes?---And I'm not sure they're even - so what I saw in the
15:09:32 23 minutes may well have been before the case studies are
15:09:35 24 completed. I can't recall, Mr Winneke, other than we've
15:09:40 25 asked them to look for five specific cases, the worst
15:09:42 26 cases, and they provided those and they did raise concerns,
15:09:47 27 as expected.
28
15:09:48 29 Can we have a look at this document, VPL.6019.0031.0622.
15:09:58 30 What you say in your statement is that you've seen
15:10:00 31 correspondence which indicates that on 5 November 2014
15:10:03 32 Mr Leane wrote to IBAC seeking to refer the legal issues
15:10:08 33 relevant to Operation Loricated to IBAC for
15:10:12 34 investigation?---Yes.
35
15:10:14 36 And you understood that the legal issues were arising from
15:10:18 37 potential breaches of legal professional privilege by
15:10:22 38 Ms Gobbo and the consequences of such breaches; is that
15:10:25 39 right?---Yes, and somewhere in the minutes we reflect that
15:10:29 40 the cases had been received, they'd been reviewed by
15:10:33 41 Stephen Leane and Finn McRae, so that's consistent with
15:10:36 42 what I'm saying here.
43
15:10:37 44 And you permitted Mr McRae to, or you were briefed by
15:10:43 45 Mr McRae in relation to a document request that he'd
15:10:47 46 received from IBAC and you authorised him to release all
15:10:50 47 legal files held by Victoria Police relating to

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:10:53 1 Ms Gobbo?---Yes. In fact I was his client, he needed that
15:10:56 2 authority.
3
15:10:59 4 Was it still hoped at that stage, despite earlier
15:11:02 5 indication, that IBAC might be prepared to in effect
15:11:06 6 examine whether or not cases had been affected?---It looks
15:11:10 7 like that.
8
15:11:11 9 At that stage though wouldn't it have been apparent, given
15:11:14 10 what had occurred previously, that they weren't prepared to
15:11:17 11 do so?---I can't recall the timing.
12
15:11:19 13 Right?---But if they'd given us a flat out, "No, we're not
15:11:23 14 doing it, it is outside our statutory obligations".
15
15:11:27 16 Yes?---Then I don't know why we, looking back I don't know
15:11:31 17 why we'd send in the cases.
18
15:11:33 19 In any event, a letter was written to IBAC. They responded
15:11:36 20 on 13 November making it clear that they weren't prepared
15:11:39 21 to examine it. In any event, on the 12th Mr McRae had
15:11:45 22 attended as required and offered to produce those documents
15:11:49 23 and they had declined?---Yes.
24
15:11:51 25 All right. You say that, "In the course of preparing the
15:12:05 26 statement I was shown an email from Bruce Gardiner at the
15:12:08 27 OPP to Mr McRae of 11 December in which Mr Gardiner wrote
15:12:13 28 that the Director believed that at present that PSS had no
15:12:19 29 duty of disclosure to the defence in any of the five case
15:12:22 30 studies that were sent to the OPP during November of
15:12:27 31 2014?---Yes.
32
15:12:31 33 I take it your understanding is that the case studies that
15:12:36 34 were sent were not comprehensive case studies, but what had
15:12:43 35 been sent was a document, a one page document containing a
15:12:46 36 list of cases which were the subject of the case studies
15:12:50 37 but not the case studies themselves?---Yeah, I don't recall
15:12:55 38 having a memory or understanding what was sent at the time.
39
15:13:05 40 Yes, all right. Thanks very much.
41
15:13:07 42 COMMISSIONER: Thank you. Mr Collinson.
15:13:09 43
15:13:10 44 MR COLLINSON: Nothing.
45
15:13:12 46 COMMISSIONER: Mr Coleman.
15:13:14 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1 <CROSS-EXAMINED BY MR COLEMAN:
2

15:13:14 3 Mr Cartwright, my name is Mr Coleman and I am one of the
15:13:21 4 counsel for Mr Ashton?---Thanks Mr Coleman.
5

15:13:23 6 I want to ask you some questions about the 3 November
15:13:27 7 meeting Mr Winneke has discussed with you?---Yes.
8

15:13:29 9 You received the Maguire advice on 2 November?---Yes, I
15:13:32 10 did.
11

15:13:33 12 Do you know that Mr Ashton's evidence is that he received
15:13:35 13 that advice on the same day?---There's something in the
15:13:39 14 documentation which suggests that, yes.
15

15:13:41 16 And Mr McRae's evidence is that he was called by Mr Ashton
15:13:46 17 to a meeting with you and him on 3 November in order to
15:13:50 18 discuss the Maguire advice?---Yes.
19

15:13:52 20 That was the genesis of the 3 November meeting, do you
15:13:56 21 agree with that?---Yes, I agree with that.
22

15:13:58 23 Indeed, Mr McRae says that one of the particular paragraphs
15:14:00 24 that Mr Ashton wanted to discuss was paragraph 54 of the
15:14:04 25 Maguire advice?---I don't have paragraph 54, Mr Coleman,
15:14:08 26 what's it say ?
27

15:14:09 28 Paragraph 54 of the Maguire advice, let me tell you, was
15:14:13 29 the paragraph which says, "If the role of the source were
15:14:16 30 to be fully exposed there is also the possibility that
15:14:18 31 persons such as Mokbel, who was convicted in absentia in
15:14:23 32 March 2006, would seek to challenge their convictions on
15:14:25 33 the basis that it was improperly obtained". Do you
15:14:29 34 remember Mr Winneke took you to this paragraph?---Yes.
35

15:14:32 36 Do you recall that that paragraph was actually discussed at
15:14:34 37 the meeting?---No, I don't.
38

15:14:36 39 Do you have any recollection that the issues with respect
15:14:39 40 to Mr Mokbel were discussed at that meeting?---No, I don't.
41

15:14:44 42 We've spent some time looking at your note of the meeting
15:14:48 43 and I think you said to Mr Winneke that your memory of what
15:14:52 44 occurred in that meeting is governed by what was in your
15:14:57 45 note?---That's correct.
46

15:14:58 47 And I'm not being critical, of course, it was a long time

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:15:02 1 ago?---No.
2
15:15:03 3 Would you accept that your note was not a verbatim
15:15:05 4 discussion of what occurred at the meeting?---It was
15:15:07 5 certainly not verbatim.
6
15:15:09 7 And there might be things which were discussed at the
15:15:11 8 meeting which aren't contained in your note?---Yes.
9
15:15:15 10 Can we bring up, please, Mr Ashton's diary,
15:15:24 11 GLA.0001.0001.0093 at p.114. Can we just expand that.
15:15:29 12 This is Mr Ashton's note of the meeting,
15:15:32 13 Mr Cartwright?---Yes.
14
15:15:33 15 It says, "Met Tim Cartwright and Finn McRae on Witness F.
15:15:37 16 Discussion on Gerard Maguire advice. I indicated that Tim
15:15:42 17 should discuss with Pope to initiate an independent review
15:15:43 18 of Witness F's source handling in IC&S", do you see
15:15:47 19 that?---Yes.
20
15:15:48 21 Do you recall Mr Ashton suggesting that there be an
15:15:51 22 independent review of the matters regarding Ms Gobbo and
15:15:55 23 her handling at that meeting?---In my mind that was around
15:16:00 24 what became the Comrie inquiry.
25
15:16:02 26 Yes, quite. I was going to suggest - but do you recall him
15:16:07 27 suggesting that there be this independent review?---No, but
15:16:12 28 I wouldn't be surprised.
29
30 So you wouldn't doubt what he's written in his note?---No,
31 no.
32
15:16:14 33 And that independent review, as you've just said, became
15:16:17 34 what was eventually the Comrie review?---Yes.
35
15:16:19 36 We don't find - if we can go to Mr Cartwright's note,
15:16:25 37 please, of that meeting, which is VPL.0002.0002.0065. We
15:16:41 38 don't find any reference of this request for an independent
15:16:45 39 review in your note; is that right?---No, that's the issue
15:16:49 40 for me to discuss with JP, Jeff Pope, as to how we can
15:16:56 41 ensure appropriate governance. That would be an indication
15:16:59 42 of how we inquire into it and how we get advice on the
15:17:03 43 governance. To me that's around that same discussion.
44
15:17:07 45 It would be in the context of you accepting, I think, a
15:17:08 46 moment ago that Mr Ashton would have raised the idea of
15:17:11 47 getting someone independent to look?---Yes.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1
15:17:14 2 Thank you. You do say also in that note that - let's start
15:17:22 3 from the top. "F as witness for Dale prosecution, committal
15:17:25 4 for Dale due to start on Monday." I think the committal
15:17:29 5 for Mr Dale was to start on Monday the 7th of
15:17:35 6 November?---Right.
7
15:17:37 8 You say a little bit further down, "To proceed without F's
15:17:43 9 evidence subject to final DPP decision on Friday, 4
10 November necessitating withdrawal of several charges.
15:17:50 11 Discussed Maguire's legal advice of 4 November". Do you
15:17:53 12 see that?---Yes, I do.
13
15:17:55 14 I want to suggest to you that you did discuss paragraph 54
15:17:58 15 and the matters that were raised in that paragraph by
15:18:01 16 Mr Maguire, including Mr Mokbel?---I don't have any
15:18:06 17 independent recollection, Mr Coleman, so I can't dispute
15:18:09 18 that. If that's - I gather that's what Graham's saying.
19
15:18:14 20 Mr Winneke took you to the email of 27 November, do you
15:18:18 21 remember that email, in which you raised issues about
15:18:21 22 Mr Mokbel's position?---Right
23
15:18:23 24 Do you remember that email?---No, I don't.
25
15:18:25 26 Can we bring up, please, exhibit - - - ?---Well put it this
15:18:28 27 way, I prefer to see it.
28
15:18:29 29 Yes, sure. Exhibit 1290. I'm looking for the email of 27
15:18:43 30 November, VPL.6027.0026.
31
15:19:05 32 COMMISSIONER: It might be Exhibit 1290 I think.
15:19:11 33
15:19:12 34 MR COLEMAN: My note said 1290. I've done a Mr Chettle and
15:19:15 35 given you the wrong exhibit number, Commissioner. I say
36 that with the greatest of respect, Commissioner.
37
15:19:17 38 COMMISSIONER: I think part of 1290 was some emails of the
15:19:21 39 27th.
15:19:23 40
15:19:23 41 MR COLEMAN: Yes, here it is. Thank you. We've got it
15:19:25 42 now. This was the email Mr Winneke asked you some
15:19:28 43 questions on, Mr Cartwright, do you remember that?---Yes.
44
15:19:32 45 Do you see at the bottom, from you to Mr Ashton and
15:19:34 46 Mr Pope. And you say, "However, given the status of Mokbel
15:19:37 47 I think we'll need to wait to see what eventuates", et

.18/02/20

14361

CARTWRIGHT XXN

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:19:41 1 cetera. So that indicates that you knew something was
15:19:43 2 happening with respect to Mr Mokbel, doesn't it?---Yes.
3
15:19:46 4 How else but for the discussion at the 3 November meeting
15:19:49 5 would you have had that meeting?---It's the 27th,
15:19:51 6 Mr Coleman. It's weeks later.
7
15:19:53 8 Yes?---There might be other ways I'll find out.
9
15:19:56 10 Can you think of any?---No. I'm not disputing it, I'm just
15:20:00 11 saying I don't have a recollection.
12
15:20:01 13 What I want to suggest to you therefore that it is possible
15:20:05 14 there was discussion with respect to the Mokbel matter on
15:20:08 15 the 3 November meeting but you just haven't recorded it in
15:20:11 16 your note?---That's possible.
17
15:20:14 18 And therefore it's possible, isn't it, that in that
15:20:15 19 context, and having regard to the contents of paragraph 54,
15:20:18 20 that Mr Ashton raised the necessity to disclose to the
15:20:23 21 Office of Public Prosecutions the matters raised in
15:20:27 22 Mr Maguire's advice?---I mean that was - whether it was
15:20:29 23 about Mokbel or not, we had Dale, which was running, about
15:20:33 24 to run.
25
15:20:33 26 Yes?---We had Inca, and that was all around the obligations
15:20:36 27 to disclose, yes, absolutely. So it was raised, it was
15:20:40 28 discussed. Whether it was in the context of Mokbel
15:20:43 29 particularly, I don't recall.
30
15:20:45 31 You can't deny - you can't discount it?---No. I'm saying
15:20:48 32 it was, obviously that issue of disclosure was -
15:20:51 33 particularly important at the meeting.
34
15:20:54 35 Yes. And then if we can go back to Mr Cartwright's note,
15:20:58 36 please, operator - I'm sorry to jump around - which is the
15:21:04 37 note of the 3 November meeting. In any event, whilst
15:21:13 38 that's coming up, you recall that Mr Winneke asked you some
15:21:15 39 questions about your file note where you said that "GA
15:21:21 40 concerns around Inca and the pending AFP matter"?---Yes.
41
15:21:25 42 You remember those questions?---Yes.
43
15:21:27 44 Your note records that you tasked Mr McRae to consider the
15:21:30 45 requirements of what was necessary in order to make
15:21:33 46 disclosure of that matter?---Yes.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:21:35 1 And I want to ask you whether, having - Mr Ashton was there
15:21:39 2 and having heard you task Mr McRae to do that, it would be
15:21:43 3 reasonable of Mr Ashton to expect, I want to suggest, that
15:21:46 4 Mr McRae would action that request if it was made?---Yes.
5
15:21:49 6 To be fair to Mr McRae, his evidence is that there was some
15:21:52 7 confusion and he doesn't recall you tasking him?---And I
15:21:55 8 wouldn't dispute that. Knowing the people involved, and
15:21:58 9 having the opinion I have of them, I wouldn't be surprised
15:22:01 10 that that was the only explanation.
11
15:22:03 12 Quite. But assuming that your note's accurate and you did
15:22:07 13 task Mr McRae to do that, it would be reasonable of
15:22:10 14 Mr Ashton to expect that he would have done it?---Yes.
15
15:22:13 16 And it would be reasonable of Mr Ashton to expect that you
15:22:16 17 may have followed that up with Mr McRae?---Or Mr McRae
15:22:20 18 would have come back to me if there was a problem.
19
15:22:23 20 Yes, thank you. I want to ask you some questions now about
15:22:28 21 the 7 November document which was the Mr Sheridan, O'Connor
15:22:35 22 document that Mr Ashton received. I think you recall that
15:22:38 23 document?---Yes, I do.
24
15:22:39 25 Can we please go back to Mr Ashton's diary at p.117. On 7
15:22:52 26 November - we know that the committal for Mr Dale was
15:22:55 27 commencing on the 7th and we know that Mr Ashton received
15:23:00 28 this document. You're aware, I think, at that time that
15:23:03 29 Mr Ashton had already been meeting with the Commonwealth
15:23:06 30 DPP with respect to whether or not Ms Gobbo was going to be
15:23:10 31 called as a witness in the ACC proceedings?---Yes, I was.
32
15:23:13 33 And you're aware that, and I think you shared this concern,
15:23:16 34 that Mr Ashton was very concerned about Ms Gobbo's safety
15:23:19 35 if she was called?---Yes.
36
15:23:20 37 And you shared that concern?---Yes, I did.
38
15:23:22 39 And the basis of that was that Ms Gobbo, of course, was a
15:23:26 40 human source and there would have to be disclosure of that
15:23:29 41 fact subject to PII claims if she was called as a witness
15:23:33 42 in the prosecution?---Yes.
43
15:23:34 44 So Mr Ashton received the Sheridan advice and then you'll
15:23:43 45 see here this is a note on 8 November in Mr Ashton's diary
15:23:51 46 which says, "Witness F meeting 7.30. Fryer, Buick, Frewen,
15:23:57 47 Paul Sheridan and Jeff Pope by phone. Discuss Witness F

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:24:01 1 risks and disclosure. I determined to withdraw Witness F
15:24:05 2 as a witness. I agreed to meet with Commonwealth DPP to
3 inform them"?---Yes.
4
15:24:08 5 You see that? So this is in the context that things need
15:24:10 6 to be done quickly?---That's right.
7
15:24:13 8 Because the committal's already started?---That's right.
9
15:24:14 10 And there needs to be a decision made with the CDPP as to
15:24:18 11 whether or not Ms Gobbo was going to be used as a
15:24:21 12 witness?---Yes.
13
15:24:22 14 And that would effect the number of charges potentially
15:24:24 15 that were continued against Mr Dale?---Yes.
16
17 Do you agree with that?---Yes.
18
15:24:27 19 Then you'll see, if we go down to p.118 of the diary
15:24:30 20 please. It's a note at - Mr Ashton notes at 10 am, "CDPP
15:24:37 21 meeting, Mr Kirne and Ms Breckweg, Doug Fryer. I
15:24:41 22 officially advised DPP that we wanted Witness F withdrawn
15:24:42 23 from Dale prosecution due to concerns for F's safety. DPP
15:24:46 24 discussions continued. Kirsten wanted matter to proceed.
15:24:51 25 I made our position clear. DPP said he would get back to
15:24:54 26 me later in the day after suppression appeal had been
15:24:58 27 heard", do you see that?---Yes, I do.
28
15:25:00 29 What Mr Ashton was facing there was Ms Breckweg at least
15:25:03 30 from the CDPP was keen to continue, but Mr Ashton had made
15:25:06 31 the decision, as he'd previously noted, that having regard
15:25:10 32 to the matters that he already knew and then learned from
15:25:13 33 the Sheridan document, if I can call it that?---Yes.
34
15:25:15 35 That the risks to Ms Gobbo were too severe?---Yes.
36
15:25:19 37 That's the context. Then at page - can you scroll down in
15:25:24 38 that diary, please. This is on the same day, it says, "Met
15:25:27 39 with Tim and Finn at 1 pm". I suggest that's you and
15:25:32 40 Mr McRae?---Yes, I'd say so.
41
15:25:34 42 "Explained F's situation to them. They were supportive
15:25:41 43 with my approach." Do you recall that meeting at
15:25:43 44 all?---No, I don't. But I think somewhere in my notes or
15:25:46 45 my statement I've made that diary entry or something
15:25:50 46 corresponding.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:25:50 1 We'll come to that in a minute. But I want to suggest to
15:25:51 2 you that it's pretty clear from that where Mr Ashton notes
15:25:54 3 he explained the Gobbo situation to you, that he would have
15:25:58 4 explained to you the information that he had received when
15:26:00 5 he read the Sheridan document of 7 November?---No, I don't
15:26:03 6 agree.
7

15:26:04 8 Why do you say that?---Why would he need to explain that to
15:26:08 9 me? He's made the decision. It's already prior to the
15:26:12 10 Sheridan material. There was significant concern about
15:26:16 11 having Gobbo give evidence, regardless of the Sheridan
15:26:19 12 material.
13

15:26:19 14 But you already knew that?---Yes.
15

15:26:22 16 What's he explaining to you?---That he's made a decision
15:26:25 17 and that we're not going to forward with her as a witness.
18

15:26:30 19 But he'd already communicated that to you previously,
15:26:35 20 hadn't he?---Sorry, can we go back to what date was this ?
15:26:37 21

15:26:37 22 This is 8 November?---I don't know when he did. He
15:26:38 23 explained it to me but it may well have been it's been
15:26:41 24 done, they're going to proceed with the other charges, I
15:26:44 25 don't know. But I don't think it follows that he said to
15:26:46 26 me, "I've got this advice from Sheridan and this is what's
15:26:50 27 being said".
28

15:26:51 29 You don't have any recollection one way or another that he
15:26:54 30 did or he didn't explain those issues to you?---No. Well,
15:26:57 31 sorry, I don't recall ever hearing, well certainly I don't
15:27:02 32 recall seeing the Sheridan advice. Now whether it was
15:27:04 33 potentially given to me in some other, another form, it may
15:27:08 34 well have been there's other discussions about this is
15:27:12 35 looking worse or - that certainly is a possibility.
36

15:27:15 37 If it was said to you it was looking worse, wouldn't you
15:27:18 38 have said, "Well why"?---I would think so, yeah.
39

15:27:23 40 And if that was to happen wouldn't it be likely, I want to
15:27:27 41 suggest, that it would have been explained to you the
15:27:29 42 additional risks that had now become apparent from receipt
15:27:32 43 of the Sheridan document of 7 November?---But the 7th of
15:27:36 44 November document lists dozens of people.
45

15:27:39 46 M'mm?---I don't recall ever being advised that there were
15:27:42 47 that many people where LPP could have been involved,

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:27:47 1 certainly at this stage of all this.
2
15:27:49 3 Right. But you can't explain what other matters
15:27:54 4 Mr Ashton's recording when says explained F's situation to
15:27:58 5 them, because on what you've just said you already knew the
15:28:00 6 situation as Mr Ashton understood it, namely that he'd
15:28:03 7 already decided not to call Ms Gobbo as a witness?---I
15:28:09 8 don't know what else he'd tell us or why, but - - -
9
15:28:12 10 Precisely. That indicates, doesn't it, that it's likely
15:28:16 11 that he would have explained the additional information
15:28:17 12 that he'd just received?---It's a possibility. I wouldn't
15:28:22 13 say it's likely, Mr Coleman.
14
15:28:24 15 Thank you. And you'll see the rest of the file note, "Re F
15:28:27 16 during afternoon received and made telephone calls" to and
15:28:31 17 from a person from the ACC, Mr Kirne, Doug Fryer and
15:28:36 18 yourself. "End position is that DPP has made the call to
15:28:41 19 pull Witness F. The witness will be told tonight." Did
15:28:44 20 you understand at that stage that there was still some
15:28:46 21 resistance on behalf of the DPP, the CDPP as to whether or
15:28:50 22 not Ms Gobbo was going to be called?---I'd need to look at
15:28:53 23 the timing but there was resistance and then finally
15:28:58 24 acceptance. I'm not sure when either occurred.
25
15:29:02 26 Can I suggest to you that on the 8th Mr Ashton called
15:29:05 27 Mr Kirne and said words to the effect, "We can't call
15:29:10 28 Ms Gobbo as a witness, the risks are too great"?---I think
15:29:13 29 somewhere in my diaries or documentation that conversation
15:29:17 30 is recorded, advice from Graham, whether it's in minutes,
15:29:19 31 but there's something along those lines.
32
15:29:20 33 Can we go to your diary note of the meeting of 8 November.
15:29:23 34 I think it's your diary note. It's VPL.0100.0013.0053 at
15:29:47 35 p.97 if that helps. I'll have to find that. There is a
15:30:11 36 handwritten note, I think you might refer to it in your
15:30:13 37 statement, it says, "8.11 met with Finn and Graham 13:30.
15:30:16 38 GA called conference of Driver Task Force this morning.
15:30:19 39 Continuing discussions with Shane Kirne. GA emphasised
15:30:23 40 that the risk of F is too great". Does that ring a bell as
15:30:26 41 to whether or not that's your diary note, Mr Cartwright?
15:30:28 42 ---It sounds like it's either a diary note or often, as you
15:30:31 43 see, I'll write on the bottom of documents.
44
15:30:33 45 I'm sorry I can't find it. That's the reference I had and
15:30:36 46 it's the wrong reference.
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:30:36 1 COMMISSIONER: It's paragraph 49 of the statement.
2
3 MR COLEMAN: I'm very grateful, thank you Commissioner.
4 Here it is here. Is that your handwriting?---Yes, it is.
5
6 So you'll see it says what I've read. "GA called a
15:30:49 7 conference of Driver Task Force this morning, including
15:30:49 8 human source and JP", I assume that's Mr Pope, "By phone.
15:30:52 9 Continue discussions with Shane Kirne. GA emphasised again
15:30:56 10 that the risk to Ms Gobbo is too great"?---Yes
15:30:59 11
12 Do you remember what Mr Ashton emphasised, when he was
15:30:59 13 discussing the risks to Ms Gobbo?---No, I think he's saying
15:31:04 14 to Kirne, "If we go ahead she'll be exposed as a source",
15:31:09 15 that's my recollection, which increases the risk to her
15:31:15 16 safety.
15:31:16 17
18 It appears that that meeting reflects what Mr Ashton had
15:31:16 19 recorded in his diary that we looked at a little bit
15:31:19 20 earlier on with the 1 pm meeting, there seems to be a half
15:31:22 21 an hour time discrepancy, but you'd agree - - - ?---I'm not
15:31:27 22 surprised by that, 13:30, 13:15, 13:00.
15:31:29 23
24 Thank you. In response to one of Mr Winneke's questions
15:31:35 25 when he asked you what should Mr Ashton have done with the
15:31:40 26 Sheridan document, you said one option would be to get
15:31:45 27 someone external to review what had happened?---Yes.
15:31:48 28
29 But as far as Mr Ashton was concerned that was already
15:31:52 30 underway because he suggested the independent review on 3
15:31:55 31 November?---Yes.
15:31:57 32
33 Do you agree with that?---Yes.
15:31:58 34
35 Finally, I just want to ask you some questions about what
15:32:00 36 became the Comrie Review, you remember there were some
15:32:04 37 questions about whether or not Mr Ashton told you that he
15:32:07 38 perceived he had a conflict of interest, having sat on the
15:32:10 39 Petra and Briars Task Forces?---Yes.
15:32:13 40
41 I think to summarise your evidence you're not entirely
15:32:15 42 clear as to when it was Mr Ashton, if he did tell
15:32:16 43 you?---Correct.
15:32:20 44
45 But in terms of the Terms of Reference and the preparation
15:32:24 46 for the engagement of Mr Comrie and the work done to
15:32:27 47 concluding his report, it's right, isn't it, to your

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:32:36 1 knowledge that Mr Ashton had no involvement in the drafting
15:32:39 2 of the Terms of Reference?---I'm just trying to recall the
15:32:43 3 email. So my knowledge would be about the email exchange,
15:32:49 4 Jeff Pope was in there, Finn McCrae was in there, Ken Lay
15:32:51 5 was in there, I was in there.

15:32:51 6
15:32:52 7 Later Mr Gleeson was in there?---Later Mr Gleeson was in
15:32:54 8 there, yes.

15:32:54 9
15:32:54 10 Apart from the initial email that Mr Winneke showed you
15:32:58 11 which said to Mr Ashton and I think to Mr Pope "prepare
15:33:03 12 some Terms of Reference"?---Yes.

15:33:04 13
15:33:04 14 All of the other emails that you were taken to, I want to
15:33:06 15 suggest to you, were not copied into Mr Ashton?---Right. I
15:33:09 16 wouldn't dispute that.

15:33:10 17
15:33:10 18 If you accept that, I want to suggest to you that you would
15:33:13 19 have understood that he was not involved in the drafting of
15:33:15 20 the Terms of Reference?---I can't dispute that, Mr Coleman.
15:33:20 21 I have no recollection other than what's in the emails.

15:33:23 22
15:33:24 23 But even if Mr Ashton hadn't told you at that time that he
15:33:26 24 perceived he had a conflict of interest with respect to the
15:33:30 25 matters that he may have thought whoever was going to
15:33:34 26 conduct the independent review was going to investigate,
15:33:37 27 having himself identified that conflict of interest, do you
15:33:40 28 accept that he acted entirely appropriately in standing
15:33:44 29 back from that review and having no involvement in it or
15:33:47 30 involvement in the drafting of the Terms of Reference?---I
15:33:50 31 wouldn't expect anything else from Graham.

15:33:53 32
15:33:53 33 Thank you. Yes, thank you Commissioner.

15:33:56 34
15:33:56 35 COMMISSIONER: Mr Chettle, will you be a while?

15:33:59 36
15:33:59 37 MR CHETTLE: Yes, 15 minutes or so.

15:34:01 38
15:34:01 39 COMMISSIONER: We might take the break now. Thank you.

15:34:04 40
15:34:05 41 (Short adjournment.)

42
15:51:30 43 COMMISSIONER: Yes Mr Chettle.

15:51:31 44
45 <CROSS-EXAMINED BY MR CHETTLE:

46
15:51:32 47 Mr Cartwright, I just want to ask you briefly, firstly,

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:51:35 1 about some policy and guidelines that Victoria Police get.
15:51:41 2 In 2010, according to the Victoria Police Manual, a
15:51:46 3 document you'd be aware of I take it?---Yes.
15:51:49 4
15:51:50 5 There's a heading, chapter heading in that "Professional
15:51:53 6 and Ethical Standards", and this is in a document that is
15:51:57 7 in the public domain so I'm not dealing with anything
15:52:00 8 that's confidential. Under the heading "Professional Ethic
15:52:06 9 Decision Making", it emphasises the need of using a
15:52:10 10 decision making framework that has regard to ethics,
15:52:14 11 organisational values and human rights, using the
15:52:19 12 self-test, which you'd know what that is?---Give me a
15:52:22 13 second, Mr Chettle, I'll remember.
15:52:23 14
15:52:23 15 "Scrutiny, ethical, lawful and fair"?---Thank you.
15:52:26 16
15:52:26 17 And then after that, there's an obligation, a
15:52:31 18 responsibility of managers and supervisors to take action
15:52:35 19 at the earliest opportunity if you believe an employee is
15:52:39 20 not upholding the professional and ethical standards of the
15:52:42 21 organisation?---Yes.
15:52:43 22
15:52:43 23 Anyone who was confronted with something that represents a
15:52:47 24 problem for the organisation, has an obligation to do
15:52:50 25 something about it straight away?---If it's unethical, yes,
15:52:54 26 absolutely.
15:52:54 27
15:52:55 28 Or unlawful?---Or unlawful.
15:52:56 29
15:52:57 30 Further on the manual in that section there's an obligation
15:53:01 31 to deal with issues of conflict of interest if they
15:53:06 32 arise?---Yes.
15:53:06 33
15:53:06 34 And then this, under "Reporting, Misconduct and
15:53:10 35 Corruption". "Our integrity as employees depends on our
15:53:14 36 personal conduct and willingness to act against misconduct.
15:53:17 37 Employees are required to report any act or suspected act
15:53:22 38 of corruption or misconduct committed by any other Victoria
15:53:26 39 Police employee and that's an obligation under s.167(3)
15:53:33 40 of the Victoria Police Act"?---Right.
41
15:53:35 42 Are you aware of that?---Yes.
15:53:36 43
15:53:37 44 "There's a requirement to report any act or suspected act
15:53:39 45 of misconduct. You should report such act or suspected act
15:53:44 46 directly to the Professional Standards Command, PSC, but
15:53:50 47 you can also report them to IBAC or any supervisor. If you

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:53:52 1 report to a supervisor the supervisor must immediately
15:53:57 2 notify PSC"?---Right.
15:53:58 3
15:53:59 4 If there were an allegation of attempting to pervert the
15:54:02 5 course of justice, or some similar crime, there would be a
15:54:05 6 requirement for any police officer receiving that to report
15:54:08 7 it immediately to Professional Standards?---Yes.
15:54:10 8
15:54:10 9 That didn't happen in relation to any of the conduct
15:54:13 10 alleged by the SDU, did it?---Not to my knowledge, no.
15:54:17 11
15:54:19 12 In 2014, you're across many of the issues that have arisen
15:54:28 13 as the investigation and case studies go on. Was it drawn
15:54:35 14 to your attention in early 2009, a document called a SWOT
15:54:41 15 analysis was provided to or supposedly to go to the Petra
15:54:47 16 steering committee, prepared by an officer of the
15:54:50 17 SDU?---This is the one that went through Tony Biggin are we
15:54:54 18 talking about?
15:54:54 19
15:54:54 20 Tony Biggin, Danye Moloney, and then supposedly to the
15:54:58 21 steering committee?---I'm aware of it now, I don't believe
15:55:01 22 I was at that time or any time.
15:55:03 23
15:55:03 24 I think you said you read the Comrie Report?---Yes, I did.
15:55:07 25
15:55:07 26 There's a reference to that document in that report?---Yes,
15:55:09 27 yes, you're right.
15:55:10 28
15:55:10 29 Did you ever have a look at it?---Comrie Report, yes.
15:55:13 30
15:55:14 31 No, the SWOT analysis?---SWOT analysis, not to my
15:55:16 32 recollection.
15:55:16 33
15:55:16 34 It wasn't shown to you as part of the preparation for your
15:55:20 35 hearing here?---Yes, sorry, it was. I've seen it now.
15:55:23 36
15:55:24 37 It is a comprehensive list of the threats and risks that
15:55:27 38 are posed by turning Ms Gobbo the source into Ms Gobbo the
15:55:31 39 witness, isn't it?---Sorry, Mr Chettle, I need to go back.
15:55:33 40 I'm not sure I've seen the whole report but I've seen
15:55:37 41 excerpts of the report in preparation.
15:55:40 42
15:55:40 43 The SWOT analysis - - - ?---But the SWOT analysis, I can't
15:55:42 44 - but I've certainly seen the substance. Whether it was
15:55:44 45 the whole report now I don't remember.
15:55:46 46
15:55:46 47 The substance of it was to set out a number of real threats

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:55:50 1 and real problems if she becomes a witness and she's
15:55:53 2 exposed?---Yes.
15:55:54 3
15:55:54 4 And the risks were not only risks to her, but there were
15:55:57 5 serious risks to Victoria Police?---That was my
15:56:00 6 recollection of what I've seen, yes.
15:56:02 7
15:56:03 8 When we come to 2011, when you are part of a conversation
15:56:09 9 that occurs with Mr Ashton, Mr McRae and yourself have a
15:56:17 10 conversation in November 2011, is that right?---Yes, I
15:56:21 11 think are you talking about the one where I took the notes?
15:56:24 12
15:56:25 13 Yes?---Yes.
15:56:25 14
15:56:25 15 And there were issues - that's the one where Mr Ashton sets
15:56:27 16 off the need for what he calls an independent
15:56:30 17 inquiry?---Yes, coming out of the Maguire advice, yes.
15:56:32 18
15:56:33 19 That was a direct result of the Maguire advice?---Yes.
15:56:36 20
15:56:36 21 At that point of time there were a number of real risks to
15:56:40 22 Victoria Police becoming apparent to those in command,
15:56:43 23 weren't there?---Around Nicola Gobbo? Certainly the
15:56:49 24 Maguire advice gave us advice around those risks and I was
15:56:53 25 already aware of risks to her life.
15:56:55 26
15:56:55 27 I understand risks to her life?---Yes.
15:56:57 28
15:56:58 29 Everybody talks about that, but putting that to one side,
15:57:01 30 which is not insignificant obviously, there were real risks
15:57:05 31 to Victoria Police from using a barrister as a human
15:57:10 32 source. Surely you realised that?---Yes.
15:57:13 33
15:57:13 34 The Maguire advice was very pointy in that regard, wasn't
15:57:16 35 it?---Yes.
15:57:18 36
15:57:18 37 So when that, and there's other matters coming too, you
15:57:23 38 find she may be going to be a witness in the prosecution of
15:57:27 39 Paul Dale?---Correct.
15:57:27 40
15:57:28 41 There's issues about whether or not that's going to lead to
15:57:32 42 her exposure. There's a number of problems all coming to a
15:57:35 43 head?---Yes.
15:57:36 44
15:57:36 45 Around about the end of 2011?---Correct.
15:57:38 46
15:57:39 47 You must have turned your mind to the risk that these, the

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:57:44 1 whole dealings with Ms Gobbo represent for Victoria
15:57:48 2 Police?---I don't recall doing that as a stand back and
15:57:52 3 think about it all. But I was certainly aware of
15:57:56 4 individual risks that apply to Victoria Police, that's why
15:57:59 5 we got to the Comrie Review in particular.
15:58:01 6
15:58:01 7 The Comrie Review talks about - Mr Gleeson talks about
15:58:05 8 risks to Victoria Police in the documents that he
15:58:08 9 writes?---Yes, he does subsequently.
15:58:10 10
15:58:10 11 Mr Ashton, when he gave evidence, talks about risk to the
15:58:14 12 institution when he became Assistant Commissioner. Up
15:58:20 13 until that time he didn't own the risk but when he became
15:58:25 14 AC he did?---Yes.
15:58:25 15
15:58:26 16 They are all issues that people in command are constantly
15:58:29 17 dealing with?---Yes.
15:58:29 18
15:58:30 19 The idea was to have an inquiry to sort out who knew what
15:58:34 20 and when, wasn't it?---The Comrie Report you're talking
15:58:39 21 about?
15:58:39 22
15:58:39 23 Yes?---I think it was more tell us what's happening, part
15:58:44 24 of that might be who knew what, where and when. But from
15:58:44 25 my recollection, I've looked at it, I've said, "What's all
15:58:48 26 this about?" Part of the way of understanding that was
15:58:51 27 getting Neil Comrie in.
15:58:52 28
15:58:52 29 Did you get Jeff Pope involved in this planning for dealing
15:58:56 30 with Comrie and managing risk?---I don't know if I got him
15:59:01 31 involved but he was involved just as I was involved and
15:59:04 32 Graham Ashton was involved.
15:59:05 33
15:59:05 34 You're senior to him though, aren't you?---Yes.
15:59:06 35
15:59:06 36 I think you said in the course of your answers to
15:59:09 37 Mr Winneke at some stage that you got one of your best ACs
15:59:14 38 or something involved in the job?---So one of the
15:59:16 39 considerations, we talked about that conflict of interest,
15:59:19 40 was it was his area of responsibility. His area of
15:59:22 41 expertise is that human source handling, and that was one
15:59:25 42 of the considerations as to why he was involved. That's
15:59:28 43 his area of expertise.
15:59:29 44
15:59:29 45 Because he was in charge of Intel and Covert
15:59:32 46 Services?---Yes.
15:59:32 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

15:59:32 1 Can I have Exhibit 1301 brought back up, please, it's
15:59:38 2 VPL.0002.0002.0037. This is a document that you were shown
15:59:48 3 just at the very end of Mr Winneke's cross-examination of
15:59:51 4 you, and you'll see that Mr Gleeson on 5 May 2014 sends you
15:59:58 5 some further information that he's gathered?---Yes.
16:00:01 6
16:00:01 7 And I'm not interested in the second dot point, folios 30
16:00:05 8 to 39, but I am in relation to 24 to 29. "Correspondence
16:00:12 9 reflecting that in 1999 former Assistant Commissioner Pope
10 registered Nicola Gobbo as an informer and was nominated to
16:00:17 11 act as handler for that relationship"?---Yes.
16:00:19 12
16:00:20 13 Whatever happened, at no stage did Mr Pope ever disclose to
16:00:23 14 you that he'd run her as a source?---Not to my
16:00:28 15 recollection, no.
16:00:29 16
16:00:29 17 In fact quite the opposite, he told you she was a
16:00:33 18 witness?---That's not the opposite, sorry, Mr Chettle. It
16:00:36 19 is he said he was involved with her as a witness.
16:00:38 20
16:00:38 21 Sorry, that's different to a source, isn't it?---It is
16:00:40 22 different but I'm not saying it's the opposite.
16:00:42 23
16:00:42 24 Sources are people who provide you with information?---Yes.
16:00:46 25
16:00:46 26 It's undesirable to make them witnesses?---Yes.
16:00:49 27
16:00:50 28 If we go forward to 0048, this is the document that comes
16:00:58 29 with, attached to - one of the documents attached to this
16:01:01 30 memorandum, do you follow? It's 11 pages on, 11 numbers
16:01:07 31 on, anyway. 0002.0002.0048. I'm sorry, I should have
16:01:34 32 given you this number before.
16:01:35 33
16:01:35 34 COMMISSIONER: We'll get there, just be patient.
16:01:39 35
16:01:39 36 MR CHETTLE: It's never been one of my virtues. While
16:02:13 37 we're at it, see the number 40 written in the top
16:02:16 38 right-hand corner of this memo?---Yes.
16:02:18 39
16:02:18 40 That follows on from all the folios below. Here we are,
16:02:24 41 here's folio 29 and following, do you see?---Yes.
16:02:26 42
16:02:26 43 This is the informer registration application that Mr Pope
16:02:29 44 completed in 1999?---Yes.
16:02:32 45
16:02:32 46 In relation to Nicola Gobbo?---Yep.
16:02:35 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:02:35 1 Now, I assume you fell off your chair when you saw
16:02:39 2 that?---No, Mr Chettle. I've become aware now of the
16:02:45 3 significance of the 05 date.
16:02:47 4
16:02:47 5 This is the 99 date?---Yes, but I wasn't aware of that
16:02:50 6 significance I think at the time I've seen this, so it
16:02:53 7 doesn't ring any alarm bells to me.
16:02:55 8
16:02:55 9 If I could just examine that. Because here you are,
16:02:58 10 there's been an inquiry, 2014, you've had Comrie Report
16:03:04 11 come out. All analysing the use of a barrister to provide
16:03:09 12 information to police officers?---Yes.
16:03:12 13
16:03:12 14 And here is Nicola Maree Gobbo, a barrister, providing
16:03:16 15 information to Jeffrey Pope, it's the same thing, isn't
16:03:20 16 it?---Yes it is, the date is. So I'm saying to you that
16:03:23 17 first paragraph that we referred to in Steve Gleeson's
16:03:29 18 report, this didn't start any alarm bells for me, so - - -
16:03:33 19
16:03:33 20 You weren't the slightest bit alarmed that Mr Pope had had
16:03:37 21 a barrister registered as a human source in 1999?---No, not
16:03:41 22 at that stage.
16:03:42 23
16:03:42 24 If we go back to the memorandum to you which again is 0037,
16:03:47 25 it's the previous document we had. You noted the material
16:03:58 26 and you note the material folios 29 to 40 is noted, so
16:04:02 27 clearly you looked at it?---Yes.
16:04:05 28
16:04:05 29 And your evidence is that the significance of it didn't hit
16:04:11 30 you?---No, neither the registration nor the first paragraph
16:04:16 31 there that says she was registered in 99.
16:04:19 32
16:04:19 33 You missed it?---Well I don't know if I knew, I don't know
16:04:23 34 if 05, 09 - yes, all right, another way of looking at it,
16:04:28 35 yes, I missed it.
16:04:29 36
16:04:30 37 Whatever conflict Mr Pope might have had because of his
16:04:34 38 alleged sexual affair with Ms Gobbo pales into
16:04:37 39 insignificance when you realise he had been managing her as
16:04:42 40 a source in the past, doesn't it? It gives him a serious
16:04:46 41 conflict of interest?---I still don't see how his behaviour
16:04:49 42 in 99 gives him a serious conflict of interest in 2011, 12
16:04:54 43 years later.
16:04:55 44
16:04:55 45 When he is managing the issues surrounding her use as a
16:04:59 46 human source, you seriously can't see - - -?---He's remote
16:05:03 47 from that. He's now in charge of, he's an Assistant

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:05:07 1 Commissioner, he's quite remote from any decisions at that
16:05:10 2 stage in my mind.
16:05:12 3
16:05:12 4 That's not true?---Mr Chettle, I would not - you can say
16:05:15 5 that's not true, but I would not lie.
16:05:17 6
16:05:17 7 No, no.
16:05:18 8
16:05:18 9 COMMISSIONER: Let him answer the question.
16:05:20 10
16:05:20 11 MR CHETTLE: I don't mean you're not lying. I'm saying
16:05:24 12 it's not true that he wasn't part of this decision-making
16:05:27 13 process?---Sorry, which decision-making process?
16:05:29 14
16:05:29 15 To set up Comrie, sack the SDU and all that?---No, he was
16:05:34 16 part of that decision-making process, absolutely.
16:05:36 17
16:05:37 18 Surely you realise there's a conflict of interest if he
16:05:42 19 doesn't disclose and conceals his involvement of running
16:05:46 20 her as a source?---My interpretation, he said to me
16:05:50 21 straight up, "I've known her in 99, I used her as a
16:05:53 22 witness". He's not saying he doesn't know her, he's not
16:05:56 23 saying he doesn't have any involvement with her.
16:05:58 24
16:05:58 25 I'm not talking about being a witness?---Yes.
16:06:01 26
16:06:01 27 Do you understand that she was a human source and he was a
16:06:03 28 barrister at the time and he was running her as a
16:06:06 29 handler?---My recollection, yes, I do now, and I did then.
16:06:10 30 My recollection was she'd come forward to talk about money
16:06:13 31 laundering in a legal firm she was at, that was my
16:06:18 32 recollection of it.
16:06:18 33
16:06:19 34 She did a bit more than that. She gave information and
16:06:22 35 intelligence in relation to another gentleman who was a
16:06:25 36 client.
16:06:25 37
16:06:25 38 COMMISSIONER: There are two things that perhaps need to be
16:06:28 39 separated, what the facts were and what Mr Cartwright's
16:06:31 40 understanding of the facts were.
16:06:32 41
16:06:32 42 MR CHETTLE: What you've told me now is what you understand
16:06:35 43 the facts were from what you've read or heard since, is
16:06:39 44 that right?---Sorry, say that in another way?
16:06:41 45
16:06:41 46 What you indicate the facts were in relation to what Pope
16:06:45 47 did with Gobbo?---Yes.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:06:46 1
16:06:46 2 Comes from what you've learnt since.
16:06:52 3
16:06:52 4 COMMISSIONER: Perhaps if we could start with what you
16:06:54 5 understood the position was then?---That's a bit more
16:06:58 6 challenging than it should be, Your Honour.
16:07:00 7
16:07:01 8 No, it's a long time ago, doing the best you can what was
16:07:05 9 your understanding then?---The best of my understanding was
16:07:08 10 in fact she had come to him - he was at the Fraud Squad I
16:07:12 11 think, she had come to him with advice about someone in her
16:07:18 12 law firm, I think it was someone in her law firm, who had
16:07:19 13 been money laundering, or laundering or something. That
16:07:21 14 was my recollection without checking back on my notes, it
16:07:24 15 was something of that nature.
16:07:26 16
16:07:26 17 MR CHETTLE: You knew she was a source of
16:07:28 18 information?---Yes.
16:07:28 19
16:07:29 20 You told Mr Winneke that you thought he told you she was a
16:07:34 21 witness?---He did, so that's, somewhere in my notes I've
16:07:37 22 got noted or Jeff Pope provides me with a document that
16:07:41 23 says, "I knew her in 99 as a witness".
16:07:43 24
16:07:43 25 Have you got any note where he tells you that he knew her
16:07:47 26 as a source?---No.
16:07:48 27
16:07:49 28 Did he tell you he knew her as a source of
16:07:52 29 information?---Not to my recollection, no.
16:07:53 30
16:07:54 31 So what you've just explained to the Commissioner, where
16:07:57 32 did that come from?---I'd have to go back through my
16:08:02 33 documentation, I think it's somewhere in the documents,
16:08:05 34 either something he's provided to me or something I've
16:08:08 35 read.
16:08:09 36
16:08:09 37 Something you've learnt subsequent to all these
16:08:13 38 events?---That's what I'm saying, I'm not sure, Mr Chettle.
16:08:16 39 The best of my knowledge is that's what I knew at the time,
16:08:18 40 it's entirely possible that my memory has been polluted and
16:08:22 41 I read it subsequently. It may well have been still four or
16:08:29 42 five years ago but that's what I think I knew at that time.
16:08:33 43
16:08:33 44 In any event you write on the memorandum, "No need for any
16:08:37 45 further action at that stage"?---Yes.
16:08:38 46
16:08:38 47 That is you shelve the issue, it's not a problem as far as

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:08:42 1 you can see?---If you look at this note and you look at my
16:08:45 2 subsequent note in 2018, you see the discussion for me is
16:08:49 3 all about the Interpose check.
16:08:50 4
16:08:51 5 I know, I'm leaving the Interpose check out of it?---But
16:08:54 6 I'm not. This is what I take as an issue at the time, it's
16:08:59 7 about the Interpose check. I haven't turned my mind at all
16:09:02 8 to the registration.
16:09:04 9
16:09:04 10 The note says, "The folios 22 to 40 which includes the
16:09:08 11 registration are noted"?---Yes.
16:09:10 12
16:09:10 13 "No need for further action at this stage", that's in
16:09:12 14 relation to both issues, isn't it?---Yes, but I've turned
16:09:16 15 my mind particularly, I'm looking at the Interpose. It's
16:09:20 16 again, I say, the fact that he's registering her in 2011,
16:09:25 17 99, whether it should have or should not have did not
16:09:28 18 register an as an issue for me. For me the pertinent
16:09:33 19 issues I was dealing with was around the Interpose check.
16:09:34 20
16:09:35 21 Well think about it now, does it concern you at all that he
16:09:36 22 was running her as a source?---It still doesn't, going back
16:09:47 23 to Nicola's allegation that she had a relationship with
16:09:50 24 him, if we're talking about that.
16:09:52 25
16:09:52 26 No, I'm not, I'm not talking about the allegation of a
16:09:56 27 sexual relationship. I'm talking about the fact he ran her
16:10:00 28 as a source, had her registered as an informer, does that
16:10:03 29 concern you at all?---No, given my understanding of the
16:10:05 30 nature of the advice that she was providing, no.
16:10:07 31
16:10:07 32 On one of it, legally professionally privileged advice in
16:10:11 33 relation to clients?---No, from my understanding it wasn't
16:10:15 34 legally professionally privileged advice. It was about
16:10:17 35 someone else in her firm who was money laundering.
16:10:19 36
16:10:20 37 Let me go forward then. Would it concern you if Mr Pope
16:10:24 38 concealed from anyone in command the fact that he had her
16:10:28 39 as a source?---Yes.
16:10:29 40
16:10:30 41 Would it concern you if Mr Gleeson asked him directly if
16:10:34 42 he'd had any involvement with her in order to prepare the
16:10:38 43 Comrie Report and Mr Pope said he had not, that would
16:10:41 44 concern you?---If he was concealing it, yes, it would
16:10:44 45 concern me.
16:10:44 46
16:10:46 47 Against that background of things that are happening, you

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:10:50 1 say there's a need for an independent advice, right, this
16:10:54 2 is in the end of 2011, issues are arising, including
16:10:58 3 Mr Pope's issues?---Yes.
16:10:59 4
16:11:03 5 Steve Gleeson effectively wrote the Comrie Report, didn't
16:11:06 6 he?---You'd have to ask Steve Gleeson to comment.
16:11:10 7
16:11:10 8 That's what he says?---Okay.
16:11:12 9
16:11:12 10 He has given evidence at IBAC, he's not being called here,
16:11:15 11 he made a statement and basically he says, "I wrote it and
16:11:19 12 Neil Comrie put his name to it"?---Okay.
16:11:21 13
16:11:21 14 The reason he says, Mr Gleeson says Comrie wrote it or had
16:11:25 15 his name put on it, was to give the perception of
16:11:28 16 independence, those were his words, do you follow? You
16:11:35 17 were a party to the decision to get Mr Comrie on board,
16:11:39 18 weren't you?---Yes.
16:11:40 19
16:11:40 20 In fact one of the documents that came up when Mr Winneke
16:11:43 21 was asking you questions and went away again was that he
16:11:45 22 wasn't your first choice, there were other people that you
16:11:48 23 were looking at?---Correct.
16:11:49 24
16:11:49 25 But ultimately you got Mr Comrie and you got Mr Gleeson to
16:11:52 26 assist him to write it?---Yes.
16:11:54 27
16:11:54 28 Did you get updates from Gleeson as they went along as to
16:11:57 29 what was occurring with the inquiry?---No.
16:12:00 30
16:12:00 31 Did Finn McCrae tell you what was occurring?---Not to my
16:12:06 32 memory. So my timeframe, Comrie's engaged and starts I
16:12:08 33 think in February. I'm out of that line of the business
16:12:11 34 for a year.
16:12:11 35
16:12:11 36 Comrie doesn't actually get, Comrie himself doesn't start
16:12:15 37 until March?---Right.
16:12:16 38
16:12:16 39 It takes a long while to get the Terms of Reference sorted,
16:12:20 40 as you'll probably remember?---Sure.
16:12:22 41
16:12:23 42 On that topic can I have Exhibit 1291, which was tendered
16:12:30 43 today, brought up again, please. Right. The Terms of
16:12:31 44 Reference, to cut this short, you were involved initially
16:12:33 45 with discussions about the Terms of Reference and what
16:12:36 46 should go in it and what shouldn't?---I did indicate to
16:12:39 47 Mr Winneke at one stage I didn't think I was, but clearly

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:12:43 1 from an email I was.
16:12:45 2
16:12:45 3 He showed you an email?---Yes.
16:12:47 4
16:12:47 5 Then this, this was the draft proposal, this is at the
16:12:51 6 start?---Yes.
16:12:52 7
16:12:52 8 Mr Pope wrote this apparently, initially it was to be the
16:12:56 9 Terms of Reference?---Yes.
16:12:58 10
16:12:58 11 Seek a review. The two points are all aspects of the
16:13:01 12 recruitment and tasking of 3838 and the sample of other
16:13:04 13 human sources. Stopping there. That suggestion of a
16:13:08 14 sample of other human sources came from yourself and
16:13:11 15 Mr Ashton putting their suggestions in, did you not?---I
16:13:15 16 see that's one of my suggestions, yes.
16:13:17 17
16:13:17 18 Then the second Term of Reference, the appropriateness and
16:13:21 19 effectiveness of the control measures around the tasking of
16:13:25 20 3838 and a sample of other human sources?---Yes.
16:13:27 21
16:13:28 22 There is absolutely no reference at that stage to the, what
16:13:34 23 became the second Term of Reference of the transition from
16:13:37 24 source, the process around the transition from source to
16:13:41 25 witness?---Correct.
16:13:43 26
16:13:43 27 Now, it's clear that there was a change in the Terms of
16:13:46 28 Reference from what's proposed back here in November
16:13:51 29 2011?---Yes.
16:13:52 30
16:13:52 31 To what finally becomes the Terms of Reference down the
16:13:55 32 track?---Yes.
16:13:56 33
16:13:57 34 Now, were you aware that there was an issue in locating and
16:14:00 35 finding the Petra records, the records maintained by Petra
16:14:04 36 in relation to their management of Ms Gobbo?---I'm just
16:14:11 37 trying to think. There was challenges, enormous challenges
16:14:15 38 in locating all sorts of records, whether they were
16:14:19 39 specific challenges around Petra I don't remember.
16:14:21 40
16:14:21 41 The steering committee meetings, minutes, Mr Gleeson was
16:14:26 42 trying to find out what took place and what information the
16:14:28 43 steering committee had in order to effect the transition
16:14:32 44 from source to witness, do you follow?---Yes, I do.
16:14:34 45
16:14:35 46 Were you involved or advised about the process that was
16:14:38 47 going on around that?---I suspect not. Again, I was in

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:14:41 1 that gap if you like from late 11, early 12, right through
16:14:46 2 until 13 when I came back to Loricated.
16:14:49 3
16:14:50 4 You're not involved in - what I suggest happens to you, the
16:14:53 5 issue of the missing Petra files arise and a second Term of
16:14:58 6 Reference is put in to look at the transition issue
16:15:01 7 about?---Right.
16:15:01 8
16:15:01 9 Turning her into a witness?---I can't comment on that,
16:15:04 10 Mr Chettle, I don't know.
16:15:05 11
16:15:05 12 You would be aware from looking at the final report that
16:15:08 13 was the case and Mr Comrie looks at issues about whether or
16:15:13 14 not there was a proper reporting of risk in the transition
16:15:16 15 from source to witness, remember that sort of stuff?---I
16:15:19 16 certainly remember him talking about risk assessments, risk
16:15:28 17 documentation.
16:15:29 18
16:15:29 19 Okay. I'll just conclude that. If Mr Gleeson's right
16:15:39 20 about him writing the Comrie Report and Neil Comrie's name
16:15:45 21 being on it to give a perception of independence?---Yes.
16:15:48 22
16:15:48 23 It's not really an independent from Victoria Police report,
16:15:52 24 is it?---I would think Neil Comrie would dispute that, but
16:15:55 25 if what Steve Gleeson says is right and if Neil Comrie
16:15:59 26 merely rubber stamped it, that would be a great concern.
16:16:03 27
16:16:03 28 MS ENBOM: Commissioner, might I be heard in relation to
16:16:06 29 this? Mr Chettle needs to put Mr Gleeson's evidence
16:16:11 30 accurately to the witness, he needs to go to Mr Gleeson's
16:16:13 31 statement and put to the witness what is in Mr Gleeson's
16:16:16 32 statement because he's not putting it accurately.
16:16:18 33
16:16:18 34 COMMISSIONER: It is a bit coloured, Mr Chettle.
16:16:21 35
16:16:22 36 MR CHETTLE: Commissioner, I am quoting verbatim his
16:16:26 37 evidence to IBAC.
16:16:27 38
16:16:27 39 COMMISSIONER: Parts of it, okay. Then quote it verbatim.
16:16:28 40
16:16:29 41 MR CHETTLE: To give the perception of independence is the
16:16:31 42 expression he used.
16:16:32 43
16:16:32 44 COMMISSIONER: That expression was quoted verbatim, but
16:16:35 45 that was then put into a certain coloured context which
16:16:39 46 perhaps was not entirely - - -
16:16:42 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:16:43 1 MR CHETTLE: I'm conscious of Mr Holt's objection that when
16:16:46 2 I used the illusion of independence he got very upset so
16:16:50 3 I'm conscious of putting it exactly right. Mr Gleeson says
16:16:51 4 he wrote it and that Comrie was used to give - - -
16:16:54 5
16:16:54 6 COMMISSIONER: That expression, I agree, I recall that
16:16:56 7 expression was used. But I think that Ms Enbom is really
16:17:01 8 talking about the whole context that you surrounded that
16:17:03 9 with and then put that in.
16:17:06 10
16:17:06 11 MS ENBOM: Yes, and I'm also referring to the evidence that
16:17:08 12 Mr Gleeson has given in this Commission.
16:17:10 13
16:17:10 14 COMMISSIONER: You can deal with that in re-examination.
16:17:12 15 He doesn't have to.
16:17:13 16
16:17:14 17 MS ENBOM: I can.
16:17:14 18
16:17:15 19 MR CHETTLE: Much and all as I want him to he's not coming.
16:17:18 20
16:17:19 21 MS ENBOM: He has given evidence, it's in a witness
16:17:21 22 statement which has been tendered.
16:17:22 23
16:17:23 24 MR CHETTLE: Anyway. I'll leave that for submissions,
16:17:27 25 Commissioner.
16:17:27 26
16:17:27 27 COMMISSIONER: All right. Ms Enbom, it's probably easier
16:17:30 28 if you just deal with it in re-examination.
16:17:32 29
16:17:33 30 MR CHETTLE: Just one matter that I, a document I don't
16:17:36 31 think you have been shown. Can I have
16:17:46 32 RCMPPI.0104.0001.0001_0189. This is a message, you'll see
16:18:00 33 from the documents, that's from Richard Baker to someone
16:18:06 34 called Lisa Walker at the OPP, subject "VicPol comment".
16:18:11 35 It reads, "Hi Lisa, Acting Chief Commissioner Tim
16:18:16 36 Cartwright just told a press conference the OPP had already
16:18:20 37 advised police it had reviewed the relevant prosecutions
16:18:22 38 involving the unnamed witness examined by IBAC and had
16:18:26 39 informed Victoria Police that it found no problems with the
16:18:29 40 prosecutions. Can you confirm if this statement of
16:18:32 41 Mr Cartwright is correct, and if so when the OPP examined
16:18:35 42 the cases and provided its findings to Victoria Police?"
16:18:39 43 And that's dated 10 February 2015. Firstly, did you give a
16:18:46 44 press conference on or about that date to that
16:18:49 45 effect?---Yes, that was when the Kellam report was
16:18:52 46 released, around that date.
16:18:53 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:18:53 1 Does that note accurately reflect the comments you
16:18:57 2 made?--I'm advised it does, transcripts or recordings or
16:19:00 3 something have been found.
16:19:01 4
16:19:01 5 I tender that document, Commissioner.
16:19:04 6
16:19:05 7 #EXHIBIT RC1302A - (Confidential) Document
16:17:39 8 RCMPI.0104.0001.0001_0189.
16:19:06 9
16:19:07 10 #EXHIBIT RC1302B - (Redacted version.)
16:19:08 11
16:19:11 12 It was obvious that issues arose about the management of
16:19:14 13 Ms Gobbo over the period of 2005 through to 2009 when she
16:19:19 14 was deregistered, all right?---Yes.
16:19:20 15
16:19:21 16 And that's the focus of all the things that Bendigo were
16:19:25 17 looking at, that Loricated were looking at, correct?---Yes.
16:19:29 18
16:19:30 19 It was apparent from the material that ex-Chief
16:19:35 20 Commissioner Simon Overland had some in-depth involvement
16:19:41 21 with the SDU and their management of Ms Gobbo from
16:19:45 22 effectively the outset of her management, was that drawn to
16:19:48 23 your attention?--Again, I'm not sure when that, when that
16:19:54 24 understanding would have come to me. So at some stage
16:19:57 25 along the way I've come to understand that, I'm not sure
16:20:00 26 when.
16:20:00 27
16:20:01 28 When someone leaves Victoria Police and goes off, as
16:20:03 29 Mr Overland did, in 2011, it doesn't mean they're not
16:20:07 30 available for contact or to be asked what occurred, does
16:20:10 31 it?---No.
16:20:11 32
16:20:13 33 Can you explain why nobody went near Simon Overland to ask
16:20:16 34 him what he knew about the management of Ms Gobbo for the
16:20:19 35 period of 2005 to 2009?---No, I don't. I don't know why.
16:20:27 36
16:20:27 37 You would expect that he would be a logical candidate to
16:20:30 38 ask, wouldn't you?---When I look at the things that we're
16:20:34 39 asking our people to do, to find those five cases, to
16:20:40 40 respond to the Comrie Review and to document all those
16:20:42 41 things, I don't see why they would go to Simon at that
16:20:45 42 stage.
16:20:45 43
16:20:47 44 If you look at the documents surrounding those very issues,
16:20:50 45 his name is all over them. He gives permission, for
16:20:54 46 example, to talk to Ms Gobbo about Paul Dale?---Right.
16:20:57 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:20:58 1 He is involved in regular briefings with officers under
16:21:04 2 him?---Right.
16:21:05 3
16:21:05 4 Now, does it surprise you, for example, that Gleeson/Comrie
16:21:15 5 didn't speak to Mr Overland about his involvement with
16:21:20 6 her?---Not particularly.
16:21:25 7
16:21:25 8 How about if you'd have been in the position back in 2010,
16:21:29 9 for example, and it came to your attention that there was
16:21:32 10 perhaps an issue with the way in which we manage Ms Gobbo
16:21:35 11 as an informer, wouldn't you, as a matter, first thing you
16:21:39 12 did, get the people in charge in and find out what was
16:21:42 13 going on?---No, I think I'd do what we did do, which was go
16:21:46 14 and get the documentation and pull it all together and see
16:21:50 15 what it told us.
16:21:50 16
16:21:51 17 The problem, you work - did you understand that the
16:21:56 18 documentation you looked at was not the documentation
16:21:59 19 maintained by the SDU at the relevant time?---Sorry, which
16:22:05 20 documentation I looked at?
16:22:07 21
16:22:07 22 All the material you put together in Operation
16:22:10 23 Loricated?---Yes.
16:22:10 24
16:22:11 25 Was a reconstruction of the file that had been dumped on
16:22:15 26 Interpose, wasn't it?---I'm not sure I can answer you in a
16:22:23 27 straight way, Mr Chettle. So they've gone back and they've
16:22:27 28 established material that was all over the place.
16:22:29 29
16:22:29 30 Stopping you right there?---Right.
16:22:30 31
16:22:31 32 Mr Gleeson went to get the file in relation to SDU's
16:22:35 33 management of Ms Gobbo?---Yes.
16:22:36 34
16:22:36 35 And found what he described as a mess on Interpose?---Yes,
16:22:40 36 I was aware of that.
16:22:41 37
16:22:42 38 But you would also have been aware that Interpose wasn't
16:22:46 39 available and used at the time Ms Gobbo was being run by
16:22:49 40 the SDU?---I think that would be right. I'm not sure when
16:22:51 41 we got Interpose but I'm not surprised to hear that.
16:22:55 42
16:22:56 43 Did you discover in fact that everything you said about
16:22:58 44 collecting and putting everything in order, it was all
16:23:01 45 there, all you had to do was go and ask and it was all
16:23:05 46 sitting there in one place?---I'd be surprised to hear that
16:23:08 47 given the efforts that the people went to to put it all

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:23:12 1 together.
16:23:12 2
16:23:12 3 It would be a shocking waste of money and time if that were
16:23:15 4 the case, wouldn't it?---If that was the case, yes.
16:23:20 5
16:23:20 6 Do you know anything about a thing called a Z drive?---No.
16:23:24 7
16:23:25 8 You weren't familiar with the fact that the SDU maintained
16:23:28 9 everything on a stand-alone computer and on a Z drive?---I
16:23:31 10 did read that somewhere, either in the Comrie Report or
16:23:34 11 something like that.
16:23:35 12
16:23:35 13 See, the whole basis of the Comrie Report is the
16:23:38 14 documentation was all over the place, their records were
16:23:41 15 inadequate and they were a jumbled up mess and Mr Gleeson
16:23:46 16 had to sort it all out, in summary?---I understand that was
16:23:51 17 the case, yes.
16:23:51 18
16:23:51 19 That's what led to all the time and effort of getting
16:23:55 20 Loricated to put it all in order?---There was a range of
16:23:58 21 challenges for them. Some of the material was in audio
16:24:02 22 form, some we've heard today, some of the information
16:24:05 23 reports I think were 30 pages long. There was all those
16:24:08 24 sorts of other challenges.
16:24:10 25
16:24:11 26 It's the records that were being used, you had to
16:24:13 27 reconstruct the database?---Yes.
16:24:16 28
16:24:17 29 Part of the issue, this is Mr Winneke's point, in the
16:24:20 30 amount of time that was lost in dealing with the issues of
16:24:24 31 potential contamination of trials and risks to convictions
16:24:28 32 and things of that sort, the process of doing what you did
16:24:31 33 with the documents held up that process substantially?---It
16:24:34 34 was a very slow process, yes.
16:24:36 35
16:24:36 36 If the documents were all there ready to go, it would have
16:24:39 37 made the process a lot easier, wouldn't it?---Yes, it
16:24:42 38 would.
16:24:42 39
16:24:43 40 Now, Mr Ashton, Ms Nixon, and other officers have told the
16:24:53 41 Commissioner that principles of natural justice apply and
16:24:56 42 they would expect that if there were issues in relation to
16:24:59 43 the conduct of the SDU handlers they would have been spoken
16:25:02 44 to, asked about what happened and why?---If they were being
16:25:06 45 investigated for potential discipline offences - - -
46
16:25:09 47 No - - - ?---Sorry, you've asked me the question,

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:25:11 1 Mr Chettle, let me respond, please. If they were asked
16:25:14 2 that, if they were being investigated about discipline
16:25:16 3 offences then absolutely they should have had a chance to
16:25:20 4 respond.
16:25:21 5
16:25:21 6 Of course the Comrie Report, as Mr McRae was at pains to
16:25:27 7 point out, wasn't a disciplinary inquiry, was it?---No.
16:25:31 8
16:25:31 9 Surely the answer lies in this. If there is an issue about
16:25:33 10 the way in which Ms Gobbo was managed your first port of
16:25:38 11 call would be Superintendent Biggin at least?---He'd be one
16:25:41 12 of the people that I'd expect they would be talking to.
16:25:44 13
16:25:45 14 To say what were you doing and why?---Not, I'd say not what
16:25:48 15 were you doing, what was happening.
16:25:49 16
16:25:49 17 He was the officer-in-charge and he puts his hand up and
16:25:53 18 says he's responsible?---Yes.
19
16:25:54 20 So starting with him, and then you'd go from there to
16:25:56 21 others?---I'm not sure he would be the starting point but
16:26:00 22 he'd certainly be one of the key people you'd go to.
16:26:02 23
16:26:02 24 Do you know the man we refer to as Sandy White?---Yes, I
16:26:06 25 know of him.
16:26:07 26
16:26:07 27 You know that he spent a large part of his life putting
16:26:10 28 together the SDU and Source Development Unit, source
16:26:15 29 management for Victoria Police?---I understand that was his
16:26:17 30 role, yes.
16:26:17 31
16:26:17 32 And you understand that he was effectively playing
16:26:21 33 officer-in-charge of the unit at the time it was
16:26:25 34 running?---Sorry, he was in charge are you saying?
16:26:27 35
16:26:27 36 He was effectively the officer in charge?---Yes, he was a
16:26:30 37 PII I understand, yes.
16:26:31 38
16:26:32 39 They didn't have an Inspector so he was doing effectively
16:26:35 40 both jobs?---I understand that was the case.
16:26:38 41
16:26:39 42 Again, he'd be a natural choice for someone to ask what was
16:26:41 43 happening, wouldn't he?---I would have thought so, yes.
16:26:44 44
16:26:45 45 Thank you Commissioner.
46
47 COMMISSIONER: Thanks Mr Chettle. Yes Ms Enbom.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:26:45 1
2 <RE-EXAMINED BY MS ENBOM:
3
16:26:47 4 Thank you Commissioner. Two matters, Mr Cartwright. The
16:26:50 5 first one concerns Mr Sheridan's document, do you
16:26:54 6 Mr Coleman asking you about Mr Sheridan's document?---Yes.
16:26:55 7
16:26:55 8 Do you recall he took you to your diary note for 8
16:26:59 9 November?---Yes.
16:27:00 10
16:27:00 11 He took you through that note and you recall that there was
16:27:03 12 no reference in that note to Mr Sheridan's
16:27:07 13 document?---That's right.
16:27:07 14
16:27:08 15 Do you think that if you had been provided with a copy of
16:27:12 16 Mr Sheridan's document at the 8 November meeting, based on
16:27:17 17 your usual practice, do you think you would have referred
16:27:20 18 to the document in your handwritten note?---Given the
16:27:23 19 contents of that document, yes, I think I would have or
16:27:26 20 something which would describe that document.
16:27:28 21
16:27:28 22 Yes. If you'd been told about the document, so not given
16:27:32 23 the document, but been told about it, that Mr Sheridan
16:27:36 24 prepared a report and been told some detail about it, then
16:27:41 25 based on your usual practice do you think you would have
16:27:43 26 referred to it in your handwritten note?---I would think
16:27:46 27 so.
16:27:47 28
16:27:49 29 The last question on this topic is this: based on your
16:27:54 30 usual briefing practices at that time, do you think, so
16:28:00 31 that is the briefing practices between you and
16:28:02 32 Mr Ashton?---Yes.
16:28:03 33
16:28:04 34 Do you think that Mr Ashton would have given that document
16:28:08 35 to you or given you a detailed outline of its content?---I
16:28:13 36 would expect that Graham was more likely to talk me through
16:28:16 37 it or refer to it in nature, if not in direct name. So he
16:28:21 38 more than likely talked me through it.
16:28:23 39
16:28:23 40 With a copy of it or - - -?---Having had a look at it now,
16:28:29 41 I don't think you'd need a copy of it. I think the issues
16:28:34 42 are pretty clear to describe to me what it was saying.
16:28:37 43
16:28:37 44 Can you give us an idea of what that briefing might have
16:28:41 45 looked like, had he told you - - -?---Had he told me that I
16:28:43 46 think he would have probably said, "I had some work done
16:28:48 47 over the weekend so I understand the nature of Nicola's

.18/02/20

14386

CARTWRIGHT RE-XN

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:28:52 1 involvement. It would appear that she's been involved as a
16:28:55 2 legal practitioner for dozens of people and provided us
16:28:58 3 information about the offending or potential offending of
16:29:01 4 dozens of people", it would be something like that.

16:29:04 5
16:29:04 6 Yes, but do you recall him actually doing that?---No.

16:29:07 7
16:29:07 8 Do you think had he you would have made a note of it - -
16:29:09 9 -?---If it was of that nature I would have made a note. If
16:29:12 10 it was, "We've had some more work done and it looks like
16:29:16 11 there's some LPP issues, significant ones", I might have
16:29:20 12 even noted that, but if it was briefer than that or more
16:29:24 13 general than that I might not have made a note.

16:29:26 14
16:29:29 15 Yes, thank you. That's the first matter. The second
16:29:29 16 matter is this. Mr Gleeson has provided a witness
16:29:32 17 statement to this Royal Commission. He has not been
16:29:35 18 required for cross-examination. His witness statement
16:29:38 19 explains the way in which the Comrie Review was undertaken.
16:29:45 20 He explains at paragraph 39 that, "Once Mr Comrie was
16:29:50 21 formally engaged and back from leave, we spoke on an almost
16:29:53 22 daily basis about the direction and specifics of the review
16:29:57 23 and issues that arose. Mr Comrie advised on the review
16:30:02 24 process and how I might approach the out of scope issues.
16:30:05 25 I essentially wrote the entire report section by section,
16:30:09 26 discussing them with Mr Comrie as they were written.
16:30:14 27 Mr Comrie also introduced me to key contacts with overseas
16:30:17 28 bodies. Mr Comrie later assessed and finalised the report
16:30:21 29 as a whole", does that sound to you like Mr Comrie had no
16:30:27 30 involvement in the Comrie Report and just put his name on
16:30:30 31 the document?---No.

16:30:31 32
16:30:31 33 They are the only matters, Commissioner.

16:30:33 34
16:30:33 35 COMMISSIONER: Thank you. Yes Mr Winneke.

16:30:35 36
16:30:35 37 <RE-EXAMINED BY MR WINNEKE:
16:30:35 38

16:30:38 39 Thanks Commissioner. Now, you were asked questions by
16:30:40 40 Mr Chettle about whether or not it would have been
16:30:48 41 appropriate for Mr Gleeson to speak to members of the SDU
16:30:54 42 in carrying out his investigations pursuant to the Comrie
16:31:01 43 Review or as part of that review. As I understand it
16:31:03 44 Mr Gleeson effectively has said in his statement he had a
16:31:10 45 concern about speaking to police officers in relation to
16:31:14 46 whom he had formed a view may have engaged in inappropriate
16:31:21 47 conduct?---A-ha.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:31:23 1
16:31:23 2 Would that be a basis to be reticent about speaking to them
16:31:28 3 or not?---It takes you down a different path. If he's
16:31:32 4 thinking there's any improper conduct then that is a very
16:31:37 5 different sort of inquiry to one where you're just trying
16:31:41 6 to discover what's going on. It puts you into the
16:31:45 7 discipline path, it puts you under the Police Regulation
16:31:48 8 Act, potentially the Crimes Act. It becomes an interview
16:31:50 9 where you either issue directions or issue cautions. It's
16:31:53 10 quite a different path when you think that the people
16:31:55 11 you're going to be talking to have committed discipline
16:31:58 12 offences.
16:31:59 13
16:31:59 14 As we understand it Mr Gleeson submitted an out of scope
16:32:02 15 report to Mr Pope on 22 June and there are effectively
16:32:06 16 three issues that he was concerned about and were the
16:32:10 17 subject of this out of scope report which ultimately found
16:32:13 18 its way to the OPI?---Yes.
16:32:15 19
16:32:15 20 The first was with respect to Command, who had been using
16:32:20 21 Ms Gobbo, and also - and also had potentially received a
16:32:27 22 SWOT analysis. Secondly, SDU members and, thirdly, there
16:32:30 23 was another issue with respect to corporate hospitality.
16:32:38 24 In that circumstance do you believe it would have been
16:32:41 25 appropriate or not for him to speak to members of the
16:32:44 26 SDU?---Not under that exploration. It might have been
16:32:47 27 appropriate if he separated it and said, "I'm now looking
16:32:52 28 at discipline issues", which wasn't his task. It sounds
16:32:56 29 like it becomes an investigation where there's potential
16:32:59 30 discipline or criminal offences, separate pathway. In my
16:33:02 31 mind Mr Gleeson would have to separate one from the other
16:33:06 32 or risk prejudicing any potential investigation of people
16:33:10 33 who have done, carried out misconduct.
16:33:13 34
16:33:14 35 We understand that he did engage with the SDU by way of
16:33:21 36 trying to get a hold of original hard copy documents and
16:33:28 37 there's evidence that there were discussions between
16:33:33 38 Mr Gleeson and a particular member of the SDU, I don't
16:33:38 39 think I should - who was for a period of time a person who
16:33:51 40 was at the SDU. Now - - -
16:33:59 41
16:33:59 42 MR CHETTLE: Commissioner, if the particular officer was
16:34:02 43 not at the time he was spoken to a member of the SDU,
16:34:06 44 that's the way - if it's been put as a fact that's just not
16:34:11 45 right.
16:34:11 46
16:34:11 47 MR WINNEKE: Commissioner, there's emails we have in which

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:34:14 1 Mr Gleeson suggests that he has been to the SDU with a view
16:34:18 2 to finding out where documents are. Now, I take it you
16:34:28 3 don't know what attempts were made by Mr Gleeson to get
16:34:32 4 original documents during the Comrie Review, is that right,
16:34:35 5 or not?---That's right.
16:34:36 6
16:34:37 7 After the Comrie Review and once Loricated started, are you
16:34:42 8 aware of whether or not attempts were made to obtain the
16:34:49 9 original SDU documents from the SDU as part of that
16:34:56 10 process?---I can't answer specifically. I know they
16:34:59 11 searched for documentation in general. They had challenges
16:35:03 12 in general. I can't recall whether that was specifically
16:35:07 13 about SDU documents.
16:35:08 14
16:35:10 15 If the situation is as suggested by Mr Chettle, that there
16:35:13 16 were records held within, I think the Z drive or whatever
16:35:17 17 document that there was at the SDU, it does seem to be a
16:35:21 18 pity that those documents weren't obtained by
16:35:25 19 Loricated?---Yes.
16:35:25 20
16:35:25 21 Because that may well have certainly shortened the task of
16:35:31 22 the Loricated project?---If that's the situation, yes.
16:35:34 23
16:35:35 24 If they didn't obtain that material one assumes it could
16:35:38 25 only be they didn't ask the right people or ask the right
16:35:42 26 questions?---So in preparing for my evidence today I've
16:35:46 27 seen a reference somewhere to a hard copy held by the
16:35:50 28 Source Development Unit. So there's somewhere in the
16:35:52 29 documentation, either in Gleeson's exception report or
16:35:58 30 Comrie's own report, there's some reference to a hard drive
16:36:03 31 or a stand-alone computer. It might even be in the
16:36:05 32 Loricated conclusions, Loricated's conclusioning report.
16:36:12 33
16:36:12 34 It does seem strange with all the effort that went into
16:36:16 35 Loricated it didn't turn up the hard drive that was at the
16:36:20 36 SDU and may well have made the job an awful lot easier?---I
16:36:24 37 can't comment. I don't know whether it was turned up or
16:36:27 38 whatever. I have to take your advice on that.
16:36:29 39
16:36:30 40 We've discovered it through our process and one assumes it
16:36:33 41 has been discovered because people spoke to members of the
16:36:36 42 SDU who were able to identify it?---Yes.
43
16:36:38 44 Do you think that the Loricated project investigators
16:36:42 45 simply didn't speak to the SDU members then?---I don't
16:36:44 46 know. All I know, Mr Winneke, is that somewhere in this
16:36:47 47 documentation there is a reference to I think what you're

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:36:52 1 talking about. So it's known somewhere and Loricated
16:36:57 2 people should have picked it up or did pick it up.
16:37:00 3
16:37:00 4 All right. Now, a final topic, you were asked questions
16:37:04 5 about Mr Ashton, about his involvement in the preparation
16:37:12 6 of the Terms of Reference of the Loricated, sorry, the
16:37:17 7 Comrie Review. It's been suggested and it may well be the
16:37:25 8 case that he felt himself unable to be involved in that
16:37:29 9 part of the process?---Yes.
16:37:30 10
16:37:30 11 If nonetheless he did remain involved in overlooking
16:37:36 12 proceedings concerning Mr Mokbel, one would assume that he
16:37:43 13 maintained or continued to have an obligation of
16:37:46 14 disclosure, would that be fair to say?---Sorry, an
16:37:49 15 obligation of disclosure in what respect, to the
16:37:51 16 prosecution?
16:37:51 17
16:37:51 18 To disclose any information to the prosecution in the first
16:37:54 19 place that he had about concerns with respect to the
16:37:58 20 obtaining of evidence against Mr Mokbel?---So the
16:38:01 21 obligation is there, the question is when he, one of the
16:38:04 22 questions is when he thinks he has an obligation, when he
16:38:07 23 has sufficient knowledge to say, "I've got a real concern,
16:38:10 24 I need to go forward".
16:38:11 25
16:38:11 26 Do you think even with his conflicted situation would it be
16:38:20 27 reasonable for him to inquire of Mr McRae or Mr Pope as to
16:38:27 28 the progress of the Comrie Review and what it was
16:38:31 29 investigating?---Well, I think I say it in my own
16:38:37 30 statement, I wasn't involved directly but as a member of
16:38:41 31 Executive Command I suspect we would have had regular
16:38:43 32 updates anyway on what stage he was at or what things were
16:38:45 33 happening.
16:38:45 34
16:38:46 35 If you were in possession of information such as the
16:38:49 36 Sheridan document that you've been asked lots of questions
16:38:52 37 about, one would assume that you would, even though you
16:38:56 38 might be conflicted, be in a position to suggest to people
16:39:00 39 who are carrying out that investigation that really it
16:39:05 40 should look very closely at what Ms Gobbo was doing?---Yes.
16:39:09 41
16:39:09 42 Yes, all right. Thanks very much Commissioner.
16:39:11 43
16:39:11 44 COMMISSIONER: Yes, thanks Mr Cartwright. You're free to
16:39:14 45 go?---Thank you, ma'am.
16:39:16 46
16:39:16 47 <(THE WITNESS WITHDREW)

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:39:16 1
16:39:17 2 COMMISSIONER: Is there any point in starting the next
16:39:19 3 witness or do we need to use every possible minute at the
16:39:22 4 moment?
16:39:23 5
16:39:23 6 MR WINNEKE: It depends, Commissioner. I think given the
16:39:25 7 amount of time I would certainly like to use every moment
16:39:29 8 that we've got and I think it would be worthwhile if he's
9 here to get going, so long as the shorthand writers are
16:39:35 10 able to - I'm getting a nod.
16:39:35 11
16:39:35 12 COMMISSIONER: I think we're psychologically geared to sit
16:39:38 13 until 5.
16:39:39 14
16:39:40 15 MR WINNEKE: Thanks Commissioner. There are two documents
16:39:43 16 I need to tender, one is VPL.6019.0031.0622 which is an
16:39:52 17 email dated 14 November 2014 from Stephen Leane to Tim
16:40:17 18 Cartwright and Finn McCrae.
16:40:22 19
16:40:23 20 #EXHIBIT RC1303A - (Confidential) Email from Stephen Leane
21 to Tim Cartwright and Finn McCrae
16:40:24 22 14/11/14.
16:40:24 23
16:40:24 24 #EXHIBIT RC1303B - (Redacted version.)
16:40:26 25
16:40:26 26 The other one, VPL.06031.0031.0623 which is the IBAC letter
16:40:33 27 dated the 15th - - -
16:40:42 28
16:40:42 29 COMMISSIONER: 15 November 14, is it?
16:40:44 30
16:40:45 31 MR WINNEKE: 13 November 2014.
16:40:47 32
16:40:48 33 #EXHIBIT RC1304A - (Confidential) IBAC letter 13/11/14.
16:40:49 34
16:40:50 35 #EXHIBIT RC 1304B - (Redacted version.)
16:41:02 36
16:41:02 37 COMMISSIONER: Yes Mr O'Connell. If you could enter the
16:41:07 38 witness box. Oath or affirmation?--Oath is fine.
16:41:11 39
16:41:12 40 Take the Bible in your right hand, please.
16:41:13 41
16:41:14 42 <SHANE MICHAEL O'CONNELL, sworn and examined:
16:41:36 43
16:41:36 44 COMMISSIONER: Yes Ms Enbom.
16:41:38 45
16:41:38 46 MS ENBOM: Mr O'Connell, is your full name Shane
16:41:41 47 O'Connell?---Yes, Shane Michael O'Connell.

.18/02/20

14391

O'CONNELL XN

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:41:43 1
16:41:45 2 And is your address care of Corrs Chambers Westgarth
16:41:50 3 Lawyers?---Yes, it is.
16:41:50 4
16:41:50 5 What's your current occupation?---I'm a sports integrity
16:41:54 6 manager.
16:41:54 7
16:41:55 8 Thank you. Have you prepared two witness statements for
16:41:56 9 this Royal Commission?---I have, yes.
16:41:57 10
16:41:58 11 Do you have those in front of you?---I appear to have one.
16:42:01 12
16:42:01 13 One. Is that the - - - ?---That's the supplementary
16:42:04 14 statement.
16:42:04 15
16:42:04 16 That's the supplementary statement. I'll take you to your
16:42:08 17 first statement which we'll provide you with a copy of. Is
16:42:23 18 that a copy of your first statement?---Yes, it appears to
16:42:29 19 be.
16:42:29 20
16:42:29 21 Is it dated, turn to p.38, 5 December 2019?---Yes, that's
16:42:35 22 correct.
16:42:35 23
16:42:36 24 You have a copy of your supplementary statement there. Is
16:42:40 25 that dated today's date?---Yes, it is. Yes, it is, sorry.
16:42:46 26
16:42:46 27 And to the best of your knowledge, reading those two
16:42:49 28 statements together, are they true and accurate?---Yes,
16:42:52 29 they are.
16:42:52 30
16:42:52 31 Thank you. I tender both of those statements,
16:42:56 32 Commissioner.
16:42:56 33
16:42:57 34 #EXHIBIT RC1305A - (Confidential) First statement of Shane
16:43:01 35 Michael O'Connell.
16:43:01 36
16:43:01 37 #EXHIBIT RC1305B - (Redacted version.)
16:43:04 38
16:43:05 39 #EXHIBIT RC1305C - (Confidential) Second statement of Shane
16:43:06 40 Michael O'Connell.
16:43:06 41
16:43:07 42 #EXHIBIT RC1305D - (Redacted version.)
16:43:11 43
16:43:12 44 Thank you Commissioner.
16:43:13 45
46
47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1 <CROSS-EXAMINED BY MS TITTENSOR:
2

16:43:15 3 Thanks Commissioner. Mr O'Connell, you've produced a
16:43:22 4 second statement today, is that right?---That's correct,
16:43:25 5 yes.

16:43:26 6
16:43:26 7 And with that statement the Commission's been provided with
16:43:29 8 a bundle of new day book and diary entries as of today, is
16:43:34 9 that right?---That's my understanding, yes.

16:43:36 10
16:43:36 11 Are you aware that the Commission was also provided with
16:43:40 12 further unredacted material over the course of the
16:43:45 13 weekend?---I'm not aware of, sorry, what's been provided.

16:43:49 14
16:43:55 15 You dealt with some issues in your first statement in
16:43:58 16 relation to your time at Purana, is that right?---Briefly I
16:44:05 17 believe, yes.

16:44:05 18
16:44:06 19 Did you use, or were you assisted by your day books for the
16:44:12 20 construction of that part of your statement?---No, I don't
16:44:17 21 believe so, no.

16:44:18 22
16:44:18 23 When was it that you realised that your day books might be
16:44:22 24 relevant to the work of the Commission?---When it was
16:44:25 25 brought to my attention yesterday.

16:44:30 26
16:44:32 27 Your day books - when did you cease using day books?---I
16:44:38 28 couldn't give you an exact date on that. I know that I did
16:44:44 29 transition from using day books to direct entries into my
16:44:48 30 diary at some point during my career. The rules around the
16:44:52 31 use of diaries were relaxed somewhat and I also probably
16:44:56 32 moved into a position as a manager, a Senior Sergeant,
16:45:00 33 where I was less operational so the day book note-taking
16:45:06 34 wasn't as critical. So I moved into that direct entry into
16:45:12 35 the diary, but again in terms of exact timing, I couldn't
16:45:16 36 say.

16:45:17 37
16:45:17 38 Were you still at Purana when you ceased using day
16:45:22 39 books?---Again, I don't know the exact day. Some of the
16:45:24 40 day books that I've seen in the last day or two were from
16:45:29 41 the Purana era, so there was at least some part of that
16:45:33 42 where I was maintaining day books.

16:45:36 43
16:45:36 44 Do you know whether you were using day books at the time
16:45:39 45 you went to Petra?---I don't know. Again, I'm unclear as
16:45:42 46 to when I transitioned from one process to the other.
16:45:46 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:45:46 1 You transitioned to Petra in April 2007, were you using day
16:45:51 2 books at that period of time?---Again, I don't know.
16:45:53 3
16:45:54 4 The day books that the Commission has been provided with,
16:46:00 5 do you understand that all of your day books have been
16:46:05 6 retrieved since - until you ceased using them?---Again, I
16:46:09 7 don't know. So I retired from Victoria Police June 2017.
16:46:13 8 As part of that retirement process I was required to
16:46:17 9 collate and return to Victoria Police all my diaries and
16:46:20 10 day books that were in my possession. To the best of my
16:46:23 11 ability I did that and provided them to administrative
16:46:28 12 staff within Victoria Police who were then responsible for
16:46:31 13 having those books archived within the Victoria Police
16:46:35 14 archives. When the Royal Commission, it's my understanding
16:46:40 15 when that arose, Victoria Police retrieved the material
16:46:45 16 that I had had archived so my assumption is that material
16:46:49 17 that I was provided was all of that archived material.
16:46:53 18
16:46:53 19 Have you been following the work of the Commission?---Not
16:46:55 20 really, no.
16:46:57 21
16:46:57 22 Have you been listening to any of the evidence since
16:46:59 23 December of last year, say?---No, not really, no.
16:47:03 24
16:47:05 25 Have you been informed when issues relating to you have
16:47:09 26 arisen during the work of the Commission?---No, not really,
16:47:13 27 no. I will, sorry, I will say, other than in the course of
16:47:20 28 preparation of these statements, so other than in the
16:47:23 29 course of this process, no.
16:47:25 30
16:47:27 31 Now, you went to Purana as a Detective Sergeant from about
16:47:30 32 September of 2003, is that right?---That's correct, yes.
16:47:34 33
16:47:35 34 In November of 2003 one of the matters you had that was
16:47:40 35 related to Ms Gobbo was investigating phone calls made by
16:47:45 36 Carl Williams relating to an alleged threat against
16:47:48 37 Mr Bateson, is that right?---Yes, that's correct. Ms Gobbo
16:47:52 38 ultimately became involved in that prosecution.
16:47:57 39
16:47:57 40 And that was when you potentially had your first contact
16:48:01 41 with Ms Gobbo?---As I recall that was my first contact with
16:48:05 42 her. Her and a colleague came to St Kilda Road to listen
16:48:09 43 to some TI material that was the evidence in that matter.
16:48:14 44
16:48:15 45 Now, the day books that have been provided to the
16:48:19 46 Commission today reveal numerous references to Ms Gobbo
16:48:25 47 throughout, would you agree with that?---I believe so, yes.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:48:29 1
16:48:29 2 Both in relation to this matter - both in relation to this
16:48:33 3 matter, but also in relation to other more social matters
16:48:39 4 or connections that Ms Gobbo might have had with people
16:48:41 5 related to Mr Williams?---Without going through them
16:48:46 6 line-by-line I can't say exactly what's in them, it's been
16:48:51 7 a fair while since I've done so.
16:48:53 8
16:48:54 9 For example, you might be listing telephone intercept
16:48:57 10 summaries and you might have listed a call between Ms Gobbo
16:49:01 11 and Roberta Williams?---Potentially.
16:49:08 12
16:49:10 13 The entry in relation to, or one of the entries in relation
16:49:14 14 to Ms Gobbo's dealings with Carl Williams indicates that
16:49:19 15 she told you at a particular point in November of 2003 that
16:49:24 16 she could no longer, or that she was no longer acting for
16:49:27 17 Mr Williams because of a conflict, is that right?---I
16:49:30 18 recall seeing that entry, yes.
16:49:32 19
16:49:33 20 But it seems as though she went on to act for him
16:49:37 21 subsequent to that?---Again, I'm a little bit out of sync
16:49:45 22 with the timing but she did represent or act for him at
16:49:50 23 various stages during that prosecution.
16:49:53 24
16:49:58 25 You're aware that - are you aware of the nature of the
16:50:02 26 conflict that Ms Gobbo was raising at the time in terms of
16:50:08 27 her representation with Mr Williams?---No.
16:50:10 28
16:50:11 29 Do you know who Mr Williams was on the phone to when those
16:50:14 30 threats were alleged to have been made?---Yes.
16:50:16 31
16:50:16 32 Was that someone that had recently been arrested for a
16:50:21 33 murder?---I don't, again, I'm a bit, I don't know the
16:50:26 34 timing. But I can say that it's my understanding that
16:50:29 35 person was arrested in relation to a murder, yes.
16:50:32 36
16:50:32 37 And is it your understanding that Ms Gobbo had advised that
16:50:35 38 person?---I don't and didn't know at the time that Ms Gobbo
16:50:41 39 had any involvement with that person.
16:50:44 40
16:50:44 41 What did you understand her conflict to be?---I didn't. I
16:50:48 42 had no understanding of what her conflict to be, she
16:50:52 43 declared it was a matter, as I understood it was a matter
16:50:56 44 for her, she declared that conflict. She subsequently, as
16:51:00 45 is my understanding, provided representation or advice to
16:51:04 46 Mr Williams, so my belief at that stage was that from her
16:51:08 47 perspective that conflict had been resolved.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:51:10 1
16:51:16 2 Your notebooks throughout that period of time refer to
16:51:19 3 other people like Tony Mokbel, is that right?---I believe
16:51:23 4 there's references. There's likely to be references to
16:51:25 5 quite a number of people that were involved in
16:51:28 6 investigations that Purana were conducting through that
16:51:31 7 period.
16:51:31 8
16:51:32 9 It's safe to say that you understood that Ms Gobbo
16:51:35 10 represented organised crime figures such as those people
16:51:41 11 during that period of time?---What's - I can't recall
16:51:47 12 Ms Gobbo being anyone exceptionally sort of known to me or
16:51:53 13 being exceptional, other than in her role in representing
16:51:58 14 Mr Williams. I can't recall specifically which clients
16:52:03 15 that she may or may not have represented. My - I had
16:52:08 16 certain investigations that I was tasked with at Purana. I
16:52:12 17 was involved in meetings where there were general
16:52:15 18 discussions about other investigations that were being
16:52:17 19 conducted, but it wouldn't ordinarily be part of my
16:52:22 20 knowledge bank in that role that I would know who
16:52:25 21 represented who.
16:52:26 22
16:52:27 23 As time went on you would have come to understand that
16:52:29 24 Ms Gobbo represented a number of organised crime figures or
16:52:34 25 targets of Purana?---If you're able to specify which ones
16:52:39 26 you're referring to I might be able to enlighten you.
16:52:43 27
16:52:43 28 Tony Mokbel?---I had very little if anything to do with the
16:52:46 29 Tony Mokbel investigation at that - - -
16:52:48 30
16:52:48 31 I'm not asking about what you were doing with a particular
16:52:52 32 investigation, but your knowledge of her representation of
16:52:55 33 those people?---It's very difficult for me to be able to
16:52:59 34 sit here and say, and answer a question of that nature. I
16:53:03 35 can't - the passage of time has affected my memory, so what
16:53:08 36 I knew at any given time in history is really very
16:53:12 37 difficult for me to articulate, aside from the passage of
16:53:16 38 time there have been media reports that I've read and heard
16:53:19 39 over the journey. There have been conversations that I've
16:53:22 40 been involved in with colleagues and former colleagues
16:53:25 41 where my, where I've been informed of certain things that
16:53:28 42 occurred at certain times. So my level of knowledge - and
16:53:32 43 I've forgotten a lot of stuff. So my level of knowledge at
16:53:36 44 a given time in history is extremely difficult for me to
16:53:40 45 articulate.
16:53:40 46
16:53:42 47 There was significant publicity associated with Ms Gobbo's

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:53:46 1 representation of Tony Mokbel at various times, you accept
16:53:49 2 that?--Yes.
16:53:50 3
16:53:50 4 And especially upon his absconding at the end of his trial,
16:53:55 5 or prior to the end of his trial in March 2006?--Again, my
16:54:03 6 knowledge at that time, I can't, I can't comment on. I
16:54:07 7 think I can recall seeing various media coverage of
16:54:11 8 Mokbel's trial and seeing Ms Gobbo in that media. In terms
16:54:17 9 of my knowledge in a professional capacity as part of a
16:54:21 10 Purana Task Force at that stage, I was not necessarily
16:54:25 11 aware of that. I was deeply involved in other
16:54:27 12 investigations that had nothing to do with the Mokbel
16:54:31 13 matter.
16:54:31 14
16:54:31 15 You would have understood at that stage, around about March
16:54:34 16 2006, Ms Gobbo was involved in the representation of Tony
16:54:38 17 Mokbel, I would suggest, whether it's part of your
16:54:41 18 professional capacity or simply by being aware of the
16:54:46 19 news?--Again, I can't, I know that it's a time issue for
16:54:51 20 you, but it's March 2006, and my difficulty is I just can't
16:54:56 21 articulate, given a time frame or a time in history, as to
16:55:00 22 what my state of knowledge was in relation to a matter such
16:55:03 23 as that.
16:55:04 24
16:55:16 25 Now, you came to be in charge of the Petra Task Force for a
16:55:21 26 significant period of time, is that right?--Yes, I moved
16:55:26 27 across to Petra, I think it was around April 2007.
16:55:31 28 Detective Inspector Gavan Ryan was initially the in-charge
16:55:36 29 and then he moved on to another location, so prior to his
16:55:42 30 being replaced by Detective Inspector Steve Smith I assumed
16:55:45 31 the Acting Inspector role at Petra.
16:55:48 32
16:55:50 33 Having been through the documents I'll just put to you in
16:55:53 34 summary form it appears as though you commence in around
16:55:57 35 about April of 2007 as a Detective Senior Sergeant at
16:56:02 36 Petra, at which time Detective Inspector Ryan is in
16:56:08 37 charge?--That sounds about right.
16:56:10 38
16:56:14 39 Mr Smith ultimately commences as the Detective Inspector in
16:56:18 40 charge some time in July of 2008?--Yeah, I'd pretty much
16:56:26 41 agree with that.
16:56:27 42
16:56:27 43 An analysis of the minutes indicate, or the updates
16:56:33 44 indicate that you take on Acting Detective Inspector duties
16:56:36 45 for a number of weeks between May and June of 2007
16:56:39 46 initially whilst Detective Inspector Ryan is on leave. He
16:56:44 47 then returns for a period between June and July of 2007

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:56:51 1 from which time you begin acting duties through to July of
16:56:59 2 2008, Acting Detective Inspector, you would accept
16:57:05 3 that?---I've got no reason to doubt it, that sounds about
16:57:07 4 right.
16:57:08 5
16:57:08 6 From the time you began acting in that capacity, in around
16:57:12 7 July of 2007, Mr Ryan went over to Purana?---Again, I can't
16:57:19 8 be, I can't be sure exactly where he went. I understand
16:57:24 9 from some of the reporting that he did return to Purana.
16:57:27 10 He then left the organisation and worked elsewhere after
16:57:32 11 that.
16:57:32 12
16:57:32 13 It seems as though although he went off to Purana he would
16:57:35 14 still attend Petra meetings from time to time?---That could
16:57:39 15 very well have been the case.
16:57:42 16
16:57:42 17 It also seems as though, although you go back to the rank
16:57:46 18 of Detective Senior Sergeant in July of 2008, you still
16:57:50 19 continue to author the updates to Petra Task Force and
16:57:55 20 attend the meetings of the steering committee, is that
16:57:57 21 right?---If not - I wouldn't say all of them, but that was
16:58:03 22 part of my responsibility. In terms of the meetings, it
16:58:07 23 was generally in instances where Detective Inspector Smith
16:58:11 24 wasn't available, but I couldn't discount that he and I
16:58:15 25 attended meetings together.
16:58:17 26
16:58:17 27 It seems to be the case that from July of 2007, perhaps
16:58:23 28 with the occasional absence because of leave, you've
16:58:26 29 attended the majority of the meetings following that period
16:58:30 30 of time, do you accept that?---I'd accept that.
16:58:32 31
16:58:35 32 It seems as though from 17 November 2008 there doesn't
16:58:41 33 appear to be any longer an attribution at the bottom of the
16:58:47 34 updates that are provided to the steering committee. Prior
16:58:50 35 to that it's got your name at the bottom on all or most of
16:58:55 36 the occasions or Detective Inspector Ryan on or before you,
16:58:59 37 but after then there just seems to be no name. Do you know
16:59:02 38 if you were still compiling the updates after that period
16:59:06 39 of time?---I can't recall.
16:59:09 40
16:59:09 41 What was the working relationship you had with Detective
16:59:14 42 Inspector Ryan whilst you were at Petra?---Sorry, I'm not
16:59:19 43 sure - - -
16:59:20 44
16:59:20 45 How much daily contact?---Daily. It was common for
16:59:25 46 Detective Inspector Ryan and I to both be in the office and
16:59:29 47 we had a close working relationship.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:59:33 1
16:59:34 2 If he was aware of facts significant to the investigation
16:59:37 3 would you have expected him to make you aware of those
16:59:40 4 facts?---Depends on what those facts were, but in most
16:59:44 5 cases, yes.
16:59:45 6
16:59:51 7 Now, you would have been aware at the outset of Petra there
16:59:54 8 was a plan to put Ms Gobbo before the OPI for examination I
16:59:59 9 take it?---I'm not sure whether that was a plan right from
17:00:02 10 the outset. I can't - I can't recall a lot of that era, so
17:00:10 11 I'm not aware of how it came to be. I'm only really aware
17:00:14 12 of Ms Gobbo's appearance before those hearings as a result
17:00:17 13 of, sort of more recent reporting, rather than having a
17:00:22 14 recollection of her doing so.
17:00:24 15
17:00:24 16 Do you say you wouldn't have been aware of that at the
17:00:27 17 time?---No, no, I can't recall a lot of what occurred
17:00:31 18 around that time, so I don't know what I knew at that
17:00:35 19 point. I don't recall her attending those hearings and so
17:00:39 20 - and also a part of that is I don't recall the process
17:00:42 21 that got her before those hearings.
17:00:44 22
17:00:46 23 In mid-May 2007 Mr Ryan told Sandy White at the SDU - do
17:00:54 24 you know who I'm referring to when I say Sandy
17:00:56 25 White?---Yes.
17:00:57 26
17:00:57 27 Told Sandy White at the SDU that Mr Overland had authorised
17:01:01 28 the SDU to speak to Ms Gobbo about her knowledge of the
17:01:04 29 Hodson murders. That was on 16 May of 2007. Ms Gobbo was
17:01:11 30 then extensively spoken to about those matters by the SDU,
17:01:15 31 about her knowledge of the relationship between Mr Dale and
17:01:20 32 Carl Williams, about Mr Dale's involvement in the Dublin
17:01:27 33 Street burglary, about her knowledge of the theft of the
17:01:29 34 information reports, and that information was conveyed to
17:01:34 35 Mr Ryan on 22 May 2007. Now, in a new diary that you've
17:01:42 36 produced this morning at VPL.0005.0272.0204, you record the
17:01:57 37 day after that speaking to Mr Ryan re 3838. Do you know
17:02:02 38 the entry that I'm talking about?---Without having seen it,
17:02:07 39 I'll accept what you say.
17:02:09 40
17:02:09 41 So Mr Ryan gets the debrief from SDU after they've spoken
17:02:15 42 to Ms Gobbo on the 22nd and , you're speaking to Mr Ryan on
17:02:20 43 the 23rd re 3838. And it goes on to request a number of
17:02:28 44 IRs be given, or go to SD following your discussion about
17:02:35 45 3838. Do you know the entry that I'm talking about?---Not
17:02:43 46 off the top of my head.
17:02:45 47

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

17:02:45 1 It requests, "Email re two IRs, IR 88 re Loris and IR 15 re
17:02:54 2 Operation Nutation go to SD". Now, this appears, it
17:02:59 3 appears to be the case that Mr Ryan is speaking to you
17:03:03 4 about the debrief that he's had from the SDU the day
17:03:07 5 before, would you accept that this is, that's a fair
17:03:10 6 inference?---I can't recall the conversation. It's an
17:03:16 7 inference that you can draw, but I can't recall that
17:03:19 8 conversation.

17:03:19 9
17:03:19 10 Do you recall at some stage close to the commencement of
17:03:23 11 your work at Petra that you became aware that Ms Gobbo was
17:03:26 12 a human source?---I can't independently recall when I
17:03:31 13 became aware of that. I've viewed some material in the
17:03:34 14 preparation of the statements that would tend to suggest
17:03:37 15 that it was early on in my tenure at Petra, but again I
17:03:43 16 have no independent recollection of when in fact I became
17:03:47 17 aware and to what extent.

17:03:49 18
17:03:49 19 If Mr Ryan has received an extensive amount of information
17:03:54 20 that's come from Ms Gobbo via the SDU, you as the Detective
17:04:03 21 Senior Sergeant who's days away from taking over the
17:04:05 22 Detective Inspector role would expect to be given that
17:04:08 23 information, I take it?---Largely depends on what that
17:04:13 24 information, what that information is.

17:04:14 25
17:04:15 26 Extensive information, as I've told you, about Ms Gobbo's
17:04:18 27 knowledge of the relationship between Paul Dale and Carl
17:04:22 28 Williams, knowledge about Dale's involvement in the
17:04:26 29 burglary, her knowledge about the theft of the information
17:04:30 30 reports. You were days away from taking over, at least for
17:04:33 31 the next few weeks at that stage, the Detective Inspector
17:04:37 32 role. Would you expect that Mr Ryan in those circumstances
17:04:40 33 would have given you that information?---He may very well
17:04:44 34 have but I can't recall that conversation, so I don't know
17:04:47 35 for certain.

17:04:47 36
17:04:47 37 At some stage around this period you do learn that
17:04:50 38 Ms Gobbo's a human source?---Again, I don't have any
17:04:54 39 independent recollection of that but having reviewed some
17:05:00 40 of the material in the preparation of the statement that
17:05:03 41 would tend to indicate that, yes.

17:05:06 42
17:05:06 43 And you know certainly that there's another meeting which
17:05:10 44 you dealt with in your first statement that occurs
17:05:14 45 subsequently in July where everyone in the room knows
17:05:17 46 Ms Gobbo is a human source, so you certainly must know by
17:05:20 47 that stage?---Yeah, again I can't recall that meeting and -

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

17:05:25 1 but again, the inference from my notes would suggest that
17:05:28 2 to be the case.
17:05:30 3
17:05:31 4 Can you think of any reason why you wouldn't have been
17:05:35 5 given that information by Mr Ryan at that stage, and I'm
17:05:39 6 talking about at this stage in May after he's been given
17:05:43 7 that information by the SDU?---Again, I can't, it's really
17:05:49 8 difficult for me to answer that question conclusively
17:05:52 9 because I can't recall the conversation.
17:05:58 10
17:06:03 11 Now, you're aware that Ms Gobbo was summonsed to appear
17:06:06 12 before the OPI on 19 July and then again on 17 August
17:06:12 13 2007?---I can't be certain of dates and I'm aware now of
17:06:18 14 Ms Gobbo's involvement with those hearings, although again,
17:06:22 15 I can't recall that. I don't have any independent
17:06:26 16 recollection of that occurring.
17:06:27 17
17:06:27 18 You accept you would have been aware of that at the
17:06:29 19 time?---I have, again, referred to material in the
17:06:32 20 preparation of the statements that would tend to suggest to
17:06:35 21 me that I was aware of that at the time.
17:06:38 22
17:06:40 23 You're one of the lead investigators. There's no way you
17:06:44 24 wouldn't have been aware that Ms Gobbo was going to be
17:06:48 25 called before the OPI?---Again, that's a fairly definitive
17:06:54 26 statement and I just don't feel comfortable being that
17:06:57 27 definitive when I have no independent recollection of that
17:07:00 28 occurring. You could suggest that it's likely I knew, and
17:07:06 29 again the material that I've referred to would tend to
17:07:09 30 suggest that I did know, but I can't recall sitting here
17:07:14 31 today.
17:07:15 32
17:07:17 33 I note the time, Commissioner.
17:07:19 34
17:07:19 35 COMMISSIONER: Yes. We'll adjourn until 9.30, thanks.
36
17:07:47 37 <(THE WITNESS WITHDREW)
17:07:47 38
17:07:49 39 ADJOURNED UNTIL WEDNESDAY 19 FEBRUARY 2020
40
41
42
43
44
45
46
47