

ROYAL COMMISSION INTO THE MANAGEMENT  
OF POLICE INFORMANTSHeld in Melbourne, Victoria On  
Thursday, 20 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 K. Argiropoulos
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Ms L. Scott
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for the 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

09:35:44 1 COMMISSIONER: Yes, the appearances are as they were  
09:35:46 2 yesterday save that we have Ms Argiropoulos with Mr Holt  
09:35:51 3 today for Victoria Police and Mr McDermott for the State.  
09:35:54 4 [REDACTED] pseudonym, has made an application for leave to  
09:35:58 5 appear in respect of the witnesses Nolan, Moloney and  
09:36:04 6 Johns. Counsel assisting doesn't oppose. Thanks Mr Holt.  
09:36:08 7 So unless anybody wants to say anything I'll give leave to  
09:36:12 8 appear to [REDACTED] in respect of those witnesses.  
09:36:19 9

09:36:20 10 Yes, I think our next is Mr Moloney who is here and  
09:36:23 11 ready to go

09:36:24 12  
09:36:24 13 MS ARGIROPOULOS: Mr Moloney is in court. Commissioner, I  
09:36:29 14 appear on his behalf and he'll take the oath.  
15

09:36:33 16 COMMISSIONER: Thanks Ms Argiropoulos. If you can go into  
09:36:35 17 the witness box and take the Bible into your right hand,  
09:36:38 18 thanks, Mr Moloney.

09:36:39 19  
09:36:41 20 <DANNYE OWEN MOLONEY, sworn and examined:  
21

09:36:49 22 COMMISSIONER: Yes Ms Argiropoulos.

09:36:50 23  
09:36:51 24 MS ARGIROPOULOS: Thank you, Commissioner.  
25

09:36:52 26 COMMISSIONER: Would you prefer to stand, Mr Moloney?---No,  
09:36:56 27 I'll be seated if that's okay.  
28

09:36:58 29 Yes, of course?---Thank you.

09:37:01 30  
09:37:01 31 MS ARGIROPOULOS: Mr Moloney, is your full name Danye Owen  
09:37:06 32 Moloney?---Correct, yes.  
33

09:37:07 34 You retired from Victoria Police on 16 April 2011?---16  
09:37:12 35 April 2011, yes.  
36

09:37:14 37 And at the time that you retired your position was  
09:37:18 38 Assistant Commissioner Crime?---Correct.  
39

09:37:22 40 Mr Moloney, have you made two statements for this Royal  
09:37:25 41 Commission?---Yes.  
42

09:37:27 43 Do you have those there in front of you in the witness  
09:37:31 44 box?---Yes, they're here, thank you.  
45

09:37:34 46 If I can ask you to look at your first statement, the  
09:37:37 47 longer statement, and turn to the last page. Does that

09:37:40 1 bear your signature and the date 28 November  
09:37:46 2 2019?---Correct.  
3

09:37:47 4 You've then made a supplementary statement which was signed  
09:37:52 5 yesterday, 19 February 2020?---Yes, that's correct.  
6

09:37:58 7 In that statement you make some amendments to the initial  
09:38:01 8 statement. They're set out - the amendments to the initial  
09:38:06 9 statement are set out in the supplementary  
09:38:08 10 statement?---Yes, that's correct.  
11

09:38:10 12 The supplementary statement also informs the Commission of  
09:38:14 13 some difficulties that you have in relation to your  
09:38:18 14 memory?---Yes.  
15

09:38:20 16 And it also deals with some other matters that are relevant  
09:38:25 17 to the Royal Commission?---Correct.  
18

09:38:30 19 Can I ask you some questions in relation to paragraph 4 of  
09:38:34 20 that supplementary statement?---Yes.  
21

09:38:36 22 In which you clarify when you believe that you were  
09:38:43 23 informed that Ms Gobbo was being used as a registered human  
09:38:47 24 source?---Yes.  
25

09:38:49 26 Have you this morning remembered that you've been told by  
09:38:57 27 your lawyers of some evidence that Simon Overland gave to  
09:39:01 28 this Commission?---Yes.  
29

09:39:04 30 And that evidence was to the effect that he told you that  
09:39:09 31 Nicola Gobbo had been registered as a source and had to be  
09:39:13 32 managed carefully?---Yes, that's what the evidence was,  
09:39:17 33 yes.  
34

09:39:19 35 Do you have a recollection of that conversation with  
09:39:21 36 Mr Overland?---I do not have a recollection of that actual  
09:39:25 37 conversation, no.  
38

09:39:28 39 But if he says it occurred, I take it you don't dispute  
09:39:31 40 that it might have occurred?---No, I don't dispute it  
09:39:34 41 because there were certain actions, after the period that  
09:39:36 42 he mentioned, that I would taken if he had have said that  
09:39:40 43 to me, so where and when it was said, I've got no idea.  
09:39:43 44 But there are actions that I took subsequent to that that  
09:39:46 45 would indicate that he had told me that she had been  
09:39:49 46 registered and whether he used the word "careful  
09:39:58 47 management" but "close management" perhaps, would be the

09:40:03 1 indication that I would have reacted to.  
2

09:40:04 3 When you say certain actions, are you referring to the  
09:40:05 4 meetings that are described in paragraph 4, both with  
09:40:08 5 officer Sandy White?---Correct.  
6

09:40:09 7 From October, December and in February?---Yes.  
8

09:40:15 9 And also potentially meetings with Superintendent Biggin as  
09:40:21 10 well?---Yeah, I think there was another meeting with Biggin  
09:40:24 11 and Porter and so forth, yes.  
12

09:40:30 13 There's one correction that needs to be made to that  
09:40:33 14 supplementary statement. If we turn to p.2, the  
09:40:38 15 second-last line of paragraph 7, it refers to "an  
09:40:43 16 application I prepared in 2005", that should read  
09:40:48 17 2008?---That is correct.  
18

09:40:49 19 Yes. Do you have a pen there that you could just make that  
09:40:52 20 correction?---Yes, I do.  
21

09:40:53 22 Yes, if you could just make that correction and initial  
09:40:55 23 that?---That's amended.  
24

09:41:04 25 Are the contents of your two statements otherwise true and  
09:41:08 26 correct to the best of your recollection?---Yes, they are.  
27

09:41:12 28 Commissioner, I tender the two statements.  
29

09:41:14 30 COMMISSIONER: Yes.  
31

09:41:18 32 #EXHIBIT RC1325A - (Confidential) Statement of Dannye  
09:41:21 33 Moloney dated 28/11/19.  
34

09:41:21 35 #EXHIBIT RC1325B - (Redacted version.)  
36

09:41:24 37 #EXHIBIT RC1325C - (Confidential) Supplementary statement  
09:41:28 38 of Dannye Moloney dated 19/02/2020.  
39

09:41:28 39 #EXHIBIT RC1325D - (Redacted version.)  
40

09:41:30 40 #EXHIBIT RC1325D - (Redacted version.)  
41

09:41:35 42 MS THIES: Commissioner, we don't yet have a copy of the  
09:41:37 43 supplementary statement of Mr Moloney.  
44

45 COMMISSIONER: Right.  
46

09:41:39 47 MS THIES: We just ask if can be provided to us as soon as

09:41:42 1 possible.  
2

09:41:42 3 COMMISSIONER: Yes.  
4

09:41:43 5 MR McDERMOTT: We join in that request.  
6

09:41:44 7 MR COLEMAN: Can I also raise a matter of, with respect,  
09:41:46 8 and I've just been speaking to my learned friend.  
09:41:46 9 Obviously it's a matter of some significance, the contents  
09:41:47 10 of it. I've just seen it this morning. We weren't even  
09:41:48 11 told that this witness was coming today.  
12

09:41:50 13 COMMISSIONER: No.  
14

09:41:51 15 MR COLEMAN: We weren't told about the supplementary  
09:41:54 16 statement. I have not had a chance to properly consider  
09:41:57 17 it, nor get instructions on the matters that are raised in  
09:41:59 18 it and it's - I understand that we're under time pressures,  
09:42:04 19 of course, and that things have been moving along quite  
09:42:07 20 quickly, and I don't want to be critical of others who have  
09:42:11 21 been under great time pressures as well, but this is a  
09:42:14 22 matter of some significance, obviously having had a quick  
09:42:16 23 read of the supplementary statement. I understand my  
09:42:20 24 client's presently on leave, so I don't know whether I'll  
09:42:24 25 be able to get hold of him to get instructions on the  
09:42:26 26 matter that's contained in it. There are other persons who  
09:42:28 27 are affected by what's contained in the supplementary  
09:42:31 28 statement as well, I don't speak for those, but as a matter  
09:42:35 29 of fairness to all, the matters raised by this  
09:42:36 30 supplementary statement are of some significance. We'll  
09:42:38 31 have to consider our position with respect to it.  
09:42:41 32 Obviously the examination-in-chief and cross-examination by  
09:42:44 33 counsel assisting can continue, but I want it noted, if I  
09:42:48 34 may, with respect, Commissioner, that we will need to deal  
09:42:53 35 in some way with the material raised in the statement now.  
36

09:42:55 37 COMMISSIONER: Who hasn't got copies of the supplementary  
09:42:58 38 statement who needs them? There's the State, the DPP and  
09:43:04 39 the Commonwealth DPP and also you too, all right. The  
09:43:10 40 Commission legal team will attend to that forthwith.  
09:43:18 41

09:43:18 42 MS TITTENSOR: I think our instructors are attending to it.  
09:43:21 43 We just received the statement last night, Commissioner.  
09:43:24 44

09:43:24 45 COMMISSIONER: Yes. And there were pressing reasons, I  
09:43:24 46 understand, why this witness was interposed at the request  
09:43:29 47 of Victoria Police, which then became unnecessary, but by

09:43:32 1 that stage the preparation work by the Commission lawyers  
09:43:34 2 had been done and it would have been inefficient to change  
09:43:34 3 it. It was all clearly last minute that that happened. It  
09:43:38 4 had been thought there'd be a different witness today.  
09:43:42 5  
09:43:43 6 MR COLEMAN: Sorry, Commissioner, can I say my learned  
09:43:43 7 friend Mr Holt did explain those circumstances to me, so I  
09:43:48 8 understand those circumstances.  
9  
10 COMMISSIONER: Yes.  
11  
09:43:49 12 MR COLEMAN: And, as I say, I understand the pressure that  
09:43:49 13 everyone's under.  
14  
09:43:50 15 COMMISSIONER: Everyone's under, yes.  
09:43:50 16  
09:43:51 17 MR COLEMAN: Notwithstanding that, there are issues that  
09:43:53 18 one does need to deal with and be able to deal with, even  
09:43:58 19 just by time pressures.  
20  
09:43:59 21 COMMISSIONER: All right then. I've heard what you've had  
09:44:02 22 to say, thanks Mr Coleman. Yes Ms Tittensor.  
23  
09:44:05 24 <CROSS-EXAMINED BY MS TITTENSOR:  
09:44:05 25  
09:44:06 26 Thanks, Commissioner. Mr Moloney, you retired from  
09:44:09 27 Victoria Police in April of 2011?---Yes.  
09:44:11 28  
09:44:13 29 In terms of some of the relevant roles you've had for the  
09:44:16 30 Commission's purposes, in April 2001 you were in charge of  
09:44:20 31 the Ceja Task Force; is that right?---That would be April  
09:44:27 32 2002.  
33  
09:44:28 34 2002?---Yes.  
35  
09:44:31 36 In 2001 were you involved in investigations in relation to  
09:44:39 37 corruption within the Drug Squad?---No.  
38  
09:44:44 39 You went to Ceja - - - ?---Yeah, the investigation that led  
09:44:47 40 to Ceja, the inquiry that led to Ceja occurred in late  
09:44:52 41 2001.  
42  
09:44:52 43 Yes?---And in early 2002 was when I was contacted to  
09:44:58 44 commence a - task the investigation.  
45  
09:45:04 46 You went there as a Superintendent?---Yes.  
47

09:45:06 1 And you spent periods as Acting Commander in that role as  
09:45:10 2 well?--Yeah, they upgraded it as the Task Force grew. The  
09:45:14 3 Chief Commissioner decided the responsibility was at the  
09:45:16 4 next level.  
5

09:45:17 6 As indicated, that was investigating allegations of police  
09:45:22 7 corruption which had initially arisen out of corruption  
09:45:24 8 within the Drug Squad?---Correct.  
9

09:45:27 10 In mid-2005 you took up a position of Commander of  
09:45:33 11 Intelligence and Covert Support?---I took the position up  
09:45:36 12 then.  
13

09:45:37 14 Yes?---Yes.  
15

09:45:38 16 You had successfully applied for that position some time  
09:45:41 17 before but you took the position up as of about  
09:45:45 18 mid-2005?---Correct, July.  
19

09:45:47 20 It seems as though you also retained some Ceja duties  
09:45:52 21 during that period of time, would that be fair to  
09:45:55 22 say?---Yes, I - the complete management of it and the  
09:45:58 23 prosecution stage.  
24

09:45:59 25 Yes?---Yes.  
26

09:46:00 27 So you were wearing a number of hats during that period of  
09:46:03 28 time?---Up until the end of 2006, yes.  
29

09:46:07 30 Then in November 2008 you were promoted to the role of  
09:46:11 31 Assistant Commissioner of Crime?---Correct.  
32

09:46:14 33 And that's a position you held until your retirement in  
09:46:17 34 2011?---Yes.  
35

09:46:19 36 In relation to that period, I understand your diary or  
09:46:25 37 diaries have not been located; is that right?---That's  
09:46:28 38 correct.  
39

09:46:32 40 In terms of your knowledge of Ms Gobbo or your awareness of  
09:46:38 41 Ms Gobbo, you've never met her personally; is that  
09:46:42 42 right?---Not that I - - -  
43

09:46:43 44 Not that you can recall?---Not that I can remember, no.  
45

09:46:47 46 You're aware of her as a lawyer during your time at  
09:46:51 47 Ceja?---Yes.

1  
09:46:52 2 Or became aware of her as a lawyer during that period of  
09:46:55 3 time?---Yes.  
4  
09:46:56 5 You weren't aware of her before that?---I'm not sure, you  
09:46:59 6 know.  
7  
09:46:59 8 But certainly she came into your conscience during that  
09:47:02 9 time?---In 2002, that era, yes.  
10  
09:47:07 11 During your time working at Ceja you became aware that  
09:47:10 12 there were a number of outstanding Drug Squad cases which  
09:47:13 13 were affected by police corruption matters, do you  
09:47:16 14 understand what I mean by that?---Yeah, I understand what  
09:47:19 15 you mean. Yeah, there were - there were pending trials,  
09:47:24 16 yes.  
17  
09:47:24 18 For example, Operation Kayak?---Yeah, yeah.  
19  
09:47:28 20 And there were cases that included the likes of Tony Mokbel  
09:47:31 21 and some of his associates which were included in those  
09:47:35 22 cases?---Yeah, no, I can't say that - I can't say that our  
09:47:45 23 investigation - I would have known that those cases were  
09:47:49 24 existing.  
25  
09:47:50 26 I'm not saying you were involved in the investigation of  
09:47:52 27 Tony Mokbel?---Oh, sorry.  
28  
09:47:54 29 I'm saying Tony Mokbel's prosecution and the carriage of  
09:47:57 30 those matters through the courts was affected by the fact  
09:48:00 31 of these corruption investigations that were going on,  
09:48:04 32 because some of the police witnesses that were needed in  
09:48:10 33 Mr Mokbel's case were being investigated?---Correct.  
34  
09:48:12 35 So that had an impact - - - ?---Yes.  
36  
09:48:15 37 - - - upon the timing and the admissibility potentially of  
09:48:17 38 evidence in that case?---Put it this way, I presume it did.  
09:48:20 39 It was of little concern to me because we were basically  
09:48:23 40 focused on one thing and that was a thorough investigation.  
09:48:26 41 The consequences were handled by obviously the management  
09:48:29 42 of those areas affected.  
43  
09:48:31 44 Some of your investigators were aware of, or particularly  
09:48:38 45 maybe more aware than you, of what was going on in the case  
09:48:40 46 of Mokbel and so forth?---I would presume so.  
47



09:48:44 1 Ms Gobbo came to represent Mr Mokbel in about early 2002,  
09:48:48 2 would that gel with about the time you came to appreciate  
09:48:53 3 her existence?---No, I think the first time I really - she  
09:48:58 4 appeared on my horizon was at the - around the vicinity of  
09:49:04 5 the murder of the Hodsons. That's from memory.  
6  
09:49:09 7 One of the Inspectors under you at Ceja was  
09:49:14 8 Mr De Santo?---Yes.  
9  
09:49:15 10 And you say at paragraph 26 of your first statement that  
09:49:19 11 you recall that Mr De Santo proposed at the time of the  
09:49:27 12 Dublin Street burglary - you know what I'm referring to  
09:49:30 13 there?---Sorry, that is - no, I made a mistake just before.  
09:49:35 14 It wasn't the Hodsons, it was the Dublin Street, that's  
09:49:39 15 when first became aware of her on my horizon, or  
09:49:44 16 involvement.  
17  
09:49:45 18 You say at paragraph 26 of your statement that you recall  
09:49:48 19 that Mr De Santo proposed that "Ms Gobbo effectively might  
09:49:51 20 be a conduit by which we could seek some assistance from  
09:49:55 21 Terry Hodson" following the Dublin Street burglary?---Yes.  
22  
09:50:00 23 That was so because Mr De Santo had had previous dealings  
09:50:04 24 with Ms Gobbo in the course of the Mokbel prosecutions and  
09:50:09 25 the interrelations with the Ceja prosecutions?---I'm not  
09:50:13 26 aware of that but it was in relation to talking to or us  
09:50:18 27 wanting to talk to Andrew Hodson, the son.  
28  
09:50:22 29 Yes?---That's where it was introduced to me.  
30  
09:50:24 31 Mr De Santo was aware that Ms Gobbo had previously  
09:50:26 32 represented Andrew Hodson, the son?---Correct.  
33  
09:50:29 34 And therefore proposed that she might be able to assist  
09:50:32 35 through Andrew Hodson?---Yes.  
36  
09:50:35 37 To seek the assistance of Terry Hodson?---Yeah, and we were  
09:50:38 38 after cooperation from both.  
39  
09:50:40 40 Yes. Did you understand how Mr De Santo had this knowledge  
09:50:45 41 of Ms Gobbo, that he'd had some dealings with her in the  
09:50:48 42 past?---Yeah, like many relationships, he had communication  
09:50:51 43 with her, so yep.  
44  
09:50:55 45 You can't say that that was because of his turning up to  
09:50:59 46 cases of Mokbel?---No.  
47

09:51:02 1 And those proceedings?---No.  
2  
09:51:04 3 That might be so but you just don't know it from your own -  
09:51:07 4 - - ?---Correct, could be so.  
5  
09:51:14 6 Later when you took up the position of Commander at  
09:51:18 7 Intelligence and Covert Support - is there an easier  
09:51:21 8 acronym that people use for that department?---No, Intel  
09:51:28 9 and Covert Support, sorry. It's very hard to say the IC  
09:51:32 10 and S, yes, sorry.  
11  
09:51:34 12 Your diaries show that you still obviously, we mentioned  
09:51:35 13 before, you're still doing Ceja work throughout that period  
09:51:38 14 of time?---Yes.  
15  
09:51:40 16 In fact in October 2005 you were doing some work related to  
09:51:44 17 subpoenas that had been issued for the upcoming Mokbel  
09:51:48 18 trial. You would accept that if that's in your diary, do  
09:51:51 19 you recall?---Yep, yep.  
20  
09:51:53 21 And your diary reflects on the 6th and the 7th and the 10th  
09:51:57 22 of October you're doing some work in relation to subpoenas  
09:52:00 23 for an argument that's to be heard in the Supreme  
09:52:03 24 Court?---Yes.  
25  
09:52:07 26 Do you recall that that argument related to material that  
09:52:11 27 was being sought about the Drug Squad corruption  
09:52:18 28 investigations, as well as an informer?---Yeah, I was I  
09:52:24 29 aware of that. I think that's the period that, or before  
09:52:26 30 that, I'm pretty sure, from memory, that it was decided  
09:52:32 31 that we would get an in-house barrister to support the Task  
09:52:39 32 Force and I think that's the time that the - Gerard Maguire  
09:52:50 33 was there to help that investigation, or the whole Task  
09:52:54 34 Force.  
35  
09:52:54 36 Yes?---In regard to handling those legal issues and he  
09:53:02 37 dealt directly with the two Inspectors who were operational  
09:53:05 38 managers, investigative managers. So my involvement was  
09:53:10 39 just to support the Inspectors, or Superintendents at that  
09:53:15 40 stage, to do their job.  
41  
09:53:17 42 Do you recall or do you accept that what was being sought  
09:53:20 43 through those subpoenas was material that related to the  
09:53:23 44 Ceja investigations in relation to the relevant Drug Squad  
09:53:28 45 members?---Yeah, it was to protect the integrity of our  
09:53:33 46 Task Force and the security of our Task Force, that's what  
09:53:35 47 the purpose was.

1  
09:53:36 2 Defence were seeking some of that material because  
09:53:38 3 presumably they saw that that might be advantageous to  
09:53:42 4 their case and do you understand defence were also seeking  
09:53:45 5 material in relation to an informer that was to give  
09:53:47 6 evidence potentially in that case?---No, I'm not - I can't  
09:53:52 7 remember. I can't remember.  
8  
09:53:58 9 Do you recall the nature of the corruption allegations  
09:54:01 10 against Mr Paton and Mr Rosenes---Yes, that was the prelude  
09:54:07 11 to - - -  
12  
09:54:08 13 Yes?---Yeah.  
14  
09:54:09 15 And Mr Paton and Mr Rosenes were potentially witnesses in  
09:54:14 16 the case against Mr Mokbel?---Maybe, yeah.  
17  
09:54:17 18 There were some recordings of conversations that had  
09:54:20 19 occurred that were relevant in that case?---Sorry, I never  
09:54:23 20 explored that, I've never been briefed on the Mokbel brief.  
09:54:27 21 Never seen the Mokbel brief. I do not know what the  
09:54:30 22 content was. And that type of thing would not have got to  
09:54:33 23 my considerations because that was not relevant to what we  
09:54:36 24 were doing.  
25  
09:54:36 26 What was the nature of the work that you would have been  
09:54:39 27 doing on the Mokbel subpoenas then?---Just protecting the  
09:54:43 28 integrity of the Task Force, as I said before, and the  
09:54:46 29 security as well, because we were in total lock down.  
30  
09:54:50 31 You would have been following the case and what the court  
09:54:55 32 decided I presume?---No, I waited to be briefed as the  
09:55:00 33 outcome was done. I took no part in instructing or  
09:55:07 34 anything like that.  
35  
09:55:07 36 No, no, no, but you would have been aware of the case  
09:55:12 37 itself, that it was occurring presumably, given that you  
09:55:15 38 were working on the subpoenas in the lead up to the  
09:55:18 39 case?---Yeah, no, I was only coordinating the response from  
09:55:21 40 us, not working on the actual response in regard to  
09:55:24 41 delegating the tasking to whose going to handle it and to -  
09:55:29 42 and I'm pretty sure I'm right, you might be able to tell me  
09:55:33 43 whether I'm right or not, but that was when we had Gerard  
09:55:37 44 Maguire, the barrister, who handled our response.  
45  
09:55:41 46 To be working on the response you would need to know that  
09:55:43 47 the case was actually about to happen?---Maybe.

1  
09:55:48 2 Presumably you wouldn't be working madly on these subpoenas  
09:55:53 3 if the case was going to go ahead the next year?---Oh yeah,  
09:55:57 4 it had to be - - -  
5  
09:55:59 6 There was timing?---I presume there was.  
7  
09:56:00 8 You were working on it in the lead up to a case  
09:56:03 9 occurring?---Yeah, yeah. I disagree with your terminology  
09:56:08 10 "working on". There's two different - it's got to be  
09:56:10 11 interpreted.  
12  
09:56:10 13 All right?---I was managing who was doing the responses on  
09:56:14 14 our behalf.  
15  
09:56:17 16 I'm not going to take you right through the - were you  
09:56:20 17 aware, or I take it you would have been aware that Ms Gobbo  
09:56:23 18 had involvement in representation of Mr Mokbel?---I found  
09:56:27 19 out that later, yeah.  
20  
09:56:29 21 You would have been aware, I suggest, as at that  
09:56:33 22 stage?---No, I wasn't. I wasn't following the case. I  
09:56:37 23 wasn't involved in the case.  
24  
09:56:43 25 When do you say that you became aware that Ms Gobbo acted  
09:56:47 26 for Mr Mokbel?---Through the newspaper reports.  
27  
09:56:50 28 When?---Oh, I don't know. I've got no idea.  
29  
09:56:53 30 Through newspaper reports in the last couple of years or  
09:56:58 31 through newspaper reports back then?---Yeah. Oh no, in the  
09:57:01 32 last couple of years, as a result of the lead up to this  
09:57:04 33 Commission.  
34  
09:57:05 35 So do you say - - - ?---See there was no reason for me to  
09:57:07 36 monitor that. It didn't come within my scope of  
09:57:10 37 responsibilities. And my focus was on one of the biggest,  
09:57:15 38 or the biggest corruption investigations in Victoria's  
09:57:18 39 history in my opinion. So my focus was solely on the  
09:57:24 40 management and pursuit of the investigations that were  
09:57:28 41 under our scope.  
42  
09:57:29 43 Right. You would have been particularly paying attention  
09:57:33 44 when Mr Mokbel fled the jurisdiction or absconded prior to  
09:57:39 45 the end of his trial?---No.  
46  
09:57:40 47 Didn't pay attention to that at all?---No, and I wasn't

09:57:44 1 briefed on it.  
2  
09:57:44 3 You didn't see the headlines about it?---I saw the  
09:57:48 4 headlines. Everybody saw the headlines.  
5  
09:57:55 6 But it didn't come into your consciousness that there's  
09:58:00 7 Ms Gobbo representing Mr Mokbel at that stage?---It had no  
09:58:03 8 importance. It could have been any barrister in the legal  
09:58:05 9 fraternity that was representing him. To me it was not  
09:58:08 10 within my view.  
11  
09:58:11 12 All right. Some of the - I won't take you right through  
09:58:18 13 the Mokbel case that was being argued at that stage, but if  
09:58:24 14 we went to paragraphs 79 to 81 of the Mokbel judgment, 2005  
09:58:31 15 Victorian Supreme Court 410, it talked about the  
09:58:36 16 recognition for many years that it's not in the public  
09:58:40 17 interest to disclose the identity of police informers, you  
09:58:43 18 understand that?---Yes.  
19  
09:58:47 20 There's a presumption generally against the disclosure of  
09:58:50 21 the identity of police informers?---Yes.  
22  
09:58:54 23 But that presumption was not inflexible and it must give  
09:58:58 24 way sometimes when justice requires it, and you would  
09:59:03 25 understand that principle as well?---Like any privilege.  
26  
09:59:06 27 Yes?---Like any one of those areas within the law that  
09:59:09 28 there is a privilege or a policy or a common law that the  
09:59:18 29 identity of the human source should be protected. It's the  
09:59:21 30 same as any of the privileges.  
31  
09:59:23 32 So you understand there's no absolute informer privilege,  
09:59:26 33 it's something - and that's a proposition you would learn  
09:59:29 34 in Detective Training School?---Yes.  
35  
09:59:31 36 Or even - - - ?---Subject to judicial override.  
37  
09:59:40 38 Coming back in time to Ms Gobbo's involvement with  
09:59:45 39 Mr Hodson. Your diaries include reference around October  
09:59:50 40 of 2003 to monitoring Ms Gobbo. It indicates on 1 October  
09:59:59 41 that you're monitoring a meeting between Ms Gobbo and  
10:00:02 42 Mr Hodson, the following day you're monitoring Ms Gobbo -  
10:00:05 43 this is what's recorded in your diary - and then on the 6th  
10:00:09 44 of October it says, "Monitoring interview statement re  
10:00:13 45 Waters"?---Right. I'd like to see the diaries if you don't  
10:00:16 46 mind.  
47

10:00:17 1 VPL.0005.0169.0080.  
10:00:25 2  
10:00:25 3 MS ARGIROPOULOS: Commissioner, we have Mr Moloney's  
10:00:27 4 original diary from this period. He might find it easier  
10:00:30 5 to refer to that. If that could be provided.  
6  
10:00:33 7 COMMISSIONER: Yes.  
10:00:34 8  
10:00:34 9 WITNESS: Thank you.  
10:00:43 10  
10:00:44 11 MS TITTENSOR: If we can find 1 October 2003?---Thank you.  
12  
10:01:55 13 If you see that down the bottom at 8 pm, it says,  
10:02:01 14 "Monitoring Gobbo - Hodson meeting"?---Yes.  
15  
10:02:05 16 Fontana, De Santo, Gregor?---Yes.  
17  
10:02:09 18 Then if we go over the page to 2 October?---Yes.  
19  
10:02:16 20 Continue on. You see there at 17:45 there's a reference to  
10:02:26 21 monitoring Gobbo?---Yep.  
22  
10:02:31 23 Then on 6 October?---Yes.  
24  
10:02:40 25 Again, it says, "Monitoring interview statement re  
10:02:45 26 Waters/Gobbo"?---Yep.  
27  
10:02:55 28 Can you shed any light on what monitoring was going on of  
10:02:58 29 Ms Gobbo during that period of time?---Yeah, basically I  
10:03:03 30 believe that that was when we were trying to get the  
10:03:06 31 statement, organising a statement, I presume - what date  
10:03:12 32 was it, 6 October - that would have been after the  
10:03:17 33 burglary.  
34  
10:03:17 35 Yes, the burglary was late September?---Yep. So that would  
10:03:22 36 have been a stage of the operation where the arrangements  
10:03:27 37 with De Santo and Gobbo in regard to obtaining a statement  
10:03:33 38 with Gregor, who was in charge of the - involved in the  
10:03:39 39 burglary investigation, and they would have been arranging  
10:03:44 40 the final steps in regard to obtaining that statement and  
10:03:47 41 monitoring, from my perspective is, if there was any  
10:03:50 42 difficulties I would have got a phone call, and as it  
10:03:53 43 progressed they would have been expected to ring me if  
10:03:55 44 there was any, well, success or rejection or so forth.  
45  
10:04:02 46 This last entry here that's on the screen there relates to  
10:04:07 47 an "interview statement re Waters and Gobbo", do you know

10:04:11 1 what that's about?---That doesn't ring a bell at all.  
2  
10:04:16 3 Was there an application around about that time for  
10:04:20 4 Mr Waters pursuant to s.56A of the *Magistrates' Court Act*,  
10:04:25 5 do you recall that?---Sorry, can you remind me of what that  
10:04:28 6 is?  
7  
10:04:29 8 A compulsory questioning in the Magistrates' Court of  
10:04:31 9 Mr Waters?---It could have been that but I don't know. I  
10:04:38 10 can't remember it.  
11  
10:04:38 12 When Mr Dale was arrested in December were you monitoring  
10:04:43 13 the situation then as well?---No, that came as a surprise  
10:04:46 14 to me.  
15  
10:04:48 16 Did you become aware at some stage that when he was  
10:04:52 17 arrested the person that he rang and spoke to was  
10:04:55 18 Ms Gobbo?---I know that now.  
19  
10:04:57 20 Would you have found out at some stage around that period  
10:05:00 21 of time?---I'm pretty sure I didn't.  
22  
10:05:03 23 How can you be sure?---Well I would have remembered it. I  
10:05:07 24 wasn't involved in the Dale investigation as it stands, as  
10:05:12 25 the - well, the arrest phase.  
26  
10:05:16 27 You became aware after the arrest of Mr Miechel and  
10:05:20 28 Mr Hodson at the scene of the burglary, you were aware of  
10:05:24 29 at the time?---I was briefed that night.  
30  
10:05:25 31 And following that the occupants of the house were all  
10:05:32 32 arrested of as well, you became aware of that?---Yes.  
33  
10:05:35 34 Are you aware that all of them were represented by  
10:05:37 35 Ms Gobbo?---No.  
36  
10:05:38 37 All of the occupants at the house were represented by  
10:05:40 38 Ms Gobbo. Mr Hodson came to be represented by Ms Gobbo and  
10:05:45 39 then when Mr Dale was arrested he rang Ms Gobbo?---Yeah, I  
10:05:49 40 know that now but I didn't know that at the time. I don't  
10:05:52 41 know when I found out.  
42  
10:06:02 43 If you can go to p.9 of this diary. We perhaps might go up  
10:06:14 44 so we can check the date. You see that this is - - -  
10:06:24 45 ?---Sorry, what date is this?  
46  
10:06:26 47 We're looking at 20 January.

1  
10:06:28 2 COMMISSIONER: Is that 03 or 04?  
10:06:31 3  
10:06:31 4 MS TITTENSOR: 04. We've clicked into 04?---Yes, okay.  
5  
10:06:39 6 You see that's p.261 up the top there of your diary?---Yes,  
10:06:43 7 that's it. Thank you.  
8  
10:06:44 9 If you go over to the next page, you see that you're  
10:06:48 10 receiving a briefing or you're having a briefing re a  
10:06:52 11 meeting with barrister Gobbo by Mr De Santo?---Yes.  
12  
10:06:57 13 And under that there's a number of issues that are  
10:07:01 14 listed?---Sorry?  
15  
10:07:03 16 Within that entry there are a number of issues listed under  
10:07:06 17 the heading "Issues"?---Yes.  
18  
10:07:10 19 Do you know what the first issue relates to? Do you  
10:07:15 20 recognise that name? We won't say the name  
10:07:19 21 here?---Correct.  
22  
10:07:19 23 But do you recognise that name and know what that relates  
10:07:22 24 to?---I know the name.  
25  
10:07:24 26 Yes. You're aware that that person was in the process of  
10:07:31 27 making a statement to give evidence against a number of  
10:07:34 28 police officers?---I can't remember. I don't know.  
29  
10:07:41 30 This is something you would have been aware of at the  
10:07:44 31 time?---I would have been briefed at the time.  
32  
10:07:45 33 Do you remember there was a trial involving Mr Saunders,  
10:07:50 34 Waters, Campbell and Alexander?---Yes, that's within my  
10:07:55 35 memory, those people.  
36  
10:07:57 37 And there [REDACTED]?---Right.  
38  
10:07:59 39 That [REDACTED], ultimately didn't  
10:08:02 40 [REDACTED] but [REDACTED], do you  
10:08:05 41 recall that?---No, that's not within my scope, no.  
42  
10:08:08 43 It's something, if you're getting a briefing at this stage,  
10:08:11 44 that [REDACTED] is [REDACTED], do you see that?---No,  
10:08:17 45 yeah. Well it [REDACTED].  
46  
10:08:20 47 "Re coordination and lack of liaison"?---So it's in - yeah,



10:08:25 1 it's regarding ongoing security of the individual.  
2  
10:08:28 3 The next entry?---Yes.  
4  
10:08:32 5 \$500,000 taken by Dale and other prior to ESD  
10:08:38 6 arrival"?---Yes.  
7  
10:08:39 8 "Part to be used for Miechel defence if he doesn't  
10:08:42 9 roll"?---Yes.  
10  
10:08:49 11 Do you see that?---Yes. Yes, fine.  
12  
10:08:51 13 There's another entry related to McCabe. McCabe was  
10:08:57 14 another police officer that was ultimately prosecuted; is  
10:09:00 15 that right?---Yes.  
16  
10:09:03 17 Do you see what's noted at the top of that entry - sorry,  
10:09:10 18 just to be clear this is a meeting that De Santo has had  
10:09:13 19 with Ms Gobbo and he's reporting to you about the  
10:09:15 20 meeting?---Yes, he would have had a meeting with Ms Gobbo.  
21  
10:09:21 22 Ms Gobbo?---And then he would have come back and said,  
10:09:24 23 "These are the issues that" - - -  
24  
10:09:27 25 "She's reported to me"?---Correct.  
26  
10:09:28 27 Or "that we've discussed"?---Yes.  
28  
10:09:30 29 At the top you say, "IR to be created isolating Gobbo from  
10:09:36 30 information via De Santo - Moloney"?---Correct.  
31  
10:09:40 32 What does that mean?---That means that he was to document  
10:09:43 33 all the information that he had obtained and to isolate, in  
10:09:54 34 other words, like we do, it's common practice, you do not  
10:09:58 35 disclose the individual or give the information on the  
10:10:04 36 information report, which is the IR. That would then be  
10:10:07 37 taken probably personally by De Santo to brief other  
10:10:12 38 people. All of that, other than the bottom two, would have  
10:10:19 39 been moved on to other areas I would suggest.  
40  
10:10:24 41 Was there any consideration given to the fact that Ms Gobbo  
10:10:29 42 was potentially representing Mr Dale?---I didn't know for a  
10:10:32 43 start that she was representing Mr Dale.  
44  
10:10:34 45 Did you ask Mr De Santo whether he was aware?---I had no  
10:10:39 46 cause to ask him.  
47

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10:10:40 1 Were you aware that Ms Gobbo was having an association with  
10:10:43 2 Mr Dale through that period of time?---No.  
3

10:10:45 4 That was the reason, part of the reason that Mr Hodson was  
10:10:51 5 being used, he was trying to orchestrate a meeting with  
10:10:55 6 Mr Dale prior to Mr Dale's arrest, do you recall that? And  
10:11:03 7 the facilitation of that was being attempted through  
10:11:06 8 Ms Gobbo?---No, that's - no.  
9

10:11:10 10 Is that something you would likely have known at the time,  
10:11:12 11 that that was a strategy that was being adopted at the  
10:11:15 12 time?---Unless it was in my control I wouldn't have been  
10:11:19 13 advised of the strategies because it's under a completely  
10:11:23 14 different department and they're focused on their role and  
10:11:30 15 you do not pass this information around or tactics unless  
10:11:34 16 there's a need to know. I've mentioned this in my  
10:11:37 17 statement, that there is a strict rule within good  
10:11:40 18 management of investigations that you only need to brief  
10:11:44 19 those that need the information for a purpose. You just  
10:11:47 20 don't brief for the sake of briefing and there'd be no need  
10:11:53 21 for me to be briefed on that subject.  
22

10:11:55 23 Did you have any supervisory role over Mr Gregor or  
10:12:01 24 Mr De Santo?---Mr De Santo direct, Mr Gregor none.  
10:12:04 25 Mr Gregor and the Ethical Standards Department were the  
10:12:08 26 investigators in regard to that investigation.  
10:12:14 27 Mr De Santo, because of his connection to Ms Gobbo, was  
10:12:23 28 assigned to support their investigation.  
29

10:12:28 30 Mr De Santo became involved with that investigation because  
10:12:32 31 of his association with Ms Gobbo?---Well I presume - I  
10:12:35 32 believe so.  
33

10:12:39 34 What's the basis of your belief in that regard?---Or am I  
10:12:44 35 thinking about the later event, Mr Hodson, of the Hodsons  
10:12:49 36 killings? No, I just believed that that was the - - -  
37

10:12:59 38 You're also aware that when Andrew Hodson discovered his  
10:13:03 39 parents' bodies, the first call was to Ms Gobbo to put him  
10:13:10 40 in touch with Mr De Santo, you're aware of that?---Yes, I  
10:13:13 41 am. Can I just go back on one thing in regard to the  
10:13:18 42 management of that burglary.  
43

10:13:21 44 Certainly?---On the night of the event and the next day  
10:13:23 45 there was discussions between myself and Deputy  
10:13:28 46 Commissioner Nancarrow, who was my direct report through to  
10:13:31 47 the Chief Commissioner, and the question was asked in

10:13:34 1 regard to who was going to handle the burglary and it was  
10:13:45 2 unanimously decided between myself and Nancarrow, and  
10:13:48 3 supported by the Chief Commissioner, that the Ceja Task  
10:13:50 4 Force would not take responsibility for that investigation  
10:13:53 5 and it would remain under the umbrella of the Ethical  
10:13:59 6 Standards Department or elsewhere, but not involve us,  
10:14:02 7 because we were totally focused and resourced and it would  
10:14:05 8 have severely affected our ability to pursue our  
10:14:10 9 investigative goals. So I think that's got to be stated so  
10:14:14 10 that we know who was the line of Command, who was in  
10:14:17 11 charge, who was getting briefed. It was up through that  
10:14:20 12 line of Command.

13  
10:14:21 14 Right. And it was going up very high because it was a  
10:14:28 15 disaster for Victoria Police that that occurred?---Yes.

16  
10:14:30 17 You'd just set up the new MDID to replace the Drug Squad  
10:14:35 18 because of corruption and then this event?---Yep, and it  
10:14:37 19 was handled by the appropriate area, Ethical Standards  
10:14:40 20 Department.

21  
10:14:42 22 Now - - - ?---Sorry to interrupt but I wanted to clarify  
10:14:51 23 that.

24  
10:14:51 25 No, that's perfectly fine. There was another perhaps turf  
10:14:55 26 issue when the Hodsons were murdered; is that  
10:14:58 27 right?---There's no turf issue. Just a decision was made.  
10:15:02 28 A logical decision.

29  
10:15:03 30 Was there is a bit of a dispute over who would run that  
10:15:07 31 investigation?---Which one?

32  
10:15:08 33 The murder of the Hodsons?---No, none at all.

34  
10:15:13 35 Mr De Santo received the first call in terms of the police;  
10:15:19 36 is that right?---I don't know who - I think so.

37  
10:15:22 38 Ms Gobbo was called by Andrew Hodson?---Yes.

39  
10:15:26 40 And arranged contact in that way?---Yeah, I do not know  
10:15:31 41 whether Hodson contacted anybody else before that but at  
10:15:34 42 this stage De Santo got a phone call to contact, yes.

43  
10:15:37 44 Was there some issue with Ethical Standards being at the  
10:15:47 45 scene on the night of the murders, or being seen to be  
10:15:50 46 present, because it might indicate to the media or  
10:15:53 47 observers that there was some link to police with the

10:15:56 1 murders? Do you recall that being an issue at the  
10:15:59 2 time?--No, that's incorrect.  
3

10:16:02 4 Do you recall becoming aware that on the night of those  
10:16:06 5 murders Ms Gobbo had been out to dinner with Azzam  
10:16:11 6 Ahmed?---No idea, no.  
7

10:16:13 8 Do you know Azzam Ahmed was one of the occupants of the  
10:16:16 9 Dublin Street house?---No, that's a name I don't register.  
10

10:16:20 11 Did you ever become aware of that?---No, I don't think so.  
12

10:16:25 13 Through the Petra investigations would you have become  
10:16:28 14 aware of that?---The name might have been mentioned but I -  
10:16:34 15 personally, no.  
16

10:16:39 17 Mr Bezzina took charge of the - - - ?---Just back on what  
10:16:44 18 you said before in regard to dispute and so forth. You  
10:16:46 19 mentioned the word Ethical Standards being at the scene was  
10:16:54 20 an issue. No, it was not an issue, the Ethical Standards,  
10:16:58 21 they're the appropriate body to attend because they were  
10:17:00 22 managing that whole investigation and so forth. So the  
10:17:02 23 Homicide, I presume, attended as well. I just want to make  
10:17:08 24 it clear that the Ceja Task Force, it was a corruption Task  
10:17:12 25 Force. It was separate from Ethical Standards Department,  
10:17:17 26 it was set up to be totally independent, and therefore  
10:17:20 27 there's a difference between Ethical Standards Department.  
10:17:23 28 De Santo was a Ceja member. Gregor and all the rest are  
10:17:33 29 Ethical Standards Department. So just be clear that there  
10:17:35 30 is a difference in line management and direction and role.  
31

10:17:39 32 If the Commission's heard some evidence that Mr Overland  
10:17:42 33 perhaps didn't want certain persons, like Mr De Santo,  
10:17:46 34 present at the scene of the Hodson murders for reasons of  
10:17:53 35 that potential association being made, would you accept  
10:17:58 36 that?---I don't know what Mr Overland's opinion was on  
10:18:05 37 that. I've never - I don't think I've ever spoken to him  
10:18:08 38 about that because I was dealing with Deputy Commissioner  
10:18:11 39 Nancarrow. I spoke with Peter De Santo, Detective  
10:18:19 40 Inspector or Superintendent at that stage, I don't know  
10:18:21 41 which one, De Santo on that night.  
42

10:18:23 43 Yes?---And I am the one that said to him, "I want you to  
10:18:29 44 hand him over, brief the senior investigating officer, hand  
10:18:35 45 him over to somebody. Be there to support but from a  
10:18:38 46 distance". Ceja's security, identification, role I did not  
10:18:46 47 want involved in that because we had not been involved in

10:18:48 1 that. It wasn't a part of our investigation. The burglary  
10:18:53 2 was not part of Ceja's scope. The second reason is we  
10:18:58 3 don't know at this early stage, if you do a risk  
10:19:03 4 assessment, that is Andrew Hodson involved in the murder?  
10:19:06 5 He's walked in, he's found his parents, he's made a phone  
10:19:10 6 call to a solicitor, and then the solicitor facilitated  
10:19:12 7 De Santo to go along, with others. Now, in short it is  
10:19:17 8 very, very important for a couple of reasons. If in fact  
10:19:22 9 he, and this is what was - this is why I said to De Santo,  
10:19:27 10 "Brief the senior investigating officer, allocate another  
10:19:33 11 person, do the introduction, and stand back and support  
10:19:35 12 from a distance". Number one, we didn't want Ceja on the  
10:19:39 13 front page of the newspaper being involved in the Hodsons  
10:19:42 14 matter in any form, from the burglary onwards, because it  
10:19:45 15 wasn't our role. The second thing is if in fact he was -  
10:19:48 16 he would have to be deemed to be a possible, possible  
10:19:51 17 consideration of being a suspect and therefore he may be a  
10:19:56 18 suspect, therefore Peter De Santo's phone call and Peter De  
10:20:01 19 Santo's observations is - he's now a witness, so it puts  
10:20:03 20 him in jeopardy in that way. We were not going to be  
10:20:06 21 involved in that investigation other than to support the  
10:20:12 22 investigation from afar.

23

10:20:14 24 All right?---So there's a number of reasons there. The  
10:20:18 25 last one is Andrew Hodson. If it's disclosed that Ceja are  
10:20:22 26 at the scene and supporting Andrew Hodson and Mandy, the  
10:20:26 27 daughter, the sister, the sibling, we've got a security  
10:20:29 28 risk because we're now - this is on the front page of every  
10:20:35 29 newspaper that Ceja are talking to someone in the family,  
10:20:38 30 therefore we're putting the family in jeopardy. That's why  
10:20:40 31 I issued De Santo with the instruction, "Hand over, do the  
10:20:44 32 briefing", and as a result of that he did that and walked  
10:20:47 33 away, and then supported from a distance.

34

10:20:50 35 All right. Mr Bezzina at the Homicide Squad took on the  
10:20:54 36 investigation, is that right, or took charge of that  
10:20:56 37 investigation?---Yes, I knew that.

38

10:20:57 39 It was thought that one possible motive behind the killings  
10:21:02 40 related to the leaking of IR 44, do you recall  
10:21:06 41 that?---Yeah, that came out later.

42

10:21:10 43 That information report. Or a leaking of information that  
10:21:12 44 indicated that Terry Hodson was an informer. Were you  
10:21:17 45 receiving regular briefings in relation to that  
10:21:20 46 investigation as it went along?---No, not unless it related  
10:21:23 47 to Ceja.

1  
10:21:24 2 Were you aware that Ms Gobbo was interviewed by Mr Bezzina  
10:21:28 3 and Mr Davey in July of that year?---No.  
4  
10:21:33 5 About her knowledge of Mr Hodson informing?---No.  
6  
10:21:39 7 No one ever told you that?---I don't believe so.  
8  
10:21:42 9 Did you ever become aware of that during the course of the  
10:21:44 10 Petra, her involvement in Petra?---That information you  
10:21:51 11 just said, I cannot ever remember ever being told that.  
12  
10:21:54 13 You were involved in a committee to oversee the  
10:21:59 14 establishment of what became the SDU?---Yes.  
15  
10:22:03 16 And that steering committee, you refer to this in your  
10:22:07 17 statement, it sat from about mid-2004 through to March of  
10:22:12 18 2005, including during the period that the pilot was  
10:22:15 19 operational?---The dates, yeah, well - - -  
20  
10:22:18 21 You've referred to the dates in your statement, I'm not  
10:22:21 22 going to take you right through it?---If the dates are in  
10:22:22 23 the statement - yes, I accept that.  
24  
10:22:23 25 The dates you indicated are around about mid-2004 until  
10:22:28 26 about March of 2005 that you're sitting on that  
10:22:30 27 committee?---Yes.  
28  
10:22:35 29 The pilot commences in about the midst of that in about  
10:22:39 30 November 04; is that right?---Yes.  
31  
10:22:41 32 There's a document, if we can bring that up, Review and  
10:22:45 33 Develop Best Practice Human Source Management Policy,  
10:22:56 34 COM.0025.0002.0008, do you see that?---Yes.  
35  
10:22:59 36 This was a document that was produced at the end of that  
10:23:02 37 project, do you accept that?---Yes.  
38  
10:23:08 39 If we can go to p.10 of that document. It indicates who is  
10:23:19 40 in the project team, do you see that?---Yes.  
41  
10:23:22 42 It indicates that the project director was nominated as  
10:23:29 43 Commander Purton and the steering committee consisted of  
10:23:35 44 Assistant Commissioner Overland, Commander Purton,  
10:23:38 45 Commander Moloney and Superintendent Biggin. It underneath  
10:23:45 46 that lists the project team?---Yes.  
47

.20/02/20

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*MOLONEY XXN*

1 And that's headed by Superintendent Biggin of the  
2 MDID?---Yes.

3  
10:23:48 4 It includes someone from the [REDACTED]  
10:23:50 5 we've got the [REDACTED], the [REDACTED],  
10:23:54 6 Informer Management Unit, someone from VicPol on secondment  
10:23:59 7 to [REDACTED] and then it also includes Sandy White of the  
10:24:07 8 MDID at that stage, do you see that?---Yes.

9  
10:24:12 10 If we go back to p.9. If we can scroll - we see at the top  
10:24:26 11 that the previous year Assistant Commissioner Overland had  
10:24:29 12 provided a commissioning statement to Superintendent  
10:24:32 13 Biggin, who was the officer-in-charge of the MDID, to  
10:24:35 14 initiate the project?---Yes.

15  
10:24:38 16 And it seems as though Superintendent Biggin was seen as  
10:24:44 17 the most appropriate person to head the project because the  
10:24:47 18 MDID were the major users of human sources and their  
10:24:51 19 investigations were driven by that intelligence?---No, yes,  
10:24:58 20 along with his extensive experience in covert work and he's  
10:25:05 21 an experienced investigator.

22  
10:25:06 23 Clearly?---In other fields.

24  
10:25:10 25 Yes. If we can go to p.16 of that report.

26  
10:25:19 27 COMMISSIONER: The report's Exhibit 276.

10:25:21 28  
10:25:22 29 MS TITTENSOR: Yes. This might be a slightly different  
10:25:24 30 version of that so we might tender this version under 276  
10:25:29 31 as well.

32  
10:25:30 33 COMMISSIONER: Okay.

10:25:31 34  
10:25:31 35 MS TITTENSOR: But the date might be - I think one's the  
10:25:34 36 computerised version.

37  
10:25:35 38 COMMISSIONER: Okay.

10:25:35 39  
10:25:42 40 MS TITTENSOR: Do you see under the heading "Pro-active  
10:25:46 41 cultivation"?---Yes.

42  
10:25:49 43 The second paragraph down, "Consideration should be given  
10:25:52 44 to identifying human sources who have particular skills or  
10:25:56 45 attributes and who may therefore be able to undertake  
10:25:59 46 specific tasks in relation to criminal activity. Such  
10:26:02 47 persons may, for example, be able to infiltrate criminal

10:26:05 1 groups or organisations and this may lead to the  
10:26:07 2 introduction of undercover police. These skills or  
10:26:09 3 attributes may include various things, ethnic or physical  
10:26:14 4 appearance, language skills, geographical knowledge,  
10:26:18 5 specialist occupational skills or knowledge", is the last  
10:26:22 6 one?---Yes.  
7

10:26:24 8 That, if we scroll slightly up, becomes the subject of  
10:26:29 9 recommendation number 2. I just am interested, given the  
10:26:35 10 people that were involved in the group and the matters that  
10:26:38 11 were being considered by the group, along with a  
10:26:43 12 combination of circumstances, some of which you might know  
10:26:46 13 about, some of which you might not, and I'm just going to  
10:26:49 14 take you through them?---Yes.  
15

10:26:50 16 Mr Biggin's evidence to the Commission is that it was his  
10:26:55 17 understanding that prior to Ms Gobbo being signed up by the  
10:26:58 18 SDU in 2005, that she'd been dealing separately with a  
10:27:02 19 number of police members, and that her registration was an  
10:27:07 20 attempt to try and corral who she was speaking to; that's  
10:27:13 21 the essence of his evidence to the Commission, all  
10:27:15 22 right?---Fine.  
23

10:27:19 24 Prior to this, in September 2003 Ms Gobbo had been spoken  
10:27:25 25 to by Mr Swindells at Purana, do you know  
10:27:31 26 Mr Swindells?---Yes, I know Mr Swindells.  
27

10:27:33 28 Who'd made known to her that he'd become aware of some  
10:27:37 29 threats that Mr Veniamin - I take it you know the name  
10:27:41 30 Veniamin?---Yes.  
31

10:27:42 32 Had made and spoke to her about that and the fact that  
10:27:45 33 Purana were aware of it and that Purana's door was open.  
10:27:50 34 As you acknowledge, she'd developed a rapport with  
10:27:54 35 Mr De Santo during the 2003/2004 period at least?---Yes.  
36

10:28:01 37 In [REDACTED] 2004 she was dealing with Purana in relation to [REDACTED]  
10:28:08 38 [REDACTED] if you understand what I mean by  
10:28:11 39 that?---Yes. But you're telling me this, I'm not - I don't  
10:28:17 40 know.  
41

10:28:17 42 Yes, I'm telling you that?---Yes.  
43

10:28:19 44 You may or may not have known what was occurring at the  
10:28:22 45 time. She was dealing with Purana in relation to [REDACTED]  
10:28:26 46 [REDACTED] that they were dealing with?---Well  
10:28:29 47 I have to accept that, I don't know.



1  
10:28:31 2 In the course of her dealings with Purana, had spoken, had  
10:28:34 3 had a meeting with Mr Allen, Andy Allen. Do you know  
10:28:40 4 Inspector Allen?---I know Andrew Allen, yes.  
5  
10:28:44 6 During the course of conversation with him had offered some  
10:28:46 7 information in relation to assistance about a leak at  
10:28:49 8 Purana?---I'm a bit concerned where we're going with this  
10:28:53 9 because as you would realise, I indicated in my statement  
10:28:55 10 that I was never briefed in regard to any of this. So how  
10:29:01 11 can I make comment about the statements you're making? I  
10:29:06 12 don't know, I wasn't briefed in regard to any of that.  
10:29:08 13 That was an instruction by the Deputy Commissioner, or the  
10:29:12 14 Commissioner at the time, and so therefore I can't make  
10:29:16 15 comment - I can't answer your questions.  
16  
10:29:17 17 All right?---So I just ask you to note that and ask the  
10:29:21 18 Commissioner to note that, that I was not being briefed in  
10:29:24 19 regard to the Purana inquiries.  
20  
10:29:26 21 In July of 2004, during her interview with Mr Bezzina and  
10:29:30 22 Mr Davey, Ms Gobbo was making reference to essentially  
10:29:37 23 dissatisfaction representing these people and it was  
10:29:42 24 suggested to her towards the end of the interview that she  
10:29:45 25 might give those investigators a nudge off-the-record about  
10:29:50 26 information that might assist them. In late July did you  
10:29:55 27 become aware that Ms Gobbo had suffered a stroke, in late  
10:29:58 28 July of 2004?---I now know that, yes.  
29  
10:30:02 30 Is that something you would have known at the time?---After  
10:30:05 31 or subsequent to it, of course, but at some stage when we  
10:30:08 32 were with - managing her, if that's the word for it, I was  
10:30:15 33 - I became aware of that.  
34  
10:30:16 35 In late July 2004 Ms Gobbo had suffered the stroke and  
10:30:20 36 we've heard evidence at this Commission from Sandy White,  
10:30:24 37 and you know who I refer to when I say Sandy White?---Yes,  
10:30:27 38 I do.  
10:30:27 39  
10:30:28 40 Recalling that there was discussion around that time, by  
10:30:31 41 virtue of her circumstances, that she might be approached  
10:30:35 42 to assist Victoria Police. We know that in August of 2004  
10:30:42 43 there's material indicating that the MDID viewed her as,  
10:30:47 44 which is where Sandy White was located at the time, that  
10:30:52 45 the MDID was viewing her as a person of interest in at  
10:30:57 46 least one investigation and there's material referring to a  
10:31:01 47 potential TI warrant against her and there was a profile

10:31:04 1 being built about her at that stage?---I have no knowledge  
10:31:07 2 of this.

3  
10:31:08 4 Then in 2005 the Commission's heard that she starts  
10:31:11 5 informing to Bateson, Mr Bateson?---I have no knowledge of  
10:31:15 6 that.

7  
10:31:16 8 During this period of time, as you're sitting on a steering  
10:31:21 9 committee dealing with issues related to informer and best  
10:31:25 10 practice informer management, and you're considering issues  
10:31:29 11 such as identifying human sources with particular skill  
10:31:35 12 sets, including particular occupations, was there any  
10:31:40 13 discussion about what those particular occupations might  
10:31:44 14 be?---At the committee?

15  
10:31:47 16 Yes?---Not that I remember but it would have been a  
10:31:52 17 consideration, I suppose, but it would have been included  
10:31:54 18 in the discussion, in the report if it had have been  
10:31:57 19 specifically spoken about.

20  
10:31:59 21 You're sitting around a table with people that have, are  
10:32:03 22 essentially oversighting the various people that are  
10:32:06 23 getting all of this information, you understand what I'm  
10:32:08 24 saying there?---Yes, I do.

25  
10:32:12 26 Do you think that there might have been some communication  
10:32:14 27 with others on the steering committee about the prospect  
10:32:16 28 that Ms Gobbo might be someone who would be of assistance  
10:32:19 29 to Victoria Police?---No, the nature of that committee was  
10:32:24 30 certainly high level, national, representing the national  
10:32:29 31 committee, formulating the best practice for Australia.  
10:32:32 32 That was the purpose of the whole thing, and I was on that  
10:32:35 33 national committee, and I wouldn't personally tolerate the  
10:32:41 34 mentioning of any specific human source or proposed human  
10:32:45 35 source at a table like that with the people that were  
10:32:47 36 around it. Again, we go back to the need to know. It  
10:32:50 37 would be wrong for a discussion like that to take place and  
10:32:57 38 I'm sure Overland wouldn't have tolerated it and neither  
10:33:02 39 would I, and neither would 90 per cent of the people there  
10:33:04 40 that I know.

41  
10:33:06 42 There were four of you that were on the committee?---M'mm.

43  
10:33:09 44 Yourself, Mr Purton, Mr Biggin and Mr Overland. Do you  
10:33:14 45 think that there might have been some informal discussions  
10:33:18 46 between one or more or two or more of you?---I've just  
10:33:22 47 answered the question. No.

1  
10:33:23 2 I'm not talking about sitting around this big committee  
10:33:26 3 table, I'm talking about someone joining the dots?---No.  
4  
10:33:31 5 And that's part of police work, isn't it?---No.  
6  
10:33:34 7 When you made your initial statement you said you couldn't  
10:33:37 8 state with any certainty when you came to know Ms Gobbo was  
10:33:41 9 a human source; is that right?---Yes.  
10  
10:33:43 11 It's fair to say that having been shown some more material  
10:33:46 12 since that time you accept that you came to know that  
10:33:50 13 Ms Gobbo was a source being operated by the SDU by early  
10:33:54 14 October 2005?---That's correct, that's in my supplementary  
10:33:58 15 statement.  
16  
10:33:59 17 But you go on in your supplementary statement to say you  
10:34:02 18 don't believe you were briefed as to the full extent of her  
10:34:05 19 anticipated or actual use?---Sorry, the noise was  
10:34:09 20 just - - -  
21  
10:34:09 22 You go on in your supplementary statement to say you don't  
10:34:13 23 believe you were briefed as to the full extent of her  
10:34:15 24 anticipated or actual use as a human source?---Yes, I was  
10:34:18 25 never briefed in regard to her tasking or what she was  
10:34:28 26 supplying.  
27  
10:34:29 28 I suggest you were briefed as to what it was anticipated  
10:34:32 29 that she would be useful for?---In the sense of?  
30  
10:34:39 31 Well you say, "I don't believe I was briefed as to the full  
10:34:42 32 extent of her anticipated or actual use as a human source".  
10:34:45 33 I'd suggest that you were briefed as to "the reason why  
10:34:47 34 we're signing up this person and the type of information  
10:34:50 35 she could provide"?---Yeah, well she was dealing with  
10:34:53 36 multiple criminals, both socially and professionally, and  
10:35:02 37 that information could have come from any source, any one  
10:35:07 38 of - or information about any of the individuals involved  
10:35:12 39 may have been of value to Victoria Police. That's about  
10:35:18 40 the extent of it.  
41  
10:35:20 42 Mr White's diary refers to his meeting with you where  
10:35:24 43 you're being briefed and he writes, "3838 full  
10:35:28 44 briefing"?---Yep.  
45  
10:35:29 46 That would tend to indicate he's given you a full briefing  
10:35:31 47 about what's gone on with Ms Gobbo to that point?---Well,

10:35:38 1 that can be interpreted a lot of ways. If you go back to  
10:35:41 2 our discussion that I opened up with in answer to a  
10:35:47 3 question from legal, my legal, a number of things occurred  
10:35:52 4 in the July of that year when I arrived there. There was a  
10:35:56 5 discussion between myself or a, what do you call it, a  
10:36:03 6 setting of the standards, if that's the word for it, in  
10:36:06 7 regard to how we were going to run our business, one being  
10:36:09 8 the then Assistant Commissioner Overland and myself on my  
10:36:15 9 first day of arrival and taking charge of the new  
10:36:17 10 department, or the Intel and Covert Support department. We  
10:36:23 11 both co-habitate, both co-habitate in St Kilda Road, the  
10:36:29 12 same building, and share the floors, but we are two totally  
10:36:32 13 separate departments operating completely differently. And  
10:36:37 14 I describe in my subsequent statement that's been produced  
10:36:41 15 overnight, that in fact they are two separate identities  
10:36:45 16 with two separate roles. And I had a meeting with him that  
10:36:49 17 night which went for something like an hour and a half or  
10:36:53 18 thereabouts, in regard to personnel and all of the  
10:36:56 19 administrative areas. In that time he did raise one issue  
10:37:02 20 that he wanted to discuss in regard to operations and he  
10:37:05 21 informed me that I would not be briefed in regard to the  
10:37:07 22 operations of two very sensitive, complex investigations  
10:37:10 23 that he was managing and that they were at such a stage  
10:37:14 24 that they're - - -

25

10:37:18 26 All right?---So when you consider that, right, number one,  
10:37:21 27 the Superintendents that were supplying resources from my  
10:37:26 28 department, operationally couldn't brief me. Yes, they  
10:37:31 29 briefed me in regard to administration, resources. So then  
10:37:34 30 you've got a situation where, and put it in order, then  
10:37:39 31 you've got a situation where Mr Overland has stated that he  
10:37:43 32 told me at a certain time, right, he believes it was late  
10:37:49 33 September I believe, per his transcript that was read to  
10:37:53 34 me, September/October, that there needed to be - she needed  
10:37:57 35 to be treated with care or whatever, right?

36

10:38:01 37 Right, so you - - - ?---As a result of that - - -

38

10:38:07 39 So you need to know and you're being told?---Yeah - no, no.  
10:38:10 40 Then - no, no, in regard to her handling, not her tasking.  
10:38:13 41 There's a big difference. Now what the subsequent meetings  
10:38:16 42 were, were me saying, "Right, I believe" - well as a result  
10:38:22 43 of his comment, right, I then called for a briefing, made  
10:38:29 44 sure that they understood what they were dealing with, made  
10:38:32 45 sure that they put in place checks and balances and then I  
10:38:36 46 had a subsequent meeting with the two Superintendents to  
10:38:38 47 say, "I want this monitored, do your job. If there's any

10:38:44 1 issues let me know and I want to be briefed at a couple of  
10:38:47 2 regular occasions", and I think there's about three  
10:38:50 3 briefings after that over the next period of time where I  
10:38:53 4 was briefed in regard to were there any issues, was she  
10:38:58 5 behaving, if that's the word for it, is there any issues  
10:39:02 6 with her tasking? Did I get briefed in regard to what she  
10:39:06 7 was tasked on? No. There were many people, human sources  
10:39:08 8 that were being used right across this State. And, no, I  
10:39:10 9 never got briefed on her tasking.  
10  
10:39:12 11 Mr Moloney, did you say when you were briefed on those  
10:39:15 12 issues, "Oh my Goodness, she's a lawyer, we better have  
10:39:20 13 some proper precautions in place about dealing with this  
10:39:24 14 lawyer, what's our policy in relation to that"?---No, I  
10:39:28 15 would have suggested that Mr Overland, and I accept that he  
10:39:30 16 did tell me, would have told me.  
17  
10:39:32 18 That she's a lawyer?---Told me her name and she's a lawyer  
10:39:36 19  
10:39:36 20 And he's told you that, "We need to be careful"?---Yep.  
10:39:38 21  
10:39:39 22 "You know she represents organised crime figures"?---Yes.  
10:39:41 23  
10:39:42 24 "You know she's going to be informing on organised crime  
10:39:44 25 figures"?---No, he didn't have to say all that because I  
10:39:49 26 would have accepted that with my experience over the years  
10:39:51 27 so that's why - - -  
28  
10:39:52 29 And did you say, "We need to be very careful about how we  
10:39:55 30 use Ms Gobbo"?---That's why the lead handler - - -  
31  
10:39:56 32 "We better get some legal advice"?---That's why the lead  
10:40:00 33 handler and his direct reports, direct reporting line were  
10:40:04 34 all brought to my office, spoken to, and to ensure that I  
10:40:10 35 was advised if anything happened. Well - - -  
36  
10:40:12 37 Who was brought to your office?---Well, not brought to my  
10:40:14 38 office but I had meetings with I believe - - -  
10:40:18 39  
10:40:18 40 Sandy White?---Biggin. Yeah, I had Sandy White and then  
10:40:22 41 later on it was Biggin and Porter who were the two  
10:40:27 42 Superintendents.  
43  
10:40:28 44 Did you say, "We better get some legal advice to check that  
10:40:31 45 this is all bona fide, that we're allowed to do this"?---I  
10:40:37 46 didn't need legal advice to see whether we were allowed to  
10:40:42 47 do this.

1  
10:40:42 2 Why not?--Well why wouldn't any person be restricted from  
10:40:46 3 coming and supplying information to Victoria Police if it's  
10:40:49 4 protecting the society of Victoria?  
5  
10:40:51 6 If it's proposed that they're to be giving information to  
10:40:56 7 police about their clients and that they're to continue to  
10:41:00 8 represent their client, did you think, "M'mm, maybe we  
10:41:04 9 better get some legal advice"?---If that was brought to my  
10:41:08 10 attention, certainly.  
11  
10:41:09 12 When Mr Sandy White records in his diary that he gives you  
10:41:12 13 a full briefing and that full briefing indicates that that  
10:41:18 14 very thing is going to happen, if he's giving you a full  
10:41:22 15 briefing the very basics of a full briefing would be, "She  
10:41:26 16 acts for Tony Mokbel, she's giving us information about  
10:41:30 17 Tony Mokbel", that's the basics?---No it's not, not when  
10:41:34 18 you look at the administration and the application of the  
10:41:36 19 roles and responsibilities that they have.  
20  
10:41:38 21 So that's okay, she's allowed to inform on Tony Mokbel and  
10:41:41 22 represent him at the same time?---She's allowed to inform  
10:41:45 23 on anybody  
24  
10:41:47 25 And represent them at the same time?---Unless she there is  
10:41:49 26 a client - unless the information came under the umbrella  
10:41:53 27 of a privileged situation.  
28  
10:41:56 29 Had you ever heard about a barrister informing  
10:41:59 30 before?---No.  
31  
10:42:01 32 I just want to be clear on this?---Yes.  
33  
10:42:03 34 You see no problem with her continuing to act for someone  
10:42:06 35 that she's informing to police on?---Depends on the  
10:42:10 36 circumstances.  
37  
10:42:11 38 Well in these circumstances, she's acting for Tony Mokbel  
10:42:14 39 and you see no problem with her informing on him - - -  
10:42:17 40 ?---If it's related to, if it's related to what she's  
10:42:21 41 representing him on, of course it's wrong. Totally wrong.  
42  
10:42:24 43 So as long as she's not giving you information about the  
10:42:26 44 current trial she can continue to represent his best  
10:42:29 45 interests and inform on him, along she goes?---I don't  
10:42:34 46 agree with the principle that somebody can put a retainer  
10:42:38 47 on a barrister, or anybody else, whether it be a Legal Aid

10:42:42 1 solicitor at Seymour, or alternatively a barrister, is no  
10:42:52 2 difference.  
3  
10:42:52 4 How could she continue to act in Mr Mokbel's best interests  
10:42:56 5 at the same time as she was informing to police on him?---I  
10:43:00 6 don't know the circumstances so I'd have to make a judgment  
10:43:03 7 on every case. Every set of circumstances.  
8  
10:43:05 9 Just taking those basic facts. She's representing Tony  
10:43:08 10 Mokbel in a drug trial. She's telling the police - the  
10:43:13 11 very first question they ask her, "Tell us everything you  
10:43:16 12 need to tell us about Tony Mokbel, how do we put him  
10:43:21 13 away?", and off she goes. How can she continue to act for  
10:43:25 14 Tony Mokbel in those circumstances?---Yes, conflict of  
10:43:26 15 interest.  
16  
10:43:27 17 Yes. And this is what the police are encouraging her to  
10:43:30 18 do?---Well I don't know that.  
19  
10:43:32 20 Well you do, you're getting a full briefing?---No, your  
10:43:35 21 definition - - -  
22  
10:43:35 23 It's the very reason she's signed up?---I've explained to  
10:43:38 24 you what the nature of the briefing was. The instruction  
10:43:40 25 in regard to me being briefed in regard to operational  
10:43:45 26 policing stood fast for that whole time and the  
10:43:47 27 Superintendents had been briefed that they were not to  
10:43:49 28 brief me and so had Mr White.  
29  
10:43:52 30 So you see no problem in her continuing to act for Tony  
10:43:59 31 Mokbel?---If I wasn't briefed on it how could I have a  
10:44:02 32 problem?  
33  
10:44:03 34 Did you ask?---No.  
35  
10:44:06 36 Did you make a positive inquiry?---No, there'd been an  
10:44:10 37 instruction issued that I was not to be briefed, and I  
10:44:14 38 wouldn't put the member - - -  
39  
10:44:15 40 Who issued the instruction you were not to be  
10:44:17 41 briefed?---Simon Overland.  
42  
10:44:18 43 So he told you, "You need to be very careful but you're not  
10:44:21 44 to be briefed"?---Not on the operational side. That  
10:44:24 45 instruction stayed.  
46  
10:44:25 47 I'm going to suggest to you that the diary entries over the





10:47:36 1 MR HOLT: 26 and 27, that's correct. It's far more  
10:47:36 2 detailed than - - -  
10:47:36 3  
10:47:37 4 COMMISSIONER: Can you have the name but take out the role  
10:47:40 5 is what I'm asking you? What's needed in, Ms Tittensor?  
10:47:44 6 Do you need the name?  
10:47:46 7  
10:47:47 8 MS TITTENSOR: I would like to be able to put to the  
10:47:49 9 witness that if - that the witness has given an instruction  
10:47:53 10 that [REDACTED] to be used [REDACTED],  
10:47:56 11 [REDACTED], [REDACTED] needs to be informed.  
10:48:02 12  
10:48:02 13 MR HOLT: I think if the name goes and that proposition is  
10:48:06 14 there shouldn't be a problem, Commissioner.  
10:48:06 15  
10:48:07 16 COMMISSIONER: We'll take out the name on line 26. Take  
10:48:10 17 out the name in the transcript and the live stream, thank  
10:48:15 18 you. So you understand the proposition that's being put,  
10:48:17 19 Mr Moloney?---Sorry?  
10:48:17 20  
10:48:19 21 You understand the proposition that's being put?---Sort of,  
10:48:22 22 sorry.  
10:48:22 23  
10:48:23 24 Maybe just repeat it, Ms Tittensor?---Yes, I'd have  
10:48:26 25 to - - -  
10:48:26 26  
10:48:27 27 After all that interruption, yes.  
10:48:28 28  
10:48:29 29 MS TITTENSOR: What's being discussed, and what arises out  
10:48:31 30 of the conversations that have been had with Ms Gobbo in  
10:48:36 31 the lead up to when you were given the full briefing by -  
10:48:40 32 I'll perhaps just take you through it. Mr White, as I've  
10:48:45 33 put to you, says he gives you a full briefing?---Yes.  
10:48:45 34  
10:48:49 35 By that stage Ms Gobbo had had an initial assessment and  
10:48:52 36 the first question she's asked is, "Tell us everything you  
10:48:56 37 know about Tony Mokbel", and off she goes and she says,  
10:48:59 38 "How many days have you got?", and that turns out to be  
10:49:02 39 true, there's three further debriefs by the time you speak  
10:49:07 40 to Mr Sandy White on 4 October?---Okay.  
10:49:07 41  
10:49:12 42 There's hours and hours of conversation that they've  
10:49:14 43 already had with her. She's received a human source  
10:49:19 44 registration number by that time, although there's no  
10:49:22 45 documents that are filed yet. She's already provided  
10:49:25 46 significant information about her client Tony Mokbel, as  
10:49:29 47 well as various others that are associated with him. She's

10:49:32 1 provided information about at least two other clients of  
10:49:35 2 hers who she says might be able to assist in bringing down  
10:49:40 3 Tony Mokbel. There are initially opportunities seen to use  
10:49:48 4 Ms Gobbo for Operation Quills, which was the MDID operation  
10:49:52 5 that was going on, but that expands and it shifts focus and  
10:49:57 6 it becomes an operation in Purana and Jim O'Brien is moving  
10:50:02 7 to Purana and it becomes Operation Posse, all right?---Yes.

8  
10:50:08 9 Within that period of time, within that short period of  
10:50:11 10 time prior to the meeting with you there are a number of  
10:50:13 11 tactical scenarios that have been developed. They include  
10:50:17 12 [REDACTED] Mr Mokbel to  
10:50:22 13 pursue his interest [REDACTED]  
10:50:25 14 [REDACTED] that might assist him in defending his  
10:50:31 15 upcoming trial?---M'mm.

16  
10:50:33 17 Another one involves arranging for one of Ms Gobbo's  
10:50:37 18 clients, who might be able to assist in bringing down  
10:50:40 19 Mr Mokbel, to [REDACTED] Detective Flynn so  
10:50:45 20 that they might [REDACTED], perhaps he  
10:50:50 21 can be recruited in the meantime, all right?---M'mm.

22  
10:50:52 23 You understand that?---Well, you're telling me stuff I  
10:50:57 24 don't know about, so yeah.

25  
10:51:00 26 What I'm suggesting to you is that within this full debrief  
10:51:03 27 that you get from Mr Sandy White these are the types of  
10:51:07 28 things you would have been told. You would have been told  
10:51:09 29 about these tactical scenarios that are being developed.  
10:51:14 30 There are issues obviously being discussed at a high level  
10:51:18 31 over confidentiality that's needed in relation to using  
10:51:22 32 Ms Gobbo and recording the contacts with her.  
10:51:27 33 Mr Overland's concerned about that and he's concerned that  
10:51:30 34 she's not to be burnt in any plan, all right, we've got  
10:51:34 35 some diary entries that indicate those kinds of  
10:51:37 36 things?---Fine.

37  
10:51:38 38 So, "If we're going to use Ms Gobbo we're not to burn  
10:51:42 39 her"?---That's his directions to his people.

40  
10:51:44 41 Yes?---Yes.

42  
10:51:48 43 He's indicating that Commander Purton is to be fully  
10:51:51 44 involved and to discuss matters with Ian Thomas?---Yes.

45  
10:51:54 46 And Ian Thomas is just under you; is that right?---He was  
10:51:57 47 one of the Superintendents.

1  
10:52:00 2 He acted in your position when you weren't  
10:52:03 3 there?---Correct.  
4  
10:52:06 5 This is all happening in the lead up to 4 October and then  
10:52:09 6 you, on 4 October, Mr Sandy White records in his diary, get  
10:52:15 7 a full briefing, right?---Yes.  
8  
10:52:17 9 On 5 October meetings are occurring in relation to these  
10:52:21 10 tactical - to discuss these tactical issues. You're  
10:52:27 11 present at meetings with members of I&CS, as Mr Thomas is  
10:52:36 12 there as well?---So where's this located? I haven't seen -  
10:52:40 13 what date and time was that?  
10:52:41 14  
10:52:43 15 There's 5 October 2005, Purton has it in his diary at  
10:52:47 16 15:30. Mr White's got you being updated again at  
10:53:00 17 17:45?---Was I at those meetings? That's the question.  
18  
10:53:03 19 You yourself have your own diary entry of a meeting with  
10:53:06 20 Purton, Biggin and Thomas re 3838?---Yes, and that  
10:53:12 21 was - - -  
22  
10:53:13 23 I put to you - I'll put to you that Mr White's diary at the  
10:53:17 24 very least - Mr Purton has you at a meeting at 13:30 in his  
10:53:22 25 diary?---M'mm.  
26  
10:53:24 27 All right, with all those other people. Mr White, at the  
10:53:32 28 least, updates you later in the day, including - and his  
10:53:38 29 entry includes updating you re tactical options re 3838 and  
10:53:44 30 your response to him was that you need to [REDACTED]  
10:53:47 31 [REDACTED] if you're going [REDACTED]  
10:53:51 32 [REDACTED] okay?---M'mm.  
33  
10:53:58 34 So it indicates that you are advised of what the tactical  
10:54:03 35 plans are?---No, it doesn't mean that. It means that  
10:54:08 36 because it was going to be [REDACTED]  
10:54:12 37 [REDACTED], or a thingy bob, they, or he, decided to ask my  
10:54:19 38 advice and I told him. It certainly doesn't mean that I  
10:54:24 39 was briefed to that extent. The meeting I had was not  
10:54:29 40 relating to the tactical response. And I would expect  
10:54:36 41 either him or the Superintendent to bring it to my  
10:54:38 42 attention that was one of the plans.  
43  
10:54:41 44 Do you say, "I just get these tiny little snippets of  
10:54:46 45 information"?---Only when it related to things like - - -  
46  
10:54:49 47 The full briefing wouldn't have related to giving me a full

10:54:52 1 briefing about the fact that we're getting all this  
10:54:54 2 information about Tony Mokbel and these are the tactical  
10:54:57 3 scenarios that we're exploring as a result?---Definitely  
10:54:59 4 not.  
5

10:55:00 6 All right. On 22 October you're having a meeting with a  
10:55:22 7 number of ESD Superintendents; is that right?---Can you  
10:55:27 8 please refer me to the - - -  
9

10:55:29 10 Your statement, paragraph 61 and 62?---Okay, yes.  
11

10:55:45 12 You're supplying them with a number of information  
10:55:47 13 reports?---No, I didn't supply them. They brought that to  
10:55:54 14 the meeting I believe.  
15

10:55:58 16 It's apparent from SDU records that ESD were supplied with  
10:56:06 17 three information reports. Do you say at that meeting  
10:56:11 18 you're not supplying those two gentlemen with reports  
10:56:15 19 relating to information that Ms Gobbo has provided that  
10:56:19 20 bore upon ESD interests? That would be something you would  
10:56:23 21 be engaged in doing, wouldn't it?---No, my memory of that  
10:56:27 22 was very simple. I got queried by the SDU that they had  
10:56:35 23 information that would be of interest to the Ethical  
10:56:42 24 Standards Department and that they wanted authority to pass  
10:56:45 25 over those information reports to the Ethical Standards  
10:56:53 26 Department. I, from memory, contacted the head of ESD and  
10:57:01 27 said, "Do you agree that under these circumstances",  
10:57:06 28 because this might not be the first time this is necessary,  
10:57:10 29 "that in fact", and I had a similar implementation plan for  
10:57:14 30 Ceja and ESD with my own, that other operation, and he  
10:57:19 31 agreed, and I'm pretty sure it was Assistant Commissioner  
10:57:25 32 Cornelius, he agreed that there was absolutely no need for  
10:57:28 33 us to be - having to authorise that, at Superintendent  
10:57:32 34 level they can make that decision.  
35

10:57:34 36 Mr Cornelius wasn't in his position at that stage. Look,  
10:57:36 37 I'm just going to suggest to you, Mr Moloney, that it was  
10:57:39 38 you passing over three information reports containing  
10:57:43 39 information that Ms Gobbo had provided which bore upon  
10:57:46 40 ESD?---Yeah, I cannot remember that. I believed it was  
10:57:50 41 Mr Wilson wanting to hand over information to what's his  
10:57:53 42 name. I just approved it.  
43

10:57:55 44 If you were handing over information reports to ESD would  
10:57:58 45 you have been aware of the contents of those reports?---May  
10:58:02 46 have been, may have not. I couldn't tell you.  
47

10:58:07 1 The three information reports appear to be - they're  
10:58:11 2 contained in the SML - IR 278 which related to Solicitor 2  
10:58:18 3 and her representation of Mr Mokbel. The second one, IR  
10:58:23 4 274, related to two individuals involved in a tobacco  
10:58:28 5 seizure where \$100,000 was seized but not declared by  
10:58:32 6 police. This was some information that Ms Gobbo had  
10:58:35 7 provided?---Yes.  
8

10:58:36 9 And the third IR, IR 276, related to information about  
10:58:43 10 Ms Gobbo's client, who we know as [REDACTED], who was the  
10:58:50 11 client she was representing at the time that she was  
10:58:52 12 essentially recruited by the MDID and handed over to the  
10:58:56 13 SDU?---No, that doesn't ring any bells at all.  
14

10:58:59 15 All right. Those are the three - - - ?---Yes.  
16

10:59:01 17 There were three information reports that were provided to  
10:59:04 18 ESD. It seems as though this is how they were handed  
10:59:08 19 over?---My belief is that I was contacted because they  
10:59:15 20 wanted authority, not only for this, but into the future,  
10:59:17 21 the Superintendents wanted to create an authorised chain  
10:59:24 22 of, or channelling of information between the two  
10:59:26 23 departments and I authorised the two Superintendents by  
10:59:32 24 name to actually liaise directly without having to notify  
10:59:37 25 myself or the other Assistant Commissioner.  
26

10:59:42 27 I just want to ask you about the registration process.  
10:59:46 28 Ms Gobbo was first assessed by the SDU on 16 September  
10:59:53 29 2005. She is then further debriefed from 21 September 2005  
10:59:59 30 and I took you through some of that before?---Yes.  
31

11:00:02 32 She gets a human source number allocated to her by 26  
11:00:08 33 September 2005. We see that starting to appear in people's  
11:00:11 34 diaries, 3838?---Yes.  
35

11:00:13 36 Now if that happened prior to her registration is that  
11:00:19 37 something that was able to occur?---Well I don't know what,  
11:00:26 38 what - how she was handled to that stage.  
39

11:00:28 40 There's no SDU registration application, risk assessment  
11:00:32 41 done until the 22nd, 23rd of November 2005?---M'mm.  
42

11:00:38 43 I just want to understand, there's a substantial period of  
11:00:41 44 time, two months in between, and information has been  
11:00:47 45 gotten from Ms Gobbo, it's been disseminated, she's not  
11:00:50 46 gone through the formal registration process, is that  
11:00:53 47 something that was usual?---But I believe she did go

11:00:56 1 through a formal - I'm under the belief she was registered.  
2

11:01:00 3 What I'm putting to you is that the papers for her formal  
11:01:04 4 registration were not submitted until 22nd, 23rd of  
11:01:09 5 November, over two months after she'd been initially  
11:01:12 6 assessed?---Well I don't know about that.  
7

11:01:16 8 No-one's looking at - - -  
11:01:16 9

11:01:16 10 MR CHETTLE: That's not the evidence and the position. The  
11:01:21 11 evidence was the assessment process and the registration  
11:01:23 12 process took a period of time. It wasn't the way it's been  
11:01:27 13 put. Everybody, not just Sandy White, Mr Biggin and  
11:01:31 14 everyone has given evidence about the process and how it  
11:01:34 15 occurred. Ms Tittensor is not putting it accurately.  
11:01:38 16

11:01:39 17 MS TITTENSOR: No-one's looking and assessing this risk  
11:01:43 18 assessment. It's not written up until the 22nd or 23rd or  
11:01:47 19 provided to superiors until November, late November. This  
11:01:53 20 was someone that was a very sensitive human source, a very  
11:02:01 21 high risk human source?---They were all high risk sources,  
11:02:03 22 yes.  
23

11:02:05 24 You'd been told specifically by Mr Overland, "Take care of  
11:02:09 25 this one"?---In regard to her welfare and her management,  
11:02:15 26 yes, but not her - - -  
27

11:02:20 28 And - - - ?---No. At this level, right, when you're  
11:02:24 29 running the business, I don't get involved. Even when I  
11:02:30 30 was involved at Region 3 managing the intelligence, the  
11:02:35 31 human source manager there, the Inspector does all the  
11:02:38 32 management of the files and everything else. You're just  
11:02:40 33 monitoring. This is even further because you've got  
11:02:46 34 Mr White, then you've got an Inspector and then you've got  
11:02:50 35 a Superintendent who are all very experienced people who  
11:02:52 36 all have the role and responsibility. The Assistant  
11:02:55 37 Commissioner does not get briefed in regard to the progress  
11:02:57 38 of these things.  
39

11:02:58 40 I'm asking you about your knowledge of the submission of  
11:03:01 41 documents for this formal registration process occurring  
11:03:06 42 months down the track, so no one's looking at these risk  
11:03:10 43 assessments until months down the track, is that something  
11:03:12 44 that you know to your knowledge, is that usual, that it  
11:03:16 45 took months for the risk assessment to be submitted?---It  
11:03:18 46 did.  
47

11:03:19 1 For an Inspector, for a local area - Local Informer  
11:03:23 2 Registrar, to be able to assess those documents, it's not  
11:03:26 3 happening until well after we're off and running with this  
11:03:30 4 human source?---It's not proscriptive because every case is  
11:03:33 5 different and every registration is different. These are  
11:03:35 6 very experienced people. Did I have knowledge of the  
11:03:39 7 progress of that or when she was registered? No, I did  
11:03:42 8 not. That was handled by them but it could take weeks,  
11:03:47 9 months, days or hours to register one, depending on the  
11:03:50 10 nature of the circumstances.

11 11  
11:03:51 12 And we've got someone who is in a very unusual category,  
11:03:56 13 she's a lawyer, she's providing information about clients.  
11:04:01 14 Is this - should people have said, "Stop, hold your horses,  
11:04:06 15 we need to make sure all our Is are dotted, our Ts are  
11:04:12 16 crossed, we need to make sure everything's in place before  
11:04:15 17 we proceed with this"? Do you accept that?---Well, I  
11:04:18 18 accept they'd progress it thoroughly and professionally.

19 19  
11:04:21 20 You accept it was progressed thoroughly and  
11:04:26 21 professionally?---I don't know, because I had knowledge of  
11:04:29 22 the registration process or what the members undertook in  
11:04:32 23 assessing and doing the various risk assessments.

24 24  
11:04:34 25 There's a number of references in some diaries and later in  
11:04:43 26 2009 to Ms Gobbo having been allocated some sort of  
11:04:49 27 supergrass status within HSMU. At a workshop debrief in  
11:04:57 28 July of 2009 it was noted that 3838 was allocated  
11:05:03 29 supergrass status and was not on the HSMU database. There  
11:05:08 30 was an envelope registration, and discussed it being a  
11:05:10 31 flawed decision to isolate Gobbo from the registration  
11:05:15 32 process, she being thought of and treated as special. Now,  
11:05:21 33 are you able to shed any light on Ms Gobbo being given some  
11:05:25 34 sort of special treatment in the registration  
11:05:29 35 process?---No.

36 36  
11:05:38 37 Can you shed any light on that at all?---No.

38 38  
11:05:42 39 Not - - - ?---It's the first I've heard of it.

40 40  
11:05:47 41 If there were changes to the registration process for a  
11:05:50 42 particular human source, and one that you'd been told by  
11:05:53 43 Overland to look after, do you expect you would have known  
11:05:57 44 about it?---Not necessarily.

45 45  
11:06:06 46 You refer at paragraph 64 of your statement to a visit that  
11:06:09 47 you made to the SDU office?---Yes.

1  
11:06:17 2 Mr White has a diary entry indicating that he had a  
11:06:20 3 discussion with you that day about 3838 and giving you an  
11:06:24 4 update in relation to the matter?---Yes.  
5  
11:06:34 6 That very day he completes a monthly source review. If we  
11:06:38 7 bring up the SML at p.14. See at the bottom of p.14 there,  
11:06:49 8 the day that you're there he's doing his monthly source  
11:06:52 9 review. "Source remains high risk. Intended deployment of  
11:06:56 10 undercover creates additional risk factor of potential for  
11:07:00 11 compromise of source. Strategy to be discussed with  
11:07:03 12 Undercover Unit prior to acceptance of proposal. Source  
11:07:06 13 remains a daily source of high grade intelligence.  
11:07:09 14 Handling duties are intense and a third handler will be  
11:07:12 15 introduced to same to minimise risk. DSU management to  
11:07:17 16 continue." Do you expect that those types of matters were  
11:07:21 17 raised with you that day?---I can't remember it because it  
11:07:25 18 was a visit to the Unit to say hello and have a cup of  
11:07:32 19 coffee and all that type of thing, from memory, because if  
11:07:36 20 I attended their premises I turned it into a sit down talk  
11:07:40 21 and a bit of a discussion of how morale was and any other  
11:07:44 22 issues relevant to the business, rather than the tasking,  
11:07:46 23 the nature of the tasking.  
11:07:46 24  
11:07:47 25 Given Mr White's diary entry of discussing 3838 and giving  
11:07:50 26 you an update about her?---Yes.  
27  
11:07:52 28 Would you accept that those are the types of issues you  
11:07:54 29 would have discussed with him?---Yes, if he gave me an  
11:07:58 30 update there he would have talked about is she still a high  
11:08:02 31 risk.  
32  
11:08:08 33 You would have been aware of major investigations, I take  
11:08:11 34 it, that were being run by the Crime Department, or by  
11:08:16 35 Purana?---No.  
36  
11:08:17 37 If they were involving your human sources that were being  
11:08:23 38 managed within your department?---Yes.  
39  
11:08:27 40 And there were significant resources being devoted to  
11:08:30 41 something like Operation Posse from your department, not  
11:08:33 42 just in terms of sources but the Undercover Unit,  
11:08:36 43 Surveillance Unit, those kinds of things?---Yes.  
44  
11:08:39 45 You would have been aware of what Operation Posse was I  
11:08:41 46 take it?---You'll have to remind me. I've heard of it.  
47

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*MOLONEY XXN*



11:08:46 1 It was part of Purana, it was about attacking the Mokbel  
11:08:51 2 criminal cartel?---I wasn't briefed on that.  
3

11:08:59 4 Were you aware that Purana were working on, following on  
11:09:04 5 from arresting a number of figures in the gangland  
11:09:10 6 killings, they moved on to drug targets? You would have  
11:09:16 7 been aware of that I take it? You were the head of - - -  
11:09:25 8 ?---Targets, yeah. Well they moved on, yes. It was phase  
11:09:30 9 one, phase two. I knew there was phase one, I knew there  
11:09:34 10 was phase two.  
11

11:09:35 12 Jim O'Brien came to head Purana and there was a bit of a  
11:09:37 13 change in focus for Purana, they were now going after drug  
11:09:41 14 targets?---Phase one and phase two were Simon's operations.  
15

11:09:48 16 You're aware that Jim O'Brien had come on board to lead  
11:09:52 17 Purana?---Yes, I remember Jim O'Brien being brought on  
11:09:56 18 board.  
19

11:09:56 20 You were aware that there was a bit of a change or focus  
11:09:57 21 and they were focusing on drug targets?---Expanded targets,  
11:10:02 22 yes. Whether they were drug targets or others, I'm not  
11:10:05 23 sure.  
24

11:10:06 25 In late August 2006 there was an audit conducted by  
11:10:10 26 Mr Biggin?---Yes.  
27

11:10:11 28 Have you read that document?---Yes.  
29

11:10:14 30 Exhibit RC277. That was an audit that had been requested  
11:10:20 31 by you?---Yes, I asked him to conduct an audit, yes.  
32

11:10:26 33 What led you to asking him to conduct an audit specifically  
11:10:30 34 in relation to Ms Gobbo?---I cannot remember where - what  
11:10:35 35 initiated that. I feel it might have been called for by  
11:10:43 36 Simon but I can't declare, I can't - Simon Overland, but I  
11:10:46 37 can't confirm that in any way. That's the person I think  
11:10:51 38 may have asked for it to be done. And as I indicate in my  
11:10:57 39 statement, the document was not - I was not included on the  
11:11:05 40 distribution list.  
41

11:11:07 42 Given that you were the one that requested it, and it was  
11:11:11 43 someone under your command?---Yes.  
44

11:11:13 45 That was included on the distribution list?---Yes.  
46

11:11:16 47 Do you think it likely would have ended up with you or you

11:11:18 1 would have at least received a report about it?---I believe  
11:11:21 2 that Superintendent Biggin briefed me verbally in regard to  
11:11:24 3 the outcome, but I cannot remember seeing the document and  
11:11:30 4 a document comes on to my table, I usually put my initials  
11:11:35 5 on it, and I wasn't on the distribution list. But the  
11:11:37 6 content, I believe Biggin verbally briefed me.  
7

11:11:42 8 Were you briefed about any concerns arising from Ms Gobbo's  
11:11:47 9 occupation?---I don't think so.  
10

11:11:51 11 Were you ever briefed on any concerns arising from the fact  
11:11:54 12 of Ms Gobbo's occupation?---I think the first time was when  
11:12:06 13 I saw an issue in that was in regard to the SWOT analysis  
11:12:14 14 or whether it was created by Superintendent Biggin later  
11:12:19 15 on.  
16

11:12:19 17 We'll come to that?---Yes.  
18

11:12:21 19 But that's the first time you appreciated that there might  
11:12:24 20 be an issue about using a barrister?---From memory - no, it  
11:12:28 21 was always there, but if it was being managed and issues  
11:12:32 22 weren't coming up to my table, I accepted that the  
11:12:34 23 management had those types of issues under control.  
24

11:12:40 25 What was in place that satisfied you that it was being  
11:12:43 26 appropriately managed?---The briefings I gave the line  
11:12:49 27 managers in regard to her management.  
28

11:12:53 29 And what was that?---Well basically - - -  
30

11:12:57 31 Do the right thing?---No, it wasn't do the right thing. It  
11:13:00 32 was a briefing in regard to if there's any issues in regard  
11:13:05 33 to her behaviour, was one issue that was discussed - I  
11:13:09 34 can't remember the exact conversation now but it involved  
11:13:11 35 everything relating to her and naturally it would include  
11:13:16 36 her role, profession.  
37

11:13:20 38 What was said about her profession?---I can't remember the  
11:13:22 39 briefing, it was - - -  
40

11:13:24 41 Isn't that a specific risk that needs to be specifically  
11:13:26 42 addressed with very clear guidelines?---Along with  
11:13:29 43 everything else.  
44

11:13:30 45 Did you say, "What's in the risk assessment so that we can  
11:13:35 46 mitigate any risks that might arise out of that"?---I  
11:13:40 47 briefed my line managers.

1  
11:13:41 2 Yes?---In regard to how I expected her to be managed.  
3  
11:13:44 4 Yes?---And left them to manage.  
5  
11:13:46 6 What were you told was in place to mitigate the  
11:13:50 7 risks?---Well they were operating by - - -  
8  
11:13:52 9 Arising out of her profession?---They're operating under  
11:13:57 10 the provisions of that, policies, right, and they're all  
11:14:01 11 aware in regard to her - - -  
12  
11:14:03 13 Which policy?---The - - -  
14  
11:14:07 15 The human source policy?---The human source policies.  
16  
11:14:10 17 Which mentions nothing about people with obligations of  
11:14:12 18 confidentiality?---Not specifically in regard to the  
11:14:15 19 profession of being a solicitor, no. Or being a priest in  
11:14:22 20 a confessional.  
21  
11:14:27 22 In late April 2006 you sat on the Informer Payments  
11:14:30 23 Committee; is that right?---Yes.  
24  
11:14:35 25 In your original statement you indicated that you didn't  
11:14:37 26 believe you got the documents in relation to that matter,  
11:14:42 27 you believe you received a verbal briefing and didn't get  
11:14:46 28 the documents?---My normal practice was to listen to the  
11:14:49 29 submission, verbal submission by the - the documents  
11:14:53 30 weren't handed out until you were going to the meeting. I  
11:14:57 31 think they were available at the meeting, but I just  
11:15:00 32 listened to the submission and then made a decision.  
33  
11:15:02 34 Your supplementary statement seems to indicate that you  
11:15:07 35 accept that you did receive the documents?---No, I examined  
11:15:09 36 the document  
37  
11:15:10 38 Sorry?---Examined the documents.  
39  
11:15:12 40 Yes, so you examined the documents or you read the  
11:15:14 41 documents?---No, no, no, no. I was shown the relevant  
11:15:24 42 parts of a file that were the briefing note and the  
11:15:30 43 outcome. That's what I mention in there.  
44  
11:15:33 45 Bring up the IMU file, VPL.0100.0121.0155. This is an  
11:15:44 46 application which had been submitted in March of 2006. If  
11:15:51 47 we go over to p.2 of that document. You'll see that that

11:15:59 1 application - it says Smith up the top and Mr Sandy White  
11:16:05 2 underneath that have signed the application on 28 March, do  
11:16:09 3 you see that?---Yes.  
4

11:16:11 5 Then if we go over the page. To make a decision, I take  
11:16:16 6 it, to give someone a reward you need to understand if  
11:16:20 7 they're worthy of a reward?---Well it depends. As I say in  
11:16:26 8 my statement, this was unusual for a waiver of some parking  
11:16:31 9 fines.  
10

11:16:31 11 Sorry?---It was unusual for a parking fine.  
12

11:16:36 13 To decide if someone is worthy of a reward you need to  
11:16:41 14 understand what's behind it, have they earned the  
11:16:45 15 reward?---Yes.  
16

11:16:45 17 And you would have read the summary of the assistance  
11:16:48 18 provided by the human source?---That would have been  
11:16:52 19 verbal.  
20

11:16:55 21 Mr Sandy White is questioning, in the days, in the lead up  
11:17:01 22 to the sitting of this informer Rewards Committee, why  
11:17:05 23 Mr Blayney was there because obviously - well, it seems as  
11:17:08 24 though he didn't have any concern with you and didn't have  
11:17:11 25 any concern with Mr Overland being at this meeting, but he  
11:17:13 26 had a bit of a concern with Mr Blayney being there, do you  
11:17:16 27 understand that? Mr Blayney might not have known about  
11:17:20 28 Ms Gobbo's status but obviously you and Mr Overland did by  
11:17:24 29 this stage?---Yes.  
30

11:17:29 31 His diary doesn't indicate that he attended the meeting.  
11:17:32 32 It may be that you simply got the documents and considered  
11:17:36 33 the documents, all right?---I thought it was - you say  
11:17:48 34 Mr White didn't attend the meeting?  
35

11:17:49 36 Yes?---Probably not.  
37

11:17:51 38 Right?---Because it's not his role, it's the role of the  
11:17:55 39 Human Source Management Unit, which is a different Unit.  
11:17:58 40 They're the coordinators of the - and they bring, it'll  
11:18:04 41 either be [REDACTED] or Mr Black that would have  
11:18:08 42 briefed - - -  
43

11:18:10 44 We'll check their diaries?---Yes.  
45

11:18:12 46 This is the information that you would have received in  
11:18:14 47 order to determine that a reward was appropriate, you

11:18:19 1 accept that?---No, that was available at the meeting, yes.  
2

11:18:25 3 So what was available to you as information at the meeting  
11:18:28 4 which would have been put on the table in front of you is a  
11:18:32 5 document which indicates, "This human source is providing  
11:18:35 6 extremely sensitive information on a number of very high  
11:18:40 7 level drug manufacturers and traffickers and has been doing  
11:18:44 8 so for several months. This large volume of information  
11:18:49 9 has found to be exceptionally accurate and timely and is  
10 being disseminated to Operation Purana for its current  
11:18:52 11 operations. It is expected that the source will continue  
11:18:53 12 to provide vital intelligence into the foreseeable future.  
13 To date the information generated by the source has  
11:19:01 14 resulted in the compilation of 107 information reports.  
11:19:03 15 The dissemination of these IRs has included numerous to  
11:19:06 16 Purana, ESD, MDID and OCS. Due to the status of this  
11:19:12 17 source she seems extremely valuable and is committed to  
11:19:15 18 assisting police, which is occurring on a daily basis".  
11:19:18 19 That would have been consistent with information that was  
11:19:20 20 being conveyed to you previously?---That would have been -  
11:19:25 21 well, that she was very productive, yes.  
22

11:19:30 23 And that she was providing information on a daily  
11:19:35 24 basis?---Perhaps.  
25

11:19:39 26 You were presumably being told, when you were speaking with  
11:19:41 27 Mr White, "We're needing to change handlers over and over  
11:19:48 28 because she's prodigious in the volume of information that  
11:19:52 29 she's providing"; is that right?--- Yeah, I don't know what  
11:19:56 30 - I don't know, I don't believe it was in that detail, but  
11:19:59 31 that's - - -  
32

11:19:59 33 You understood that she was - that the nature of the  
11:20:03 34 information she was providing was going to Purana?---It was  
11:20:06 35 valued and being distributed.  
36

11:20:08 37 ESD, you knew it was MDID. And what's OCS?---I can't  
11:20:15 38 remember.  
39

11:20:24 40 Did you ever become aware of ongoing concerns about  
11:20:27 41 disclosure of Ms Gobbo's role as a human source?---That was  
11:20:32 42 one of the biggest risks.  
43

11:20:35 44 What discussions did you have in relation to the protection  
11:20:38 45 of Ms Gobbo when court cases started to occur in which  
11:20:44 46 she'd provided information?---My role was just to be  
11:20:48 47 briefed by the line managers in regard to - that they were

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11:20:54 1 satisfied that they had it under control.  
2

11:20:57 3 What were you told was going on?---I can't remember.  
4

11:20:59 5 What case - do you know what cases they were concerned  
11:21:02 6 about that she might be exposed in?---There was - I think  
11:21:10 7 there was one in memory but that was a jog by one of the  
11:21:13 8 documents I read.  
9

11:21:13 10 You were aware that there was particular concern about an  
11:21:16 11 arrest that had been made in [REDACTED] of 2006 of someone we  
11:21:20 12 know by the name of [REDACTED]. Do you know [REDACTED]?  
11:21:25 13 We can provide you with his actual name if we need to?---Oh  
11:21:29 14 sorry, yes.  
15

11:21:31 16 COMMISSIONER: We'll show you the card with the name  
11:21:34 17 on?---If you wouldn't mind, yeah. Thank you.  
18

11:21:40 19 MS TITTENSOR: The fruition of the Operation [REDACTED], or the  
11:21:47 20 first phase of that, essentially resulted in the arrest of  
11:21:51 21 this person and this person was a client of  
11:21:53 22 Ms Gobbo's?---Thank you.  
23

11:21:54 24 She had provided the information essentially that led to  
11:21:56 25 his arrest. She turned up on the night of his arrest and  
11:22:00 26 advised him. It was essentially known - all these  
11:22:08 27 circumstances were known by the investigators, they were  
11:22:11 28 known by the SDU. Were you ever told about that?---No.  
29

11:22:14 30 Do you expect you should have been told about that?---No.  
31

11:22:16 32 You shouldn't have been told?---No, it was operational. It  
11:22:19 33 was under the umbrellas of the Crime Department. You've  
11:22:23 34 got to realise that the whole purpose in regard to Intel  
11:22:32 35 and Covert Support, it is a, as I've described in my  
11:22:35 36 supplementary statement because I was concerned that the  
11:22:38 37 Commissioner and the table might not understand what the  
11:22:43 38 Intel and Covert Support department does, it is a service  
11:22:47 39 industry. We have the tools and the capacity to gather  
11:22:49 40 information, intelligence and evidence. An investigation,  
11:22:54 41 right, is handled by the Crime Department. Now years ago  
11:22:58 42 the Crime Department managed everything and it was decided  
11:23:02 43 by the organisation to separate, separate the capacity in  
11:23:10 44 regard to the analysis collection and information of a  
11:23:14 45 covert nature, and then an intelligence system right across  
11:23:17 46 Victoria. So it is essential that this, what we call the  
11:23:22 47 sterile corridor, does not just apply to human sources.

11:23:27 1 The sterile corridor is to keep the actions of the  
11:23:32 2 collection away from - not away from, but separate from  
11:23:37 3 investigation priorities and bias and everything else. So  
11:23:40 4 therefore we've got two issues here. All the way up the  
11:23:42 5 line in the Intel and Covert Support Department we get  
11:23:48 6 requests from all over the nation, including international,  
11:23:53 7 but obviously our main priority's to service Victoria.  
11:23:57 8 Right. It could relate to counterterrorism, it can relate  
11:24:00 9 to rape. Basically the situation is at all levels the  
11:24:04 10 people that are managing the collection process is  
11:24:07 11 separated from the detectives. They get the information,  
11:24:11 12 they value add the intelligence and then they pass the lot  
11:24:16 13 with a briefing across. And that goes to the  
11:24:18 14 Superintendent level too.  
15  
11:24:19 16 Mr Moloney, I just need to understand?---Yes.  
17  
11:24:22 18 Ms Gobbo has provided the SDU with the information about  
11:24:25 19 her client?---Yes.  
20  
11:24:26 21 That's led to his arrest?---Yes.  
22  
11:24:28 23 All right. She then turns up on the night of his  
11:24:31 24 arrest?---Yes.  
25  
11:24:32 26 Or the day of his arrest and acts for him, advises  
11:24:38 27 him?---Yep.  
28  
11:24:39 29 Do you see a problem with that?---Major problems.  
30  
11:24:41 31 Do you think you should have been told about that?---No,  
11:24:44 32 because senior management of the investigation, who manage  
11:24:47 33 the investigation, have the responsibility.  
34  
11:24:50 35 Do you think if you're - if those under your watch, the  
11:24:56 36 SDU, were part of that and knew that?---Yes.  
37  
11:24:59 38 Do you think you should have been told about that, that  
11:25:00 39 people under your watch might be part of an attempt to  
11:25:03 40 pervert the course of justice?---If that had come to my  
11:25:07 41 attention I would have taken action, yes.  
42  
11:25:10 43 Do you think it should have come to your attention?---If  
11:25:12 44 they believed that what you just said was occurring, it  
11:25:15 45 should have, yes.  
46  
11:25:17 47 Do you think it should have made it into Mr Biggin's audit

11:25:21 1 report not long after that?---If he was aware of it, yes.  
2

11:25:38 3 When did you begin to talk to members under your watch  
11:25:44 4 about concerns about disclosure in relation to Ms Gobbo's  
11:25:49 5 role as a human source and Ms Gobbo's assistance to  
11:25:52 6 police?---From day one.  
7

11:25:55 8 Were you aware that part of the protection that was going  
11:25:59 9 on of Ms Gobbo didn't simply relate to her role as a human  
11:26:03 10 source, but it related to her role representing people as a  
11:26:07 11 lawyer that were rolling against others?---No.  
12

11:26:16 13 Were you aware that redactions were being made of material  
11:26:21 14 to prevent people from knowing that Ms Gobbo was  
11:26:24 15 representing certain people?---No.  
16

11:26:28 17 Do you see a problem with that?---Redaction from what?  
18

11:26:32 19 Police notes?---Police notes. Redaction, do you mean just  
11:26:38 20 put into a - locked down or wiped?  
21

11:26:45 22 Either the whole page or whole entry wasn't provided or  
11:26:47 23 blacking out her name or parts of entries?---Who was it to  
11:26:52 24 be supplied to?  
25

11:26:53 26 Defence in the running of the - - - ?---Oh well, I don't  
11:26:55 27 know. That's a decision you have to make and the  
11:26:58 28 justification for that can be tested. I didn't know about  
11:27:02 29 it.  
30

11:27:03 31 Were you aware that the SDU were being used to provide  
11:27:11 32 [REDACTED] - sorry, I'll start again. Purana  
11:27:20 33 detectives were having conversations with a potential  
11:27:24 34 witness [REDACTED] and they were [REDACTED]  
11:27:27 35 [REDACTED]?---Right.  
36

11:27:29 37 Right. Ms Gobbo was representing that person in custody,  
11:27:35 38 you understand that?---Yep.  
39

11:27:37 40 Purana were interested in obtaining a statement from that  
11:27:42 41 person but were concerned about some of the things he might  
11:27:46 42 say in his statement. Were you aware that [REDACTED]  
11:27:52 43 was being provided secretly to Ms Gobbo through the SDU,  
11:27:59 44 without the client's knowledge, so that she then might  
11:28:02 45 facilitate further discussions?---No.  
46

11:28:04 47 Do you see a problem with that?---Provided to, yes.



1  
11:28:09 2 Sorry?---Yes.  
3  
11:28:11 4 What's the problem that you see?---Well you've got a  
11:28:15 5 situation where that should not have been provided to.  
11:28:20 6 Issues may be discussed to further test things or  
11:28:22 7 corroborate, but if she's actually been provided with a  
11:28:27 8 conversation is certainly not appropriate.  
9  
11:28:34 10 You were Commander of a department; is that right?---Yes.  
11  
11:28:38 12 Mr Overland was Assistant Commissioner of the Crime  
11:28:41 13 Department?---Correct.  
14  
11:28:43 15 Was he able, given his superior rank, to give you direction  
11:28:48 16 or instruction?---No. Rank, yes. It depends on what the  
11:28:57 17 subject was.  
18  
11:28:58 19 Well obviously he could say, "Well I'm getting", as you  
11:29:04 20 provided the example earlier, "I'm going to have direct  
11:29:07 21 conversations with your Superintendents and you're not  
11:29:10 22 allowed to know about it", he's able to do?---He's able to  
11:29:14 23 do that. Just for your information, as in previous Task  
11:29:17 24 Force management under my command, I had the exact same  
11:29:21 25 arrangements.  
26  
11:29:22 27 Certainly he was able to give you direction or instruction  
11:29:26 28 once he's Deputy Commissioner?---Well technically even as  
11:29:33 29 an Assistant Commissioner but that's - he can give  
11:29:36 30 instructions. Rank has a standing in Victoria Police.  
31  
11:29:41 32 At one point, I think later on in your capacity as  
11:29:46 33 Commander of Intelligence and Covert Support, he instructs  
11:29:51 34 you to provide Mr Ashton with the name and mobile numbers  
11:29:54 35 of a number of informers?---As an example, yes.  
36  
11:29:57 37 As an example. And one of those was Ms Gobbo?---Yes.  
38  
11:30:01 39 There's an indication by Mr O'Connell - do you know who  
11:30:07 40 Mr O'Connell is?---Yes.  
41  
11:30:09 42 Shane O'Connell. In one of his conversations that he had  
11:30:12 43 with Ms Gobbo to the effect that he'd been in a room with a  
11:30:15 44 couple of very senior officers who had attempted to take  
11:30:18 45 Mr Overland on and Mr Overland had shut them down. I just  
11:30:23 46 want to understand where you sit. Did you feel that  
11:30:28 47 Mr Overland was someone that you could stand up

11:30:30 1 to?--Certainly. I think we're all different types of  
11:30:39 2 human beings, but yes, I could have a conversation with  
11:30:42 3 Simon Overland without any issues.  
4

11:30:47 5 There's an entry in Mr Purton's diary, I'm not sure if  
11:30:52 6 we've received a copy of it yet, on 17 July 2006 in which  
11:31:03 7 there's some discussion of the roles and responsibilities  
11:31:05 8 of the Deputy Commissioners. Now at that stage Mr Overland  
11:31:10 9 had just taken on the role of Deputy Commissioner, around  
11:31:12 10 mid-2006?---Okay, yep.  
11

11:31:18 12 This is obviously going to be someone else's shorthand and  
11:31:21 13 I just want to, if you can assist, "SO (Simon Overland)  
11:31:26 14 keeps responsibility for Crime, Intel and SDM". Do you  
11:31:30 15 know what that might be?---SDM?  
16

11:31:35 17 SDM, it appears to be. "KW (Kieran Walsh) Risk and  
11:31:41 18 Strategy and CT", which I take to be  
11:31:45 19 counterterrorism?---Yes.  
20

11:31:46 21 Then "third position not filled" and it seems there's room  
11:31:49 22 for a third Deputy Commissioner but you didn't have it at  
11:31:52 23 that stage?---Yep.  
24

11:31:56 25 Where it says, "Mr Overland is to keep responsibility for  
11:32:00 26 Crime, Intel and SDM", did you understand that there was  
11:32:04 27 some separation between the Deputy Commissioners of which  
11:32:08 28 areas they would take responsibility for within Victoria  
11:32:12 29 Police?---Well that's - oh yes. Under the original  
11:32:16 30 structure, prior to that adjustment, and I don't know what  
11:32:21 31 era we're talking about here.  
32

11:32:23 33 I'm talking about mid-2006. I understand that there was  
11:32:25 34 somewhat of a flattened structure operating?---Yeah.  
11:32:29 35 You've got the Chief Commissioner, two Deputies and the  
11:32:33 36 organisation was - one was Peter Nancarrow and one was  
11:32:38 37 Kelly, I can't think of his Christian name now, and they  
11:32:43 38 had responsibility for both.  
39

11:32:44 40 I understand that - - - ?---For half half.  
41

11:32:48 42 - - - Ms Nixon ran somewhat of a flattened structure so  
11:32:53 43 Assistant Commissioners and Deputy Commissioners might all  
11:32:55 44 report to her. But in terms of - - -?---M'mm.  
45

11:32:59 46 - - - the workings, and who was overseeing your department  
11:33:01 47 or primarily giving you instruction in Intelligence and

11:33:08 1 Covert Support?---Governance, yeah.  
11:33:09 2  
11:33:09 3 Was that coming from Mr Overland or Mr Walsh or where were  
11:33:13 4 you getting that from? Where was the line that you were  
11:33:15 5 operating through?---Both because we were servicing the  
11:33:19 6 whole organisation. So a perfect example is  
11:33:22 7 counterterrorism, which we were heavily involved in, very  
11:33:27 8 heavily involved in, so was I. I was reporting through  
11:33:30 9 Mr Walsh and - - -  
10  
11:33:33 11 If it related to crime operations, Purana, that kind of  
11:33:37 12 thing?---Yeah, that was Overland.  
13  
11:33:39 14 Okay.  
15  
11:33:39 16 COMMISSIONER: We'll have the break now. We'll have a 15  
11:33:44 17 break now, Mr Moloney?---Break, sorry, yes.  
18  
11:33:48 19 If you need a break at any time just let me  
11:33:51 20 know?---Certainly, thank you.  
11:33:52 21  
11:33:52 22 Yes.  
11:34:54 23  
11:34:54 24 (Short adjournment.)  
25  
26  
11:51:09 27 MR HOLT: Commissioner, might I steal two minutes of time  
11:51:14 28 just to raise one matter that I've raised with Mr Winneke.  
11:51:14 29  
30 COMMISSIONER: Yes.  
31  
11:51:15 32 MR HOLT: Commissioner, yesterday at the end of the day I  
11:51:16 33 indicated there was no cross-examination for Mr Pope. That  
11:51:19 34 was true but there was one topic which I had spoken with  
11:51:23 35 his senior counsel about and I had intended to put as a  
11:51:26 36 matter of fairness to him. I've raised this with  
11:51:29 37 Mr Winneke. I'd just like to indicate one matter now.  
11:51:32 38 Questions were asked of Mr Pope about the leaking of  
11:51:36 39 Ms Gobbo's identity to the Herald Sun in 2014. The matters  
11:51:39 40 that I intended to put, and that I can confirm on my  
11:51:43 41 instructions, are that in 2014 the leaking of Ms Gobbo's  
11:51:46 42 identity to the Herald Sun was fully investigated by the  
11:51:49 43 Ethical Standards Department, that Mr Pope and a number of  
11:51:52 44 other people, police officers were interviewed and that no  
11:51:55 45 adverse findings of any sort that suggested Mr Pope had  
11:52:00 46 leaked that information were made. Those were matters I  
11:52:03 47 intended to put on my instructions and I apologise it

11:52:06 1 wasn't done yesterday.

11:52:06 2

11:52:06 3 COMMISSIONER: Yes. Have you been in touch with Mr Pope's  
11:52:09 4 lawyer about this?

11:52:10 5

11:52:10 6 MR HOLT: I have, and it's done with his knowledge and  
11:52:14 7 understanding and consent.

11:52:15 8

11:52:15 9 COMMISSIONER: Thank you. He obviously will be given a  
11:52:17 10 copy of the transcript of that.

11:52:18 11

11:52:19 12 MR HOLT: Yes, Commissioner.

11:52:19 13

11:52:19 14 COMMISSIONER: Thank you. Yes Ms Tittensor.

11:52:24 15

11:52:25 16 MS TITTENSOR: Mr Moloney, earlier you gave some evidence  
11:52:27 17 about Mr De Santo, it being inappropriate for Mr De Santo  
11:52:32 18 to investigate a particular matter in circumstances where  
11:52:35 19 he might be seen to be a witness, when I was putting to you  
11:52:43 20 questions in relation to the murder of Christine and  
11:52:46 21 Terrence Hodson, do you recall that?---Yes.

11:52:49 22

11:52:49 23 I take it you would accept similarly that if there are  
11:52:52 24 circumstances that link Ms Gobbo factually to other crimes  
11:52:59 25 which might make her a witness, it would be inappropriate  
11:53:03 26 for her to be representing people involved in those  
11:53:10 27 matters?---Depending on the circumstances but in essence,  
11:53:14 28 yes.

11:53:14 29

11:53:16 30 If she did begin to represent people in those matters or if  
11:53:21 31 she already was and it became, and people became aware that  
11:53:25 32 she's potentially a witness, steps ought to be taken to,  
11:53:30 33 such that she stops acting for that person, you would  
11:53:35 34 accept that?---Yes.

11:53:38 35

11:53:39 36 Similarly, if you become aware in the course of an  
11:53:41 37 investigation that Mr De Santo, we now think he might be a  
11:53:46 38 witness, he should be withdrawn from the investigation,  
11:53:49 39 aside from being a witness, that's an investigator, you  
11:53:53 40 know what I mean?---Every case has got to be assessed as it  
11:53:57 41 happens. That's logical.

11:53:58 42

11:53:59 43 Yes?---And when you're faced with those situations with  
11:54:03 44 De Santo's presence there, yes, he could turn into a key  
11:54:10 45 witness because it was first reported through him.

11:54:15 46

11:54:16 47 If similarly Ms Gobbo is factually linked to murders, for

11:54:25 1 instance, and potentially is a witness in those matters by  
11:54:30 2 way of providing an alibi or something of that nature, she  
11:54:33 3 ought not be representing someone - - -?---I'd have to know  
11:54:37 4 the full circumstances of each individual case because it  
11:54:40 5 can evolve in a number of directions.

11:54:43 6  
11:54:43 7 Well, I won't take you to the exact circumstances now, but  
11:54:47 8 you would accept that where there's, where someone becomes  
11:54:52 9 factually involved and is potentially a witness in a  
11:54:55 10 matter, they ought not be involved as legal counsel for  
11:54:58 11 other parties?---Yes.

11:54:59 12  
11:55:01 13 And the police have mechanisms by which they can address  
11:55:06 14 such circumstances, they could, for instance, talk to the  
11:55:08 15 lawyer themselves and say, "It's inappropriate that you  
11:55:11 16 continue acting", is that right?---That's an option.

11:55:14 17  
11:55:14 18 They could talk to the DPP and say, "Something needs to be  
11:55:18 19 done about this person acting, we think they've got a  
11:55:22 20 conflict"?---Depending on what stage the investigation was  
11:55:25 21 at, yes.

11:55:26 22  
11:55:26 23 Presumably if the OPP or DPP are involved, that's another  
11:55:29 24 logical step that you might take?---Yes.

11:55:32 25  
11:55:33 26 Now, jumping forward. In May of 2007, by that stage Petra  
11:55:41 27 Task Force was up and running. You weren't on that Task  
11:55:45 28 Force at that stage but were you aware of its  
11:55:51 29 existence?---Yes, I would have been aware that there was a  
11:55:53 30 Task Force.

11:55:53 31  
11:55:54 32 Because your department might have been supplying resources  
11:55:57 33 for it?---Yes.

11:55:58 34  
11:55:59 35 In May of 2007, and I'm trying to get through this in a  
11:56:04 36 reasonable amount of time so I'm not going to take you to  
11:56:07 37 all the source documents unless you really need. Hopefully  
11:56:11 38 the propositions I put you can take from me. In May of  
11:56:14 39 2007 Mr Overland approved the SDU speaking with Ms Gobbo in  
11:56:20 40 relation to her knowledge of the Hodson murders, all  
11:56:23 41 right?---Right.

11:56:24 42  
11:56:27 43 Following that, the SDU had a very long debriefing session  
11:56:32 44 with Ms Gobbo where they obtained lots of information from  
11:56:35 45 her about her knowledge of the murders and things that were  
11:56:39 46 associated with that. That information was then provided  
11:56:43 47 to Detective Inspector Ryan at the Petra Task Force and

11:56:47 1 conveyed also to Mr Overland, all right. Now, the original  
11:56:54 2 piece of information I gave you was that Mr Overland had  
11:56:57 3 approved the SDU to do that. Was that something that he  
11:57:01 4 would have come to you and said, "Can I do this" or is that  
11:57:04 5 something that he would have done without your  
11:57:07 6 knowledge?---Without my knowledge because there was a  
11:57:13 7 separation of operations versus administration.

11:57:16 8  
11:57:16 9 Those kinds of things are matters that he can, he just  
11:57:21 10 simply wouldn't bring to your attention at all?---No.

11:57:23 11  
11:57:26 12 Now, another matter you raise in your statement at  
11:57:29 13 paragraph 84 is in July of 2007, 20 July 2007 you observe  
11:57:37 14 Ms Gobbo crying in the street, is that right?---Yep.

11:57:40 15  
11:57:41 16 And you note that in your diary and you note you go and  
11:57:49 17 speak to Mr Biggin about it?---Yep.

11:57:50 18  
11:57:51 19 Now, presumably you go and speak to Mr Biggin about it  
11:57:56 20 because you know she's a human source and you know  
11:57:59 21 Mr Biggin has some supervision over the unit that deals  
11:58:02 22 with her?---Yeah, I think, now that I look at it, the  
11:58:06 23 timing of it and everything else, I was, it was important  
11:58:12 24 to note it in her file, yes.

11:58:16 25  
11:58:16 26 So you knew she's still a human source, she's still - -  
11:58:21 27 -?---What date was that, sorry?

11:58:24 28  
11:58:24 29 Mid-2007?---Yeah, I would have known she was a source.

11:58:28 30  
11:58:28 31 You thought this might be something of interest or some  
11:58:31 32 welfare issue that the SDU ought to know about so that they  
11:58:35 33 can deal with it?---I'm the type of police officer that if  
11:58:39 34 I saw somebody of interest to any investigation I would  
11:58:45 35 record that they were in such and such a place, such and  
11:58:49 36 such a time, but yes, I looked at her and she looked ill  
11:58:53 37 and very emotionally upset.

11:58:55 38  
11:58:56 39 In this instance you know she is being handled by the SDU  
11:59:00 40 so you go to them, in another instance if you don't know  
11:59:04 41 that you might go to Purana or - - -?---Or an IR or a phone  
11:59:07 42 call, yep, to the relevant people, yes.

11:59:08 43  
11:59:09 44 The day before that Ms Gobbo had appeared before  
11:59:12 45 Mr Fitzgerald for examination at the OPI?---Okay.

11:59:16 46  
11:59:19 47 Around about that time there were very significant issues

11:59:22 1 being discussed between the SDU, Petra and Purana in  
11:59:28 2 relation to the prospect of Ms Gobbo's exposure as a human  
11:59:33 3 source and the implications for that. Do you think it's  
11:59:37 4 likely that Mr Biggin and you would have discussed those  
11:59:40 5 matters at around that time?---No.  
11:59:43 6  
11:59:44 7 Do you think it's likely that you should have been made  
11:59:46 8 aware of those issues at that time? Reasonably significant  
11:59:51 9 event if there are serious concerns that a source of the  
11:59:55 10 nature of Ms Gobbo is potentially going to be exposed as a  
12:00:00 11 human source?---Yes, I would expect - - -  
12:00:02 12  
12:00:03 13 And there are meetings going on between SDU people, between  
12:00:06 14 Petra people, between Purana people about that prospect,  
12:00:11 15 the implications and the future use of Ms Gobbo?---Yes.  
12:00:14 16  
12:00:14 17 Do you think you would have discussed those issues with  
12:00:16 18 Mr Biggin around that time?---If he had have raised it.  
12:00:20 19 From my memory he did not raise it. But if he was briefing  
12:00:28 20 an Assistant Commissioner or Deputy Commissioner, depending  
12:00:36 21 on the time, Assistant Commissioner Overland - - -  
12:00:36 22  
12:00:36 23 Deputy Commissioner?---Yeah, in 2007?  
12:00:38 24  
12:00:38 25 He was Deputy Commissioner as of mid-2006?---Oh okay, fine,  
12:00:42 26 thanks. If he was, as he was instructed to do, brief  
12:00:48 27 Deputy Commissioner Overland direct, need to know, there's  
12:00:52 28 no need for me to know, because if he brought it to me I'd  
12:00:56 29 take it to Overland as he's in charge of the investigation.  
12:00:59 30 Simple as that.  
12:01:00 31  
12:01:00 32 You're the head of the department that's looking after the  
12:01:04 33 unit - - -?---Yes, I know it's strange but that's the way  
12:01:06 34 it operated.  
12:01:06 35  
12:01:08 36 No, I'm just asking, you're the head of the department  
12:01:08 37 that's looking after the Source Development Unit, clearly  
12:01:11 38 if there's some exposure of Ms Gobbo there's going to be  
12:01:14 39 some scrutiny on the Source Development Unit, if not the  
12:01:19 40 whole department, these are the types of risks now we're in  
12:01:23 41 that she might be exposed - - -?---Depends on the level of  
12:01:27 42 risk, but if there was significant risk I should have been  
12:01:31 43 told.  
12:01:31 44  
12:01:31 45 Around about this period of time, as I say, there are  
12:01:34 46 senior members, superintendents and others meeting  
12:01:36 47 Mr Blayney, Mr Brown, and others. Mr Blayney in fact has,

12:01:43 1 by this stage, come to realise that 3838 is not only a  
12:01:47 2 lawyer, is not only a criminal defence lawyer, is not only  
12:01:51 3 a female criminal defence lawyer, but is Ms Gobbo, and is  
12:01:57 4 raising concerns about the need for legal advice?---Right.  
12:01:59 5  
12:01:59 6 Is that something you're aware of?---No.  
12:02:02 7  
12:02:04 8 It's something that is an obvious thing when you think  
12:02:07 9 about it, do you accept that?---What?  
12:02:09 10  
12:02:10 11 Once Mr Blayney becomes aware of these circumstances, that  
12:02:12 12 Ms Gobbo is someone providing information which is being  
12:02:16 13 used substantially by Purana?---H'mm.  
12:02:18 14  
12:02:19 15 She is someone who is a criminal defence lawyer  
12:02:23 16 representing Purana targets?---H'mm.  
12:02:26 17  
12:02:26 18 Do you see the need for some legal advice?---Yes.  
12:02:30 19  
12:02:32 20 Did you ever ask whether there was any legal advice?---No,  
12:02:36 21 I wasn't a part of the discussions.  
12:02:38 22  
12:02:39 23 Did you ever ask?---No.  
12:02:40 24  
12:02:45 25 Now, in February of 2008 Ms Gobbo's registration number was  
12:02:51 26 changed?---Yes.  
12:02:52 27  
12:02:54 28 When did you become aware of that, at about the time it  
12:02:58 29 happened?---I'm not sure. I'm not sure. It would have  
12:03:08 30 been in the vicinity of the time it happened. The next  
12:03:10 31 time we were discussing and her number would have changed.  
12:03:13 32  
12:03:14 33 Did you know why it was changed?---I thought it was a  
12:03:17 34 security move.  
12:03:19 35  
12:03:21 36 The issue cover sheet in relation to the request to change  
12:03:25 37 the number indicates that, "The intelligence has been  
12:03:28 38 provided primarily to the Purana Task Force and numerous  
12:03:32 39 persons have been arrested and convicted as a result of the  
12:03:35 40 intelligence being acted upon". It refers to her long  
12:03:38 41 period of deployment, the number used on various documents,  
12:03:41 42 the unacceptable number of investigators that were  
12:03:44 43 aware?---Yes.  
12:03:45 44  
12:03:46 45 And her being the common denominator in numerous  
12:03:51 46 investigations. Now the document goes to Mr Hardy,  
12:03:55 47 Mr Biggin, Mr Porter, it seems at least, and Mr Porter



12:04:00 1 indicates that Porter changes the registered human source  
12:04:09 2 number by approval of AC. Would that be you or would that  
12:04:14 3 be someone else?---Possibly me, I don't know. But if it  
12:04:24 4 was recommended as a risk assessment strategy, I would have  
12:04:26 5 approved it.

12:04:28 6  
12:04:29 7 Now, at paragraph 74 of your statement you refer to an  
12:04:34 8 event in June 2006 where you are briefed about a potential  
12:04:46 9 attempt by criminals to identify 3838 or the identity  
12:04:47 10 behind 3838?---Yes.

12:04:47 11  
12:04:48 12 Then at paragraph 75 you outline what your management  
12:04:51 13 practice would be?---Yes.

12:04:51 14  
12:04:51 15 When those types of things happen. You say, "My practice  
12:04:54 16 is to ask specific questions. I ask what's the situation?  
12:04:58 17 What's been undertaken? What's proposed to be done? What  
12:05:02 18 are the options? Is a risk assessment required? What  
12:05:05 19 resources are required?" Then you say in the next  
12:05:07 20 paragraph that you then set a plan and detail the reporting  
12:05:12 21 methods and time lines, so very methodical?---Yes.

12:05:17 22  
12:05:17 23 In mid-April 2008 Ms Gobbo's car is set alight?---Yep.

12:05:22 24  
12:05:24 25 You become aware of that?---Yes.

12:05:26 26  
12:05:28 27 What did you do about it?---I was, from memory I was  
12:05:34 28 briefed by Biggin. I think it was a telephone  
12:05:40 29 conversation. Mr Biggin and I had worked together for a  
12:05:46 30 significant time and he knew my reporting requirements, in  
12:05:53 31 the sense of come and tell me the, what is being done and  
12:06:01 32 so forth through the process and Biggin was very thorough  
12:06:04 33 in regard to his - well, not very thorough but very  
12:06:07 34 regimented in regard to how he briefed me. It always, very  
12:06:10 35 rarely he didn't have a resolution for the situation and he  
12:06:16 36 always summed up. So he briefed me, told me it was being  
12:06:20 37 handled and told me TSU had been, were advised, but as for  
12:06:27 38 any action, I left it up - it was just a normal process.

12:06:34 39  
12:06:35 40 Were you told what had been undertaken and what was  
12:06:38 41 proposed to be done?---Yes, there would have been a review  
12:06:40 42 of the risk assessment. That's just ongoing anyway, on a  
12:06:43 43 daily basis, the review of any risks.

12:06:47 44  
12:06:47 45 Presumably you were made aware at that stage that there was  
12:06:52 46 an operation that had been running since late 2006, early  
12:06:57 47 2007 called Operation Gosford which related to a series of

12:07:01 1 threats to kill Ms Gobbo?---Gosford doesn't ring a bell at  
12:07:13 2 all but I knew that it was always on the agenda.  
12:07:18 3  
12:07:19 4 Gosford was a Purana operation that was being run to  
12:07:22 5 investigate threats being made against Ms Gobbo. There  
12:07:24 6 were particular members of Purana who were working on  
12:07:27 7 Operation Gosford?---Well I personally wasn't briefed on  
12:07:33 8 that.  
12:07:33 9  
12:07:33 10 Do you think that's something that you ought to have been  
12:07:36 11 briefed on, that there were, or were you briefed that there  
12:07:39 12 wasn't just this one car set alight incident, there had  
12:07:44 13 been numerous instances and numerous threats made to  
12:07:47 14 Ms Gobbo?---Should I have been briefed?  
12:07:49 15  
12:07:49 16 Were you briefed about that?---From memory I was never  
12:07:52 17 briefed on that.  
12:07:53 18  
12:07:53 19 Should you have been?---Not unless the superintendents, who  
12:07:57 20 I presume had been briefed, thought there was something  
12:08:02 21 imminent to be told at my level.  
12:08:06 22  
12:08:06 23 At the time that this happens, that someone sets Ms Gobbo's  
12:08:13 24 car alight, do you think you should have been told then,  
12:08:16 25 "There have been all these threats in the past"?---Yes.  
12:08:20 26  
12:08:20 27 Were you?---From memory, no.  
12:08:22 28  
12:08:24 29 Do you say you were or you weren't told that operation,  
12:08:27 30 there was an operation called Operation Gosford which was  
12:08:30 31 investigating - - -?---I cannot remember an operation, any  
12:08:35 32 of the operations that were under the umbrella of Purana.  
12:08:39 33  
12:08:39 34 Would it have been of relevance to you to understand the  
12:08:43 35 risk associated with the use of Ms Gobbo in this  
12:08:47 36 regard?---No, that would have been assessed. We've got a  
12:08:50 37 situation where we've got Mr White, who is probably, at  
12:08:56 38 that stage, one of the top handlers and experienced trained  
12:09:02 39 handlers in the nation, you've got two superintendents that  
12:09:08 40 certainly have got vast experience, one in covert and one  
12:09:12 41 in intelligence, and if they had have identified issues  
12:09:16 42 relevant to the level of Assistant Commissioner I would  
12:09:19 43 have expected them to bring it to me.  
12:09:21 44  
12:09:21 45 Did you ask if a risk assessment was required?---The risk  
12:09:25 46 assessment in regard to all human sources are ongoing,  
12:09:29 47 every day of the week. Things can change in one phone call

12:09:33 1 or one sighting, so.

12:09:34 2

12:09:35 3 On this occasion things had changed because her car had

12:09:40 4 been fire bombed?---Yes.

12:09:41 5

12:09:41 6 Did you ask about whether there was an updated risk

12:09:44 7 assessment?---No, because I would suggest the briefing that

12:09:46 8 Superintendent Biggin gave me would have included that.

12:09:49 9

12:09:49 10 In all the time Ms Gobbo was a human source, within the

12:09:55 11 source management log there's a review every month?---Yes.

12:09:58 12

12:09:58 13 It might be a small passage but the formal risk assessments

12:10:02 14 where you go through those five major questions, there were

12:10:05 15 only ever two of those, one back in November 2005 and one

12:10:09 16 in April 2006, there was never ever any risk assessment

12:10:12 17 following that. Is that a concern?---Not really because

12:10:17 18 once they investigate it and got feedback on it and

12:10:22 19 everything else then they make a decision. I would expect

12:10:25 20 there would have been some notation naturally, and an

12:10:29 21 outcome in the file. I don't know that.

12:10:31 22

12:10:31 23 Don't you think you might have a professional risk

12:10:34 24 assessment conducted on this human source after her car has

12:10:36 25 been fire bombed?---Depending on the circumstances, but -

12:10:42 26 - -

12:10:42 27

12:10:42 28 That's the circumstance, you've got someone who is a high

12:10:45 29 risk, high value human source whose car has been fire

12:10:50 30 bombed who is giving information against very serious

12:10:54 31 organised crime figures?---Yes, and there should have been

12:10:56 32 a note on the file in regard to this and the outcome in

12:10:59 33 regard to what it meant to her security. And obviously if

12:11:01 34 that wasn't done I'd be very disappointed. But if it had

12:11:05 35 have been highlighted as an ongoing situation it would have

12:11:09 36 been brought to my attention if it was necessary.

12:11:12 37

12:11:14 38 If Ms Gobbo was murdered it would have been a disaster for

12:11:19 39 Victoria Police, would you agree?---Of course.

12:11:21 40

12:11:24 41 There'd been calls for a Royal Commission previously after

12:11:28 42 the Hodson murders, is that right, or links between police

12:11:35 43 and - - -?---Yeah, I can't remember the media at that stage

12:11:39 44 but - - -

12:11:40 45

12:11:40 46 Were there concerns being raised at higher levels of

12:11:44 47 management above you in relation to these matters, do you

12:11:48 1 know? Did you feel the need, "Well this has gotten very  
12:11:53 2 serious, I need to now raise it with Mr Overland, with the  
12:11:56 3 Chief Commissioner, we have a very high risk source whose  
12:12:02 4 car's now been fire bombed who's giving information against  
12:12:04 5 organised crime figures. We need to be careful about  
12:12:06 6 this"?---Yeah, and that would have been provided to the  
12:12:09 7 investigative management, including Mr Overland.  
12:12:10 8  
12:12:11 9 Who did you speak to about it aside from Mr  
12:12:15 10 Biggin?---Biggin told me the process - what had occurred  
12:12:17 11 and alternatively what had been done. I was satisfied with  
12:12:20 12 his briefing and I said, "Let me know if there's any  
12:12:23 13 changes".  
12:12:23 14  
12:12:24 15 Did you take it up to say, "We've got this risk, we're  
12:12:28 16 managing it"?---No, because it had already been taken up by  
12:12:30 17 investigators to their higher management. It was being  
12:12:36 18 handled.  
12:12:36 19  
12:12:36 20 How did you know that?---Because Biggin briefed me and I  
12:12:41 21 was very satisfied with his briefing.  
12:12:43 22  
12:12:44 23 And you didn't speak to any higher management yourself?---I  
12:12:45 24 may have spoken to them the next day at a meeting or  
12:12:47 25 something, but did I have a meeting with them? It was not  
12:12:50 26 essential.  
12:12:51 27  
12:12:51 28 By virtue of your position as Assistant Commissioner of  
12:12:56 29 Crime, when you were appointed in November 04 you were  
12:12:57 30 appointed to the Petra steering committee. In November  
12:13:01 31 2008 you were appointed Assistant Commissioner of  
12:13:06 32 Crime?---Yes.  
12:13:07 33  
12:13:07 34 By virtue of that position you then go on to the Petra  
12:13:11 35 steering committee?---Yes.  
12:13:11 36  
12:13:11 37 As well as a number of other, as well as Briars steering  
12:13:15 38 committee?---In due course, yes.  
12:13:16 39  
12:13:16 40 In due course. Are you on other - overseeing other major  
12:13:22 41 crime Task Forces or squads?---Well I'm overseeing the  
12:13:26 42 State's responsibilities, including counter terrorism.  
12:13:30 43  
12:13:31 44 We indicated earlier your diaries, once you take up that  
12:13:35 45 post, are all missing, is that right?---Yes.  
12:13:38 46  
12:13:39 47 But you've been assisted by other contemporaneous

12:13:43 1 records?---Yes, I've been shown documents which, and  
12:13:46 2 comments by other people and diary entries which allowed me  
12:13:52 3 to recall as much as I can.  
12:13:54 4  
12:13:54 5 From the time you joined the Petra steering committee there  
12:13:57 6 was consideration being given to using Ms Gobbo as a  
12:14:01 7 witness?---That was on the agenda, yes.  
12:14:04 8  
12:14:04 9 And this occurred when she first, or when she confirmed to  
12:14:09 10 investigators a relationship between Paul Dale and Carl  
12:14:14 11 Williams at a time relevant prior to the murders of  
12:14:16 12 Christine and Terrence Hodson?---Yes, I learnt that.  
12:14:19 13  
12:14:19 14 And it was understood by those at the meeting that the  
12:14:23 15 question of Ms Gobbo becoming a witness was complicated by  
12:14:26 16 the fact that she was a human source?---Yes.  
12:14:28 17  
12:14:29 18 And you understand the principle that transitioning someone  
12:14:36 19 from human source to witness is not ordinarily  
12:14:39 20 advisable?---Correct.  
12:14:40 21  
12:14:40 22 And that's because of the source history of informing being  
12:14:45 23 exposed during subsequent court processes?---Yes.  
12:14:48 24  
12:14:51 25 Now, you would have become aware by early December of 2008,  
12:14:59 26 so you've gone on to the committee in November of 2008,  
12:15:02 27 these issues are happening. Early December 2008 SDU start  
12:15:08 28 raising serious concerns when they hear about the prospect  
12:15:11 29 of Ms Gobbo becoming a witness, do you recall that?---Yes.  
12:15:14 30  
12:15:16 31 And those concerns became even greater when Petra want to  
12:15:21 32 use Ms Gobbo to record a conversation with Mr Dale?---Yeah.  
12:15:30 33 I'm losing the chronology here, sorry.  
12:15:33 34  
12:15:33 35 She records the conversation with Mr Dale ultimately on 7  
12:15:37 36 December?---Right.  
12:15:38 37  
12:15:38 38 On 3 December the SDU are having some conversations  
12:15:42 39 indicating their concerns about her becoming a  
12:15:47 40 witness?---Who to?  
12:15:48 41  
12:15:48 42 To Petra investigators?---Okay.  
12:15:50 43  
12:15:51 44 Following that there seems to be some discussions that  
12:15:54 45 involve Mr Overland?---Right.  
12:15:56 46  
12:15:56 47 About those matters, around about 5 December. And the

12:16:00 1 records indicate that at that stage Mr Overland's saying he  
12:16:04 2 wants Ms Gobbo as a witness?---Yes.  
12:16:06 3  
12:16:06 4 This is prior to the recording of the Dale  
12:16:09 5 conversation?---Right.  
12:16:09 6  
12:16:10 7 Because she's already valuable in terms of providing the  
12:16:13 8 conduit between Mr Dale and Mr Williams?---Yes.  
12:16:16 9  
12:16:16 10 But at that stage it's anticipated also that she might be  
12:16:21 11 able to record this conversation. The SDU are concerned  
12:16:26 12 that if she's recording it, it might become evidentiary, if  
12:16:31 13 she doesn't become a witness somehow she might get exposed  
12:16:34 14 anyway. Now, the notes that are recorded by members of the  
12:16:41 15 SDU in their logs and information reports and diaries  
12:16:44 16 indicate that following contact with Mr Overland, who  
12:16:50 17 indicates he wants her as a witness, there's an agreement  
12:16:53 18 that steps would be taken so that Ms Gobbo would be  
12:16:56 19 deployed by Petra rather than the SDU so that might be a  
12:16:59 20 means to isolate her from the SDU and protect the  
12:17:03 21 historical relationship with them, so it doesn't need to be  
12:17:09 22 discovered during subsequent court process. Do you  
12:17:13 23 understand that?---Yes.  
12:17:14 24  
12:17:15 25 Now were you aware about those goings on at that  
12:17:19 26 stage?---No, I was not.  
12:17:20 27  
12:17:21 28 Would you have become aware of those matters  
12:17:25 29 subsequently?---Some of what you said I know, found out  
12:17:31 30 later that there had been a tape-recording of a meeting,  
12:17:36 31 but that's about as far as I can take it.  
12:17:39 32  
12:17:39 33 Were you aware that there were discussions about using  
12:17:44 34 Petra to deploy her so that we might not need to disclose  
12:17:49 35 her SDU relationship?---No, I do not remember that.  
12:17:52 36  
12:17:52 37 Would you have seen any issue with that?---No.  
12:17:55 38  
12:17:55 39 Why wouldn't you see an issue with that?---Because you're  
12:17:58 40 trying to protect her in the long-term and protect the  
12:18:01 41 information she's supplied.  
12:18:02 42  
12:18:03 43 Was it your understanding that once she became a witness,  
12:18:07 44 if she had - so long as she had been deployed by Petra,  
12:18:12 45 there wouldn't be a need for Mr Dale or the court to be  
12:18:16 46 told about her relationship with the SDU before that?---I  
12:18:19 47 was never involved in the legal proceedings or preparation

12:18:22 1 of the brief in regard to that matter and you couldn't make  
12:18:25 2 a comment on that unless you knew the whole facts of the  
12:18:30 3 investigation and the available evidence and everything  
12:18:32 4 else.

12:18:32 5  
12:18:32 6 That's part of the point for you to be able to assess the  
12:18:35 7 risk and the value of making a decision about making  
12:18:39 8 someone a witness?---Yes.

12:18:41 9  
12:18:41 10 And transitioning them, you need to know the  
12:18:45 11 risks?---Correct.

12:18:46 12  
12:18:46 13 Now, one of those things is, "Are we going to have to  
12:18:50 14 disclose the fact that she's done all these other things  
12:18:53 15 with the SDU or that she's been an informer in the past,  
12:18:57 16 because that would be - if we don't have to do that, fine,  
12:19:00 17 go ahead, there's no risk. But if we do have to do that  
12:19:05 18 how big is that risk"?---H'mm.

12:19:07 19  
12:19:08 20 Was it your understanding that what was to occur in  
12:19:14 21 relation to Petra was a scenario that involved not  
12:19:19 22 disclosing Ms Gobbo's history with the SDU in future court  
12:19:23 23 proceedings of Mr Dale?---Sorry, can you refine that again,  
12:19:29 24 please?

12:19:30 25  
12:19:30 26 Was it your understanding that once Mr Dale was charged  
12:19:36 27 there would not need to be any disclosure in relation to  
12:19:39 28 Ms Gobbo's past history with the SDU?---I wasn't a party to  
12:19:45 29 that discussion, or understanding of it.

12:19:47 30  
12:19:47 31 Was that your understanding?---No.

12:19:49 32  
12:19:49 33 Was your understanding that naturally they would need to  
12:19:53 34 disclose her history with the SDU?---Yeah, but not being a  
12:20:00 35 part and not having been briefed on any part of that, the  
12:20:03 36 focus on Mr Dale and company, operationally I wasn't in a  
12:20:08 37 position to come to any conclusions.

12:20:10 38  
12:20:10 39 If you're part of this steering group that's making a  
12:20:15 40 fundamental decision to transition someone from a human  
12:20:20 41 source into a witness, the risk that that entails is only  
12:20:25 42 borne out if you have to disclose the fact that she's been  
12:20:30 43 a human source in the past?---The first thing is the  
12:20:32 44 committee don't make the decision, the head of the  
12:20:35 45 investigation makes the decision.

12:20:36 46  
12:20:36 47 The committee contributes to the decision-making process,

12:20:39 1 does it not?---Yes.  
12:20:40 2  
12:20:40 3 And you would want to ensure that it was a rigorous  
12:20:44 4 decision-making process that examined the risks of  
12:20:47 5 transitioning this person from human source to  
12:20:51 6 witness?---Yes.  
12:20:51 7  
12:20:51 8 The major thing that's going to bring about that risk is  
12:20:55 9 whether she is discovered to have been a human source in  
12:20:58 10 the past?---Yes, that's one of the risks to be considered,  
12:21:01 11 yes.  
12:21:01 12  
12:21:01 13 Was it your understanding that that wasn't a risk because  
12:21:05 14 she's not going to be discovered because we're not going to  
12:21:08 15 disclose it?---No, that wasn't my understanding, because I  
12:21:11 16 hadn't been briefed and hadn't been part of the  
12:21:13 17 discussions.  
12:21:13 18  
12:21:14 19 Did you ask, "What's the status"?---Yes, we discussed it at  
12:21:18 20 the committee.  
12:21:18 21  
12:21:19 22 "Are we going to disclose this or not"?---Yeah, we  
23 discussed this at the committee. My main thrust was -  
12:21:22 24 because I hadn't been briefed on the history, I didn't know  
12:21:25 25 the history, my main discussion was we do not move in  
12:21:29 26 regard to, because it was talk about making her a witness  
12:21:33 27 and the process hadn't been completed at that stage, and my  
12:21:37 28 attitude was, which is detailed in my first statement, that  
12:21:40 29 until we get the documented evidence, what she can and  
12:21:44 30 can't say, until it's been analysed, until it's been  
12:21:48 31 corroborated to its fullest extent, right, we can't make  
12:21:52 32 the decision of becoming a witness or not, because then you  
12:21:55 33 can value, value the value of this evidence.  
12:22:00 34  
12:22:00 35 You want to wait to make a decision until you have in your  
12:22:04 36 hot little hands the statement that she's going to be able  
12:22:07 37 to sign?---And it's been analysed and assessed.  
12:22:10 38  
12:22:10 39 It's been analysed and you can see what the value  
12:22:12 40 is?---Yes.  
12:22:13 41  
12:22:13 42 Also you want to have in your hot little hand a risk  
12:22:16 43 assessment?---Which is the SWOT report.  
12:22:18 44  
12:22:19 45 What all the risks are?---Which is the SWOT report and that  
12:22:22 46 was obtained.  
12:22:23 47



12:22:31 1 Now, you refer in your supplementary statement to having  
12:22:37 2 been shown some extracts of Mr Hollowood's diaries from  
12:22:41 3 December of 2008?---Yes.  
12:22:43 4  
12:22:43 5 And you recall now, having seen those entries, that  
12:22:48 6 Mr Hollowood was indeed raising concerns with you about  
12:22:52 7 being excluded from Petra matters?---Yes.  
12:22:55 8  
12:22:56 9 And whilst you can't remember it, he included in his diary  
12:23:03 10 notes of the need for an independent assessment of the  
12:23:08 11 evidence in the Dale case?---Yes.  
12:23:11 12  
12:23:12 13 Now you say you don't have a memory of that but I take it,  
12:23:16 14 given that it's in his diary it's not something that you  
12:23:19 15 disagree with?---Yeah, I don't disagree with it but it's  
12:23:28 16 premature.  
12:23:28 17  
12:23:28 18 You accept that he raised that with you?---I don't know but  
12:23:32 19 it's there. I can't remember it.  
12:23:34 20  
12:23:35 21 I take it he's not the type of person that would put  
12:23:38 22 something in his diary?---No.  
12:23:39 23  
12:23:39 24 That wasn't said at the time?---Correct.  
12:23:41 25  
12:23:42 26 And it seems as though at that stage he's raising with you,  
12:23:45 27 "Well we need, when we've got the evidence, to have someone  
12:23:50 28 independent assess it"?---H'mm.  
12:23:52 29  
12:23:52 30 Now that was never done?---Right.  
12:23:55 31  
12:23:55 32 Is that right?---Well not to my knowledge, I don't know.  
12:24:00 33  
12:24:00 34 He's the Superintendent in charge of those conducting the  
12:24:07 35 investigation, recommending an independent  
12:24:09 36 assessment?---Yeah, I'm not too sure when he took that  
12:24:14 37 role. The date of this was approximately?  
12:24:18 38  
12:24:18 39 Late December?---Of?  
12:24:20 40  
12:24:20 41 2008?---2008. When I read his statement, or his diary and  
12:24:27 42 so forth, I thought I wonder when he got there and whether  
12:24:31 43 he was put into a role and he was catching up with the  
12:24:34 44 briefings and so forth.  
12:24:35 45  
12:24:35 46 He had been attending Petra for some time?---Right. So  
12:24:39 47 this is where I'm trying to catch up. So therefore it was

12:24:44 1 a concern to me that he'd been left out of briefings. But  
12:24:49 2 as for the review, I would, I would - depending on the  
12:24:59 3 nature of the investigation. In the Ceja Task Force we  
12:25:02 4 called a very experienced Superintendent in to review our  
12:25:08 5 investigation at a certain time. I'm not sure whether in  
12:25:14 6 the timing, because I wasn't being briefed, whether this  
12:25:16 7 was an appropriate time for a review, but a review is, I  
12:25:23 8 believe, necessary at a stage within your investigation.  
12:25:27 9  
12:25:28 10 All right. Now that was never done?---If it's specifically  
12:25:34 11 in regard to the brief, it's very hard for anybody to  
12:25:40 12 review a brief of evidence or the evidence.  
12:25:42 13  
12:25:42 14 There was never any review of this case. Let's just take  
12:25:45 15 simply, "Here's Mr Williams' statement which we've just  
12:25:51 16 got, here's Ms Gobbo's statement which we've just got, and  
12:25:56 17 here's the risk assessment in relation to Ms Gobbo. Tell  
12:25:59 18 us what your thoughts are"?---Yep.  
19  
12:26:02 20 That was never done?---Yes, it's an option.  
12:26:02 21  
12:26:02 22 And it was never done?---As far as I know. I don't know.  
12:26:06 23  
12:26:06 24 On the morning of 5 January you had a meeting with Mr Smith  
12:26:09 25 and Mr Hollowood, is that right?---Correct.  
12:26:11 26  
12:26:11 27 And the purpose being recorded in a diary as investigative  
12:26:19 28 direction and timetabling?---Yes.  
12:26:21 29  
12:26:21 30 It appears as though from Mr Biggin's diary that he, during  
12:26:24 31 that period of time, has collected his briefing note and  
12:26:30 32 SWOT analysis from Mr Porter, who had them and signed off  
12:26:35 33 on them?---Yep.  
12:26:36 34  
12:26:37 35 And then delivered them to your office?---Yes.  
12:26:39 36  
12:26:40 37 It seems as though that's been delivered in the morning.  
12:26:43 38 And you say you don't believe you showed it to Smith or  
12:26:47 39 Hollowood? Do you believe you showed that to Mr Smith and  
12:26:56 40 Mr Hollowood during that period of time?---No.  
12:26:58 41  
12:27:01 42 Why do you say that?---Because it came from Superintendent  
12:27:05 43 Biggin. He was heading towards a Deputy Commissioner, and  
12:27:10 44 it was not appropriate, there was no need, the need to  
12:27:15 45 know, there was no need for them to be told about it or  
12:27:18 46 briefed about it. I'm sure the superintendents would have  
12:27:21 47 briefed each other if that was necessary. Mr Biggin would

12:27:24 1 have made that decision, not me.

12:27:27 2  
12:27:27 3 Do you believe that there would have been a need at some  
12:27:29 4 stage to let those investigators in on the major concerns  
12:27:34 5 in relation to making this person a witness?---That was the  
12:27:38 6 purpose of the document, but it had to go through a path  
12:27:40 7 and the path was from me, being head of one department, to  
12:27:44 8 the Deputy Commissioner, who was the investigative manager.

12:27:48 9  
12:27:49 10 And I might just say, you say at paragraph 17 of your  
12:27:52 11 statement, "I don't believe that I discussed the SWOT  
12:27:57 12 analysis with them at this meeting"?---Correct.

12:27:59 13  
12:27:59 14 You said at paragraph 100 of your original statement that  
12:28:05 15 Mr Biggin had a practice of giving you verbal briefings  
12:28:08 16 about significant matters prior to elevating them to  
12:28:12 17 you?---Yes.

12:28:12 18  
12:28:12 19 It would be highly likely that he did so on this occasion  
12:28:17 20 you would say?---I believe, I can't remember the exact, but  
12:28:21 21 I believe he mentioned it to me.

12:28:25 22  
12:28:25 23 This is - - -?---Early, early - late that week, before.

12:28:30 24  
12:28:30 25 Right. So we're on 5 January at this stage. The original  
12:28:36 26 SWOT analysis was signed late December 2008 and Mr Biggin's  
12:28:41 27 cover sheet was signed on 2 January 2008 and then sent to  
12:28:45 28 Mr Porter. Now do you say that some time between 2 January  
12:28:52 29 and 5 January it's likely you would have had some sort of  
12:28:55 30 conversation with Mr Biggin or given a verbal briefing  
12:29:00 31 about this document?---No, I believe that Mr Biggin spoke  
12:29:02 32 to me before he asked for it to be done.

12:29:08 33  
12:29:09 34 MR COLEMAN: Sorry, I didn't hear the answer?---I believe  
12:29:12 35 he spoke to me about there are concerns by SDU members in  
12:29:17 36 regard to her being used as a witness and he was going to  
12:29:20 37 prepare a document. I don't know whether I called for it  
12:29:24 38 or he said he was going to prepare a document detailing the  
12:29:28 39 risks associated to it, I said that's great.

12:29:32 40  
12:29:32 41 MS TITTENSOR: You have this conversation, I think there  
12:29:35 42 might be diary notes of you informing him that, "We're  
12:29:38 43 going to make her a witness", off he goes and then he asks  
12:29:42 44 Mr Black to prepare a briefing note in relation to  
12:29:46 45 that?---Correct.

12:29:46 46  
12:29:47 47 Now, do you say subsequent to that you had another

12:29:51 1 conversation or it was just simply that original  
12:29:53 2 conversation?---Original conversation.  
12:29:55 3  
12:29:55 4 Right?---And I'll also say that he would have been told  
12:30:05 5 that there's going to be a meeting next week to decide,  
12:30:09 6 it's got to be decided, and not that she was going to be a  
12:30:13 7 witness but it was up for consideration. The reason I told  
12:30:19 8 him that because he had to start preparing for the process  
12:30:22 9 of hand over.  
12:30:23 10  
12:30:23 11 There was a count down. There's the 5 January  
12:30:26 12 meeting?---That's what I believe all those dates mean to me  
12:30:30 13 once I read them.  
12:30:31 14  
12:30:32 15 "Bear in mind Mr Biggin when you're preparing this response  
12:30:36 16 there's a meeting on 5 January"?---I'm presuming that was  
12:30:42 17 the discussion, because of the timing and the way it was  
12:30:45 18 done.  
12:30:45 19  
12:30:46 20 You said in your first statement you recalled seeing the  
12:30:49 21 document?---Yeah.  
12:30:51 22  
12:30:52 23 If I could bring it up, Exhibit 518, please. If we can  
12:30:59 24 scroll through. You recognise this now, I take it you've  
12:31:05 25 seen it recently again?---Yes, I've read it in the  
12:31:08 26 documentation.  
12:31:09 27  
12:31:09 28 It's a document that once you have seen it you can't really  
12:31:13 29 unsee it, is that right, you would agree with that? It  
12:31:17 30 contains some very concerning, significant issues?---It's  
12:31:21 31 identifying all the possible risks and strengths associated  
12:31:27 32 to this business of turning her from a human source to a  
12:31:31 33 witness.  
12:31:31 34  
12:31:31 35 And if we move up, so SWOT, strengths, weaknesses,  
12:31:37 36 opportunities and threats?---Yes.  
12:31:40 37  
12:31:41 38 Do you accept that the weaknesses and the threats  
12:31:44 39 significantly outweigh the strengths and the opportunities  
12:31:47 40 in that document?---If you typed that document for any  
12:31:55 41 human source it would look very similar, except for a  
12:31:58 42 couple of things, a few things.  
12:31:59 43  
12:32:00 44 Do you accept that the issues raised by that document are  
12:32:06 45 very, very concerning?---Some are, yes.  
12:32:09 46  
12:32:09 47 What are the issues that you say are very, very

12:32:12 1 concerning?---Is it possible for me to have a look at the  
12:32:17 2 original document so I can actually - - -  
12:32:19 3  
12:32:19 4 Certainly. Perhaps we'll shortcut. Do you see it as  
12:32:28 5 concerning or very, very concerning that the document  
12:32:31 6 raises, that the SDU have got concerns that by virtue of  
12:32:36 7 what's gone on with Ms Gobbo there's potentially unsafe  
12:32:41 8 verdicts and appeals - - -  
12:32:42 9  
12:32:42 10 COMMISSIONER: Just a minute, Ms Tittensor.  
12:32:45 11  
12:32:45 12 MS ARGIROPOULOS: I think Mr Moloney would just find it  
12:32:48 13 easier to read a hard copy. I'll just note that this  
12:32:54 14 version is completely unredacted so if counsel assisting  
12:32:59 15 could just assist - - -  
12:33:00 16  
12:33:01 17 COMMISSIONER: Unredacted and unmarked, is it?  
12:33:03 18  
12:33:03 19 MS ARGIROPOULOS: Yes. Thank you.  
12:33:05 20  
12:33:05 21 MS TITTENSOR: Was one of the concerns that you would agree  
12:33:07 22 that is very, very concerning is that the SDU themselves,  
12:33:12 23 who have been handling and managing this witness, are  
12:33:18 24 concerned about there being potentially unsafe verdicts and  
12:33:22 25 appeals arising out of the use of Ms Gobbo if her, if it's  
12:33:29 26 to be discovered that she was a human source?---Can you  
12:33:35 27 indicate where the dot point number, under, what, threats?  
12:33:41 28 I'll have to read it.  
12:33:42 29  
12:33:42 30 If we go right down the bottom?---Yes.  
12:33:45 31  
12:33:45 32 If you see - it's on the screen as well, you might see it.  
12:33:51 33 "OPI review, serving barrister assisting police,  
12:33:54 34 consideration of unsafe verdicts and possible appeals,  
12:33:57 35 prosecutions current, Mokbel, and future"?---Yes.  
12:34:01 36  
12:34:01 37 Do I take it that the fact that the SDU are identifying  
12:34:05 38 that, "Potentially by virtue of the way that we've used  
12:34:09 39 Ms Gobbo, there might have been unsafe verdicts and there  
12:34:13 40 might be possible appeals if it's discovered that she's a  
12:34:16 41 human source"?---Yes, they've identified that as a possible  
12:34:20 42 risk.  
12:34:20 43  
12:34:20 44 Do you find that very concerning?---Well, it's a  
12:34:25 45 consideration for the decision makers to actually take on  
12:34:30 46 board, but this is a document that is designed to go  
12:34:36 47 through all scenarios.

12:34:38 1  
12:34:38 2 Okay?---Now, behind that we don't know.  
12:34:41 3  
12:34:41 4 Do you find it concerning that the SDU, who had been  
12:34:47 5 handling Ms Gobbo?---H'mm.  
12:34:48 6  
12:34:49 7 Understand that the cases that have been prosecuted on the  
12:34:53 8 basis of her information and her use might have been  
12:34:57 9 achieved by unsafe means?---Does it say unsafe means?  
12:35:03 10  
12:35:03 11 "Consideration of unsafe verdicts"?---Yeah.  
12:35:07 12  
12:35:08 13 That there might, people might have been convicted?---Yes.  
12:35:11 14  
12:35:11 15 And that that conviction might be unsafe or might be  
12:35:17 16 regarded as unsafe and therefore there might be possible  
12:35:19 17 appeals?---Yes, depending on how the courts interpret it,  
12:35:24 18 yes.  
12:35:25 19  
12:35:26 20 Do you find that concerning?---Yes.  
12:35:28 21  
12:35:33 22 It goes on in that point to raise concerns about  
12:35:36 23 jeopardising other prosecutions, it seems, that are  
12:35:40 24 underway, Mr Mokbel and other potential prosecutions,  
12:35:43 25 future, do you see that?---Yes, that applies to every human  
12:35:47 26 source.  
12:35:47 27  
12:35:52 28 It specifically raises the case of Mokbel that's  
12:35:55 29 underway?---It's mentioned, yes.  
12:35:57 30  
12:35:58 31 It's raising, from the very outset, concerns about  
12:36:05 32 judicial, Government and then you see there OPI  
12:36:08 33 review?---Yes.  
12:36:09 34  
12:36:11 35 Do you see concerns of that nature? Do you find those  
12:36:15 36 matters concerning at all?---No, because it might be a  
12:36:18 37 natural outcome of a court case, or a complaint.  
12:36:22 38  
12:36:22 39 It raised significant concerns about discovery of  
12:36:25 40 credibility issues in relation to Ms Gobbo?---In relation  
12:36:29 41 to any source, yes.  
12:36:31 42  
12:36:32 43 Do you agree that those issues presented major  
12:36:36 44 organisational risks to Victoria Police?---Handling human  
12:36:41 45 sources, especially high risk, are always a situation where  
12:36:45 46 there is big risk to the organisation.  
12:36:46 47

12:36:47 1 This was a particularly extraordinary human source?---Yes.  
12:36:50 2  
12:36:50 3 Who was a lawyer, who was acting, who was a criminal  
12:36:53 4 defence lawyer?---Yes.  
12:36:54 5  
12:36:54 6 Who was acting for the very people that she was informing  
12:36:58 7 on?---Which is correct, she is a high risk human source.  
12:37:03 8  
12:37:04 9 Do you see that that presented a huge organisational risk  
12:37:08 10 for Victoria Police if it was discovered?---Yes.  
12:37:11 11  
12:37:11 12 That Victoria Police were using a criminal defence lawyer  
12:37:13 13 to inform on her clients?---Only if they were abusing the  
12:37:23 14 privilege, under the privilege situation.  
12:37:27 15  
12:37:28 16 Well?---Yes, it's unethical by her.  
12:37:31 17  
12:37:31 18 Did you see there was a problem if she's informing on her  
12:37:35 19 clients, the people that she's representing?---It's a  
12:37:39 20 problem for her.  
12:37:40 21  
12:37:40 22 It's not a problem - - -?---When you say representing, at  
12:37:43 23 the time, if they're representing, if she's representing  
12:37:46 24 them at the time, with a specific investigation, it's  
12:37:52 25 totally wrong. But you can't, and I don't accept, that  
12:37:57 26 because you hire a solicitor for good, everything that  
12:38:06 27 occurs there. If we get a situation where a barrister or a  
12:38:10 28 solicitor or anybody in the legal fraternity come across  
12:38:15 29 information both socially or otherwise that involves  
12:38:19 30 criminality that impacts on the community of Victoria, the  
12:38:22 31 lives of the people in Victoria, or perhaps abuse of a  
12:38:27 32 child, or many other cases, they've got to balance up  
12:38:32 33 whether they're going to sit on it and let that crime occur  
12:38:35 34 or do they go to the police and prevent the crime  
12:38:41 35 occurring? Now when you get this situation the police who  
12:38:47 36 are approached should take that information, analyse that  
12:38:50 37 information and proceed with it, as long as it's not in  
12:38:53 38 privilege.  
12:38:53 39  
12:38:53 40 All right. Let's take that example?---Yes.  
12:38:55 41  
12:38:56 42 This lawyer has come across this information and they've  
12:38:59 43 gone to the police?---Yes.  
12:39:01 44  
12:39:02 45 And police say, "Do you want to speak to a lawyer?" They  
12:39:09 46 arrest the person, "Do you want to speak to a lawyer about  
12:39:12 47 that"?---Yes.

12:39:13 1  
12:39:13 2 And the person says, "Yes, I do". They're entitled to  
12:39:18 3 independent representation, is that right?---Yes.  
12:39:21 4  
12:39:23 5 Now the police officer says, "Here, go and ring a lawyer  
12:39:26 6 for you", goes next door and the police officer pretends to  
12:39:31 7 be a lawyer next door. I'm just giving you that as an  
12:39:36 8 example. That's effectively the way Ms Gobbo is being  
12:39:39 9 used, she's a police agent. She's the lawyer for the  
12:39:42 10 people that she's informed upon?---Sorry, you've lost me in  
12:39:49 11 regard to the - - -  
12:39:51 12  
12:39:52 13 COMMISSIONER: Could we just do this example, Mr Moloney.  
12:39:54 14 This is what we're talking about, is that she's, say she's  
12:39:58 15 informed, as you've said, about a serious crime that she  
12:40:02 16 wasn't briefed in, it's a new crime, she's informed then,  
12:40:08 17 but then what happens is when the person she's informed on  
12:40:13 18 is charged she then continues to act for that person.  
12:40:16 19 That's the difficulty, isn't it?---That is, that is  
12:40:20 20 completely unacceptable.  
12:40:22 21  
12:40:22 22 Yes, yes?---I try and put myself in that situation.  
12:40:26 23  
12:40:27 24 MS TITTENSOR: This is - - -?---If the police advance that,  
12:40:31 25 in the sense of suggested this lawyer, that's very serious  
12:40:37 26 in my opinion.  
12:40:38 27  
12:40:38 28 If the police acquiesce and condone it?---I don't know the  
12:40:43 29 details but I would suggest that if that was the case and  
12:40:46 30 they knew that there was an association, or that situation  
12:40:50 31 was in existence they should have done something to try and  
12:40:53 32 avoid that going ahead. They should have tried to deter  
12:40:58 33 her, they can't tell the criminal because that's just  
12:41:02 34 disclosing her as an informant, so yes.  
12:41:05 35  
12:41:05 36 Once it's been done, okay, what do you do with the  
12:41:10 37 criminal? The criminal is entitled to know they haven't  
12:41:13 38 had fair representation, they haven't had fair advice and  
12:41:16 39 potentially they've been convicted or they've got a trial  
12:41:20 40 coming up, what do you do with that criminal with that  
12:41:23 41 information, are they entitled to know? Are they entitled  
12:41:26 42 to disclosure?---Isn't this what the Commission's all  
12:41:33 43 about?  
12:41:33 44  
12:41:34 45 What's your view as a policeman?---Yes, if in fact that's  
12:41:38 46 the arrangement, they're representing and being called in  
12:41:41 47 on the information supplied, on the arrest on the



12:41:45 1 information supplied, against the person who supplied it to  
12:41:47 2 them, I think that's totally unacceptable. But did the  
12:41:50 3 information come from that individual?  
12:41:52 4  
12:41:53 5 Once the police become aware, it's not necessarily - do you  
12:41:59 6 accept that this document raised very major concerns for  
12:42:03 7 Victoria Police, very major risks in relation to the  
12:42:07 8 potential transition of Ms Gobbo to a witness?---Yes.  
12:42:11 9  
12:42:11 10 Clearly you considered it serious enough to elevate it to  
12:42:15 11 the steering committee?---Yes.  
12:42:17 12  
12:42:18 13 And if we go to the front of the document, you did so by -  
12:42:28 14 the front of the - you did so by sending it or taking it to  
12:42:36 15 Mr Overland, is that right?---Yes.  
12:42:39 16  
12:42:39 17 And you wrote - you did so by taking it to  
12:42:47 18 Mr Overland?---Yeah, I believe I personally took it to  
12:42:49 19 Mr Overland.  
12:42:49 20  
12:42:50 21 With the intended action that this is to go to the Petra  
12:42:53 22 steering committee for consideration?---Correct.  
12:42:54 23  
12:42:59 24 Now you've been shown a correspondence register  
12:43:03 25 recently?---Yes.  
12:43:03 26  
12:43:03 27 I'll bring that up, VPL.0098.0026.0001. Just before we go  
12:43:14 28 to that, that's your handwriting, is it, on that  
12:43:17 29 document?---Yes, it's my handwriting and signature.  
12:43:22 30  
12:43:22 31 Sorry?---And signature, it's under the band.  
12:43:26 32  
12:43:29 33 You've been shown this register recently?---Yes.  
12:43:34 34  
12:43:36 35 Mr Buick, and you see his number 27498 up the top  
12:43:41 36 there?---Yes.  
12:43:41 37  
12:43:42 38 He was a staff officer of yours?---Yes, he was.  
12:43:46 39  
12:43:48 40 It's apparent that he's created a series of entries into  
12:43:52 41 the correspondence register, it was used at your  
12:43:59 42 office?---Yes, I don't, I've never seen this system, but  
12:44:03 43 it's my office and everything gets registered in and out  
12:44:07 44 that's relevant.  
12:44:08 45  
12:44:10 46 Further information, I'm not sure if we have it in a VPL  
12:44:14 47 code form at the moment. I'll quote the code number, there

12:44:25 1 is apparently one now but I'm not sure if it's uploaded to  
12:44:29 2 our system, but VPL.0098.0026.0002. We won't need to  
12:44:39 3 necessarily go straight to that document but that indicates  
12:44:43 4 that at around about 3.30 Mr Buick has entered those three  
12:44:48 5 bottom entries?---Yes.

12:44:52 6  
12:44:53 7 The last entry first and then moving up, so 3.29, 3.30 and  
12:44:59 8 the other one is still 3.30 as well. The new entry down  
12:45:03 9 the bottom is created and we see what the subject matter of  
12:45:09 10 the new entry is up the top, "Human source making statement  
12:45:12 11 to Petra Task Force". Then that correspondence has been  
12:45:17 12 received from Superintendent Buick, sorry, from Biggin to  
12:45:24 13 Buick. And then we see that the file is forwarded to  
12:45:28 14 Deputy Commissioner Overland by hand by Assistant  
12:45:34 15 Commissioner Moloney. Now that accords with your  
12:45:36 16 recollection, does it?---That prompted my recollection,  
12:45:41 17 yes.

12:45:43 18  
12:45:44 19 And those entries are made at 3.30, around about, in the  
12:45:48 20 afternoon?---Yes.

12:45:50 21  
12:45:51 22 Do you have any memory of when you went to speak to  
12:45:56 23 Mr Overland?---Yes, well at 4 o'clock, I think it was 4  
12:46:03 24 o'clock, on that afternoon there was, which I couldn't  
12:46:06 25 remember when I first made my statement, I didn't have any  
12:46:09 26 access to documents, or these documents, at 4 o'clock there  
12:46:12 27 was an update briefing from Petra to be held at the DC's  
12:46:20 28 office and I would have been on my way to see him, to  
12:46:25 29 attend that meeting.

12:46:26 30  
12:46:27 31 Now if Mr Buick has indicated that you're delivering that  
12:46:35 32 by hand at 3.30 would that indicate you've gone to his  
12:46:39 33 office perhaps half an hour or so, maybe a bit shorter,  
12:46:40 34 before the 4 o'clock meeting?---Yeah, it takes ten minutes  
12:46:42 35 to drive over there. That would have been completed by the  
12:46:45 36 staff officer, as I was - I presume as I was leaving.

12:46:49 37  
12:46:50 38 You're in a different building, are you, to  
12:46:53 39 Mr Overland?---Yes, I was in St Kilda Road, he was in the  
12:46:56 40 Victoria Police Centre in Flinders Street.

12:46:58 41  
12:46:58 42 As you say, about ten minutes away?---Ten to 15, yep.

12:47:02 43  
12:47:02 44 Had you told Mr Overland before this that you were seeking  
12:47:06 45 some sort of briefing note from the SDU about the risks  
12:47:08 46 associated with using Ms Gobbo?---I can't be sure.

12:47:12 47

12:47:12 1 Had you told anyone else on the steering committee?---No,  
12:47:17 2 not - I don't know. I don't think so. There was only  
12:47:21 3 Mr Cornelius and Mr Ashton and I don't think I would have  
12:47:25 4 spoken to Mr Ashton as he was the OPI representative.  
12:47:29 5  
12:47:29 6 Why would you not speak to him?---Because it was being  
12:47:33 7 called for by the police. I wasn't keeping anything from  
12:47:37 8 him, it's just that I'd tell, give Cornelius, who is  
12:47:41 9 normally the chair - - -  
12:47:44 10  
12:47:45 11 Mr Overland was the chair?---Sorry, the meetings were  
12:47:48 12 normally held in the Ethical Standards Department office  
12:47:52 13 and he was on the committee and I would have, courtesy, but  
12:47:55 14 I believe he was on leave anyway, so probably not.  
12:47:57 15  
12:48:01 16 You say in your statement that you believe that Mr Biggin's  
12:48:05 17 memo and the SWOT analysis were produced at the  
12:48:08 18 meeting?---Yes.  
12:48:09 19  
12:48:09 20 After Mr Smith and Mr Hollowood had left?---Yes.  
12:48:14 21  
12:48:14 22 Is there a reason why it would have only been produced  
12:48:17 23 after that?---Because it wasn't, it was - I felt, had to be  
12:48:23 24 discussed by the, well, by myself and Overland and  
12:48:31 25 Cornelius.  
12:48:32 26  
12:48:32 27 Mr Cornelius was away?---Yeah, I know, but that's - if he  
12:48:36 28 had have been there, I'm talking about the committee, and  
12:48:39 29 Mr Ashton if he was present, so I was, I believed that  
12:48:46 30 there would have been a significant discussion about this,  
12:48:50 31 or a discussion about this that was at that level. And  
12:48:56 32 then due to the fact that Overland was the head of the  
12:49:00 33 operation, controlled it from the start, it was his  
12:49:04 34 decision on what he would do with that or what he needed to  
12:49:07 35 do with that.  
12:49:08 36  
12:49:08 37 If you've got a ten minute drive over, you might have had  
12:49:12 38 10 or 15 minutes prior to the meeting with Mr Overland.  
12:49:16 39 Did you discuss the document in that period of time?---I  
12:49:19 40 can't remember but if I had that ten minutes to 15 minutes  
12:49:22 41 I would have showed it to him and said, "We'll discuss this  
12:49:26 42 after they update". I can't remember.  
12:49:29 43  
12:49:31 44 Would you have raised some specific concerns to him, I  
12:49:35 45 guess you put it in his hand, do you say, "This is a pretty  
12:49:38 46 hot document, we need to be careful"?---No, this is the  
12:49:42 47 risk assessment, with the opportunities and the threats and

12:49:45 1 all of that, it's got to be considered as a part of the  
12:49:53 2 decision making.  
12:49:54 3  
12:49:55 4 It has to be considered as part of the - - -?---It should  
12:49:58 5 be considered as part of the decision making.  
12:50:00 6  
12:50:01 7 After Mr Smith and Mr Hollowood leave the room - the  
12:50:05 8 meeting itself, it seems, according to their diaries is a  
12:50:09 9 substantial one?---H'mm.  
12:50:11 10  
12:50:12 11 They don't leave, it starts at about 4 and it's still -  
12:50:17 12 leaving about 20 to 6 or something of that nature and you  
12:50:22 13 say you sit on following that, do you?---I've got no idea  
12:50:25 14 how long it took, yeah.  
12:50:26 15  
12:50:27 16 That leaves you, Mr Overland and Mr Ashton in the  
12:50:30 17 room?---Yes.  
12:50:31 18  
12:50:33 19 Mr Ashton, do you say, was previously aware of Ms Gobbo's  
12:50:38 20 informing, to your knowledge?---Yeah, yeah, yeah.  
12:50:41 21  
12:50:41 22 Do you know if he was aware of the extent of her informing  
12:50:46 23 or the nature of her informing, that it involved Purana for  
12:50:49 24 example?---I think he may have been less informed than I  
12:50:53 25 was. I don't know, I don't know. I do not know who he was  
12:50:57 26 briefed by and when or any other briefings he personally  
12:51:01 27 asked for so I don't know.  
12:51:02 28  
12:51:02 29 Do you know what Mr Cornelius knew by that stage?---Well,  
12:51:06 30 he'd been on the journey from the start I believe, so he  
12:51:11 31 was fully aware of everything.  
12:51:13 32  
12:51:13 33 Did you feel yourself free to talk in that environment  
12:51:17 34 about Ms Gobbo and her history as a human source?---Yes.  
12:51:27 35 But - yes.  
12:51:27 36  
12:51:28 37 Had that been done prior to this because you're considering  
12:51:31 38 making her a witness anyway?---Yeah, that was back when I  
12:51:35 39 was talking about the statement should be completely signed  
12:51:39 40 off and everything else before we consider and assessed and  
12:51:43 41 analysed and corroborated if possible.  
12:51:46 42  
12:51:46 43 Now, was the document tabled at the meeting?---I believe  
12:51:50 44 so.  
12:51:51 45  
12:52:04 46 And was the document read by Mr Ashton in the meeting?---I  
12:52:09 47 can't remember.

12:52:11 1  
12:52:12 2 Was the document spoken to?---Yes.  
12:52:14 3  
12:52:14 4 Was it gone through?---No.  
12:52:17 5  
12:52:18 6 The various risks. In what way was it spoken to  
12:52:22 7 then?---From memory Simon read it.  
12:52:25 8  
12:52:25 9 To himself or out loud?---No, no, no, to himself, read the  
12:52:29 10 document. General conversation that basically said that  
12:52:37 11 everything here he knew about and had been considered and  
12:52:41 12 was being considered but it comes from the perspective, and  
12:52:47 13 he's right here, it comes from the perspective of only one  
12:52:52 14 part of the whole investigation, not the complete, not the  
12:52:55 15 complete investigation.  
12:52:59 16  
12:52:59 17 Sorry, what investigation are you talking about? The  
12:53:04 18 various investigations that Ms Gobbo was used within?---No,  
12:53:07 19 I presumed he was talking about the, where she was going to  
12:53:11 20 be a witness involved.  
12:53:11 21  
12:53:12 22 So by that do you mean to say, "These are the matters are  
12:53:19 23 irrelevant to our investigation because none of that's  
12:53:22 24 going to get disclosed to our investigation so there's no  
12:53:26 25 risk"?---No, he said all those issues had already been  
12:53:30 26 considered and noted and they would be, he was fully aware  
12:53:34 27 of it and it would be taken on board.  
12:53:38 28  
12:53:38 29 A number of the issues listed specifically had reference to  
12:53:41 30 the OPI and you've got Mr Ashton sitting there from the  
12:53:46 31 OPI?---Yes.  
12:53:47 32  
12:53:48 33 Were those issues raised with Mr Ashton?---No. Not to my  
12:53:53 34 memory, no.  
12:53:54 35  
12:53:54 36 They were left off Mr - Mr Overland didn't raise concerns  
12:53:58 37 of the SDU that there might be OPI reviews about Ms Gobbo's  
12:54:03 38 handling?---We did not go through the list.  
12:54:05 39  
12:54:06 40 I'm asking you in relation to concerns by the SDU that  
12:54:09 41 there might be an OPI review in relation to the handling of  
12:54:13 42 Ms Gobbo?---H'mm.  
12:54:14 43  
12:54:14 44 Was that raised with Mr Ashton?  
12:54:16 45  
12:54:17 46 MR COLEMAN: He just answered that.  
12:54:18 47

12:54:19 1 MS TITTENSOR: No, I'm asking him to clarify.  
12:54:20 2  
12:54:20 3 COMMISSIONER: The question can be put, thank you. The  
12:54:23 4 question will be put, yes. Just ask the question again  
12:54:28 5 please, Ms Tittensor.  
12:54:28 6  
12:54:29 7 MS TITTENSOR: There are a number of references to the  
12:54:31 8 OPI?---Yes.  
12:54:31 9  
12:54:32 10 One of those references at least indicates concern about  
12:54:36 11 OPI review of the handling of Ms Gobbo?---Yes.  
12:54:39 12  
12:54:40 13 Was that raised with Mr Ashton or at that meeting?---Not  
12:54:44 14 from my memory.  
12:54:45 15  
12:54:45 16 That was left off?---Nothing was left off. He'd read the  
12:54:49 17 document.  
12:54:50 18  
12:54:50 19 Well I'm not talking about Mr Overland reading the document  
12:54:53 20 to himself, I'm trying to understand what was told to  
12:54:55 21 Mr Ashton at the meeting, what he would have learnt through  
12:54:58 22 the course of this meeting. He didn't see the document,  
12:55:02 23 what was said, what was the nature of the risk conveyed to  
12:55:05 24 him?---I didn't convey that information to him from my  
12:55:08 25 memory.  
12:55:08 26  
12:55:08 27 What did Mr Overland say?---No, Mr Overland, Mr Overland  
12:55:12 28 took the document and said that, "It's all been considered,  
12:55:15 29 it will all be considered and thanks very much for bringing  
12:55:18 30 it to us".  
12:55:18 31  
12:55:19 32 What specific risks from the document were conveyed at that  
12:55:23 33 meeting, or discussed?---The document itself was a whole  
12:55:27 34 risk assessment. We didn't go through the items.  
12:55:29 35  
12:55:29 36 No, but which items were addressed?---I just told you.  
12:55:32 37  
12:55:33 38 No, you didn't tell me, you just said that he said, "I've  
12:55:36 39 seen this document and it's all been, it's all okay"?---He  
12:55:40 40 read the document. From memory he read the document and he  
12:55:43 41 said, "It's all been considered, I know about all this", or  
12:55:46 42 similar words, and it's, take it into consideration.  
12:55:50 43  
12:55:50 44 Did he refer to any of the specific strengths, weaknesses,  
12:55:54 45 opportunities or threats that were raised within the SWOT  
12:55:57 46 analysis?  
12:55:57 47

12:55:58 1 MR COLEMAN: I object.  
12:55:58 2  
12:55:59 3 WITNESS: No.  
12:56:00 4  
12:56:01 5 MR COLEMAN: This is the third time the witness has said  
12:56:02 6 what happened. Now true it is Ms Tittensor can explore it,  
12:56:05 7 but she already has.  
12:56:06 8  
12:56:07 9 COMMISSIONER: Thank you. I'll allow the question to be  
12:56:09 10 put. Thanks Ms Tittensor.  
12:56:10 11  
12:56:10 12 MS TITTENSOR: Did he raise any of the specific items in  
12:56:13 13 the document?---Not to my memory, no.  
12:56:15 14  
12:56:15 15 He just generally indicated that this has all been  
12:56:18 16 considered by him in the past?---Fully aware of it, it's  
12:56:22 17 been considered, full stop.  
12:56:23 18  
12:56:24 19 Did he offer Mr Ashton the document?---Not in my presence.  
12:56:31 20 And there were no copies.  
12:56:33 21  
12:56:42 22 Now, the purpose of yourself and Mr Ashton and Mr Overland  
12:56:48 23 being at that meeting was to discuss whether Ms Gobbo ought  
12:56:55 24 to be made a human source, sorry, a witness, is that  
12:56:59 25 right?---Generally, yes.  
12:57:01 26  
12:57:01 27 Now, in order to do that - - -?---That wasn't the purpose  
12:57:05 28 of the meeting, but yes.  
12:57:06 29  
12:57:06 30 You told Mr Biggin that we're going to be discussing that  
12:57:10 31 and it's a possible option after this meeting that that's -  
12:57:13 32 - -?---A decision will be made.  
12:57:15 33  
12:57:16 34 It seems as though by that date, by 2 January, we've got  
12:57:20 35 Ms Gobbo's draft statement's been completed?---(Witness  
12:57:25 36 nods.)  
12:57:25 37  
12:57:25 38 Mr Overland in his, in a document folder which the  
12:57:31 39 Commission has, which has lots of documents from around  
12:57:33 40 this period of time, contains this memo that we've just  
12:57:38 41 been going through, the SWOT analysis and briefing  
12:57:40 42 note?---Yes.  
12:57:40 43  
12:57:40 44 And it also contains an unsigned copy of Ms Gobbo's  
12:57:44 45 statement. Do you know if that was tabled at the  
12:57:48 46 meeting?---It was not.  
12:57:48 47

12:57:54 1 I'll just go back one moment. The briefing note, if we can  
12:58:01 2 just put that up on the screen again, if we could go to the  
12:58:19 3 first page. The first page. The action that you've  
12:58:25 4 indicated on that dissemination list is that the documents  
12:58:32 5 behind it were for the consideration of the Petra steering  
12:58:35 6 committee?---Correct.

12:58:36 7  
12:58:37 8 Do you say that the Petra steering committee were given the  
12:58:41 9 opportunity to consider those documents in the  
12:58:45 10 circumstances you've just described?---What was the  
12:58:54 11 question?

12:58:54 12  
12:58:55 13 Was there actually any consideration of those documents,  
12:58:58 14 aside from Mr Overland looking at it?---No.

12:59:00 15  
12:59:00 16 And saying it was all okay. Was there any actual  
12:59:03 17 consideration by the steering committee of those  
12:59:06 18 documents?---No, there was only the three of us there and  
12:59:10 19 I've explained what happened to you.

20  
21 You've read it, Mr Overland's read it and it's all  
12:59:10 22 okay?---And I don't know whether Mr Ashton - - -

12:59:13 23  
12:59:13 24 Now what does that say about governance, given the serious  
12:59:18 25 implications for Victoria Police and a decision following  
12:59:20 26 that, "Let's sign her up", what does that say about  
12:59:23 27 governance that was going on at Victoria Police at the  
12:59:26 28 time?---Well, nothing wrong with the governance. The head  
12:59:29 29 of the investigation, the head of the investigation, you  
12:59:33 30 can't make decisions by committees, if that's, or  
12:59:36 31 democratic votes, not in this type of issues. The head of  
12:59:41 32 the investigation is responsible for decision making. I've  
12:59:45 33 applied that in every Task Force I've ran over the years,  
12:59:49 34 that the investigating officer has the decision in regard  
12:59:52 35 to that type of decision making. He chose not to advance  
12:59:59 36 the discussion and there's only one member of the steering  
13:00:06 37 committee, plus the OPI representative being present, and  
13:00:10 38 that was his decision. He had the right to make that  
13:00:14 39 decision. Me personally had very limited knowledge of  
13:00:20 40 anything relating to the prosecution of Dale and for me to  
13:00:23 41 make a comment it would have taken - well, it was  
13:00:26 42 inappropriate if the Deputy Commissioner has decided that  
13:00:30 43 he's taken it on board and he'll make the decision.

13:00:34 44  
13:00:34 45 You were the Assistant Commissioner of Crime?---Correct.

13:00:36 46  
13:00:36 47 You think it's inappropriate for you to be raising any



13:00:39 1 concerns?---Not inappropriate.  
13:00:41 2  
13:00:41 3 That disagree with those of Mr Overland?---If I had any  
13:00:47 4 type of evidence or information that would cause the  
13:00:51 5 concern, if I had knowledge of that I would have raised  
13:00:54 6 them.  
13:00:54 7  
13:00:54 8 This very document causes great concern, doesn't it?---No,  
13:00:58 9 it's a risk assessment.  
13:00:59 10  
13:01:00 11 Mr Biggin is a very considered man, is he not?---Yes, very.  
13:01:04 12  
13:01:04 13 And he took the time to ask for this risk assessment and  
13:01:07 14 he's done a briefing note and have you heard Mr Biggin's  
13:01:11 15 evidence about he's essentially committing career suicide  
13:01:17 16 by doing something like this?  
13:01:21 17  
13:01:21 18 MS ARGIROPOULOS: Commissioner, that's a misrepresentation  
13:01:22 19 of the evidence. Mr Biggin's evidence, if I recall it  
13:01:26 20 correctly, was that he thought it was a career limiting  
13:01:30 21 move by the author of the document.  
13:01:34 22  
13:01:34 23 COMMISSIONER: Thanks Ms Argiropoulos. I think that might  
13:01:37 24 be right.  
13:01:38 25  
13:01:38 26 MS TITTENSOR: Mr Biggin's evidence was that by taking this  
13:01:41 27 step it might be seen as a career limiting move, by raising  
13:01:46 28 these issues?---Yes.  
13:01:48 29  
13:01:48 30 All right?---Yep.  
13:01:49 31  
13:01:52 32 Was there any thought by you that this is worthy of more  
13:01:57 33 serious consideration than Mr Overland simply reading it to  
13:02:02 34 himself and saying, "I know all this, I've considered all  
13:02:04 35 this"?---Yeah, that's what he reassured me and rightly or  
13:02:09 36 wrongly I accepted it.  
13:02:10 37  
13:02:11 38 Did you say to him, "I think we need to look further into  
13:02:14 39 this"?---There was - I can't remember the exact discussion,  
13:02:19 40 but no, I didn't go through it and point things out.  
13:02:24 41  
13:02:24 42 Can I take you to the comments section of Mr Biggin's note.  
13:02:28 43 "There are a number of organisational risks to Victoria  
13:02:32 44 Police. The SDU are prepared to expand upon these to Task  
13:02:36 45 Force management." Now was there any - they're offering  
13:02:39 46 themselves up?---Yes.  
13:02:40 47

13:02:40 1 "We've got concerns about unsafe verdicts, we've got  
13:02:44 2 concerns about what might happen in the Mokbel trial if  
13:02:47 3 she's exposed"?---Yes.  
13:02:48 4  
13:02:48 5 They're offering themselves up for questioning. Was that  
13:02:51 6 taken up?---No, I don't believe so.  
13:02:53 7  
13:02:54 8 Did anyone ever go back to them and say, "We've made this  
13:02:58 9 decision about the Dale matter but I'm a bit concerned, I'm  
13:03:04 10 the head of crime, and I'm a bit concerned about some of  
13:03:07 11 the cases that have been prosecuted in the past and some of  
13:03:10 12 the ones that we've got coming up, can you tell me if I've  
13:03:15 13 got anything to worry about?" Did you do that?---No, I did  
13:03:19 14 not.  
13:03:19 15  
13:03:19 16 Any reason why?---Mainly because I was not - well not, my  
13:03:27 17 responsibilities in regard to this had been handed over,  
13:03:32 18 right from the start, to Mr Overland.  
13:03:36 19  
13:03:36 20 Did you have any responsibility in relation to other  
13:03:38 21 prosecutions that were being conducted within the Crime  
13:03:41 22 Department?---Of course.  
13:03:44 23  
13:03:44 24 Did you have any responsibility if you became aware that  
13:03:49 25 unfair convictions may have been achieved to just follow it  
13:03:52 26 up and say, "What do you mean by that? I might have to  
13:03:55 27 disclose something to the OPP"?---No, but I - I didn't  
13:04:05 28 manage the prosecutions.  
13:04:09 29  
13:04:09 30 Did you think it might be advisable to go back to the SDU  
13:04:12 31 or at least to Mr Biggin to say, "What do they mean by  
13:04:15 32 these concerns here"?---Hindsight, yes.  
13:04:19 33  
13:04:19 34 Did anyone in the room say that, at any stage?---No.  
13:04:26 35  
13:04:28 36 Once Mr Cornelius returned did you have any discussion with  
13:04:32 37 him about this document?---I can't remember.  
13:04:36 38  
13:04:37 39 Is it something that you likely would have done or you  
13:04:40 40 would have left it because Mr Overland's made his  
13:04:44 41 decision?---I can't remember.  
13:04:50 42  
13:04:54 43 Do you say these issues were just put to bed, never raised  
13:04:58 44 again?---No, I expected Overland to, Mr Overland to take it  
13:05:04 45 on board and progress anything from his knowledge, which  
13:05:08 46 was the start of the operation right through to this stage,  
13:05:12 47 was there anything substantial behind it and speak to the

13:05:15 1 senior investigating officers and get them to respond to  
13:05:19 2 it. That's what I would have been, suggested the path that  
13:05:23 3 should have been taken.

13:05:25 4  
13:05:25 5 Your evidence earlier is, "What we need to do is we need to  
13:05:30 6 have the witness statement and the risk assessment side by  
13:05:33 7 side so we can make this decision"?---The steering  
13:05:38 8 committee is called a steering committee. I've explained  
13:05:42 9 this before. Yes, we contribute. The decision is that of  
13:05:50 10 the head of the investigation.

13:05:51 11  
13:05:51 12 To be guided by others on the committee?---Sorry? That did  
13:05:55 13 not occur on this occasion because Mr Overland took the  
13:06:01 14 document, said he knew everything that was in the document,  
13:06:04 15 it was all - it was whatever, and it was taken into  
13:06:11 16 consideration.

13:06:11 17  
13:06:11 18 Was Ms Gobbo's statement read by anyone at the  
13:06:16 19 meeting?---No.

13:06:17 20  
13:06:18 21 So there was no - - -?---And should not have been. Unless  
13:06:21 22 you were a decision maker.

13:06:24 23  
13:06:26 24 Paragraph 97 your statement you say, "Only after preparing  
13:06:29 25 a detail record of Ms Gobbo's could you possibly assess the  
13:06:33 26 value of her evidence against transitioning her from a  
13:06:37 27 human source"?---H'mm.

13:06:38 28  
13:06:38 29 The purpose of this memo and the purpose of this meeting,  
13:06:43 30 or one of the purposes of this meeting was to discuss  
13:06:47 31 whether that should happen and we need to balance one  
13:06:50 32 against the other?---H'mm.

13:06:52 33  
13:06:52 34 You've read the risk assessment, did you read - you didn't  
13:06:55 35 read her statement to say, "Well this is so valuable we do  
13:06:58 36 need to use it"?---I believe I'd never seen the statement  
13:07:02 37 and I believe I've never read the statement.

13:07:05 38  
13:07:07 39 Was there anyone saying, "Look we've got" - were you  
13:07:11 40 saying, given the fact that you've actually read this SWOT  
13:07:14 41 analysis, "Look, there's some concerns here. What's the  
13:07:19 42 need to rush? Why do we need to get her to sign it  
13:07:23 43 straight away"?---Sign it means really not - just by  
13:07:30 44 signing it, I see that that's just confirming what's inside  
13:07:33 45 it. It doesn't mean you use the evidence at a later date.

13:07:36 46  
13:07:38 47 You'd be obliged to disclose it, more likely obliged to

13:07:42 1 disclose it, which is the very risk that you're potentially  
13:07:48 2 guarding against?---Anyway, I didn't have an awareness,  
13:07:52 3 which is being significantly inhibiting about my position  
13:07:57 4 on the steering committee, and what do you call it, the  
13:08:00 5 history of all of these operational matters and briefings.  
13:08:05 6  
13:08:05 7 You'd been in charge of the SDU at the time when they're  
13:08:08 8 using her through the majority of this period?---Yes.  
13:08:11 9  
13:08:11 10 You then get to the Crime Department?---H'mm.  
13:08:16 11  
13:08:16 12 The very department that's using her, that's prosecuting  
13:08:19 13 cases based upon arrests they've made, based upon her  
13:08:23 14 information?---H'mm.  
13:08:24 15  
13:08:24 16 And you get this advice. It's talking about problems with  
13:08:28 17 cases, it's talking about potentially a problem with the  
13:08:31 18 Mokbel case?---Yes.  
13:08:33 19  
13:08:33 20 Arising out of the fact that she might be discovered to  
13:08:37 21 have been this human source?---Yes.  
13:08:38 22  
13:08:39 23 Were you saying, "What's the rush? Why do we need to  
13:08:41 24 decide this now? Let's wait until Mr Cornelius gets back,  
13:08:46 25 lets's have a more fulsome discussion". What was the  
13:08:51 26 rush?---I'm not sure.  
13:08:52 27  
13:08:52 28 There appears to have been a great haste to get this  
13:08:59 29 statement signed around about that time?---Get it  
13:09:01 30 documented and signed, yes.  
13:09:03 31  
13:09:04 32 Why?---I presume it was so the arrests would take place.  
13:09:08 33 I'm not sure, I can't remember.  
13:09:10 34  
13:09:11 35 Was there any concern or pointing out by you to Mr Overland  
13:09:16 36 or anyone else at all, "Hey, there might be some people in  
13:09:22 37 gaol here that didn't get a fair trial, we might need to do  
13:09:25 38 something about it"?---Not at that meeting, no.  
13:09:28 39  
13:09:28 40 At any time after that meeting?---I can't remember any  
13:09:32 41 other subsequent conversations.  
13:09:33 42  
13:09:33 43 Was there any pointing out that, "Aside from the people  
13:09:35 44 that we've already convicted there might be some people in  
13:09:38 45 custody awaiting trial, like Mr Mokbel"?---Not at this  
13:09:41 46 meeting, no.  
13:09:41 47

13:09:41 1 At any subsequent meeting?---I can't remember.  
13:09:44 2  
13:09:44 3 Was there anyone saying, "Look, given the matters that are  
13:09:47 4 raised I think we actually need to inform the OPI and there  
13:09:51 5 needs to be some form of inquiry"?---Well the OPI was  
13:09:55 6 present.  
13:09:55 7  
13:09:55 8 But they weren't told about the actual document?---I don't  
13:10:00 9 know whether they were told or not, I'd leave that up in  
13:10:03 10 the hands of the Deputy Commissioner.  
13:10:08 11  
12 At this meeting that we're at, that we're  
13 discussing?---Yes.  
14  
13:10:08 15 There's nothing in your evidence that indicates that  
13:10:10 16 Mr Ashton was told anything of the nature of the risks that  
13:10:13 17 were in that document?---He was present in the discussion.  
13:10:15 18 But as to the specifics I can't remember.  
13:10:17 19  
13:10:18 20 Bearing in mind that you've said that you don't know that  
13:10:21 21 Mr Ashton was told anything about the nature of the risks  
13:10:26 22 within the document?---I can't even remember whether he  
13:10:29 23 actually read it, I can't remember that.  
13:10:30 24  
13:10:30 25 All right. Was there any discussion at that meeting or at  
13:10:33 26 any time following that meeting to say, "I think the OPI  
13:10:38 27 need to do a review of this? They're an organisation  
13:10:41 28 that's very interested in human source management and  
13:10:44 29 that's where our greatest risk lies at Victoria Police, I  
13:10:47 30 think they ought to do a review"?---Nothing was put, no  
13:10:52 31 information or other - or any document was put in front, or  
13:10:56 32 came to my attention that could cause me to do that.  
13:10:59 33  
13:10:59 34 Did you do that?---Did I do what?  
13:11:01 35  
13:11:02 36 Sorry, did you think it was appropriate that the OPI ought  
13:11:04 37 to do a review of the - - -?---No, not unless there was an  
13:11:08 38 issue that had been identified and brought to their  
13:11:11 39 attention.  
13:11:12 40  
13:11:12 41 This document didn't do enough for you to say, "I think  
13:11:15 42 there might need to be a review of this"?---No, back to the  
13:11:19 43 purpose of the document. The document is a think tank in  
13:11:22 44 regard to the threats and the weaknesses, opportunities,  
13:11:25 45 right, in regard to what could happen, right. Everything.  
13:11:34 46 Everything. You just have a think tank about it, all the  
13:11:37 47 positives, all the negatives and you balance it all up, and

13:11:41 1 then that is then given to the decision maker.

13:11:45 2  
13:11:45 3 And it begs the question, doesn't it, it's a think tank,  
13:11:48 4 "Why might the SDU be saying that there are unfair  
13:11:52 5 convictions? Why might the SDU be saying that there might  
13:11:55 6 be appeals?" They beg the question, you go straight back  
13:11:59 7 to them and say, "Why are you saying that" and you get an  
13:12:02 8 answer from them, was that done?---I didn't personally go  
13:12:05 9 down there but there were certainly discussions with  
13:12:07 10 Mr Biggin, but that's - nothing stood out there.

13:12:11 11  
13:12:11 12 What were the discussions with Mr Biggin?---Well when we  
13:12:14 13 first spoke about the necessity.

13:12:16 14  
13:12:17 15 Right. So no discussions with Mr Biggin after this  
13:12:20 16 report?---I think I notified him that it had been discussed  
13:12:23 17 and it had been given to Simon Overland.

13:12:25 18  
13:12:25 19 No discussions with Mr Biggin about the concerns and risks  
13:12:29 20 raised in the report?---I can't remember having a  
13:12:31 21 discussion on specific items.

13:12:34 22  
13:12:35 23 Now, you also sat on the Briars Task Force?---Yes.

13:12:39 24  
13:12:39 25 You're aware that members went to Bali to get a statement  
13:12:42 26 from Ms Gobbo in relation to her involvement or, sorry, the  
13:12:46 27 involvement or potential involvement of Mr Waters in the  
13:12:52 28 murder of Shane Chartres-Abbott?---Yes.

13:12:54 29  
13:12:54 30 You're aware that there were issues about Ms Gobbo becoming  
13:12:58 31 a witness in that case that arose as well?---Yes.

13:13:01 32  
13:13:03 33 Ms Gobbo had been actively deployed by the SDU in the  
13:13:07 34 course of the investigation, that's something you would  
13:13:12 35 have become aware of I suggest?---Yeah, well - um, I can  
13:13:17 36 only go on the documentation I read, I can't remember other  
13:13:20 37 than that.

13:13:20 38  
13:13:21 39 In making the unsigned statement, the Briars investigators  
13:13:27 40 had been provided with material from the SDU about  
13:13:32 41 everything Ms Gobbo had told them about Mr Waters, so they  
13:13:36 42 had pages of meetings that the SDU had had with  
13:13:40 43 Ms Gobbo?---I presume that transaction took place.

13:13:43 44  
13:13:43 45 And the information that she'd given the SDU. And that  
13:13:46 46 largely provided the basis for the statement that they  
13:13:49 47 took?---Yes.

13:13:50 1  
13:13:50 2 She was unable to recount the history or the detail without  
13:13:54 3 the aid of the SDU material?---Right.  
13:13:58 4  
13:13:59 5 Mr Iddles at least was of the view that she's almost  
13:14:05 6 certainly going to be revealed, or she's certainly going to  
13:14:10 7 be revealed in disclosure processes as a human source if  
13:14:16 8 she signs this and becomes a witness, "There's no way we're  
13:14:19 9 going to get out of it", right?---I remember being told  
13:14:22 10 that, yes.  
13:14:23 11  
13:14:24 12 And the SDU again are very concerned because it's apparent  
13:14:27 13 at this stage that there's a view that Petra were going to  
13:14:32 14 be able to get away with not disclosing material about her  
13:14:37 15 status as a human source in that prosecution?---Yes.  
13:14:39 16  
13:14:39 17 Because we've separated the Petra and the SDU, so we're not  
13:14:43 18 going to disclose her in that, but Briars is a different, a  
13:14:47 19 whole different ball game because of the way that she's  
13:14:51 20 actually been deployed through the SDU?---Yep.  
13:14:53 21  
13:14:54 22 In having conversations with Mr Waters and because of the  
13:14:57 23 way the statement was taken, it's just - - -  
13:15:00 24  
13:15:01 25 MR CHETTLE: Commissioner, that was not ever the position  
13:15:03 26 of the SDU, that they would not have to disclose, the  
13:15:06 27 evidence was quite the contrary. The proposition put that  
13:15:09 28 the SDU were of the view they would never have to disclose  
13:15:12 29 in relation to Briars. The Petra is just not the case.  
13:15:14 30  
13:15:15 31 COMMISSIONER: All right. Clarify that please,  
13:15:17 32 Ms Tittensor.  
13:15:18 33  
13:15:22 34 MS TITTENSOR: There seems to have been a view, at least by  
13:15:26 35 - and I don't want to have to go through all the diary  
13:15:29 36 entries, there seems to have been a view that, "Petra could  
13:15:32 37 be distinguished from Briars because in Petra we may be  
13:15:35 38 able to get away with not disclosing the fact she had been  
13:15:38 39 a human source". In Briars it's a different case again  
13:15:42 40 because of the reasons I've just taken you through. And  
13:15:46 41 the SDU were concerned to make their command very aware of  
13:15:51 42 those issues and they were raising those up the  
13:15:54 43 chain?---Yes.  
13:15:55 44  
13:15:55 45 Mr Waddell, do you know Mr Waddell?---Yes.  
13:15:57 46  
13:15:57 47 Came back from Bali and he was wanting to progress the

13:16:01 1 investigation a bit further and had become aware that the  
13:16:06 2 SDU held a whole lot of other material that might be  
13:16:08 3 relevant to their investigation and might fill out some  
13:16:13 4 more of Ms Gobbo's statement and wanted to get a hold of  
13:16:16 5 that and the SDU were a bit resistant to that?---Okay.  
13:16:19 6  
13:16:19 7 It seems as though each of those is raising their concerns  
13:16:23 8 and their desires up their relevant chains of  
13:16:30 9 command?---Yes.  
13:16:30 10  
13:16:30 11 At some stage it comes your way and you're having a meeting  
13:16:35 12 on 9 June with Superintendent Porter, do you recall  
13:16:39 13 that?---I don't, but yes.  
13:16:41 14  
13:16:41 15 You've dealt with it more recently, is that right, in your  
13:16:44 16 supplementary statement?---Yeah, I think so. Where at?  
13:16:49 17  
13:16:57 18 I note the time, Commissioner. I won't be much longer but  
13:17:00 19 I think it's probably advisable I finish after lunch.  
13:17:04 20  
13:17:04 21 COMMISSIONER: Sure. Did you want to finish this topic or  
13:17:08 22 will it take a little while?  
13:17:09 23  
13:17:10 24 MS TITTENSOR: If we can just break for lunch now it might  
13:17:14 25 be easier.  
13:17:15 26  
13:17:15 27 COMMISSIONER: All right we'll take the lunch adjournment.  
13:17:18 28 We'll resume at 2, thanks.  
29  
13:17:45 30 <(THE WITNESS WITHDREW)  
13:17:48 31  
13:17:48 32 LUNCHEON ADJOURNMENT  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47



13:17:50 1 UPON RESUMING AT 2.00 PM:  
2

14:07:41 3 COMMISSIONER: Yes, please Mr Moloney. Make yourself  
14:07:44 4 comfortable. Yes, Ms Tittensor.  
14:07:46 5

14:07:46 6 <DANNYE OWEN MOLONEY, recalled:  
14:07:52 7

14:07:53 8 MS TITTENSOR: Mr Moloney, I was taking you to some Briars  
14:07:55 9 issues from around mid-2009 and I'd been through with you  
14:07:59 10 the issues from the SDU perspective and from the Briars  
14:08:02 11 investigator perspective and that it had been elevated up  
14:08:07 12 the chain sufficient that you're at a meeting now about it  
14:08:11 13 on 9 June 2009. You've addressed this at paragraph 26 of  
14:08:15 14 your supplementary statement?---Thank you. Yes.  
15

14:08:26 16 What it indicates is that you've been informed about the  
14:08:29 17 nature, I take it, of Superintendent Porter's evidence on  
14:08:33 18 this topic about what occurred at that meeting on 9 June  
14:08:38 19 2009?---Could you expand a bit, please?  
20

14:08:42 21 You say in your statement, "I'm informed that  
14:08:45 22 Superintendent Porter has a record of a meeting with  
14:08:47 23 myself"?---Yes.  
14:08:48 24

14:08:49 25 "And Superintendent Gerry Ryan on 9 June 2009 where I  
14:08:54 26 believe he raised concerns about Ms Gobbo being a witness  
14:08:57 27 in Briars. Superintendent Porter's statement indicates  
14:09:01 28 that the outcome of the meeting was the matter would be  
14:09:03 29 further elevated to Mr Cornelius"?---Yes.  
30

14:09:07 31 Mr Porter's evidence was that when he raised the concerns  
14:09:12 32 in the meeting he briefed the meeting by using a note  
14:09:20 33 provided by Mr Black of the SDU and that he used - he  
14:09:26 34 hadn't been able to find the exact document that he'd  
14:09:29 35 briefed the meeting with, but he said it was similar in  
14:09:32 36 terms to the SWOT analysis?---Sorry, are we talking about  
14:09:37 37 the meeting with Ryan, myself or are we talking about the  
14:09:41 38 subsequent meeting?  
39

14:09:42 40 This is the meeting of 9 June, yourself, Ryan and  
14:09:46 41 Porter?---Yes.  
42

14:09:47 43 Mr Porter's evidence is that in raising his concerns about  
14:09:52 44 Ms Gobbo's potential use by Briars as a witness - -  
14:09:58 45 -?---Yes.  
46

14:09:58 47 - - - he briefed you with the aid of a note from Mr Black

14:10:02 1 of the SDU?---Yes.  
2

14:10:04 3 And he believes that the content of that note was similar,  
14:10:12 4 if it wasn't the actual SWOT analysis from back in the day,  
14:10:16 5 because the issues were very similar that were being  
14:10:19 6 raised. So issues of the nature of Ms Gobbo being exposed  
14:10:24 7 as a human source, the impact that that might have on other  
14:10:29 8 prosecutions and cases and OPI reviews and so forth, okay?  
14:10:34 9 And some of those issues had been raised in meetings as it  
14:10:37 10 came up the chain to you, you might understand, including  
14:10:40 11 the prospect of Royal Commissions being talked about  
14:10:43 12 through the course of those meetings. You accept the  
14:10:47 13 evidence of Superintendent Porter?---Yes.  
14

14:10:52 15 In relation to those matters?---Yes.  
16

14:10:56 17 Clearly it was decided at the end of that meeting that  
14:11:01 18 Assistant Commissioner Cornelius needed to become  
14:11:04 19 involved?---Yes.  
20

14:11:06 21 We then have, I think in evidence, I don't think I need to  
14:11:10 22 take you to it, but there's a calendar invitation  
14:11:15 23 indicating that you've organised a meeting, you've got  
14:11:18 24 someone by the name of David Clayton has issued a calendar  
14:11:26 25 invitation on your behalf, and that would make sense, was  
14:11:29 26 he someone operating in your office?---He was then I think  
14:11:32 27 the staff officer, yes.  
28

14:11:34 29 And a meeting takes place between yourself and Mr Cornelius  
14:11:38 30 and a number of others, and I think Mr Cornelius by that  
14:11:42 31 stage had invited Mr Waddell along as well?---Yes.  
32

14:11:47 33 Do you remember that meeting?---Not specifically, no, but I  
14:11:50 34 accept that it occurred.  
35

14:11:52 36 If it's likely that the day before you're briefed in the  
14:11:56 37 terms that I've just described with Mr Porter?---M'mm.  
38

14:12:00 39 About all of these issues of a similar nature that are  
14:12:04 40 contained in the SWOT analysis?---M'mm.  
41

14:12:06 42 And that what the concerns are that are being raised up the  
14:12:13 43 chain involve those potential unsafe convictions and  
14:12:15 44 Commissions and inquiries and those kinds of things, it's  
14:12:19 45 likely that those things would then be raised as issues  
14:12:22 46 with Mr Cornelius in the meeting that you've  
14:12:24 47 arranged?---Yeah, I would have - no doubt that I would have

14:12:28 1 contacted Mr Cornelius, discussed what Mr Porter had said  
14:12:35 2 and said, "We need to hold a meeting."  
3  
14:12:38 4 Right?---Because he was - that investigation was under the  
14:12:45 5 auspices of his department and he was the Chair of it.  
6  
14:12:49 7 He was the Chair of the Briars committee from the start and  
14:12:51 8 continued to be once it got up and running again?---As far  
14:12:54 9 as I know, right through.  
10  
14:12:57 11 I think you've been shown a copy of Mr Cornelius' notes,  
14:13:02 12 you say in your supplementary statement, and you agree that  
14:13:05 13 those issues that were raised in his notes - - -  
14:13:08 14 ?---They're the dot points he put down, yes.  
15  
14:13:12 16 Yes. I take it you would agree that there's likely to have  
14:13:15 17 been a briefing at the start to those present at the  
14:13:19 18 meeting about what the issues are and then a discussion of  
14:13:21 19 the issues?---Yeah, I'm not too sure who would have  
14:13:26 20 delivered it, it would be either - well, Porter would have  
14:13:31 21 arranged the briefing.  
22  
14:13:34 23 Do you know or can you say whether anything was done as a  
14:13:36 24 result of concerns being raised at that stage about  
14:13:38 25 Ms Gobbo's use as a human source?---No, I can't remember  
14:13:47 26 the outcomes.  
27  
14:13:48 28 I understand what's been focused on is, "Should we use her  
14:13:54 29 as a witness?" But along the lines of, when these risks  
14:13:57 30 are being raised, what's being raised in essence is, "This  
14:14:01 31 might lead to some kind of inquiry or Commission and  
14:14:04 32 there's a reason behind and should we be investigating that  
14:14:08 33 reason". Were there any questions along those lines being  
14:14:11 34 raised?---I cannot remember the discussion.  
35  
14:14:14 36 Do you ever recall there ever being concern or follow up  
14:14:16 37 being directed about why are these people so concerned  
14:14:20 38 there might be some form of inquiry?---Not by me, as it was  
14:14:25 39 left in Mr Cornelius' hands.  
40  
14:14:30 41 In September of 2009 it seems some stage after this what is  
14:14:36 42 determined is that Mr Cornelius indicates the SDU should  
14:14:41 43 give the material to Mr Waddell that he wants so that he  
14:14:45 44 can make an assessment of the risks and take everything  
14:14:49 45 into account before a decision is made as to whether  
14:14:51 46 Ms Gobbo signs a statement or not and becomes a witness.  
14:14:55 47 Mr Waddell goes through some of that material and has some

14:15:00 1 concerns about what he finds in the material about what has  
14:15:06 2 been - what's been going on, about whether there's legal  
14:15:10 3 professional privilege issues and other issues that are  
14:15:12 4 being raised by the nature of the material and decides, "We  
14:15:16 5 need to get some legal advice about this", all  
14:15:19 6 right?---Right.  
7

14:15:22 8 Mr Maguire is briefed and in September of 2009, after some  
14:15:28 9 months, the Petra Task Force - sorry, the Briars Task Force  
14:15:32 10 steering committee, which has very similar people on it as  
14:15:35 11 the Petra Task Force steering committee?---Yes.  
12

14:15:37 13 Is given the result of that legal advice and I think on a  
14:15:41 14 date where you're sitting as Chair, because Mr Cornelius is  
14:15:45 15 away, and the advice at that stage was that Mr Maguire  
14:15:52 16 says, "The witness's past will probably be declared to the  
14:15:56 17 court at a minimum in the prosecution of Dale", and then if  
14:16:01 18 Perry was charged, because Ms Gobbo's statement had  
14:16:04 19 indicated a confession, Ms Gobbo said, "I've heard a direct  
14:16:10 20 confession from Perry", if Perry was charged with murder it  
14:16:15 21 was probable that the full extent of Ms Gobbo's assistance  
14:16:18 22 would be known, would become known, all right?---M'mm.  
23

14:16:25 24 Mr Smith from Petra had been invited along to this meeting  
14:16:28 25 because it had implications for the Dale prosecution. The  
14:16:31 26 fact that we've now got some legal advice from a Briars  
14:16:37 27 hired lawyer that we're going to, at a minimum, have to  
14:16:41 28 disclose in relation to the Petra matter some of Ms Gobbo's  
14:16:46 29 dealings with the SDU, okay. Now, it seems as though,  
14:16:51 30 despite that, there are no steps taken towards the path of  
14:16:56 31 disclosure following that prior to the committal taking  
14:16:59 32 place?---Prior to the?  
33

14:17:02 34 By the Petra Task Force?---Yes.  
35

14:17:05 36 So Petra are present at this meeting, they know about this  
14:17:08 37 advice with Maguire. They've got own other lawyer Mr Gipp  
14:17:13 38 acting for them in relation to subpoena matters, but  
14:17:15 39 they're not really informing Mr Gipp as to Ms Gobbo's  
14:17:18 40 history. It seems as though there are just no steps taken  
14:17:24 41 towards disclosure prior to the committal getting -  
14:17:28 42 commencing. Were the steering committee aware of  
14:17:32 43 that?---Well I wasn't, no.  
44

14:17:35 45 Presumably the steering committee are aware that there are  
14:17:37 46 issues in relation to disclosure, you're being - I think  
14:17:42 47 there's some diary entries of your involvement in

14:17:44 1 discussions about lawyers being hired for subpoena  
14:17:49 2 issues?---Yes.  
3

14:17:49 4 So you are concerned with what's going to be disclosed in  
14:17:52 5 relation to Ms Gobbo?---Certainly aware of it and certainly  
14:18:04 6 - I think you're concerned on anyone managing these things,  
14:18:09 7 to be quite honest with you. It depends on what you mean  
14:18:12 8 by disclosure. Disclosure in front of a court?  
9

14:18:15 10 Disclosure to at least the court that Ms Gobbo is an  
14:18:19 11 informer?---Yes.  
12

14:18:20 13 We've got material sitting in the background here which  
14:18:23 14 might be relevant to Mr Dale's case?---M'mm.  
15

14:18:26 16 That's not happening. There's an awareness that it's  
14:18:29 17 likely that that's going to - that should be disclosed, but  
14:18:33 18 it just doesn't seem that there are any moves made towards  
14:18:37 19 gathering that material so it can be assessed for public  
14:18:40 20 interest immunity or anything like that?---I can't remember  
14:18:42 21 what happened.  
22

14:18:45 23 It appears to be the case that only once the committal  
14:18:49 24 commences in March of 2010, when the Dale murder committal  
14:18:54 25 commences?---Yes.  
26

14:18:56 27 That there are specific requests made by the defence which  
14:19:01 28 then cause Victoria Police's counsel, Mr Gipp, to start  
14:19:05 29 asking questions of investigators, which then gives rise to  
14:19:09 30 some awareness that there is an informer management file in  
14:19:12 31 relation to Ms Gobbo and material is then starting to be  
14:19:16 32 looked at. Now I'll just put up this document,  
14:19:24 33 VPL.6118.0046.5217. What happens is once the defence are  
14:19:47 34 asking for this informer management file Mr Smith and  
14:19:55 35 Mr O'Connell have a meeting with Sandy White of the SDU and  
14:20:01 36 have a discussion about the implications of that decision.  
14:20:07 37 The following day Mr Smith emails the HSMU indicating that,  
14:20:14 38 "We have had this meeting". You can read it there. "Petra  
14:20:21 39 had a meeting with Sandy White in relation to 3838. We  
14:20:24 40 mentioned to him during the committal of Paul Dale Tony  
14:20:28 41 Hargreaves on behalf of Dale has requested production of  
14:20:32 42 any informer management files relating to this witness. We  
14:20:36 43 have sought instruction from Ron Gipp, barrister,  
14:20:39 44 representing the Chief Commissioner and he said that on the  
14:20:41 45 face of it we're obliged to hand over any documents on this  
14:20:45 46 file that relate to the Hodson matter". Just pausing  
14:20:48 47 there. It's apparent that knowing from at least back in

14:20:51 1 September, that having had legal advice back in September,  
14:20:53 2 that this stuff, at a minimum, is going to have to be  
14:20:57 3 disclosed, nothing's been done until after the committal  
14:21:00 4 starts and there's a specific request from the defence. Do  
14:21:03 5 you find that concerning?---Not enough information.  
6

14:21:10 7 Would you expect that Ms Gobbo's - if the SDU held material  
14:21:15 8 relating to Ms Gobbo's dealings with Mr Dale and Mr Hodson,  
14:21:18 9 that they ought to have disclosed that to  
14:21:25 10 Mr Dale?---Depends on what it contained.  
11

14:21:27 12 If it contained details of conversations with the SDU about  
14:21:31 13 Ms Gobbo's dealings with Mr Dale, including her telling her  
14:21:39 14 handlers things like it's a bizarre using friendship where  
14:21:46 15 she provides him with legal advice, or something of that  
14:21:49 16 kind?---Yes.  
17

14:21:50 18 Would you consider that that type of material ought to be  
14:21:52 19 disclosed to Mr Dale?---Well it should be considered  
14:21:55 20 whether it should be.  
21

14:21:56 22 Yes, and you should be - - - ?---But, but, like anything,  
14:22:02 23 two things. It's a legal matter. That's the matter, it's  
14:22:06 24 a legal matter.  
25

14:22:07 26 Exactly, yes?---Therefore legal opinion should be sought.  
27

14:22:11 28 Yes?---I certainly haven't got a background, I've got no  
14:22:14 29 law degree, I've got no background in that other than my  
14:22:18 30 experience as a law enforcement officer. That's just me  
14:22:23 31 personally so you know where I'm coming from. And I would  
14:22:27 32 be seeking advice in regard to that.  
33

14:22:31 34 Can I just point out, there's been some advice back in  
14:22:31 35 September?---Yes.  
36

14:22:32 37 The advice is at a minimum that has to be disclosed. We  
14:22:34 38 get to the committal six months down the track, we've got a  
14:22:38 39 different lawyer acting for Victoria Police and it's not  
14:22:41 40 been discussed with the Victoria Police lawyer, it's only  
14:22:44 41 just coming up because defence happened to have asked for  
14:22:47 42 it?---That concerns me.  
43

14:22:50 44 Is that concerning to you?---Oh yes, that concerns me.  
14:22:52 45 Sorry, that clarified the question.  
46

14:22:56 47 "Petra requests that we be given permission to access this

14:22:59 1 file and identify documents that may need to be produced.  
14:23:02 2 I understand the ramifications of this and have discussed  
14:23:05 3 it at length with Sandy. I will also bring it to the  
14:23:09 4 attention of our steering committee". So it seems as  
14:23:12 5 though there's an indication that Mr Smith is going to be  
14:23:15 6 discussing the ramifications of the fact that we are now  
14:23:19 7 are looking at disclosing documents about Ms Gobbo. Now  
14:23:24 8 was that done?---I cannot remember. I certainly did not  
14:23:30 9 attend all of the meetings of the steering committee. And  
14:23:36 10 alternatively - so I've got no memory of that.  
11  
14:23:40 12 Do you recall it being discussed at the steering committee,  
14:23:44 13 "We now may be in danger of having to disclose Ms Gobbo's  
14:23:48 14 status as a human source", do you recall - - - ?---Yes,  
14:23:52 15 that would have been discussed at some stage.  
16  
14:23:54 17 Around this period of time in relation to the Dale  
14:23:56 18 prosecution?---I've got no idea.  
19  
14:24:04 20 I might just take you back to one last document which I  
14:24:07 21 started with you, the Review and Develop Best Practice  
14:24:11 22 Human Source Management Policy document?---Yes.  
23  
14:24:13 24 From the project you're on, COM.0025.0002.0008. If we can  
14:24:25 25 scroll through to the next page there. This is - you'll  
14:24:32 26 recognise this is a document that comes out of that  
14:24:34 27 project; is that right?---Yes.  
28  
14:24:36 29 Of the Human Source Management Project that you were on.  
14:24:41 30 If I can take you to p.17. You'll see that this is a  
14:24:48 31 chapter that deals with ethics and corruption, do you see  
14:24:52 32 that? It's headed "Ethics and corruption"?---Yes.  
33  
14:25:03 34 Down the bottom we see there's a recommendation in relation  
14:25:08 35 to learning from past cases in relation to corrupt  
14:25:12 36 relationships and things that are formed, do you see that,  
14:25:17 37 between police and criminal informers?---Yes.  
38  
14:25:19 39 Then it goes on to ethics. "A common factor in all cases  
14:25:25 40 involving the corruption of a police investigator by a  
14:25:27 41 human source is the fact that the handler/source  
14:25:29 42 relationship changed from being a professional business  
14:25:32 43 type relationship to a personal relationship. It is the  
14:25:36 44 development of this personal relationship that opens the  
14:25:40 45 door for corrupt practices to occur", you see that?---Yes.  
46  
14:25:43 47 Then if we go further, it identifies the ethical dangers

14:25:50 1 inherent in relationships which can be broken down into  
14:25:53 2 four categories. I'll just note two of them in particular.  
14:25:58 3 The first being the failure to cope with disclosure and the  
14:26:02 4 third being noble cause corruption, do you see  
14:26:09 5 those?---Yes.

6  
14:26:09 7 In relation to the failure to cope with disclosure, just in  
14:26:12 8 summary, the document refers to a temptation by handlers to  
14:26:16 9 the economical with the truth by failing to properly  
14:26:19 10 disclose the role played by sources in police operations.  
14:26:24 11 You're aware of that risk?---Yes.

12  
14:26:27 13 It goes on, "Managers which condone this course of action  
14:26:32 14 or turn a blind to its existence fail to develop strategies  
15 designed to meet the requirements of the human source  
14:26:36 16 system and the court system". Do you see that in the  
14:26:42 17 second paragraph?---Yes.

18  
14:26:45 19 And that, "This in turn leaves themselves and their  
14:26:48 20 organisations open to the risk of compromisation of the  
14:26:51 21 source, system and/or total corruption". Here we've got a  
14:26:57 22 situation where we've got no disclosure about the nature  
14:27:00 23 and the use of this source getting through at all. It  
14:27:04 24 appears to be a situation that's been condoned by managers  
14:27:10 25 that are overseeing both the SDU and investigators along  
14:27:13 26 the way. You may not know it, but there are meetings  
14:27:19 27 involving the SDU and investigators about how we deal with  
14:27:21 28 disclosure issues at points. The High Court, you will have  
14:27:30 29 read at least in the papers, has described the conduct of  
14:27:33 30 the police as reprehensible and a breach of their sworn  
14:27:37 31 duty in knowingly and encouraging Ms Gobbo to commit  
14:27:43 32 fundamental and appalling breaches of her obligations to  
14:27:47 33 her clients and to the court, you've read about that no  
14:27:50 34 doubt?---I've read that, yes.

35  
14:27:52 35  
14:27:53 36 And here we find ourselves now in a Royal Commission a year  
14:27:57 37 down the track from its establishment. If we move further  
14:28:02 38 up the document we come to the noble cause. Essentially  
14:28:04 39 you'll sort of recognise those sentiments I take it, the  
14:28:11 40 belief that the ends justify the means?---M'mm.

41  
14:28:14 42 And you will have heard, no doubt, some commentary about,  
14:28:19 43 "Well, we had serious issues to deal with, why not?", in  
14:28:24 44 terms of the issues that this Commission's been dealing  
14:28:27 45 with?---I haven't heard that, but.

46  
14:28:32 47 It notes that this occurs incrementally, there are moral



14:28:36 1 barriers that are broken down in small pieces. You can see  
14:28:39 2 how that comes about in terms of noble cause  
14:28:44 3 corruption?---M'mm.  
4

14:28:45 5 It starts with the turning of a blind eye to certain  
14:28:47 6 activities in the name of achieving a result and it can  
14:28:50 7 ultimately end with a belief that any type of action is  
14:28:54 8 justifiable?---Yes, we can go through this document and  
14:28:57 9 that highlights all the things that can fail and all the  
14:29:00 10 behaviours that should not be tolerated.  
11

14:29:04 12 Yes?---But I'm not in a position to make any comment in  
14:29:09 13 regard to her involvement in any of those things.  
14

14:29:17 15 Are you in a position to make a comment in relation to the  
14:29:19 16 police conduct? The quote that I took you to from the High  
14:29:24 17 Court was talking about the police condoning Ms Gobbo's  
14:29:27 18 conduct?---Yes, and the High Court - I accept what they - I  
14:29:32 19 certainly accept the High Court's comments. I absorb them  
14:29:37 20 as an ex-police officer and so forth. But I have not been  
14:29:43 21 - had access to all the behaviours that justify or underpin  
14:29:48 22 those comments. That's all I'm indicating.  
23

14:29:51 24 You've been a - or you were a member of Victoria Police for  
14:29:55 25 a very, very long time?---Yes.  
26

14:30:00 27 It was readily apparent at the outset, in terms of the use  
14:30:05 28 of a lawyer as an informer, that there were risks  
14:30:09 29 associated with that course?---Yes.  
30

14:30:12 31 There was a failure to seek legal advice or put in any  
14:30:16 32 mechanisms to account for those risks, do you accept  
14:30:20 33 that?---At various stages, at various stages in hindsight  
14:30:30 34 advice may or should have been sought.  
35

14:30:36 36 What I'm suggesting is from the outset that's a readily  
14:30:39 37 apparent risk, "We're using a criminal lawyer to provide  
14:30:43 38 information, we should get some mechanisms in place to  
14:30:46 39 minimise those risks if we're going to do that"?---As an  
14:30:50 40 investigative tool it's open to have that risk alleviated.  
41

14:30:56 42 There was a complete failure to seek any legal advice or  
14:30:58 43 put any mechanisms in place, it seems, in writing at least,  
14:31:03 44 to create boundaries from the very outset?---I don't know  
14:31:11 45 because I wasn't briefed in regard to the investigative -  
14:31:18 46 investigation.  
47

14:31:19 1 The very reason that Ms Gobbo was signed up in this case,  
14:31:23 2 whether you knew it or not, at that time was to inform  
14:31:26 3 against her own client, Mr Mokbel?---I didn't know that.  
4

14:31:30 5 If we had any legal advice at that stage it would have  
14:31:34 6 been, "No, you can't do it", do you accept that?---I can't  
14:31:39 7 make comment.  
8

14:31:42 9 It was known that this was occurring at very senior levels.  
14:31:46 10 If not yourself, you know that there were other very senior  
14:31:50 11 involved who knew who was going on?---Who were being  
14:31:54 12 briefed, yes.  
13

14:31:54 14 Who were being briefed. It appears to be the case that  
14:31:56 15 from the very outset of the dealings in relation to  
14:32:01 16 Ms Gobbo and her registration there's an unwillingness by  
14:32:04 17 police, and I'm also referring to circumstances beyond that  
14:32:08 18 when disclosure becomes an issue?---M'mm.  
19

14:32:10 20 There's an unwillingness by police to seek appropriate  
14:32:14 21 legal advice because it seems they were afraid of what the  
14:32:19 22 advice would be?---I can't comment on that.  
23

14:32:23 24 You can understand that police just didn't want to be told,  
14:32:27 25 "No, you can't use Ms Gobbo in that way"?---No, I can't  
14:32:30 26 understand that. That's an opinion by you. I think, as is  
14:32:34 27 in history, that when I saw the need, as a head of an  
14:32:37 28 investigation, I brought in legal advice.  
29

14:32:43 30 Are you able to explain how the conduct in this case, the  
14:32:51 31 failure to seek appropriate legal advice from the outset,  
14:32:57 32 and the use of Ms Gobbo in such circumstances where it was  
14:33:01 33 using her against her own clients, was condoned at such  
14:33:07 34 senior levels of Victoria Police? Can you explain that at  
14:33:12 35 all?---No, because I do not know enough about the tasking  
14:33:15 36 of her and the requirements of the investigations.  
37

14:33:21 38 Thanks Commissioner.  
39

14:33:22 40 COMMISSIONER: Before you sit down. You took him twice to  
14:33:25 41 a version of Exhibit 276 but you seemed to say that it  
14:33:29 42 might need to be tendered separately. Did you want to  
14:33:31 43 tender it separately?  
44

14:33:34 45 MS TITTENSOR: Yes.  
46

14:33:35 47 COMMISSIONER: Is it different to the Exhibit 276?

14:33:38 1  
14:33:39 2 MS TITTENSOR: I think the date at the end of the document  
14:33:39 3 - this might be a more reliable indicator of the date of  
14:33:43 4 the document.  
5  
14:33:43 6 COMMISSIONER: What was the date on this one?  
14:33:45 7  
14:33:48 8 MS TITTENSOR: There's an indication down there in the  
14:33:49 9 bottom corner, it's 26 September 2005.  
10  
14:33:53 11 COMMISSIONER: You'd like this tendered separately?  
14:33:55 12  
14:33:56 13 MS TITTENSOR: Yes, Commissioner.  
14:33:56 14  
14:33:57 15 #EXHIBIT RC1326A - (Confidential) COM.0025.0002.0008.  
14:33:59 16  
14:34:01 17 #EXHIBIT RC1326B - (Redacted version.)  
14:34:03 18  
14:34:03 19 COMMISSIONER: Yes, Ms Scott, any questions?  
14:34:06 20  
14:34:06 21 MS SCOTT: No.  
22  
14:34:07 23 COMMISSIONER: Mr Coleman?  
14:34:08 24  
14:34:08 25 MR COLEMAN: I don't have any questions, thank you.  
26  
14:34:10 27 COMMISSIONER: Mr Chettle, are you going - - -  
14:34:12 28  
14:34:12 29 MR CHETTLE: Very quickly.  
30  
14:34:14 31 COMMISSIONER: Does anyone else have any questions apart  
14:34:16 32 from Mr Chettle and Ms Argiropoulos in re-examination? No.  
14:34:19 33 Yes Mr Chettle.  
14:34:21 34  
35 <CROSS-EXAMINED BY MR CHETTLE:  
36  
14:34:22 37 Mr Moloney, I appear for a number of the source  
14:34:25 38 handlers?---Thank you.  
39  
14:34:25 40 I gather in preparation for this hearing you have been made  
14:34:28 41 aware of the contents of some of Sandy White's diary  
14:34:32 42 entries in relation to meetings with you?---Yes, I've been  
14:34:34 43 shown some.  
44  
14:34:35 45 In general, without going through those, you accept that in  
14:34:39 46 October, December, January, February of 2006 you had  
14:34:43 47 meetings with him?---Yes.

1  
14:34:47 2 You have no recollection of what the meetings were  
14:34:50 3 about?---Not specifically.  
4  
14:34:52 5 Have you checked your diary to see whether there's a  
14:34:54 6 correlating entry for the entry in his diary?---Yeah, what  
14:34:58 7 dates were those again, what era?  
8  
14:35:01 9 4 October 05?---Yeah - - -  
10  
14:35:06 11 The first one?---Yeah, I think they've been checked. I'd  
14:35:10 12 have to seek advice on that.  
13  
14:35:14 14 There is an entry in your diary for that day that you saw  
14:35:17 15 him?---Yes.  
16  
14:35:18 17 He's in the same boat, I might tell you. He knows he saw  
14:35:21 18 you and he has a note of what he said but that's all he can  
14:35:24 19 remember?---I think the only one that was not consistent  
14:35:27 20 was the one when I visited the premises.  
21  
14:35:30 22 Yes?---And visited the crew and had a talk, a motivational  
14:35:34 23 talk, issues talk and all that type of stuff. And I accept  
14:35:37 24 that he spoke to me about it because he put it in his diary  
14:35:41 25 and I've got no reason why he wouldn't.  
26  
14:35:44 27 There's one that you haven't been taken to which is what I  
14:35:46 28 want to do now. In his diary for 9 January 06. Have you  
14:35:52 29 got your diary available?---Yeah, January 06?  
30  
14:35:56 31 9/1/06?---I had a bad habit of not writing the year on top  
14:36:14 32 of the diary so it's been a bit difficult. 05/11. 9/1/06.  
14:36:32 33 Got that. Yes, I have that.  
34  
14:36:35 35 Do you have a meeting there with Mr Sandy White in your  
14:36:37 36 diary?---No, I don't have his name there.  
37  
14:37:02 38 All right. He has an entry in his diary?---Yes.  
39  
14:37:05 40 That reads, 'Discussion with Commander Moloney re needing  
14:37:12 41 Inspector's position, insufficient budget for it", do you  
14:37:16 42 follow?---Yes.  
43  
14:37:17 44 Can I put that in context. There was an organisational  
14:37:19 45 change in the middle of 2006 that saw Tony Biggin move in  
14:37:24 46 to become the Superintendent in charge of the SDU and other  
14:37:28 47 - - - ?---And the rest of that division, yes.

1  
14:37:30 2 But before that the Superintendent had been a man called  
14:37:33 3 Thomas?---Ian Thomas, yes.  
4  
14:37:35 5 Ian Thomas left the force, according to his statement, in  
14:37:40 6 January 2006. Until Tony Biggin comes on board in June or  
14:37:45 7 July there's a lacuna, there's no Superintendent sitting  
14:37:48 8 above the Unit, does that ring any bells with you?---No,  
14:37:52 9 there would have been an upgrade.  
10  
14:37:54 11 Someone would have been upgraded to the position?---Oh yes.  
14:37:57 12 I think I write in my statement that the upgrading involved  
14:38:02 13 Ian Thomas and then, from memory, Rod Wilson.  
14  
14:38:09 15 Okay?---Yes. It would have been an acting position.  
16  
14:38:15 17 Was Mr McWhirter involved at one stage when Mr McWhirter  
14:38:20 18 was the Superintendent for both the UCU and the SDU?---That  
14:38:25 19 Would be right.  
20  
14:38:26 21 He went on to become your staff officer at some  
14:38:29 22 stage?---Correct.  
23  
14:38:31 24 What I suggest to you is that when the Unit was established  
14:38:33 25 there's a pilot and then it becomes a full-time  
14:38:37 26 Unit?---Correct.  
27  
14:38:38 28 There was supposed to be a dedicated Inspector but they  
14:38:43 29 didn't have the money for it, they couldn't get one?---That  
14:38:45 30 is correct. We couldn't get a position.  
31  
14:38:51 32 You don't get a position unless there's money or someone to  
14:38:53 33 fill it?---Or somebody gives it up.  
34  
14:38:57 35 One other Unit gives up an Inspector?---Any other part of  
14:39:01 36 the organisation, yes.  
37  
14:39:02 38 So Sandy White was trying to get, and doing what he could,  
14:39:06 39 to get a full-time Inspector for the Unit, do you agree  
14:39:09 40 with that?---Well, I remember it being raised, yes.  
41  
14:39:14 42 That's what the diary entry I take you to on 9 January, if  
14:39:20 43 that's in his diary you would accept that?---I would accept  
14:39:23 44 that, yes.  
45  
14:39:24 46 The audit that you - you recall there was an audit  
14:39:29 47 conducted by Mr Biggin at your request in relation to SDU

14:39:33 1 management of 3838 and you've been asked questions about  
14:39:36 2 that?---Yes.  
3

14:39:37 4 At the same time, or around about the same time, CMRD  
14:39:42 5 through somebody called Lucinda Nolan was conducting an  
14:39:46 6 audit of all the SDU sources with the exception of  
14:39:50 7 Ms Gobbo, do you recall that?---Yes, that audit took place  
14:39:53 8 I believe around about four months after.  
9

14:39:55 10 All right. But it was - specifically 3838 was not part of  
14:40:03 11 her auditing function?---Yes, because he'd already audited  
14:40:13 12 it.  
13

14:40:13 14 Biggin had done that job?---Yes.  
15

14:40:15 16 In the records of the SDU, prior to Mr Biggin's audit there  
14:40:19 17 are records of discussion about the need for an independent  
14:40:24 18 oversight of the way in which the SDU are handling  
14:40:28 19 Ms Gobbo. Do you follow what I'm putting?---Can you just -  
14:40:31 20 sorry, can you just repeat that one?  
21

14:40:34 22 In the source management log, which is a document  
14:40:36 23 maintained by the Unit?---Yes.  
24

14:40:39 25 They make reference, prior to Mr Biggin's audit, that there  
14:40:45 26 is a need for independent oversight of the way in which  
14:40:52 27 3838 is being handled by the SDU?---Right.  
28

14:40:56 29 I think it's one of Mr White's diary entries as  
14:40:59 30 well?---Okay.  
31

14:41:00 32 I suggest to you that - you remember you said you thought,  
14:41:04 33 you couldn't remember how it is it came around that  
14:41:08 34 Mr Biggin was required or asked to do the audit that he  
14:41:13 35 did?---Yes, I remember it, yes.  
36

14:41:15 37 Is one of the possibilities that the Unit themselves asked  
14:41:18 38 for it to be looked at?---Well due to the fact that I  
14:41:24 39 cannot remember where that came from, that is a  
14:41:27 40 possibility.  
41

14:41:28 42 The only reason I raise it as a possibility is it's  
14:41:31 43 recorded - that that need is set out in the  
14:41:35 44 material?---Yeah, well I was unaware of that entry.  
45

14:41:38 46 When the Nolan entry went on, there's an entry in - I don't  
14:41:42 47 know if you can bring up - have you got Mr White's diaries

14:41:47 1 readily available? They have been tendered as a whole but  
14:41:50 2 I'll put - I don't want to waste time. On 23 May of 06  
14:41:57 3 there's an entry at 11.30 am in Mr White's diary in these  
14:42:03 4 terms, "Instructed by Cowlshaw to refer Superintendent  
14:42:08 5 Nolan to Commander if asked the ID of HS, particularly  
14:42:17 6 3838". So what he's been instructed by Cowlshaw is if  
14:42:23 7 anyone asks, if Nolan asks about who any of the sources are  
14:42:28 8 that she's auditing, and in particular 3838, that's to be  
14:42:31 9 referred to you. Now, does that - - - ?---No.  
10  
14:42:35 11 You don't remember it?---No.  
12  
14:42:37 13 But it makes sense, doesn't it? If that's in his diary  
14:42:40 14 there would be a concern about the need for people to know  
14:42:42 15 the identity of sources, they can do the audit without  
14:42:46 16 knowing who the people are?---Correct.  
17  
14:42:48 18 So if Nolan - - - ?---They should only see - yes, anyway, I  
14:42:53 19 agree with you.  
20  
14:42:54 21 They wouldn't see the name, they'd see the documents that  
14:42:57 22 support the way in which they're being handled?---That's  
14:43:01 23 the way it should happen.  
24  
14:43:03 25 That's the purpose of the CMRD, they're the auditors,  
14:43:07 26 really, to make sure they're doing it properly?---I'm not  
14:43:11 27 too sure - Lucinda Nolan was hand picked because of her  
14:43:17 28 experience. That audit was for good governance, but as  
14:43:21 29 importantly it was for the CMRD audit, I believe, by Mr -  
14:43:28 30 two members, and the Nolan one was specifically the files,  
14:43:32 31 well the Unit itself, because of I was preparing a briefing  
14:43:38 32 for the national scene with the policies, the result, well  
14:43:44 33 the outcome of the pilot project and the first period of  
14:43:47 34 time.  
35  
14:43:48 36 Okay?---So that document was going on to a - it had to be  
14:43:52 37 credible, it had to be addressing the issues that would be  
14:43:56 38 held at that level.  
39  
14:43:57 40 All right. But given the entry "instructed by Cowlshaw",  
14:44:02 41 so the Inspector has told the Unit to raise issues - to  
14:44:07 42 direct Nolan to you if she wants to know anybody's  
14:44:10 43 identity?---Yes.  
44  
14:44:11 45 That would be good practice in keeping the matter covert,  
14:44:13 46 wouldn't it?---Well, it shouldn't have been disclosed to  
14:44:16 47 her, so that's right.

1  
14:44:18 2 I just want - some of the conspiracy theorists would  
14:44:25 3 suggest that this was a way in which you were trying to  
14:44:27 4 conceal from Ms Nolan the fact that you were running a  
14:44:32 5 human source, a lawyer as a human source?---Yeah. No, no,  
14:44:37 6 that's incorrect.  
7  
14:44:37 8 Thank you. In relation to - you were asked questions about  
14:44:42 9 Ms Gobbo's car being bombed and whether that should have  
14:44:46 10 led to some form of risk analysis and you said, "I'd expect  
14:44:51 11 it to be raised in the records and dealt with", remember  
14:44:55 12 saying something to that effect?---Yes.  
13  
14:44:58 14 Can I bring up the 2958 source management logs, please, for  
14:45:01 15 16 April 2008. You know what a source management log is?  
14:45:15 16 I assume you do?---Yes, they've changed significantly when  
14:45:19 17 we introduced this system, put it that way.  
18  
14:45:21 19 In fact this source management log was introduced by Sandy  
14:45:24 20 White for each of the sources as an extra governance tool,  
14:45:28 21 do you follow what - - - ?---Yes.  
22  
14:45:31 23 In order to monitor what was occurring?---As I mentioned,  
14:45:34 24 he was the subject matter expert.  
25  
14:45:36 26 If we go back - there it is, thank you very much. If we  
14:45:42 27 look at the second-last, the last 16th of April entry on  
14:45:46 28 that page, "HS car cell on fire whilst HS at a restaurant"  
14:45:55 29 with a particular person and a solicitor in South  
14:45:58 30 Melbourne, and that Kelly is investigating it, all right?  
14:46:01 31 Can you see that entry?---Re ongoing threats.  
32  
14:46:04 33 Yes, okay. On the following day the SDU have a monthly  
14:46:12 34 source review in relation to her and you'll see the first  
14:46:15 35 update from Mr Fox is what we're calling that man, "Spoke  
14:46:21 36 to Ms Gobbo last night at 11.30, nil suspects re fire", and  
14:46:26 37 there's some information about what she was doing, what she  
14:46:29 38 did that day. If we keep going through. At 12.04 there's  
14:46:49 39 reference to Mokbel talking to Mr Grigor about Gobbo being  
14:46:55 40 a dog - this is what she said had occurred. Keep going up.  
14:46:58 41 Through to the bottom of - keep going. It's quite an  
14:47:01 42 extensive entry. Thank you. There. She's outlining in  
14:47:07 43 that what she did the day before in the lead up to the car  
14:47:10 44 being burnt, you follow?---Yes.  
45  
14:47:14 46 Then she says she went to a doctor's appointment, then  
47 returned to the office, did paperwork until time for a



14:47:21 1 dinner appointment with El-Hage and Grigor in Clarendon  
2 Street, South Melbourne. She travelled there with Grigor  
14:47:24 3 in her own car, parked in York Street. I don't know what  
14:47:26 4 the next acronym means. She got a call from D24 advising  
14:47:33 5 re car fire and then sets out what had happened the  
14:47:37 6 previous day with some other people. The history of what  
14:47:41 7 occurred is set out to the Unit?---Yes.  
8  
14:47:43 9 Then if we go down the page, they look at the risk that's  
14:47:46 10 associated with that. "Source maintains strong  
14:47:50 11 relationship with persons such as Gatto, Karam", et cetera.  
14:47:54 12 "Despite inability to task she has access to valuable intel  
14:47:59 13 and continues to provide it to handlers whether wanted or  
14 14 not. She's aware that intel may not be passed unless  
14:48:04 15 crucially important and only then if it does not impact or  
14:48:06 16 jeopardise her. Source maintains high risk and recent  
14:48:10 17 arson on a motor vehicle would appear to be the escalation  
14:48:15 18 of the threats to same. Despite this, she's relatively  
14:48:18 19 calm, has the support of some people"?---Sorry, I've lost -  
20 - -  
21  
14:48:22 22 See under "Risk"?---Yeah, just back a bit now.  
23  
14:48:29 24 You've got it now?---Yes.  
25  
14:48:32 26 She then names who she thinks is the suspect and who's  
14:48:36 27 behind the threats. Then they deal with a recommendation  
14:48:41 28 about how to deal with this, they have an exit strategy.  
14:48:44 29 That the arson presents an ideal opportunity for her to end  
14:48:48 30 her relationship with the Mokbels and she should tell them  
14:48:50 31 that that's it because of those things. Now is that the  
14:48:53 32 sort of note and the way you dealt with it that you thought  
14:48:56 33 should occur when Ms Tittensor asked you about whether or  
14:49:01 34 not the car bomb represented or car fire represented a  
14:49:05 35 threat?---That's what I expected, some investigator to be  
14:49:14 36 tasked with the assessment of the risk assessments and an  
14:49:17 37 advice to the management for that.  
38  
14:49:19 39 Yes, thank you.  
14:49:20 40  
41 RE-EXAMINED BY MS ARGIROPOULOS:  
42  
14:49:21 43 Mr Moloney, I have three brief topics to ask you  
14:49:25 44 about?---Yes.  
45  
14:49:25 46 Firstly, you were asked some questions at the very start of  
14:49:29 47 today about when you started in the role as the Commander

14:49:33 1 Intelligence and Covert Support Department. In your  
14:49:36 2 statement at paragraph 12 you indicate you started, you  
14:49:41 3 commenced that role on 11 July 2005?---Yes.  
4

14:49:45 5 But you were still at that time retaining command of the  
14:49:49 6 Ceja Task Force?---Correct.  
7

14:49:51 8 And you then say at paragraph 13, "My work in direct  
14:49:54 9 management of Ceja concluded in approximately December  
14:49:58 10 2006"?---That's approximate, yes.  
11

14:50:01 12 And that's accurate?---From documents I've seen and a diary  
14:50:10 13 entry which indicated I was - at the top of my diary I  
14:50:14 14 wrote down, "Intel and Covert Support and Ceja."  
15

14:50:18 16 Yes?---That's when I stopped that, and that was at the end,  
14:50:22 17 I believe, of all the trials.  
18

14:50:24 19 Thank you. Second topic. You've been asked some questions  
14:50:27 20 by Ms Tittensor about the initial assessment interviews  
14:50:32 21 that were conducted with Ms Gobbo and you've also been  
14:50:37 22 asked questions about things that were put to you should  
14:50:40 23 have been done at the outset?---Yes.  
24

14:50:45 25 You had no involvement, did you, in the initial assessment  
14:50:48 26 of Ms Gobbo or the approval of her registration as a human  
14:50:52 27 source?---None at all.  
28

14:50:55 29 Thank you. Finally, Mr Moloney, you have given evidence  
14:51:01 30 about your role in the Petra steering committee. If you  
14:51:07 31 take it from me that that committee actually first  
14:51:11 32 commenced in about April 2007, but what you say in your  
14:51:17 33 statement is that you didn't actually join the committee  
14:51:19 34 until later, namely 1 November 2008, when you commenced the  
14:51:26 35 role as Assistant Commissioner of Crime?---Correct.  
36

14:51:33 37 Ms Tittensor had asked you a question about Luke Cornelius  
14:51:37 38 and you gave an answer where you said he'd been on the  
14:51:43 39 journey from the start. When you used that word journey, I  
14:51:49 40 take it you mean he'd been on the Petra steering committee  
14:51:52 41 from the start?---Yes.  
42

14:51:54 43 Thank you. I have no further questions.  
44

14:51:56 45 COMMISSIONER: Thank you. Ms Tittensor.  
14:51:57 46  
47 RE-EXAMINED BY MS TITTENSOR:

1  
14:52:00 2 Mr Moloney, just in relation to that monthly source review  
14:52:06 3 that Mr Chettle just took you to?---Yes.  
4  
14:52:10 5 Did you consider that to be a comprehensive risk assessment  
14:52:13 6 in the circumstances of what was going on with  
14:52:17 7 Ms Gobbo?---Well, number one, that's the first time I've  
14:52:20 8 seen that ever.  
9  
14:52:20 10 Yes?---That's the first thing. The second thing is if  
14:52:23 11 there were any queries you get a personal briefing, but  
14:52:26 12 that's the type of thing I would have expected to take  
14:52:29 13 place in conjunction with the ongoing risk assessment  
14:52:32 14 daily. As per this, things change in the flick of a  
14:52:36 15 switch.  
16  
14:52:37 17 Do you consider this by itself to be a comprehensive risk  
14:52:39 18 assessment?---Depends on what level you're talking about.  
14:52:42 19 It was adequate for the situation that occurred.  
20  
14:52:49 21 This is one of the highest value highest risk sources being  
14:52:53 22 operated by Victoria Police who's receiving ongoing  
14:52:56 23 threats, whose car has just been set fire to; is this an  
14:53:00 24 adequate risk assessment?---Well due to the fact that I  
14:53:03 25 haven't read the risk assessment, I've only read the bits  
14:53:06 26 that were referred to me, but I expected all of the action  
14:53:10 27 taken to be documented and responsibility allocated and  
14:53:13 28 that has occurred. I can't make any comment further than  
14:53:16 29 that.  
30  
14:53:16 31 See on the screen in front of you Mr Chettle set out that  
14:53:20 32 there was a history, but on the screen in front of you it  
14:53:22 33 then indicates Ms Gobbo has some value and it says that in  
14:53:26 34 five lines?---M'mm.  
35  
14:53:28 36 It then indicates in nine lines some issues related to  
14:53:32 37 risk. It then goes on to a recommendation. Is that  
14:53:37 38 adequate?---Well, I'd have to inquire in regard to what all  
14:53:41 39 the conversation and discussions were involved coming to  
14:53:47 40 that report.  
41  
14:53:50 42 The recommendation here is that it was discussed, an exit  
14:53:55 43 strategy, it seems to be, is an appropriate recommendation  
14:53:57 44 for the circumstances that are going on with this human  
14:54:01 45 source?---Yes.  
46  
14:54:02 47 Right. Were you concerned to find out that that wasn't

14:54:07 1 done, that there was not - Ms Gobbo wasn't exited as a  
14:54:12 2 human source following this period of time?---It's like  
14:54:16 3 both ends of the scale. You need to volunteer to come on  
14:54:19 4 to it and become a human source and to exit you've got to  
14:54:24 5 want to exit. I don't know enough about it.  
6  
14:54:27 7 Presumably when you spoke to Mr Biggin and you got your  
14:54:29 8 update about the car fire?---M'mm.  
9  
14:54:32 10 That we spoke about earlier?---Yes.  
11  
14:54:34 12 This might have been one of the things that you discussed,  
14:54:37 13 "Well the SDU are doing a risk assessment here and their  
14:54:43 14 recommendation is that we need to exit her". Do you know  
14:54:46 15 if you followed that up and - - - ?---No.  
16  
14:54:48 17 Certainly at some stage you found out she's not been  
14:54:53 18 exited. Did you say why not, why wasn't she exited at that  
14:54:56 19 point?---No. I can't remember my conversation with  
14:54:58 20 Mr Biggin in regard to this because he, as I told you  
14:55:01 21 before, or told the Commission before, that when he briefed  
14:55:03 22 you, he briefed you thoroughly, and he very rarely came to  
14:55:07 23 a situation where he needed - he'd always have the  
14:55:12 24 resolution and I was very comfortable with his briefing,  
14:55:15 25 which I said before, and I'm very comfortable with what I  
14:55:19 26 read there, that there has been an assessment.  
27  
14:55:21 28 Yes?---And there's an outcome and I haven't read the whole  
14:55:24 29 lot, therefore I can't make any comment. And I still can't  
14:55:28 30 make any comment because I haven't got access to the  
14:55:31 31 briefing from Mr Kelly or anybody else.  
32  
14:55:34 33 Presumably at some stage Mr Biggin has said the SDU want to  
14:55:34 34 exit Ms Gobbo?---That was always on the cards.  
35  
14:55:37 36 Yes. Especially at this point in time, her car's been  
14:55:40 37 blown up. Presumably that was part of what your discussion  
14:55:47 38 was with Mr Biggin on that day?---No, not on that day.  
39  
14:55:50 40 At some stage shortly following it you would have wanted to  
14:55:52 41 know what is the strategy in relation to that?---Yes.  
42  
14:55:53 43 And you would have found out, well, the SDU as of the 17th  
14:55:57 44 have recommended she be deactivated?---Yes.  
45  
14:55:59 46 "Or we need to exit her in some way"?---Yes.  
47

14:56:02 1 You must come to realise following that that she's not been  
14:56:08 2 deactivated, that she's not been exited. Did you make some  
14:56:10 3 inquiries to say what's going on?---I would have been  
14:56:11 4 briefed if necessary.  
5

14:56:12 6 Why is she still on the books?---Because you can't just cut  
14:56:15 7 them loose. You've got to have an exit strategy, otherwise  
14:56:17 8 you're putting the person in danger.  
9

14:56:19 10 Thanks Mr Moloney. I might just tender a couple of  
14:56:23 11 documents I failed to tender, Commissioner. Diary entries  
14:56:29 12 of Mr Moloney referred to.  
13

14:56:37 14 #EXHIBIT RC1327A - (Confidential) Diary entries of  
14:56:38 15 Mr Moloney.  
16

14:56:38 17 #EXHIBIT RC1327B - (Redacted version.)  
18

14:56:40 19 And the correspondence register dated 5 January 2009.  
14:56:47 20

14:56:48 21 #EXHIBIT RC1328A - (Confidential) correspondence register  
14:56:42 22 dated 5/01/09.  
23

14:56:49 24 #EXHIBIT RC1328B - (Redacted version.)  
14:56:51 25

14:56:51 26 I'm sorry if I cut you off on your last answer,  
14:56:54 27 Mr Moloney?---Sorry?  
28

14:56:55 29 Had you finished your last answer? I'm not sure if I cut  
14:56:58 30 you off?---Yes, I was comfortable I'd finished.  
31

14:57:02 32 Thanks Commissioner.  
33

14:57:03 34 COMMISSIONER: Thanks Mr Moloney, you're free to  
14:57:06 35 go?---Thank you very much.  
36

14:57:07 37 You're excused.  
14:57:07 38

39 <(THE WITNESS WITHDREW)  
40

41 MR CHETTLE: Commissioner, before the next witness is  
14:57:08 42 called can I - I briefly spoke to Mr Winneke last night  
14:57:10 43 about this, but I was under some degree of time pressure  
14:57:13 44 with Mr Pope last night, as you will appreciate, and I was  
14:57:16 45 doing what I could to get through. But there are two - a  
14:57:20 46 number of things I wanted to tender that I didn't get to  
14:57:25 47 tender in the same way I think as Mr Holt raised it.

14:57:27 1 You'll recall that I produced a chart prepared by Officer  
14:57:31 2 Fox in relation to Exhibit 807, which is a graph in  
14:57:36 3 relation to the time of service of the various officers in  
14:57:41 4 the SDU at the time that the Unit was shut down. There's a  
14:57:45 5 third part of that which I provided to Ms Tighe, and I  
14:57:52 6 think Mr Winneke got it, and it's RCMPI.0149....1....1. I  
14:58:03 7 provided the detail of this yesterday to Mr Skim. All I  
14:58:08 8 want to do is add it to Exhibit 807, Commissioner, if I  
14:58:12 9 can.

10

14:58:13 11 COMMISSIONER: Exhibit 807.

14:58:15 12

14:58:16 13 MR CHETTLE: It's an extra part of 807. There's three  
14:58:19 14 documents now as part of 807, two bar graphs and a list of  
14:58:23 15 times and dates.

16

14:58:23 17 COMMISSIONER: All right.

14:58:25 18

14:58:26 19 #EXHIBIT RC807 - (Part of) List of times and dates.

14:58:29 20

14:58:29 21 MR CHETTLE: The second thing is this, and I raised it with  
14:58:31 22 the police. I want to tender the diaries - firstly,  
14:58:36 23 Officer Smith. But if one goes to Exhibit 81 and looks at  
14:58:43 24 the person named as Person C in position 48 on that  
14:58:49 25 document.

26

14:59:03 27 COMMISSIONER: Sorry, I see what Exhibit 81 is, yes.

14:59:10 28

14:59:10 29 MR CHETTLE: Person C, who is at position 48.

30

14:59:23 31 COMMISSIONER: Yes.

14:59:24 32

14:59:25 33 MR CHETTLE: He was a handler at the SDU, as of course you  
14:59:29 34 know Officer Smith was.

35

14:59:31 36 COMMISSIONER: Yes.

14:59:31 37

14:59:32 38 MR CHETTLE: And they are the two officers referred to in  
14:59:36 39 paragraph 60(f) of - I think it's 60 - yes, 60(f) of  
14:59:44 40 Mr Pope's statement when he describes some events that  
14:59:47 41 occurred at a prison. What I want to do, Commissioner, and  
14:59:56 42 I've asked the police, is tender the diary entries for both  
14:59:59 43 those people for the 23rd, 24th and 25th of January 2012.

44

15:00:10 45 COMMISSIONER: Should they be one exhibit or two?

15:00:14 46

15:00:14 47 MR CHETTLE: They can be one exhibit, they're all related.

15:00:17 1 It's all to do with the one topic that I did not - I meant  
15:00:21 2 to go through that paragraph with Mr Pope. I didn't have  
15:00:23 3 time. The diaries will speak for themselves and will be  
15:00:28 4 the effect of the submissions, Commissioner. If I can  
15:00:33 5 tender those diaries for those three days for those two men  
15:00:37 6 as one exhibit, please.

15:00:38 7  
15:00:39 8 #EXHIBIT RC1329A - (Confidential) Diary entries for  
15:00:01 9 23/01/12, 24/01/12 and 25/01/12.

15:00:40 10  
15:00:40 11 #EXHIBIT RC1329B - (Redacted version.)  
12

15:00:42 13 I haven't, of course, got access to those diaries and I  
15:00:46 14 just ask that the police, I suppose, make Person C's diary  
15:00:53 15 available. I think Mr Smith's diary has already been  
15:00:58 16 tendered but not for that year of 2012.

17  
15:01:01 18 COMMISSIONER: Just a tick, I've got 1327 as the diary  
15:01:05 19 entries of Mr Moloney. 1328 as the correspondent  
15:01:10 20 registrar. 1329 would be these diaries, is that right?  
15:01:18 21 Yes, 1329 are the diaries.

15:01:21 22  
15:01:22 23 MR CHETTLE: Thank you. Thirdly, some time ago, months  
15:01:25 24 ago, we sought to put in and tender the monthly management  
15:01:29 25 meeting minutes for the SDU. In short compass Mr Holt  
15:01:36 26 indicated that he could get them and they'd be PIIed and  
15:01:39 27 they'd be provided in due course. The door's about to slam  
15:01:43 28 and we haven't got them. So I raised this with Mr Winneke.  
15:01:48 29 I do want to tender the minutes of the Unit meetings that  
15:01:51 30 were held, because they go to issues that we talked about  
15:01:55 31 way back when this occurred. I think Mr Winneke wants them  
15:02:00 32 too.

33  
15:02:01 34 MR WINNEKE: Commissioner, the door's not going to slam  
15:02:03 35 shut. If there's material which is relevant and it turns  
15:02:07 36 up, subject obviously to the opportunity to respond to it,  
15:02:12 37 the Commission will obviously take it into consideration.  
15:02:15 38 But I agree, we want these things.

39  
15:02:19 40 COMMISSIONER: Unless they don't exist.

15:02:20 41  
15:02:20 42 MR CHETTLE: They do exist, in fact - - -  
43

15:02:25 44 COMMISSIONER: Mr Holt, if Victoria Police has got them why  
15:02:28 45 don't I tender them in an A and B form.

15:02:31 46  
15:02:32 47 MR HOLT: That's sensible, Commissioner. If there's any

15:02:34 1 issues I'll re-raise it.  
15:02:36 2  
15:02:37 3 #EXHIBIT RC1330A - (Confidential) Monthly management  
15:01:29 4 meeting minutes for the SDU.  
15:02:38 5  
15:02:39 6 #EXHIBIT RC1330B - (Redacted version.)  
15:02:41 7  
15:02:42 8 MR CHETTLE: Thank you, Commissioner.  
9  
15:02:43 10 COMMISSIONER: The next witness is Mr Johns. Oath or  
15:02:47 11 affirmation, Mr Johns?---Affirmation.  
15:02:51 12  
15:02:52 13 <TIM GEOFFREY JOHNS, affirmed and examined:  
14  
15:03:12 15 COMMISSIONER: Yes Ms Argiropoulos.  
15:03:13 16  
15:03:14 17 MS ARGIROPOULOS: Thanks, Commissioner. Mr Johns, your  
15:03:16 18 full name is Tim Geoffrey Johns?---That's correct.  
19  
15:03:21 20 You're currently a Sergeant of Police?---Correct.  
21  
15:03:24 22 Do you have in front of you there two statements that  
15:03:27 23 you've made in relation to this Royal Commission?---Yes, I  
15:03:29 24 do.  
25  
15:03:30 26 If I could ask you to look at the first statement  
15:03:35 27 initially. Is that a statement which was dated and signed  
15:03:39 28 by you on 11 December 2019?---Yes.  
29  
15:03:46 30 And more recently you've provided a supplementary statement  
15:03:50 31 which is dated 18 February 2020?---Correct.  
32  
15:03:56 33 Just in relation to that supplementary statement, is there  
15:03:58 34 an amendment to be made to paragraph 15?---Yes, that's  
15:04:02 35 correct. If the word "Saturday" could just be replaced  
15:04:11 36 with August, so it reads "on 16 August 2008".  
37  
15:04:15 38 Thank you. Do you have a pen there to make that  
15:04:19 39 amendment?---I've already made it outside the witness box,  
15:04:23 40 sorry.  
41  
15:04:24 42 Okay. Subject to that amendment are the contents of both  
15:04:31 43 your statements true and correct?---Yes, they are.  
44  
15:04:36 45 Finally, have you today been shown a transcript of an  
15:04:44 46 application that was heard before the Honourable Justice  
15:04:48 47 Curtin in the Supreme Court on 3 September 2008?---Yes.



1  
15:04:55 2 Do you understand that that transcript was only provided to  
15:05:01 3 Victoria Police today from the Supreme Court  
15:05:05 4 Registry?---Yeah, that's my understanding, yes.  
5  
15:05:06 6 And that relates to the second of the subpoenas that you  
15:05:11 7 deal with in your supplementary statement, namely the  
15:05:15 8 subpoena - sorry, I beg your pardon, the third one?---The  
15:05:19 9 third one, yes.  
10  
15:05:19 11 The subpoena that we described as "Subpoena September  
15:05:22 12 2008"?---Yes.  
13  
15:05:24 14 Thank you.  
15  
15:05:27 16 COMMISSIONER: Yes, Mr Winneke.  
15:05:29 17  
18 <CROSS-EXAMINED BY MR WINNEKE:  
19  
15:05:31 20 Were you present when Justice Curtain - - -  
21  
15:05:33 22 COMMISSIONER: Did you want to tender that transcript?  
15:05:36 23  
15:05:36 24 MS ARGIROPOULOS: Sorry, Commissioner, I did intend to  
15:05:37 25 tender the transcript. That has - I should indicate that  
15:05:40 26 that has been produced to the Royal Commission today as  
15:05:44 27 soon as it was received by Victoria Police.  
28  
15:05:47 29 COMMISSIONER: All right.  
15:05:48 30  
15:05:48 31 MS ARGIROPOULOS: It's not a complete transcript of the  
15:05:50 32 entire proceedings but it's the transcript from that day.  
33  
15:05:54 34 COMMISSIONER: Is it a public record or will it have to  
15:05:58 35 have an A and a B form?  
15:06:00 36  
15:06:00 37 MS ARGIROPOULOS: I think it should have an A and a B,  
15:06:03 38 Commissioner.  
15:06:04 39  
15:06:05 40 #EXHIBIT RC1331A - (Confidential) Transcript of application  
15:04:46 41 before the Curtain J in the Supreme  
15:04:49 42 Court on 3/09/08.  
15:06:07 43  
15:06:07 44 #EXHIBIT RC1331B - (Redacted version.)  
15:06:09 45  
15:06:10 46 COMMISSIONER: Sorry, we should tender the statements too.  
15:06:12 47 I'd forgotten the statements. I've got a confidential

15:06:18 1 statement as well. That's not being tendered?  
15:06:21 2  
15:06:22 3 MS ARGIROPOULOS: Commissioner, I've discussed that with  
15:06:24 4 counsel assisting. I think we'll leave that separately.  
15:06:26 5 It's in a category with a number of other statements that  
15:06:30 6 need particular orders. Just for convenience we'll just  
15:06:33 7 tender the two today.  
15:06:34 8  
15:06:35 9 #EXHIBIT RC1332A - (Confidential) Statement of Tim Johns.  
15:06:36 10  
15:06:37 11 #EXHIBIT RC1332B - (Redacted version.)  
15:06:40 12  
15:06:41 13 #EXHIBIT RC1332C - (Confidential) Supplementary statement  
15:06:45 14 of Tim Johns.  
15:06:45 15  
15:06:46 16 #EXHIBIT RC1332D - (Redacted version.)  
15:06:48 17  
15:06:48 18 COMMISSIONER: Yes, Mr Winneke.  
15:06:48 19  
15:06:50 20 MR WINNEKE: Thanks, Commissioner. Were you present at the  
15:06:53 21 time that that argument was had before Justice  
15:06:55 22 Curtain?---Yeah, my memory is that I was but I can probably  
15:06:57 23 double-check by looking at my diary to confirm that.  
15:06:57 24  
15:07:00 25 I just want to you some questions, Mr Johns, about the  
15:07:03 26 statement taking process. You made a statement to the  
15:07:05 27 Royal Commission in December of last year; is that  
15:07:08 28 correct?---Yes.  
15:07:08 29  
15:07:10 30 How did you make that statement?---I sat down with lawyers  
15:07:15 31 from Corrs Chambers Westgarth.  
15:07:15 32  
15:07:18 33 Who were the lawyers?---It was mainly Simon, I'm not  
15:07:30 34 exactly sure how you pronounce his surname, it may be  
15:07:47 35 Frauenberg.  
15:07:47 36  
15:07:48 37 There was a barrister you were with; is that right?---Yes.  
15:07:48 38  
15:07:51 39 And there were solicitors?---Yes.  
15:07:51 40  
15:07:53 41 As I understand it, you had diaries with you; is that  
15:07:57 42 right?---Yes, I had my diaries, yes.  
15:07:57 43  
15:07:59 44 And you had the opportunity to go through your  
15:08:04 45 diaries?---Yes.  
15:08:04 46  
15:08:07 47 Were you provided the diaries beforehand or did you have

15:08:10 1 the diaries only there on the day that you were with the  
15:08:14 2 lawyers?---They were in my possession prior to the meeting  
15:08:19 3 and I presented them to the lawyers.  
4

15:08:22 5 So you'd had the opportunity to go through the diaries  
15:08:25 6 beforehand; is that right?---Yes.  
7

15:08:27 8 And you understood that you were making a statement about a  
15:08:34 9 number of matters, particularly your involvement in  
15:08:37 10 investigations when you were at Purana?---Yes.  
11

15:08:42 12 And in particular an investigation around the Posse  
15:08:47 13 operation?---That was one of the parts, yes.  
14

15:08:52 15 And you went through your diaries to find relevant entries  
15:08:56 16 about that; is that correct?---Yes.  
17

15:08:58 18 You were also asked about matters concerning disclosure and  
15:09:10 19 response to subpoenas when criminal proceedings arose  
15:09:14 20 because of those investigations, Posse investigations; is  
15:09:20 21 that right?---Yes.  
22

15:09:26 23 You did in fact make a statement, or at least make -  
15:09:34 24 included in your statement evidence about disclosure and  
15:09:39 25 subpoenas that you dealt with; is that right?---Yes.  
26

15:09:46 27 And you referred to a subpoena which was issued on 1  
15:09:54 28 September 2008 in a trial concerning Mr H Mokbel, amongst  
15:10:01 29 others?---Yes.  
30

15:10:07 31 You didn't refer in your statement to a subpoena in that  
15:10:11 32 same proceeding which had been issued on 12 August 2008; is  
15:10:15 33 that correct?---Correct.  
34

15:10:17 35 Despite the fact that in your diary there were a number of  
15:10:20 36 entries referring to management or responding to a  
15:10:27 37 subpoena, correct?---Correct.  
38

15:10:30 39 You provided a supplementary statement which is I think  
15:10:35 40 dated 18 February 2020?---Yes.  
41

15:10:44 42 Which was provided to the Royal Commission yesterday; is  
15:10:49 43 that right?---I don't know when it was provided to the  
15:10:50 44 Royal Commission.  
45

15:10:53 46 When did you discover that you were going to be called to  
15:10:56 47 give evidence?---Maybe Monday.

1  
15:11:05 2 Monday?---Yes.  
3  
15:11:06 4 And then you were called in for another conference?---Yes.  
5  
15:11:12 6 Did you have your diaries with you then?---They remained in  
15:11:17 7 the possession of the lawyers.  
8  
15:11:19 9 Right?---And they were present during that conference and  
15:11:22 10 when the statement was taken.  
11  
15:11:25 12 And how did it become apparent to you that you had missed  
15:11:29 13 in your first statement this subpoena which had been issued  
15:11:36 14 on 12 August of 2008?---My lawyers told me that they'd  
15:11:45 15 searched the records of the Subpoena Management Unit.  
16  
15:11:47 17 Right?---And located the additional subpoena.  
18  
15:11:50 19 Right. That's how it came to your attention, that you had  
15:11:59 20 responded to an earlier subpoena in the same  
15:12:03 21 proceeding?---Yes.  
22  
15:12:09 23 Were you involved in the redaction process of your diaries  
15:12:12 24 in this matter, in other words blacking out aspects of the  
15:12:17 25 diary which were irrelevant to the work of the Royal  
15:12:21 26 Commission?---No.  
27  
15:12:23 28 Who did that?---I don't know.  
29  
15:12:25 30 Not you, you assume your lawyers did that?---I don't know  
15:12:28 31 who did it.  
32  
15:12:30 33 Right. Have you seen - did you look at your diaries and  
15:12:33 34 look at that which had been redacted and that which had not  
15:12:38 35 been redacted? Did you compare?---No.  
36  
15:12:45 37 Who determined what was relevant for the purposes of the  
15:12:48 38 Royal Commission's work, you or someone else?---In relation  
15:12:52 39 to my diaries?  
40  
15:12:53 41 Your diaries?---Not me.  
42  
15:12:55 43 Not you?---No.  
44  
15:13:00 45 Did you question that, did you say, "Look, I really need to  
15:13:05 46 read my diaries. I was the one who was involved in this  
15:13:08 47 process, these proceedings, those years ago. Really I

15:13:11 1 should have a look at the diaries to work out what I  
15:13:14 2 think's relevant or not", did you say that?---I had my  
15:13:17 3 diaries when I made the statement.  
4

15:13:19 5 You did?---Yes.  
6

15:13:22 7 You don't know what was taken out of the diaries and what  
15:13:25 8 was left in the diaries when they were provided to the  
15:13:27 9 Royal Commission?---No.  
10

15:13:28 11 Right, okay. I take it subsequently the document's been  
15:13:34 12 produced. Can you have a look at that document, can you?  
15:13:53 13 Have you seen that document? Just hold it up so your  
15:13:56 14 lawyers can see it. What that is, as I understand it, is  
15:14:09 15 what - did you subsequently go through the diaries and work  
15:14:13 16 out what was in fact relevant and perhaps which should have  
15:14:17 17 been provided to the Royal Commission much earlier?---No, I  
15:14:21 18 didn't.  
19

15:14:22 20 Someone else did it again; is that right?---Correct.  
21

15:14:24 22 Have you in fact gone through your diaries yourself and  
15:14:29 23 said, "I think that document there is accurate", or  
15:14:33 24 not?---Yes, I did today.  
25

15:14:34 26 Are you satisfied that we've got everything that's relevant  
15:14:37 27 now?---No.  
28

15:14:37 29 You're not satisfied?---I'm not sure.  
30

15:14:39 31 You're not sure, all right. I tender that document,  
15:14:45 32 Commissioner. It's RCMP.0153.0001.0001.  
15:14:59 33  
15:14:59 34 #EXHIBIT RC1333A - (Confidential) RCMP.0153.0001.0001.  
15:15:00 35  
15:15:01 36 #EXHIBIT RC1333B - (Redacted version.)  
15:15:03 37

15:15:04 38 There seem to be quite a few pages which have been  
15:15:07 39 produced, and quite a few entries in particular pages which  
15:15:11 40 have already been produced, which are now considered to be  
15:15:15 41 relevant; is that right?---Yes.  
42

15:15:24 43 When you did make your first statement did you go through  
15:15:27 44 and identify and point out what appeared to be relevant  
15:15:34 45 days or were those days drawn to your attention?---My  
15:15:40 46 recollection is I pointed out instances where I'd had  
15:15:45 47 contact with Nicola Gobbo.

1  
15:15:46 2 Right?---And that was it. That was - from my point of view  
15:15:51 3 that's what I provided to the lawyers.  
4  
15:15:53 5 Right?---And then they directed me to other areas.  
6  
15:15:58 7 Right. One of the things that you were, it seems that you  
15:16:03 8 were directed to were entries which were relevant to the  
15:16:08 9 question of disclosure of relevant materials, to either  
15:16:14 10 lawyers or to the court in the case of the transcript that  
15:16:19 11 we've just been referred to where Justice Curtain had the  
15:16:22 12 opportunity to see both redacted and unredacted material;  
15:16:27 13 is that right?---Correct.  
14  
15:16:28 15 On that question of disclosure, do you understand what  
15:16:32 16 obligation of disclosure you have as a member of Victoria  
15:16:37 17 Police who is involved in investigating and charging  
15:16:43 18 alleged criminals?---I think I have a fairly broad, sorry,  
15:16:48 19 yeah, a broad understanding of it.  
20  
15:16:50 21 What do you think it is?---Well we're required to provide  
15:16:59 22 notes in relation to the investigation.  
23  
15:17:01 24 Yes?---Exculpatory material.  
25  
15:17:06 26 Right?---That type of thing.  
27  
15:17:09 28 So anything which might be relevant to a proceeding, not  
15:17:13 29 just for the purposes of prosecuting a person or seeking to  
15:17:19 30 have them convicted, but any material which might be seen  
15:17:23 31 to disclose a defence or give a person who's been charged  
15:17:29 32 the opportunity of raising a defence which might be  
15:17:33 33 lawfully available to them?---Yes.  
34  
15:17:37 35 That's something, I take it, that you understood, well you  
15:17:40 36 understand now as a Sergeant of Victoria Police,  
15:17:43 37 correct?---Yes.  
38  
15:17:44 39 And you would have understood as a Detective Senior  
15:17:49 40 Constable back in the period that we're talking about?---I  
15:17:52 41 think there was an element of learning it on the job as  
15:17:55 42 well, so the more experience you get the more you  
15:17:57 43 understand the process.  
44  
15:17:59 45 And one assumes also you take the lead from your seniors  
15:18:03 46 and people who you work with, would that be fair to  
15:18:07 47 say?---That'd be fair, yes.

1  
15:18:09 2 And to a significant extent you've got to rely upon, if  
15:18:12 3 you're a Senior Constable, you've got to rely upon your  
15:18:16 4 Detective Sergeants and Inspectors when it comes to those  
15:18:18 5 sorts of issues?---Yeah, more so Detective Sergeants and  
15:18:23 6 other Detective Senior Constables around you.  
7  
15:18:26 8 Do you think it would be worthwhile if you were given, as a  
15:18:32 9 very junior police officer, clear guidelines about the  
15:18:35 10 responsibilities of Victoria Police officers to make  
15:18:39 11 disclosure and hand over absolutely everything that's  
15:18:42 12 relevant to an investigation?---Yeah, absolutely, I agree  
15:18:48 13 with that.  
14  
15:18:49 15 Do you think that would be worthwhile?---Yes.  
16  
15:19:00 17 You, as I understand it, were in the MDID back in around  
15:19:06 18 early 2006 with Detective Sergeant Kelly; is that  
15:19:11 19 right?---Yes.  
20  
15:19:12 21 And you moved across to Purana in February of 2006?---Yes,  
15:19:16 22 correct.  
23  
15:19:21 24 Detective Sergeant Kelly had a number of people within his  
15:19:25 25 crew. Who were they, do you recall?---Yes, there was  
15:19:29 26 Kelly, myself, Detective Senior Constable Shaun Martin and  
15:19:34 27 Detective Senior Constable Hayden Beale. That was our  
15:19:38 28 crew.  
29  
15:19:38 30 When you got there Detective Sergeant Flynn's crew was  
15:19:43 31 already with Purana?---Yes.  
32  
15:19:44 33 They'd previously been at the MDID, I take it, when you  
15:19:48 34 were there?---Yeah, they had. I think they got to Purana  
15:19:51 35 maybe three or four months prior to us moving.  
36  
15:19:55 37 You knew most of the people who were working in that crew  
15:19:58 38 reasonably well I take it?---Not really. They were on  
15:20:02 39 another unit at MDID.  
40  
15:20:03 41 Yes?---Around the other side of the building. But I knew  
15:20:08 42 who they were, but I wouldn't say I knew them very well.  
43  
15:20:11 44 Okay, all right. Once you got to Purana I take it your  
15:20:15 45 crew was given X tasks and on occasions you'd be required  
15:20:20 46 to go and assist Mr Flynn's crew and you'd do that?---Yeah,  
15:20:25 47 correct.

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1  
15:20:26 2 And I take it at Purana it was a reasonably tight-knit  
15:20:34 3 organisation?---Yes.  
4  
15:20:35 5 Was there a collegiate sort of atmosphere, people got along  
15:20:43 6 reasonably well?---Yeah, they got on well, yes.  
7  
15:20:45 8 You were involved in an operation around - I'm not going to  
15:20:51 9 provide - we don't need to go into too much detail about  
15:20:55 10 dates, but in the latter part of [REDACTED] 2006 you were  
15:20:59 11 involved in an operation where a person was arrested.  
15:21:03 12 We're calling him [REDACTED] do you know who I'm talking  
15:21:09 13 about?---Yes, I'm aware.  
14  
15:21:11 15 He was arrested and there were some other people arrested  
15:21:16 16 and you were involved on that night and participated in the  
15:21:19 17 manner in which you've set out in your statement; is that  
15:21:21 18 right?---That's right.  
19  
15:21:22 20 You were involved in interviewing the person who [REDACTED]  
15:21:27 21 was arrested with, I think; is that right?---Just the  
15:21:31 22 initial interview.  
23  
15:21:31 24 The initial interview. It went for a very short period of  
15:21:35 25 time and then that person wanted to speak to a  
15:21:38 26 lawyer?---Correct.  
27  
15:21:39 28 Indeed, [REDACTED] also wanted to speak to a lawyer?---I  
15:21:42 29 wasn't involved in his - - -  
30  
15:21:44 31 Not involved in his but you certainly knew who the lawyer  
15:21:47 32 was who the other person wanted to speak to?---Yes.  
33  
15:21:50 34 That was Ms Gobbo obviously?---Correct, yes.  
35  
15:21:53 36 She attended at the police station, St Kilda Road, on that  
15:21:57 37 night?---That's my understanding. I never saw her or had  
15:22:01 38 any dealings with her on the night.  
39  
15:22:03 40 Yes?---But whether I knew on the night that she was there,  
15:22:07 41 I certainly found out later on, in the days afterwards.  
42  
15:22:11 43 You certainly found out later, also you found out later  
15:22:12 44 that she'd spoken not only to the person you'd interviewed,  
15:22:17 45 but to [REDACTED] as well?---Correct, yes.  
46  
15:22:23 47 In your statement you were asked, and indeed you refer to



15:22:32 1 some events which occur earlier where [REDACTED] people were  
15:22:36 2 arrested, there was a [REDACTED] people were arrested - - -

15:22:44 3  
15:22:45 4 MR HOLT: I'm sorry, I'm just very conscious that we're  
15:22:47 5 dealing with [REDACTED], who is not represented today, and  
15:22:51 6 so bio data in terms of tendency to identify really does  
15:22:56 7 need to be dealt with carefully.

8  
15:22:58 9 MR WINNEKE: I understand that and I'm respecting that.  
15:23:00 10 There were [REDACTED] people arrested, one of them had [REDACTED]  
15:23:04 11 [REDACTED]. Ultimately [REDACTED] of those people were  
15:23:07 12 subsequently charged. Ms Gobbo was involved, as far as you  
15:23:10 13 were aware, in providing advice to at least one of them, if  
15:23:13 14 not [REDACTED] of them?---Yes.

15  
15:23:18 16 As far as you became aware, Ms Gobbo seemed to have quite a  
15:23:22 17 degree of involvement in a lot of these matters that you  
15:23:25 18 were investigating at this time?---At around that time,  
15:23:29 19 yes, she did.

20  
15:23:31 21 What you've said in your statement is, "I have been asked  
15:23:36 22 if I knew on the date of the arrest that Ms Gobbo had  
15:23:39 23 supplied information that led to the location of [REDACTED]  
15:23:41 24 [REDACTED] being identified". You say, "I do not believe  
15:23:47 25 that I did know as I had not been involved in the  
15:23:50 26 investigation and I had been on leave in the time leading  
15:23:53 27 up to the arrest". Subsequently, however, you did find out  
15:23:59 28 about that, didn't you?---Yeah, I think it was in the days  
15:24:03 29 shortly after that that I found out, yeah.

30  
15:24:06 31 Because, I mean obviously within this group of people who  
15:24:09 32 are involved in this investigation you communicate with  
15:24:12 33 each other and you learn, you talk about what's gone on and  
15:24:16 34 how the investigation has been progressing, you agree with  
15:24:22 35 that?---Yeah, I do.

36  
15:24:24 37 And so whilst you say in your statement that you'd been  
15:24:26 38 asked if you knew on the date of the arrest whether she'd  
15:24:29 39 supplied information that led to the location, and you say  
15:24:32 40 no, you didn't believe it, in the days after you did know  
15:24:37 41 that she had provided that information which had led to the  
15:24:40 42 location of [REDACTED] and the arrest of the people  
15:24:42 43 concerned?

15:24:43 44  
15:24:43 45 MR HOLT: Commissioner, one of the pieces of bio data is  
15:24:47 46 that word, the first word in line 19, which has also just  
15:24:50 47 been repeated in line 37.

1  
15:24:54 2 MR WINNEKE: [REDACTED] is it?  
15:24:55 3  
15:24:55 4 MR HOLT: Yes, and it's now just been repeated again.  
5  
15:24:58 6 COMMISSIONER: Take out that word where it appears in line  
15:25:00 7 19, 37 and was just said by Mr Winneke.  
8  
15:25:09 9 MR WINNEKE: Sorry. Were you asked when you made your  
15:25:10 10 statement, whilst you were asked if you knew on the date,  
15:25:14 11 were you actually asked whether you'd found out afterwards  
15:25:18 12 that she'd provided the information? Because you don't say  
15:25:22 13 that in your statement. I'm just wondering whether you  
15:25:25 14 were asked if you'd found out in the days after that  
15:25:27 15 Ms Gobbo had supplied the information which led to the  
15:25:32 16 location of [REDACTED] ---Sorry, I don't understand what the  
15:25:34 17 question is.  
15:25:36 18  
15:25:37 19 MR HOLT: Commissioner, that's asking about overwhelmingly  
15:25:40 20 and obviously privileged conversations where there's  
15:25:45 21 counsel and solicitors. I'd be grateful if it could be - -  
22 -  
23  
15:25:47 24 MR WINNEKE: In any event, you thought it most unusual that  
15:25:52 25 this lawyer, who had been turning up and representing  
15:25:55 26 people, apparently, and you found out had been providing  
15:26:00 27 information which led to the arrest of these people, or at  
15:26:03 28 least to the people arrested on the night, you thought that  
15:26:07 29 was unusual, didn't you?---Yeah, absolutely.  
30  
15:26:10 31 I've got no doubt you would have thought it was  
15:26:13 32 extraordinary?---Yeah, I'd agree with that.  
33  
15:26:16 34 I take it you would have spoken to your colleagues about it  
15:26:19 35 because you wouldn't have seen or heard anything like that  
15:26:22 36 happening before?---Correct, yes.  
37  
15:26:25 38 You were told - you say in your statement that you were  
15:26:29 39 surprised when you found out that she was a source. You  
15:26:35 40 said, "I thought she was aligned with high level criminals  
15:26:39 41 and didn't think that she'd be someone who would be giving  
15:26:42 42 police information about them. I was also surprised,  
15:26:44 43 because she was a lawyer, and I hadn't seen a lawyer as a  
15:26:47 44 human source before. But" - and you agree with that, you  
15:26:50 45 stand by that proposition I take it?---Yes, I was surprised  
15:26:55 46 for those two reasons, yes.  
47

15:26:57 1 And you'd assumed that, "By the time information reached me  
15:27:01 2 those responsible for handling Ms Gobbo and my supervisor  
15:27:05 3 considered whether we could act on information she  
15:27:08 4 supplied"?---Yes.  
5

15:27:10 6 I take it that you would have thought it is extraordinary,  
15:27:14 7 or it's surprising that if Ms Gobbo has provided  
15:27:18 8 information which has led to [REDACTED]'s arrest and then  
15:27:23 9 she's turning up and speaking to him purporting, to  
15:27:29 10 represent him on the night that he's represented, that  
15:27:32 11 would seem to be somewhat of a conflict of interest,  
15:27:34 12 wouldn't it?---Yeah, I would agree, it's absolutely a  
15:27:38 13 conflict of interest.  
14

15:27:39 15 And you would have thought that that is something that you  
15:27:42 16 would hope your superiors had considered and got legal  
15:27:46 17 advice about?---Yeah, I agree with that.  
18

15:27:52 19 Did you ask Mr Kelly, for example, whether - what he  
15:27:59 20 thought about it?---I don't remember any specific occasion  
15:28:03 21 when I did ask.  
22

15:28:06 23 Okay?---But I wouldn't rule it out.  
24

15:28:08 25 I'm not asking for specific occasions, I suspect you  
15:28:13 26 wouldn't be able to recall a specific occasion. Doing the  
15:28:16 27 best you can, is it likely you said to Kelly, "This is  
15:28:19 28 pretty odd, what's all this about", something - I mean you  
15:28:23 29 probably don't speak like I do, but what do you think you  
15:28:28 30 said?---Look, I remember specifically talking to Detective  
15:28:37 31 Senior Constable Beale about the unusual circumstances of  
15:28:38 32 it, but I don't remember sort of having discussions with  
15:28:41 33 Jason Kelly about it, but it's possible I could have.  
34

15:28:43 35 All right. What was your working relationship like with  
15:28:50 36 Mr Flynn? I take it he wasn't your crew leader but he was  
15:29:00 37 nonetheless a person with whom you worked?---Yeah, I had a  
15:29:03 38 good working relationship with Mr Flynn.  
39

15:29:05 40 Did you speak to him about these sorts of matters?---No.  
41

15:29:08 42 What about Paul Rowe?---Yeah, I remember having  
15:29:13 43 conversations much later down the track about the  
15:29:16 44 circumstances about how she was - eventually came to be in  
15:29:22 45 that position.  
46

15:29:22 47 Did you have discussions about whether there was - there

15:29:29 1 may be difficulties with respect to admissibility of  
15:29:34 2 evidence? Did you ever have those sorts of  
15:29:41 3 discussions?---No, I don't think so.  
4

15:29:44 5 Right. I take it that if someone was - if you brought  
15:29:50 6 someone in because they were a suspect and they wanted to  
15:29:53 7 speak to a lawyer and you arranged for them to speak to  
15:29:57 8 someone who they thought was lawyer but in fact was a  
15:30:01 9 police officer, and that person advised them to cooperate  
15:30:06 10 because they were tricked, then there'd be real issues with  
15:30:09 11 respect to admissibility of the record of interview, you'd  
15:30:13 12 agree with that?---Yes.  
13

15:30:22 14 Can I ask you about any contact that you'd had with the  
15:30:28 15 Source Development Unit. Do you recall meeting with any  
15:30:30 16 members of the Source Development Unit, and you understand  
15:30:40 17 the names have been - - - ?---Yes.  
18

15:30:44 19 Do you know - firstly, have you spoken to any members of  
15:30:48 20 the SDU?---Yes.  
21

15:30:51 22 During the period that we're talking about, throughout  
15:30:55 23 2006, 7, 8?---Yes.  
24

15:30:56 25 You have?---Yes.  
26

15:30:59 27 And do you recall meeting with the Source Development Unit  
15:31:07 28 in the lead up to committals and so forth?---Yes. Well I  
15:31:17 29 just checked my diary today and I note there's a meeting  
15:31:22 30 with two of them.  
31

15:31:23 32 Yes?---And I don't recall that meeting until - I've got a  
15:31:27 33 vague recollection of it because I've seen it in my diary  
15:31:30 34 today.  
35

15:31:31 36 What date was that one? Was it 29 June 2007?---Yes, I  
15:32:14 37 think that's right, yep.  
38

15:32:15 39 Was there another time or was that the only time you'd been  
15:32:18 40 to the SDU?---Sorry, say the question again.  
41

15:32:20 42 I'm sorry?---Say the question again.  
43

15:32:22 44 Had you been down to the SDU or spoken to any members of  
15:32:25 45 the SDU prior to 26th - did I say 29th - 26th of June?---I  
15:32:41 46 think it's the 29th.  
47

15:32:42 1 29th, okay.  
2  
15:32:46 3 COMMISSIONER: We better have the afternoon break I think.  
4  
15:32:50 5 MR WINNEKE: Yes, Commissioner.  
6  
15:32:51 7 COMMISSIONER: 15 minutes, thanks.  
15:32:54 8  
15:32:55 9 (Short adjournment.)  
10  
15:51:18 11 MR CHETTLE: Before Mr Winneke starts, I have another  
15:51:21 12 exhibit from the Alzheimer basket. VPL.0100.0058.0186.  
15:51:31 13 That's for the transcript. It's an email from Steve  
15:51:37 14 Gleeson to a number of people, including Finn McCrae and  
15:51:40 15 Peter Lardner, dated 22 April 2014. It relates to  
15:51:44 16 inquiries Mr Gleeson is having in relation to a file for  
15:51:56 17 the closure of the SDU, and Mr Pope. I'll simply tender it  
15:51:59 18 and move on, if I can.  
15:51:59 19  
15:52:00 20 #EXHIBIT RC1334A - (Confidential) Email from Steve Gleeson  
15:51:37 21 to Finn McCrae, Peter Lardner and  
15:51:41 22 others 22/04/14 VPL.0100.0058.0186.  
15:52:01 23  
15:52:02 24 #EXHIBIT RC1334B - (Redacted version.)  
15:52:04 25  
15:52:06 26 COMMISSIONER: Yes Mr Winneke.  
15:52:07 27  
15:52:07 28 MR WINNEKE: Thank you, Commissioner. Now, Mr Johns, on 22  
15:52:10 29 February 2007 you received a request by way of an email  
15:52:16 30 from Mr Rowe to you, Dale Flynn, Mr O'Brien, a number of  
15:52:23 31 other police officers, including Beale and Hayes, for  
15:52:29 32 notes, for relevant notes, is that correct?---Yes, correct.  
15:52:32 33  
15:52:32 34 This is VPL.0100.0029.0875 at 1018. Now, whilst that's  
15:52:44 35 coming up, you say in your statement - and you were asked  
15:52:48 36 to provide notes of those, of particular days of relevance,  
15:52:52 37 is that right?---Yeah, I believe so.  
15:52:54 38  
15:52:54 39 If you have a look at that document there, that's obviously  
15:52:59 40 come off Mr Kelly's machine it seems, but your name's there  
15:53:04 41 and there's a request for notes of yours on [REDACTED] and  
15:53:09 42 also [REDACTED] 2006, is that right?---Yeah, [REDACTED] is  
15:53:15 43 handwritten in by Jason Kelly.  
15:53:18 44  
15:53:18 45 Right. And obviously that's a relevant day, we don't need  
15:53:23 46 to say why, but did you then have to make, form a view as  
15:53:35 47 to redaction of the notes? Did you have to go through your

15:53:38 1 notes and cross out material which you would regard as  
15:53:41 2 irrelevant, firstly?---Yes. I think on this occasion I'd  
15:53:49 3 already copied my notes in relation to what occurred on [REDACTED]  
15:53:53 4 [REDACTED]  
15:53:53 5  
15:53:54 6 Right?---And I'd redacted some parts.  
15:53:57 7  
15:53:57 8 You say that you go through the process yourself of working  
15:54:01 9 out, firstly, what's relevant and what isn't. What's  
15:54:05 10 private and what isn't. That's the second thing you do, in  
15:54:10 11 terms of telephone numbers and so forth?---Correct.  
15:54:12 12  
15:54:12 13 And thirdly material that you think would be the subject of  
15:54:16 14 public interest immunity?---Correct.  
15:54:16 15  
15:54:17 16 Is that right?---Yes.  
15:54:17 17  
15:54:18 18 So I think you mentioned when you make your statement you  
15:54:23 19 do that process at that time, is that right, as in when  
15:54:28 20 you're making your statement in relation to the events that  
15:54:30 21 you're dealing with?---No, I think, to be clear, I think  
15:54:34 22 meant to say that when I provide the statement to an  
15:54:37 23 investigator I would also provide a redacted copy of my  
15:54:42 24 notes to them. Effectively I would do it at the time of  
15:54:44 25 making the statement, yes.  
15:54:46 26  
15:54:46 27 At the same time. When you redact the notes, do you  
15:54:50 28 identify material that's relevant by a colour of, in a  
15:54:56 29 particular way, or do you just black it all out?---No, I  
15:55:04 30 just black it out in one colour.  
15:55:06 31  
15:55:06 32 What you blackout doesn't really identify that which is  
15:55:11 33 relevant or that which is PII or that which is  
15:55:14 34 private?---That's correct.  
15:55:14 35  
15:55:15 36 That's something that you, you've learnt or you had learnt  
15:55:20 37 over the period of time that you'd been in the Police  
15:55:22 38 Force?---Correct, yes.  
15:55:23 39  
15:55:23 40 What about now, what do you do now, the same thing?---Look,  
15:55:30 41 in my role that I'm currently doing I'm not really, have a  
15:55:35 42 requirement to do that so the short answer is no.  
15:55:37 43  
15:55:38 44 Right. Do you see the sense in identifying that which is  
15:55:41 45 relevant and that which is public interest immunity and  
15:55:45 46 that which is personal details?---I guess now that we've  
15:55:50 47 gone through this process it's more apparent to me.

15:55:53 1  
15:55:54 2 It is more apparent, yes?---That that, that you could  
15:55:57 3 highlight which areas you're redacting and for what  
15:56:01 4 purpose, yes.  
15:56:01 5  
15:56:01 6 Yes, I follow. Now, if you got a request like that you  
15:56:09 7 provided notes and you'd provide them to Mr Rowe of those  
15:56:14 8 days?---Yes.  
15:56:14 9  
15:56:17 10 And they would be redacted notes, I assume, would  
15:56:20 11 they?---Yes, they would be provided redacted to him, yes.  
15:56:23 12  
15:56:26 13 If the request is that you produce notes for those two  
15:56:30 14 days, well that's what you'd do, you'd produce those notes,  
15:56:33 15 is that right?---Yes, correct.  
15:56:34 16  
15:56:35 17 Did you understand it was Mr Rowe who identified the  
15:56:37 18 relevant days or was it someone else?---No, it was Mr Rowe  
15:56:41 19 in this case.  
15:56:42 20  
15:56:42 21 Right. Now, prior to a committal in relation to I think it  
15:56:51 22 was Horthy Mokbel - I'm sorry, Milad Mokbel, on, I think  
15:57:00 23 it's 29 June, you spoke to members of the SDU, and if we  
15:57:07 24 could have a look at a note that has been made by Mr Sandy  
15:57:11 25 White, and this is VPL.2000.0001.1227. You'll see at the  
15:57:25 26 bottom of the page there he's written "Purana" it seems,  
15:57:29 27 "Meet with JOB" which I assume is Jim O'Brien, "Dale Flynn,  
15:57:34 28 Paul Rowe, Jason Kelly and Tim", which is probably you, re  
15:57:42 29 "Milad Mokbel committal. Issues re human source and public  
15:57:48 30 interest immunity. Notes redacted, relevance, protection  
15:57:51 31 of NG". Do you know what, "Re threats by KW", do you know  
15:57:58 32 what that would be a reference to?---Well I'm guessing NG  
15:58:06 33 is Nicola Gobbo.  
15:58:07 34  
15:58:08 35 And Mr White tends to use a K instead of a C for Carl  
15:58:12 36 Williams, it might be that there was discussion about  
15:58:15 37 threats that had been apparently made or allegedly made by  
15:58:20 38 Carl Williams. Is that something that you can  
15:58:23 39 recall?---No, I can't recall that.  
15:58:24 40  
15:58:25 41 There's a note that says, "All reference", I assume to SDU,  
15:58:30 42 "To be removed"?---Yes, I see that.  
15:58:33 43  
15:58:34 44 Or "removed"?---Yes.  
15:58:35 45  
15:58:35 46 Do you recall having a meeting at or with the SDU, it  
15:58:40 47 obviously wouldn't have been at SDU premises, but it would

15:58:44 1 have been a meeting with SDU members, including Mr White,  
15:58:47 2 do you recall that?---No, but I'd like to check my diary  
15:58:54 3 before so I can clarify that.  
15:58:57 4  
15:58:59 5 By all means if you've got it there you can check  
15:59:02 6 it?---What was the date?  
15:59:06 7  
15:59:06 8 It's 29 June.  
15:59:08 9  
15:59:09 10 COMMISSIONER: 06 or 07? Around the time of the committal,  
15:59:13 11 isn't it?  
15:59:13 12  
15:59:14 13 MR WINNEKE: The committal, Commissioner, was in July?---I  
15:59:17 14 think it might be 06.  
15:59:19 15  
15:59:19 16 07. This was in the lead up to the committal.  
15:59:22 17  
15:59:22 18 COMMISSIONER: 07.  
15:59:23 19  
15:59:23 20 MR WINNEKE: Milad Mokbel, 29 June 07.  
15:59:28 21  
15:59:28 22 COMMISSIONER: The committal was in 07, the rest was in 06.  
15:59:35 23  
15:59:36 24 MR WINNEKE: Can I suggest that - - -?---Yeah, I've got a  
15:59:40 25 note that I had a meeting with DSU at 11.15, "Re Op Posse  
15:59:45 26 committal. Issues re PII discussed".  
15:59:50 27  
15:59:51 28 Right. You understood that insofar as PII was concerned,  
15:59:57 29 then the notes needed to be redacted, one, for relevance,  
16:00:01 30 and, two, for the purposes of protecting Nicola Gobbo, is  
16:00:06 31 that right?---In relation to this meeting?  
16:00:08 32  
16:00:09 33 Well, yes, do you accept that that was what was  
16:00:15 34 discussed?---Yeah, I do accept that, yeah.  
16:00:17 35  
16:00:17 36 Do you accept that when you made redactions to your notes,  
16:00:22 37 in relation to the Posse investigation you would remove any  
16:00:26 38 reference, if there was any reference in your notes, to  
16:00:29 39 Nicola Gobbo, you'd remove that, was that your  
16:00:32 40 understanding?---Yes, correct.  
16:00:33 41  
16:00:33 42 And additionally you would remove any entry which suggested  
16:00:40 43 involvement of the SDU?---Correct.  
16:00:43 44  
16:00:43 45 So were you given instructions in effect by the SDU to do  
16:00:47 46 that?---No, I don't remember the meeting specifically so I  
16:00:53 47 can't, I can't answer that.



16:00:56 1  
16:00:56 2 All right. You say that you have entries in your diary  
16:01:03 3 concerning Nicola Gobbo, where her name is referred to, is  
16:01:06 4 that right?---Yes, I do.  
16:01:08 5  
16:01:11 6 Do you recall at any time redacting her name or taking any  
16:01:16 7 reference to SDU members out of your diary or out of your  
16:01:21 8 notes?---I didn't redact her name because I only ever  
16:01:25 9 referred to her by name when she was acting properly as a  
16:01:29 10 lawyer.  
16:01:29 11  
16:01:29 12 Yes?---So I wouldn't have redacted her name.  
16:01:31 13  
16:01:32 14 Right. Did you ever have any notes in your diary of her  
16:01:36 15 acting otherwise than properly as a lawyer?---I don't think  
16:01:46 16 I do. That's basically because the SDU only provided  
16:01:50 17 information to either Jim O'Brien or Jason Kelly or Dale  
16:01:55 18 Flynn.  
16:01:55 19  
16:01:56 20 Or Dale Flynn?---Yes.  
16:01:57 21  
16:01:58 22 Nonetheless you were aware that Nicola Gobbo was providing  
16:02:01 23 information that was going through the SDU and was coming  
16:02:04 24 to Purana?---Yes, correct.  
16:02:06 25  
16:02:06 26 I tender, Commissioner, and I haven't done, the entry or  
16:02:11 27 the email of Paul Rowe which is VPL.0014.0118.0001, p.72.  
16:02:21 28  
16:02:25 29 #EXHIBIT RC1335A - (Confidential) Email of Paul Rowe  
16:02:14 30 VPL.0014.0118.0001 p.72.  
16:02:26 31  
16:02:27 32 #EXHIBIT RC1335B - (Redacted version.)  
16:02:29 33  
16:02:31 34 Thank you. And I think Mr White's diaries are tendered in  
16:02:36 35 their entirety. I'm not too sure if that entry - - -  
16:02:39 36  
16:02:39 37 COMMISSIONER: They have been.  
38  
39 MR WINNEKE: I assume it is.  
40  
16:02:40 41 COMMISSIONER: That particular diary entry has it's own  
16:02:44 42 exhibit number apparently, 431.  
16:02:47 43  
16:02:48 44 MR WINNEKE: Yes, it does. All right, now in your  
16:02:52 45 statement you, in your supplementary statement you refer to  
16:03:00 46 receiving a subpoena, or being shown a subpoena dated 12  
16:03:05 47 August 2008 which had been issued by solicitors for Horty

16:03:10 1 Mokbel, the return date of that subpoena being 18 August  
16:03:12 2 2008. Now, can we have a look at this document,  
16:03:22 3 VPL.0098.0011.0001. That's the first page of the subpoena.  
16:03:28 4 If we scroll through it. Keep going. You'll see the  
16:03:35 5 return date is 18 August, Supreme Court, and then we'll see  
16:03:40 6 here that what's being sought pursuant to the subpoena is  
16:03:46 7 all notes, memorandum, information reports and/or  
16:03:50 8 transcripts of conversations and/or interviews between  
16:03:54 9 either of Detective Sergeant Dale Flynn, Detective Sergeant  
16:03:59 10 Jason Kelly, Detective Inspector James O'Brien and  
16:04:04 11 Detective Senior Constable Johns, that's you. So any  
16:04:09 12 discussions had between any of those people and the first  
16:04:13 13 name which is blacked out is [REDACTED] and the second name  
16:04:18 14 we don't need to refer to, you know who it is I take it?  
16:04:23 15 Do you know?--Yeah, I think I do, yep.

16:04:27 16  
16:04:28 17 And what the subpoena is seeking is for those notes of such  
16:04:35 18 conversations that occur in the course of investigations  
16:04:39 19 being conducted by Victoria Police between - now, again,  
16:04:45 20 there's a date which has been removed from the document  
16:04:47 21 that we have, but it's a date in [REDACTED], you know  
16:04:51 22 that?---Yes.

16:04:51 23  
16:04:51 24 And that's the date, the arrest date of [REDACTED], is that  
16:04:55 25 right, to your understanding?---Yes.

16:04:57 26  
16:04:57 27 To the date of the subpoena. So effectively what defence  
16:05:02 28 counsel or the defence lawyers were after were all notes of  
16:05:06 29 conversations, any communications at all between any of  
16:05:10 30 those people and [REDACTED] from the date effectively that  
16:05:16 31 he was arrested until the present, do you follow  
16:05:20 32 that?---Yep.

16:05:20 33  
16:05:20 34 Now you knew that that subpoena had been issued because you  
16:05:25 35 received an email I think from the Subpoena Management Unit  
16:05:31 36 on 13 August 2007 indicating that you were the person who  
16:05:35 37 had been nominated to deal with the subpoena, is that  
16:05:39 38 right? If you want to check your supplementary statement  
16:05:42 39 by all means do so?---Yeah, I think I knew about it on 12  
16:05:53 40 August.

16:05:54 41  
16:05:54 42 Right. So you'd heard about it before anyway?---I might  
16:05:57 43 have had some dialogue with Alastair Grigor, the solicitor.

16:06:03 44  
16:06:03 45 Do you believe you'd spoken to him on the 12th?---I believe  
16:06:07 46 I did, yes.

16:06:08 47

16:06:08 1 So you knew a subpoena would be coming, is that  
16:06:12 2 right?---Correct.  
16:06:13 3  
16:06:13 4 Now, do you say you took a note of a conversation with  
16:06:23 5 Mr Grigor? By all means have a look at your diary.  
16:06:36 6 Perhaps go to VPL - I'll tender the subpoena, Commissioner.  
16:06:43 7  
16:06:44 8 #EXHIBIT RC1336A - (Confidential) Subpoena 12/08/08  
16:03:20 9 VPL.0098.0011.0001.  
16:06:45 10  
16:06:46 11 #EXHIBIT RC1336B - (Redacted version.)  
16:06:47 12  
16:06:47 13 If we have a look at Mr Johns' diary, VPL.0005.0249.0175.  
16:06:54 14 That's not the first page of it. What your diary says is,  
16:07:01 15 on 12 August, "At office, Corro, admin re Posse trial and  
16:07:08 16 subpoena". There doesn't appear to be a note of a  
16:07:12 17 conversation with Mr Grigor in this diary that has been  
16:07:14 18 redacted. Do you say there's a note elsewhere of a  
16:07:18 19 discussion with Mr Grigor?---No, there is no other note.  
16:07:22 20 I'm just making an assumption that I had some conversation  
16:07:24 21 with him and I was aware the subpoena was coming.  
16:07:27 22  
16:07:33 23 Were you the informant in this matter?---Yes.  
16:07:36 24  
16:07:36 25 So you were the person who was going to be dealing with  
16:07:40 26 subpoenas, at least as far as the police were concerned you  
16:07:46 27 were the nominated person, is that right?---That's right.  
16:07:49 28  
16:07:49 29 I take it you understood what the subpoena was  
16:07:56 30 seeking?---Yeah, it was a very broad subpoena.  
16:07:59 31  
16:08:00 32 Yes. And it was seeking, on its face obviously, notes of  
16:08:06 33 Mr Flynn, Mr O'Brien, et cetera. Now did you speak to  
16:08:12 34 Mr Flynn?---I don't remember whether I spoke to him about  
16:08:17 35 this or not.  
16:08:17 36  
16:08:18 37 You may have but you're not certain about that?---Correct.  
16:08:21 38  
16:08:21 39 I take it you would have been aware that Mr Flynn would  
16:08:24 40 have had relevant diary entries of communications with  
16:08:29 41 [REDACTED]? You would have been aware of that, I  
16:08:34 42 assume?---Yeah, I was, yeah.  
16:08:36 43  
16:08:37 44 If the Commission's got evidence of communications that  
16:08:40 45 Mr Flynn has had with [REDACTED], and there appear to be a  
16:08:45 46 wealth of communications that Mr Flynn has had with  
16:08:48 47 [REDACTED], including Ms Gobbo, so often she would be

16:08:53 1 present when Mr Flynn is speaking to [REDACTED] do you  
16:08:58 2 accept that?---I wasn't aware of it, but I accept it, yes.  
16:09:04 3  
16:09:04 4 Do you think that you should have made yourself aware of  
16:09:07 5 what notes existed?---No, I'm not talking about - I wasn't  
16:09:10 6 aware that Ms Gobbo was present during those conversations,  
16:09:14 7 sorry.  
16:09:15 8  
16:09:15 9 For example, if we have a look at a note which was taken on  
16:09:18 10 [REDACTED] 2006. There's a note to the effect that, "Mobile  
16:09:28 11 telephone call Nicola Gobbo, arrange to pick up, clear to  
16:09:33 12 Lonsdale Street, picks up Nicola Gobbo. Then returns to  
16:09:37 13 Victoria Police Centre, speaks to [REDACTED] and Nicola  
16:09:40 14 Gobbo in an interview room". Then it goes on and talks  
16:09:55 15 about statement processes, "[REDACTED] factual, concerns re various  
16:10:00 16 matters", et cetera. So clearly that would be a  
16:10:04 17 communication which would be, would need to be produced in  
16:10:11 18 accordance with that subpoena, don't you think?---Yeah, it  
16:10:15 19 would have, yeah.  
16:10:17 20  
16:10:17 21 Do you know whether that note was produced pursuant to that  
16:10:21 22 subpoena?---No, I don't think it was, no.  
16:10:23 23  
16:10:23 24 Why not?---My memory is that I spoke to Mr Grigor and  
16:10:29 25 clarified exactly what he was seeking and we came to an  
16:10:36 26 agreement where he was mainly after [REDACTED]'s transcript  
16:10:44 27 of interview and I provided that to him.  
16:10:47 28  
16:10:48 29 So you say that you had a discussion with Mr Grigor and he  
16:10:51 30 said, "All I want, I only want, forget about the subpoena  
16:10:55 31 which is requested, communications between all of these  
16:10:59 32 people from [REDACTED] 2006 up until the date of the trial,  
16:11:04 33 don't worry about any of that, I just want to have the  
16:11:07 34 record of interview"?---That's my memory of what happened.  
16:11:09 35  
16:11:09 36 That's your recollection. Do you have a note of that  
16:11:12 37 anywhere?---Yeah, I do.  
16:11:13 38  
16:11:13 39 Where's the note that you've got in relation to this  
16:11:16 40 subpoena, that that was the conversation?  
16:11:26 41  
16:11:27 42 MS ARGIROPOULOS: It's referred to in his statement at  
16:11:28 43 paragraph 15.  
16:11:30 44  
16:11:30 45 MR WINNEKE: What you say he's satisfied with that, "He'll  
16:11:34 46 be satisfied with the production of the record of  
16:11:35 47 interview", is that right?---Well I'm saying I had a

16:11:41 1 conversation with him and he was satisfied with that, yeah.  
16:11:44 2  
16:11:46 3 Does your note reflect the entirety of the  
16:11:49 4 conversation?---I'm just trying to find it. Okay, on 16  
16:12:14 5 August 08 at 10.10, the second line down from 10.10, "Spoke  
16:12:22 6 to Alastair Grigor re subpoena, stated happy with full  
16:12:39 7 transcript of interview with [REDACTED]".  
16:12:40 8  
16:12:41 9 Did you tell Mr Grigor that in fact there were quite a  
16:12:44 10 number of other notes, communications, discussions between  
16:12:51 11 Messrs Flynn certainly, perhaps others, including  
16:12:55 12 Mr O'Brien, with [REDACTED], did you tell him that there  
16:12:58 13 were all these other entries or not?---I don't remember  
16:13:04 14 specifically but I think my communication with him was that  
16:13:09 15 there's a large amount of documents, it's going to take me  
16:13:12 16 a long time and it might not be ready before the trial and  
16:13:15 17 we managed to specify what he was after.  
16:13:19 18  
16:13:19 19 You said to him, "Look, there's a lot of material which  
16:13:22 20 would answer this subpoena, which would potentially be  
16:13:25 21 relevant, but I'm not going to be able to get it to you by  
16:13:30 22 the time of the trial"?---That's my memory of what  
16:13:32 23 happened, yeah.  
16:13:33 24  
16:13:33 25 Did you say that in your view the material would be  
16:13:36 26 relevant?---I don't remember.  
16:13:38 27  
16:13:39 28 Well, did you think that potentially the material would be  
16:13:43 29 relevant?---I don't remember at the time, but yeah,  
16:13:51 30 obviously it is relevant.  
16:13:52 31  
16:13:53 32 Do you think what you were doing was - perhaps I'll  
16:13:56 33 withdraw that. When you got the subpoena I take it you  
16:14:01 34 spoke to Mr Flynn, did you?---Once again I can't recall  
16:14:09 35 whether I did, but.  
16:14:10 36  
16:14:11 37 Right. Whose responsibility was it? Mr Flynn was still at  
16:14:18 38 Purana, wasn't he?---Yes.  
16:14:20 39  
16:14:20 40 Was Mr O'Brien there or had he gone?---He may have gone by  
16:14:27 41 then.  
16:14:28 42  
16:14:44 43 If we have a look at this document,  
16:15:04 44 RCMP.0062.0002.0002\_0061. Whilst we're going there, do  
16:15:13 45 you say to the Royal Commission that you're comfortable  
16:15:17 46 that Mr Grigor, you made Mr Grigor aware that there was  
16:15:22 47 potentially a significant amount of relevant material that

16:15:26 1 would answer his subpoena but which wouldn't be able to be  
16:15:31 2 produced in time for the trial? Do you think he was really  
16:15:34 3 aware of that?---Look, it may not have occurred exactly  
16:15:41 4 like that.  
16:15:42 5  
16:15:42 6 No?---I don't have a strong recollection of the exact  
16:15:46 7 conversation.  
16:15:47 8  
16:15:47 9 No. Can I suggest to you that when a defence team issue a  
16:15:53 10 subpoena, albeit it may be broad, they're not likely simply  
16:15:59 11 to say, "All right, look, if it's going to take too long  
16:16:04 12 don't worry about it, we don't want it", do you accept that  
16:16:08 13 as a matter of common sense?---Yes.  
16:16:10 14  
16:16:10 15 The fact is if a person is on their trial, and they are  
16:16:14 16 potentially facing a significant period of time in gaol,  
16:16:17 17 don't you think the defence would want to get every  
16:16:19 18 available document which might be potentially relevant to  
16:16:22 19 the defence?---Yes.  
16:16:23 20  
16:16:25 21 Do you think that you might well have steered him away or  
16:16:28 22 suggested to him that there wasn't material which would be  
16:16:31 23 answering that subpoena?---No, I don't think I did.  
16:16:36 24  
16:16:36 25 Right. Well, can I ask, what's your explanation for why  
16:16:44 26 you say Mr Grigor was prepared and why he was happy to take  
16:16:48 27 the record of interview and not the rest of the notes, such  
16:16:52 28 as the one that I've referred to?---I can't guess the state  
16:17:00 29 of mind of Alastair Grigor.  
16:17:03 30  
16:17:05 31 You had been to see the SDU back in 2007, earlier on. You  
16:17:14 32 were aware that it was important to protect Nicola Gobbo,  
16:17:19 33 correct?---Yes.  
16:17:20 34  
16:17:21 35 You believed that it was appropriate not to produce diary  
16:17:26 36 entries which revealed that Nicola Gobbo had been involved  
16:17:30 37 in this investigation, do you accept that?---Yes.  
16:17:34 38  
16:17:35 39 And can I suggest to you that you, what you were doing in  
16:17:41 40 speaking to Mr Grigor, was by way of attempting to suggest  
16:17:46 41 to him that there wasn't material available or which would  
16:17:51 42 be of assistance save for the record of interview?---No, I  
16:17:56 43 don't accept that.  
16:17:57 44  
16:17:57 45 All right. Now, it does appear that there's reference to,  
16:18:05 46 if we have a look at 12 August. It's difficult to read, it  
16:18:18 47 seems here that he has spoken to you. Do you see there's a

16:18:23 1 copy of, it looks like - it's hard to read. About a  
16:18:29 2 quarter of the way down, "Spoke to Detective Senior  
16:18:33 3 Constable Johns re", it seems to say, "Copy of subpoena and  
16:18:38 4 JOB notes provided". Do you see that there?---Yes.

16:18:45 5  
16:18:45 6 It's hard to read but it does appear to be evidence of a  
16:18:48 7 discussion that you've had with him about a subpoena and  
16:18:50 8 the provision of notes of Jim O'Brien. Now, do you think  
16:18:57 9 you might have had a discussion with Mr Flynn on this day  
16:19:00 10 about the provision of notes?---Yes, yep.

16:19:04 11  
16:19:05 12 And one assumes that you would have had a discussion about  
16:19:09 13 the subpoena with him and about which notes, if any, should  
16:19:15 14 be provided pursuant to the subpoena?---Yeah. Just looking  
16:19:20 15 at that, there's nothing to say that I didn't provide the  
16:19:24 16 notes.

16:19:24 17  
16:19:24 18 I'm asking you. Do you believe you did provide the notes,  
16:19:28 19 or notes which reflected the fact that Ms Gobbo had been  
16:19:32 20 involved in attending upon ██████████ in the days following  
16:19:37 21 his arrest, or speaking to ██████████ on the night of his  
16:19:43 22 arrest and speaking to ██████████ during the course of the  
16:19:47 23 period when his statements were being taken, do you believe  
16:19:50 24 that those notes were provided?---It's logical that they  
16:19:54 25 were.

16:19:54 26  
16:19:54 27 You say it's logical that they were?---Yeah.

16:19:56 28  
16:19:56 29 It's logical that they should be, at least there should be  
16:20:07 30 some - - -?---As you say why would Alastair Grigor be happy  
16:20:13 31 to receive the record of interview out the notes.

16:20:15 32  
16:20:16 33 I'm asking you. It appears to be, according to your notes  
16:20:16 34 it appears to say that he was happy with receiving the  
16:20:20 35 record of interview?---That's right, but it doesn't exclude  
16:20:23 36 that I gave him notes as well.

16:20:24 37  
16:20:25 38 Do you believe you did provide notes?---I don't have an  
16:20:29 39 independent recollection of providing the notes.

16:20:31 40  
16:20:32 41 Right. Well - - -?---But it seems logical that they  
16:20:36 42 wouldn't have backed down on the subpoena without receiving  
16:20:39 43 them.

16:20:39 44  
16:20:40 45 Yeah. If you have a look, what you've said in your  
16:20:42 46 statement is that, if we go to the statement, you say that  
16:20:48 47 - - -

16:20:48 1  
16:20:48 2 COMMISSIONER: Which paragraph, please?  
16:20:50 3  
16:20:50 4 MR WINNEKE: I tender that page, Commissioner.  
16:20:52 5  
16:20:53 6 COMMISSIONER: Mr Flynn's diary, what date, 12 August - - -  
16:20:57 7  
16:20:58 8 MR WINNEKE: 12 August 2008, RCMP.0062.0002.0002 at p.61.  
16:21:06 9  
10  
16:21:07 11 #EXHIBIT RC1337A - (Confidential) Mr Flynn's diary 12/08/08  
16:21:00 12 RCMP.0062.0002.0002 at p.61  
16:21:08 13  
16:21:08 14 #EXHIBIT RC1337B - (Redacted version.)  
16:21:09 15  
16:21:10 16 WITNESS: Mr Flynn says he provided me the notes in his  
16:21:12 17 diary.  
16:21:12 18  
16:21:13 19 MR WINNEKE: You're quite right, he says he provided notes  
16:21:16 20 of Jim O'Brien. It appears anyway, it's not clear. Can I  
16:21:23 21 ask you this, if you have a look at your statement what you  
16:21:25 22 say is that your diary, you worked again - sorry, you spent  
16:21:31 23 the day dealing with matters to do with the subpoena on the  
16:21:33 24 12th, you don't recall what that involved, you worked again  
16:21:39 25 on matters to do with the subpoena on the 13th and 14th  
16:21:42 26 August 2008, on the 16th of August your diary records that  
16:21:45 27 you had spoken with the solicitor Mr Grigor and the diary  
16:21:48 28 records that Mr Grigor was content to receive a transcript  
16:21:52 29 of ██████████'s record of interview in compliance with the  
16:21:55 30 subpoena. "I don't recall anything further about the  
16:21:57 31 discussion with him" and you've made that note in your  
16:22:01 32 diary, haven't you?---Yes.  
16:22:02 33  
16:22:02 34 You get a telephone call, in fact you received a telephone  
16:22:06 35 call the day previously from Acting Inspector Luke  
16:22:11 36 Charlesworth and he noted that there might be PII issues  
16:22:16 37 with respect to the subpoena and you recall that he was  
16:22:18 38 part of the Subpoena Management Unit. Had you dealt with  
16:22:21 39 him before?---I dealt with him a couple of times, whether  
16:22:26 40 this was the first one or the second one, I'm not sure.  
16:22:30 41  
16:22:30 42 And then in your statement you say, "I responded the next  
16:22:34 43 day to confirm that there were no longer any PII issues and  
16:22:37 44 that the subpoena would be complied with on the return  
16:22:40 45 date", that being 18 August. And your email refers to "me  
16:22:45 46 checking the transcript" and no doubt that would be you  
16:22:48 47 checking the transcript of the record of interview of



16:22:52 1 [REDACTED], wouldn't it?---Yes.  
16:22:55 2  
16:22:55 3 So if your view was that Ms Gobbo had to be protected and  
16:23:03 4 her involvement protected, one would expect that there  
16:23:09 5 would be PII arguments about that, given the discussion  
16:23:12 6 with the SDU that I've referred to?---Yes.  
16:23:17 7  
16:23:18 8 If you were to be handing over notes referring to her  
16:23:21 9 involvement, do you agree with that?---Yes.  
16:23:24 10  
16:23:25 11 And what I'm suggesting to you is that you, you're telling  
16:23:29 12 Mr Charlesworth, "Look, there's no PII problem, Mr Grigor  
16:23:33 13 is content with or happy with the record of interview".  
16:23:38 14 Now, does that not suggest that you didn't provide notes or  
16:23:43 15 that at least notes such as the ones that I've referred to,  
16:23:48 16 where Ms Gobbo is involved in interactions with Mr Flynn  
16:23:52 17 and [REDACTED], weren't provided?---Well it's silent on  
16:23:59 18 that fact.  
16:24:00 19  
16:24:00 20 It's silent, yes?---So, um, it could go either way but as I  
16:24:05 21 said logically why would they back down on the subpoena  
16:24:09 22 without receiving the notes?  
16:24:10 23  
16:24:10 24 That's why I'm asking you, Mr Johns, about that  
16:24:13 25 conversation you had with Mr Grigor and why it appears to  
16:24:16 26 be that he was content with receiving that because it  
16:24:21 27 suggests that that's what he received and he was happy to  
16:24:25 28 receive it, but nothing else was provided. Now you might  
16:24:28 29 say that's not right?---Well I disagree with that, that may  
16:24:32 30 have just been one of the sticking points that was in  
16:24:35 31 discussion.  
16:24:35 32  
16:24:40 33 All right. I do suggest to you that information wasn't  
16:24:58 34 provided to Mr Grigor, at least pursuant to the subpoena,  
16:25:04 35 which would have identified Ms Gobbo's involvement with  
16:25:06 36 [REDACTED] and Mr Flynn in the way in which I've suggested.  
16:25:10 37 Do you say that's not right or do you not know?---I don't  
16:25:16 38 think that's correct.  
16:25:16 39  
16:25:17 40 You don't think it's correct, all right. Now, nonetheless,  
16:25:26 41 you complied with that subpoena by producing material you  
16:25:32 42 say which might have been material in addition to the  
16:25:34 43 transcript of the interview, right?---Yeah, but my memory  
16:25:38 44 is that it was provided direct to Mr Grigor.  
16:25:41 45  
16:25:41 46 Right?---And it wasn't - - -  
16:25:43 47

16:25:43 1 It wasn't produced - - -?---The subpoena was withdrawn and  
16:25:47 2 wasn't provided to the court, correct.

16:25:48 3  
16:25:48 4 In any event the matter resolved as between you and  
16:25:52 5 Mr Grigor and it didn't, it wasn't pursued, is that  
16:25:55 6 right?---That's right.

16:25:55 7  
16:25:58 8 You say that in addition to that subpoena there was  
16:26:07 9 apparently a request for information concerning  
16:26:12 10 investigations prior to the arrest of [REDACTED], is that  
16:26:16 11 right? Do you agree with that? You're talking about, in  
16:26:21 12 your statement you say, "Well look, there was a discussion  
16:26:25 13 about IRs, information reports"?---This is the subpoena  
16:26:30 14 we've been talking about? We've moved on, have we?

16:26:34 15  
16:26:34 16 We've moved on. That subpoena dealt with interactions with  
16:26:37 17 [REDACTED] subsequent to his arrest. It seems also that  
16:26:40 18 there were discussions between you and Mr Grigor about  
16:26:44 19 receiving information concerning the investigation of  
16:26:48 20 [REDACTED] prior to his arrest?---Yes, that's right.

16:26:50 21  
16:26:51 22 What they wanted was a lot of information about police  
16:26:54 23 investigations concerning [REDACTED] from as far back as  
16:26:59 24 about [REDACTED], do you understand that?---Yeah, well they  
16:27:02 25 already had a number of information reports from another  
16:27:07 26 accused person.

16:27:08 27  
16:27:08 28 Yes, there was a previous matter involving [REDACTED]  
16:27:12 29 and it appears Mr Shirreffs had access to some or had  
16:27:17 30 access to information reports which had been produced in  
16:27:19 31 that producing?---Yeah, that's right, yep.

16:27:21 32  
16:27:22 33 And you understand that he had sought from you those  
16:27:28 34 information reports, is that right?---No, he wanted the -  
16:27:33 35 what was behind the redactions. He had the information  
16:27:35 36 reports redacted and he wanted to know what was behind the  
16:27:39 37 redactions.

16:27:39 38  
16:27:39 39 I see. Righto, okay. That may be right but he perhaps  
16:27:47 40 wanted them afresh, if you like, in this proceeding because  
16:27:51 41 he couldn't be using documents he had used in a previous  
16:27:55 42 proceeding, was that your understanding or not?---I can't  
16:27:58 43 recall.

16:27:58 44  
16:27:58 45 In any event what he wanted was information reports, is  
16:28:01 46 that right?---Yes.

16:28:02 47

16:28:03 1 Was that all he wanted?---I think so.  
16:28:07 2  
16:28:10 3 Because is it the case that you were served with a subpoena  
16:28:19 4 on 1 September 2008, returnable on 3 September, in which he  
16:28:26 5 sought all information and reports relating to or touching  
16:28:30 6 upon [REDACTED] and his activities in the period from  
16:28:34 7 [REDACTED] to [REDACTED]?---Yes.  
16:28:38 8  
16:28:39 9 Now that's the subpoena that you got and that subpoena came  
16:28:42 10 about because there'd been a breakdown in discussions I  
16:28:45 11 gather between you and Mr Grigor and then Mr Mandie about  
16:28:48 12 whether or not you could produce the unredacted, the  
16:28:52 13 information reports, is that right?---That's right, yes.  
16:28:55 14  
16:28:55 15 And I think it started somewhere back around 25 August at  
16:29:04 16 least because you'd been having discussions, hadn't you,  
16:29:08 17 with members of the SDU, do you think that's right?---Yeah,  
16:29:12 18 that's right.  
16:29:12 19  
16:29:13 20 If we have a look, for example - do you believe you might  
16:29:16 21 have spoken to Mr Rowe also about that?---Possibly, I can't  
16:29:25 22 remember.  
16:29:26 23  
16:29:26 24 If we have a look at this document, VPL.2000.0001.3982.  
16:29:42 25 There's a note that Mr Fox - if you have a look at the  
16:29:46 26 document there - it appears that he's had a discussion with  
16:29:50 27 Mr Rowe about sensitised IRs for Horty Mokbel's trial,  
16:29:57 28 "Defence have issue with the dates blacked out. Advised  
16:30:00 29 dates submitted should not be blacked out. Date received  
16:30:03 30 on all IRs must remain blacked out. Understood. Rowe to  
16:30:08 31 update Tim Johns. IRs in question are the same as those  
16:30:12 32 sanitised and already provided to defence for the [REDACTED]  
16:30:17 33 [REDACTED] court hearing". That suggests there has been a  
16:30:20 34 desire on the part of the defence to get those materials,  
16:30:23 35 correct?---Yes, correct.  
16:30:25 36  
16:30:25 37 And then if we move forwards, I think you've had  
16:30:28 38 communications and you refer to those communications in  
16:30:31 39 your statement. Commissioner, I'm not too sure if  
16:30:47 40 [REDACTED] diaries have been tendered in their entirety.  
16:30:47 41  
16:30:48 42 COMMISSIONER: 507 I'm told.  
16:30:58 43  
16:30:59 44 MR WINNEKE: Thanks. You had further discussions with  
16:31:04 45 Mr Fox and then you emailed various information reports to  
16:31:12 46 him, is that right, so as he could provide you a view as to  
16:31:16 47 whether or not they were appropriately sanitised, is that

16:31:19 1 what happened?---Yes.

16:31:20 2  
16:31:21 3 And if we look at your diary, we'll see that around - just  
16:31:28 4 excuse me - 27 August you completed editing of IRs from  
16:31:58 5 [REDACTED] trial, is that right?---That's right, yep.

16:32:04 6  
16:32:04 7 That's p.246 of your diary, VPL.0005.0249.0179. Just have  
16:32:16 8 a look at that because I might tender that. So you'd  
16:32:30 9 sanitised or edited those, did you?---Yeah, it appears so.

16:32:40 10  
16:32:40 11 Now, then there were further discussions I think with  
16:32:57 12 Mr Fox on 29 August 2008 with respect to public interest  
16:33:05 13 issue with Ms Gobbo's IRs over [REDACTED] and he advised  
16:33:09 14 email of the IRs in question received and reply to be  
16:33:13 15 provided Monday and there's your contact details there. If  
16:33:16 16 we have a look at that document which is  
16:33:23 17 VPL.2000.0001.3988. In any event, whilst we're waiting, is  
16:33:41 18 it the case that, as I suggested, you had - that's an entry  
16:33:56 19 on the 29th, do you see that? I take it you agree that you  
16:34:01 20 spoke to him on that day?---Yeah, I've also got a note of  
16:34:06 21 speaking to him the previous day as well.

16:34:08 22  
16:34:08 23 You spoke to him on the 28th also?---Yes.

16:34:11 24  
16:34:11 25 There was quite a bit of discussion about making sure that  
16:34:15 26 these IRs were appropriately redacted so they wouldn't  
16:34:18 27 identify Ms Gobbo, do you accept that?---Yes.

16:34:21 28  
16:34:22 29 And your trial then is commencing and you have a discussion  
16:34:34 30 with Mr Mandie at court and it appears that they're not  
16:34:39 31 satisfied with the redactions and so you can't come to an  
16:34:44 32 agreement about what they're going to provide you, do you  
16:34:47 33 accept that?---Yes.

16:34:48 34  
16:34:49 35 And so then they serve upon you a subpoena,  
16:34:54 36 correct?---Eventually, yes.

16:34:56 37  
16:34:57 38 MR HOLT: Commissioner, could this one just come down. I  
16:35:00 39 think it's been referred to.

40  
41 COMMISSIONER: Right.

42  
16:35:03 43 MR WINNEKE: If we could have a look at your diary on 1  
16:35:06 44 September, Monday, which was - was that the first day, or  
16:35:09 45 at least a day on which the trial was occurring  
16:35:16 46 VPL.0005.0249.0180?---I think that was a Basha inquiry the  
16:35:26 47 previous week but it looks like it was about to start on

16:35:28 1 that day.  
16:35:29 2  
16:35:29 3 You had a discussion with Mr Mandie regarding the IR  
16:35:33 4 issue?---Yes.  
16:35:33 5  
16:35:34 6 Advised that you hadn't been updated and you were waiting  
16:35:36 7 for a call back?---Yep.  
16:35:38 8  
16:35:39 9 And who were you waiting for a call from?---I believe it  
16:35:43 10 was Officer Fox.  
16:35:44 11  
16:35:44 12 Right. And then the matter was apparently adjourned until  
16:35:50 13 the following day and then you spoke to Mr Mandie and at  
16:35:53 14 that stage it appears that any discussions had broken down  
16:35:59 15 and he said, "Look, we're just going to issue a subpoena  
16:36:02 16 because we want these documents produced"?---Yes, and then  
16:36:06 17 later that afternoon I've spoken to Officer Fox and he said  
16:36:10 18 he's going through them tomorrow.  
16:36:12 19  
16:36:22 20 Then you received the subpoena and again you received  
16:36:24 21 communication from the, from Mr Charlesworth, is that  
16:36:32 22 right?---Yes.  
16:36:33 23  
16:36:34 24 And you said to him that you'd need to engage counsel to  
16:36:42 25 argue public interest immunity, is that right?---Whether I  
16:36:46 26 said it to him or we agreed on it, or he said it to me, I'm  
16:36:51 27 not really sure but that's what eventually happened, yes.  
16:36:54 28  
16:36:54 29 The subpoena was formally assigned to you, is that  
16:36:57 30 right?---Yeah, that's correct.  
16:36:58 31  
16:36:59 32 And that subpoena, as I indicated before, was for all  
16:37:04 33 information and reports relating to or touching upon  
16:37:08 34 [REDACTED] and his activities for the period from 2004 to  
16:37:11 35 2006?---Yes.  
16:37:13 36  
16:37:13 37 And again, that subpoena was quite broad but potentially it  
16:37:24 38 covered a lot of information and a lot of that information  
16:37:29 39 would have included Ms Gobbo's involvement in informing on  
16:37:34 40 [REDACTED], do you accept that?---No. Her details weren't  
16:37:43 41 included in any of the information reports.  
16:37:45 42  
16:37:45 43 I follow that but I'm not confining it to the information  
16:37:48 44 reports. The subpoena itself was quite broad?---Okay.  
16:37:51 45  
16:37:51 46 And it included all information touching upon [REDACTED]  
16:37:55 47 and his activities. Now, admittedly that could cover just

16:38:01 1 about everything, there's no question about that, you agree  
16:38:03 2 with that, so it needed to be narrowed, do you agree with  
16:38:07 3 that?---Yeah, I would, yep.

16:38:09 4  
16:38:10 5 Did you have any discussions with any of your fellow police  
16:38:18 6 officers, Mr Flynn or Mr Rowe or people like that, about  
16:38:23 7 whether that subpoena should properly produce relevant  
16:38:33 8 documentation concerning the investigation of [REDACTED]  
16:38:37 9 which might have included Ms Gobbo's role in that  
16:38:40 10 investigation?---No, I don't think I did.

16:38:45 11  
16:38:47 12 Do you think that it might have been relevant to produce  
16:38:52 13 that information or at least get some advice about whether  
16:38:56 14 or not that information needed to be produced?---Could I  
16:39:00 15 have a look at the subpoena, the specifics of it, before I  
16:39:04 16 answer that question?

16:39:04 17  
16:39:05 18 Have a look at this document, Commissioner, it's  
16:39:20 19 VPL.6161.0008.7808. If we can scroll down. It says,  
16:39:42 20 "Please find enclosed for your information and attention a  
16:39:46 21 copy of the subpoena. We also wish to indicate that some  
16:39:49 22 of the material requested may be obtainable from Detective  
16:39:53 23 Sergeant Dale Flynn. We advise that Mr Mokbel's trial is  
16:39:57 24 being heard in the Melbourne County Court building due to  
16:40:02 25 ongoing renovations", et cetera. Then if we keep going.  
16:40:07 26 Keep going. There's the subpoena. If we keep going.  
16:40:15 27 Continue to the schedule. There it is there?---Yeah, okay.  
16:40:33 28 I think my understanding at the time, when I received the  
16:40:36 29 subpoena - - -

16:40:37 30  
16:40:37 31 Yes?---- - - was that Mr Mandie was seeking information  
16:40:43 32 reports only and I don't think I turned my attention that  
16:40:47 33 it may be a broader subpoena than, other than just the  
16:40:51 34 information reports.

16:40:51 35  
16:40:51 36 Right. So what you say is, "Look, my discussions with  
16:40:54 37 Mr Mandie focused upon the particular information reports  
16:40:58 38 and there was a dispute between us as to what sections of  
16:41:03 39 the information reports should in fact be revealed and what  
16:41:06 40 should not be revealed and that was really the extent of  
16:41:09 41 the conflict between us"?---Yeah, that's right.

16:41:12 42  
16:41:12 43 Did you not turn your mind to whether or not that subpoena  
16:41:21 44 could well produce other material which would be relevant  
16:41:25 45 also?---Look, not at the time but having a look, a read of  
16:41:30 46 it now, it's a very broad subpoena and it could potentially  
16:41:35 47 extend further to a lot of documents.

16:41:38 1  
16:41:38 2 What you did know is that [REDACTED], who was a significant  
16:41:44 3 witness in this proceeding, had been arrested and charged  
16:41:52 4 as a consequence of information provided by Ms Gobbo, who  
16:41:56 5 then advised him as a lawyer, and who was then continuing  
16:42:02 6 to see him and visit him during the period after he was  
16:42:10 7 arrested, including during the period when his statements  
16:42:14 8 were taken. Do you think that that might have been  
16:42:17 9 relevant?---Not at the time, no.  
16:42:20 10  
16:42:20 11 You didn't think that at the time?---I thought the issue  
16:42:22 12 was confined to the information reports.  
16:42:24 13  
16:42:27 14 MS ARGIROPOULOS: Commissioner, can I approach Mr Winneke?  
15  
16:42:42 16 COMMISSIONER: Yes.  
16:42:42 17  
16:42:44 18 MR WINNEKE: You understood that what the lawyers were  
16:42:47 19 after were those information reports unredacted,  
16:42:52 20 right?---Yes.  
16:42:52 21  
16:42:53 22 What I'm suggesting to you is that it was - it was or it  
16:43:01 23 should have been apparent to you that Victoria Police had  
16:43:03 24 significant other information which would have been of  
16:43:07 25 interest, not just - well I withdraw that. Which would  
16:43:13 26 have been relevant and may well have provided opportunities  
16:43:19 27 for lawyers for Mr Mokbel and others to argue whether or  
16:43:24 28 not the evidence of [REDACTED] should be admissible, could  
16:43:31 29 be used? Did you not turn your mind to that?---I don't  
16:43:36 30 think I did at the time.  
16:43:38 31  
16:43:42 32 You would have been aware that [REDACTED] himself, the  
16:43:44 33 witness, didn't know that Ms Gobbo, the person who he  
16:43:51 34 understood to be his lawyer, was in fact an informer  
16:43:55 35 against him, you would have been aware of that?---By this  
16:43:58 36 stage I certainly was, yeah.  
16:43:59 37  
16:44:00 38 You would have been aware that he hadn't had independent  
16:44:03 39 legal advice because he was being advised by, in effect, an  
16:44:07 40 agent of police?---Yes.  
16:44:10 41  
16:44:13 42 Did you not think, putting aside the subpoena, that it was  
16:44:19 43 necessary for that matter to be raised with, if not  
16:44:24 44 superior officers, if not lawyers, but certainly superior  
16:44:30 45 officers to work out whether or not it was an appropriate  
16:44:33 46 thing to do, not to disclose this sort of material?---No,  
16:44:40 47 not at the time, no.

16:44:41 1  
16:44:42 2 You understood that the defence were trying to find out as  
16:44:47 3 much information as they could about matters concerning the  
16:44:55 4 investigation of [REDACTED]?---Yeah, yep.  
16:45:03 5  
16:45:04 6 And then there was an argument about the subpoena and about  
16:45:11 7 the documents that ought be produced, that is the  
16:45:16 8 information reports which ought be produced pursuant to the  
16:45:19 9 subpoena, there was argument about that, wasn't  
16:45:22 10 there?---When?  
16:45:23 11  
16:45:23 12 On 3 October?---Between who?  
16:45:26 13  
16:45:27 14 3 August - September rather?---Are you talking about in  
16:45:33 15 court before Justice Curtain?  
16:45:34 16  
16:45:35 17 Yes?---That's right, yes.  
16:45:36 18  
16:45:36 19 Indeed you had to go and see a barrister, Mr Gipp?---Yes.  
16:45:40 20  
16:45:40 21 And between you and he an affidavit was prepared which was  
16:45:48 22 to explain to the court why the information reports  
16:45:53 23 oughtn't be redacted in the way in which Mr Shirreffs said  
16:45:59 24 that they should be redacted, correct?---Yes.  
16:46:01 25  
16:46:03 26 And the concern was, that you had, the information report,  
16:46:10 27 the particular information in the report, or the various  
16:46:12 28 reports, could have only come from one person, the  
16:46:18 29 likelihood is it could be worked out by people such as  
16:46:24 30 Mr Mokbel, who was being tried, where the information had  
16:46:28 31 come from and that would then identify Ms Gobbo. That was  
16:46:31 32 the concern, wasn't it, or one of the concerns?---Yeah, a  
16:46:35 33 lot of it was single source information but there was also  
16:46:38 34 people named currently under investigation.  
16:46:40 35  
16:46:40 36 Yes?---So that was a PII issue as well.  
16:46:43 37  
16:46:43 38 There were PII issues with ongoing investigations, naming  
16:46:46 39 of the source, or identification of the source, I follow  
16:46:49 40 that?---Yep.  
16:46:50 41  
16:46:55 42 You say that an affidavit was prepared with Mr Gipp, is  
16:47:05 43 that right?---Two affidavits.  
16:47:07 44  
16:47:07 45 Two affidavits. You haven't been able to find the final  
16:47:14 46 affidavit which was filed, have you, you've looked for that  
16:47:18 47 and you can't find that?---I haven't looked for it, but



16:47:21 1 I've been told by lawyers it hasn't been located.  
16:47:23 2  
16:47:24 3 Okay. Just excuse me. Can we have a look at this  
16:47:49 4 document, VPL.2100.0025.5963. Can we just scroll through  
16:48:07 5 that, please. That's the document that, at least the draft  
16:48:44 6 of the document that was sworn, is that correct?---Yeah,  
16:48:49 7 it's a draft, yep.  
16:48:50 8  
16:48:50 9 I tender that, Commissioner.  
10  
16:48:57 11 COMMISSIONER: Draft confidential affidavit, when was it  
16:49:02 12 sworn?  
16:49:02 13  
16:49:03 14 MR WINNEKE: I think it was sworn on the 3rd - is that  
16:49:06 15 right, Mr Johns?  
16:49:12 16  
16:49:13 17 COMMISSIONER: I suppose it wasn't sworn if it's a draft,  
16:49:15 18 but it was dated 3 September 08.  
16:49:17 19  
16:49:18 20 MR WINNEKE: That obviously had information added to it, is  
16:49:20 21 that right, because we can see that there are gaps  
16:49:23 22 there?---No, I don't think so. I think the gaps are what  
16:49:27 23 we're seeking to redact.  
16:49:29 24  
16:49:29 25 Is that the confidential affidavit or was that the - -  
16:49:34 26 -?---This one?  
27  
16:49:34 28 Yes?---This is a confidential - yes, this is the  
16:49:38 29 confidential affidavit and the - - -  
16:49:40 30  
16:49:40 31 COMMISSIONER: Just check at the beginning.  
16:49:42 32  
16:49:42 33 WITNESS: - - - redacted and unredacted IRs were annexed to  
16:49:50 34 that.  
35  
36 MR WINNEKE: Just scroll through it if we can.  
37  
16:49:51 38 COMMISSIONER: It says confidential affidavit.  
16:49:52 39  
16:49:53 40 MR WINNEKE: Can we just scroll through it. Keep going.  
16:49:59 41 Just stop there. There appear to be blanks there. Does  
16:50:04 42 that - that is the way in which it was provided, is  
16:50:10 43 it?---Yes, so the lines are what we're seeking to redact.  
16:50:15 44  
16:50:15 45 Okay, all right. Do you believe that that was, was there  
16:50:19 46 anything changed or added to that affidavit prior to it  
16:50:21 47 being filed?---I'm not sure.

16:50:24 1  
16:50:25 2 #EXHIBIT RC1338A - (Confidential) Draft subpoena 3/09/08  
16:47:49 3 VPL.2100.0025.5963.  
16:50:26 4  
16:50:27 5 #EXHIBIT RC1338B - (Redacted version.)  
16:50:34 6  
16:50:35 7 You had a discussion in Mr Gipp's chambers about the  
16:50:45 8 matters that should go into the affidavit, is that  
16:50:49 9 right?---Yes.  
16:50:49 10  
16:50:51 11 And you say in your statement that you don't believe that  
16:50:59 12 you would have told Mr Gipp the identity of any of the  
16:51:03 13 human sources involved, is that right?---That's correct.  
16:51:05 14  
16:51:09 15 You've looked at the confidential or the redacted  
16:51:16 16 information reports. Is that correct, you've seen  
16:51:22 17 them?---Recently, yes.  
16:51:23 18  
16:51:23 19 Yes. And have you also seen the unredacted information  
16:51:28 20 reports?---Yes.  
16:51:30 21  
16:51:31 22 I wonder if we could tender both the redacted and the  
16:51:35 23 unredacted information reports.  
16:51:36 24  
16:51:43 25 #EXHIBIT RC1339A - (Confidential) Unredacted information  
16:51:44 26 reports.  
16:51:44 27  
16:51:44 28 #EXHIBIT RC 1339B - (Redacted version.)  
16:52:01 29  
16:52:01 30 Commissioner, I've got them in a - in order to save time, I  
16:52:03 31 don't know whether - just excuse me.  
16:52:15 32  
16:52:15 33 COMMISSIONER: If they're not already uploaded in that form  
16:52:18 34 they can be uploaded and given - - -  
16:52:20 35  
16:52:21 36 MR WINNEKE: I'm not certain whether they are or not,  
16:52:23 37 Commissioner. Just have a look at that folder, please.  
16:52:27 38  
16:52:27 39 COMMISSIONER: Once you make sure you've got the document  
16:52:32 40 right the VPL numbers can be put in later. 1339A and B.  
16:53:01 41  
16:53:01 42 WITNESS: Yes.  
16:53:02 43  
16:53:02 44 MR WINNEKE: Do you believe that they're the information  
16:53:04 45 reports that were the subject of your affidavit?---Yeah, I  
16:53:07 46 believe they were, yep.  
16:53:08 47

16:53:09 1 Thanks very much, I tender those.

16:53:11 2

16:53:11 3 COMMISSIONER: They're tendered, 1339A and B.

16:53:15 4

16:53:15 5 MR WINNEKE: There was argument had on 3 September, is that  
16:53:23 6 right, and there was, Mr Shirreffs argued that they should  
16:53:30 7 be provided to him unredacted, is that your  
16:53:34 8 recollection?---Yes, that's correct.

16:53:37 9

16:53:38 10 And Mr Gipp represented the Chief Commissioner on that  
16:53:43 11 occasion, is that right?---That's right.

16:53:45 12

16:53:47 13 Have you got the transcript of that hearing? Have you seen  
16:53:53 14 that?---I saw it earlier today.

16:53:56 15

16:53:56 16 All right. What's clear is that - and I'm reading from the  
16:54:06 17 transcript - "The subpoena seeks an information report  
16:54:09 18 pertaining to the activities of [REDACTED] between [REDACTED]  
16:54:13 19 and [REDACTED] 2006. Previously we obtained in other  
16:54:17 20 proceedings some information reports that had large  
16:54:20 21 portions of them deleted and obliterated so you couldn't  
16:54:25 22 see the information contained within" and Mr Shirreffs goes  
16:54:34 23 on to say that, "Your Honour, could I just mention before  
16:54:38 24 we leave the court with respect to this matter. The first  
16:54:42 25 is we've tried to negotiate with the informant directly to  
16:54:45 26 obviate the need for a subpoena last week, that's why  
16:54:48 27 ultimately we couldn't get past this block and it's been  
16:54:50 28 issued a bit late in the piece, but in terms of the  
16:54:53 29 affidavit, the position of the affidavit being provided to  
16:54:56 30 Your Honour, what should be provided to Your Honour are the  
16:54:58 31 original information reports which are in their complete  
16:55:01 32 form", et cetera. That seems to suggest that what you're  
16:55:04 33 saying is right, they were after these information reports  
16:55:07 34 in particular, and you couldn't reach an agreement about  
16:55:13 35 the nature of the redaction of them, is that right?---Yeah,  
16:55:17 36 correct.

16:55:17 37

16:55:17 38 All right. Indeed, to be fair, what Mr Shirreffs was  
16:55:32 39 saying, "Really in terms of the issue of informer  
16:55:36 40 privilege, it comes down to a balancing exercise, we don't  
16:55:42 41 seek disclosure of the informer's identity, we don't need  
16:55:45 42 to know that and we shouldn't know that, what we seek is  
16:55:48 43 the information which was provided by a person or persons  
16:55:50 44 unknown to the police and the date upon which the  
16:55:52 45 information is said to be relevant". Effectively what  
16:55:54 46 Mr Shirreffs was saying is, "Look, we don't want to know  
16:55:58 47 who the informer is, we're not entitled to know who the

16:56:03 1 informer is", do you follow that?---Yes.  
16:56:05 2  
16:56:05 3 But they want information that the informer has provided.  
16:56:07 4 Now, you accept that?---Yep.  
16:56:11 5  
16:56:11 6 Can I suggest though that you must have been aware that in  
16:56:14 7 this particular case the actual identity of the informer  
16:56:19 8 for the particular reasons that you were aware of, and  
16:56:23 9 Mr Shirreffs wasn't aware of, would have been pretty  
16:56:27 10 significant?---Absolutely, yeah.  
16:56:30 11  
16:56:31 12 For the reasons that I've expressed previously, or I put to  
16:56:34 13 you previously, because of her involvement with respect to  
16:56:37 14 [REDACTED] and the fact that she had been advising  
16:56:43 15 [REDACTED] at the same time as informing on him. Now I  
16:56:47 16 take it you would have - it would have occurred to you that  
16:56:50 17 that might be relevant?---I don't think I thought of that  
16:56:57 18 at the time.  
16:56:58 19  
16:56:58 20 No?---It's a pretty complex legal issue and I don't think,  
16:57:06 21 even looking back at it now, I know the answer whether he's  
16:57:11 22 entitled to know what occurred then. I can't answer that  
16:57:14 23 question. I couldn't answer it back then and I don't think  
16:57:17 24 I can answer it now.  
16:57:18 25  
16:57:19 26 Did it even occur to you back then that it may well be an  
16:57:22 27 issue? Look, all right, you're a Detective Senior  
16:57:27 28 Constable, but you were aware of obligations firstly of  
16:57:32 29 disclosure, correct?---Yes.  
16:57:35 30  
16:57:35 31 You're aware of the right of a person such as [REDACTED] to  
16:57:40 32 be advised by an independent lawyer?---Yes.  
16:57:44 33  
16:57:44 34 You're aware of that?---Yep.  
16:57:45 35  
16:57:46 36 You're aware that he hadn't been, correct?---Yeah, yep.  
16:57:51 37  
16:57:51 38 You're aware that the informer in this case was his lawyer,  
16:57:56 39 correct?---In his case, yeah.  
16:57:59 40  
16:57:59 41 Yes?---Yep.  
16:58:00 42  
16:58:00 43 All of those things, I asked you about this before and you  
16:58:04 44 said, "To me this was quite, this was unusual, this was  
16:58:07 45 strange", do you accept that?---Yeah, yep.  
16:58:09 46  
16:58:10 47 You'd raised it with some of your colleagues, do you accept

16:58:14 1 that?---Yes.  
16:58:14 2  
16:58:15 3 Mr Gipp was a barrister, you knew - did you know  
16:58:20 4 Mr Gipp?---No, that's the first time I'd met him.  
16:58:23 5  
16:58:24 6 Did you consider it might be worthwhile raising it with  
16:58:28 7 Mr Gipp and saying, "Well look, I do have a concern about  
16:58:33 8 this particular informant because of the unusual  
16:58:38 9 circumstances of it". Did you even consider that?---No, I  
16:58:43 10 don't think I did. I myself was conflicted because  
16:58:48 11 throughout our training we're taught to keep an informer's  
16:58:55 12 identity secret.  
16:58:56 13  
16:58:56 14 Yes?---And in this case, if her details had have been  
16:59:03 15 revealed, she would have been killed. Our duty is to  
16:59:07 16 protect life.  
16:59:07 17  
16:59:07 18 Yes, I understand that's what you say. Do you also  
16:59:11 19 understand that taking the position from [REDACTED]'s -  
16:59:18 20 looking at his position, if he turns up and he gets advice  
16:59:21 21 from someone who is effectively an agent of police that's  
16:59:26 22 most unusual, you agree with that?---Yes, I've said that  
16:59:30 23 and I agree with you.  
16:59:30 24  
16:59:31 25 You also understand that just because there is an informer  
16:59:34 26 and, yes, there's an obligation to protect the safety of  
16:59:37 27 that informer, that's not absolute, there are circumstances  
16:59:40 28 where the requirement for a fair trial trumps that?---Yeah,  
16:59:45 29 it's pretty rare though.  
16:59:46 30  
16:59:47 31 It may well be rare, in rare circumstances, do you agree  
16:59:50 32 with that?---Yeah, yep.  
16:59:51 33  
16:59:51 34 If there is something extraordinary or unusual about the  
16:59:54 35 circumstances, why wouldn't you simply get advice?---Well I  
17:00:05 36 think I thought that advice had been obtained when she was  
17:00:08 37 registered. I was under that assumption and I was acting  
17:00:13 38 under instructions and the training that had been provided  
17:00:17 39 to me by Victoria Police to keep that information top  
17:00:21 40 secret.  
17:00:22 41  
17:00:24 42 You say in your statement, "Look, I didn't tell Mr Gipp the  
17:00:27 43 identity of the informer"?---And he didn't ask me as my  
17:00:31 44 lawyer.  
17:00:31 45  
17:00:34 46 You didn't tell him that in fact she was a lawyer or the  
17:00:38 47 person was a lawyer?---No.

17:00:41 1  
17:00:42 2 You say that one of the reasons you didn't tell him was  
17:00:47 3 because you felt that the information might not be safe  
17:00:49 4 with him?---Well that's always a risk, yes. The more  
17:00:56 5 people - - -  
17:00:56 6  
17:00:56 7 That's the effect of what you're saying?--- - - - that know  
17:00:59 8 the bigger the risk. It was really drummed into us to keep  
17:01:04 9 her identity secret. That was even within our own office,  
17:01:08 10 people who joined my crew weren't told of her identity.  
17:01:15 11  
17:01:17 12 You say, "Look, I also knew the legal fraternity was close  
17:01:20 13 and that the human sources' identities might become known  
17:01:25 14 if more people knew about them. My training had also  
17:01:29 15 emphasised throughout keeping human sources' identity  
17:01:29 16 confidential in order to protect their safety",  
17:01:32 17 right?---Yes.  
17:01:32 18  
17:01:33 19 I take it from that that you considered that this wasn't an  
17:01:37 20 ordinary human source situation?---Yeah, correct, yep.  
17:01:43 21  
17:01:43 22 And at least you would have liked to have known whether  
17:01:48 23 there was any problem with it and that was something that  
17:01:55 24 perhaps with the benefit of hindsight do you accept that  
17:02:00 25 you should have, it's something that you should have raised  
17:02:04 26 with a lawyer, if not Mr Gipp, someone else?---I think at  
17:02:10 27 the time I was under the assumption that legal advice would  
17:02:13 28 have been obtained about the whole process.  
17:02:18 29  
17:02:18 30 You were the person who was responsible for the subpoena,  
17:02:21 31 for answering the subpoena, do you understand that?---I do  
17:02:25 32 understand that.  
17:02:25 33  
17:02:25 34 Do you accept that you had responsibilities in doing  
17:02:30 35 so?---Yeah, I did.  
17:02:31 36  
17:02:34 37 Do you think it would have been appropriate to go to  
17:02:37 38 Mr Flynn or Mr Rowe or Mr O'Brien - Mr O'Brien had gone,  
17:02:44 39 but a Sergeant and say, "Look, I'm concerned about this.  
17:02:49 40 Have we got legal advice because this is a most unusual  
17:02:52 41 circumstance"?---No, it didn't occur to me. As I said, I  
17:02:56 42 would have assumed that Victoria Police would have got  
17:02:58 43 legal advice at the time, their own advice.  
17:03:06 44  
17:03:06 45 I follow that. You went back to the court, I think, on the  
17:03:10 46 following day, on 4 September for Justice Curtain's ruling  
17:03:16 47 on the subpoena argument?---Yes.

17:03:19 1  
17:03:21 2 And you were present, I take it, when she ruled?---Yeah, I  
17:03:26 3 was, yep.  
17:03:26 4  
17:03:26 5 And she said that counsel for the accused have issued a  
17:03:32 6 subpoena directed to the Chief Commissioner of Police  
17:03:35 7 seeking the production of all information and reports  
17:03:37 8 relating to or touching upon [REDACTED] and his activities  
17:03:41 9 in the period of [REDACTED] through to [REDACTED] and he is  
17:03:46 10 the principal witness in the case against Mr Mokbel. And  
17:03:51 11 at that stage he was presently in the course of giving  
17:03:54 12 evidence and then Her Honour went on to say, "Discussions  
17:03:59 13 between counsel and the informant have confined the request  
17:04:02 14 to 16 information reports. The informant will release  
17:04:06 15 three of them and the release of the remaining 13 are  
17:04:09 16 objected to on the basis of public interest immunity".  
17:04:12 17 Then Her Honour goes through and talks about the law and  
17:04:15 18 talks about the anonymity of police informers and the  
17:04:21 19 integrity of continuing investigations, et cetera, and  
17:04:23 20 ultimately what she said was that she upheld the claim in  
17:04:27 21 respect of public interest immunity but she wanted further  
17:04:31 22 information in respect of information, of IR 319 to  
17:04:38 23 determine whether a claim should be upheld in respect of  
17:04:41 24 that information. So then you had to go away and produce  
17:04:45 25 another confidential affidavit, is that correct?---Yes,  
17:04:48 26 that's correct. Can I just say, I haven't read that  
17:04:53 27 judgment.  
17:04:53 28  
17:04:54 29 All right?---It probably doesn't go any further, but I'd  
17:04:57 30 just like to point out.  
17:04:58 31  
17:04:58 32 I'm sorry?---I'd just like to point out I hadn't read it.  
17:05:02 33 I was told it wasn't located.  
17:05:04 34  
17:05:04 35 It's been now located. You were present at court I take it  
17:05:09 36 because you were there?---Yeah, I was.  
17:05:10 37  
17:05:11 38 And then you went straight away over to see Mr Gipp and you  
17:05:15 39 produced another affidavit?---Yeah, correct.  
40  
17:05:16 41 Or with Mr Gipp, is that right?---Yes.  
17:05:18 42  
17:05:19 43 If we can perhaps have a look at this, Commissioner, VPL -  
17:05:27 44 - -  
17:05:27 45  
17:05:27 46 COMMISSIONER: It's after five.  
17:05:29 47

17:05:30 1 MR WINNEKE: I've just about finished, Commissioner.  
17:05:33 2  
17:05:33 3 COMMISSIONER: Good oh, we'll sit on.  
17:05:35 4  
17:05:36 5 MR WINNEKE: VPL.6161.0008.6796. If we can just scroll  
17:05:51 6 through that. Is that the affidavit, at least - -  
17:06:06 7 -?---It's an unsigned copy - - -  
8  
17:06:10 9 An unsigned version of the affidavit?--- - - - of what  
17:06:11 10 appears to be the affidavit I did the following day.  
17:06:13 11  
17:06:14 12 Right. What it says is, "The information was disclosed to  
17:06:17 13 Purana Detectives by informer X". Obviously you knew that  
17:06:21 14 Ms Ms Gobbo. "If the information is released it will  
17:06:26 15 become very apparent to [REDACTED]" I assume, or Mr Mokbel  
17:06:29 16 perhaps, "That this information came from informer  
17:06:33 17 X"?---Yes.  
17:06:33 18  
17:06:34 19 Do you know whose name it is underneath the blank  
17:06:39 20 there?---The second blank on the screen or the first one?  
17:06:43 21  
17:06:43 22 Are they different names, are they? Can I suggest to you  
17:07:04 23 that the name underneath it, underneath the black, was in  
17:07:08 24 fact [REDACTED] of those names are  
17:07:12 25 [REDACTED]?---Okay.  
17:07:13 26  
17:07:13 27 You knew that informer X was [REDACTED]'s lawyer?---I'm not  
17:07:24 28 100 per cent sure I did at that time. The source - SDU  
17:07:29 29 were handling different sources.  
17:07:31 30  
17:07:32 31 Right?---Look, it probably was her, but I can't exclude  
17:07:37 32 that it was another source.  
17:07:38 33  
17:07:39 34 Effectively - well, can I suggest to you that what was  
17:07:42 35 going on here was an affidavit was being provided to the  
17:07:48 36 court which was quite bizarre. Effectively it was an  
17:07:52 37 affidavit saying to the court, "Well look if this  
17:08:01 38 information report was provided to the court unredacted  
17:08:06 39 then [REDACTED] would find out that his lawyer was an  
17:08:10 40 informer"?---Okay, I see that.  
17:08:14 41  
17:08:14 42 On him. That's right, isn't it?---Yeah, yep.  
17:08:17 43  
17:08:17 44 And you didn't tell Mr Gipp who informer X was and  
17:08:23 45 obviously Mr Gipp wasn't able to tell you whether or not,  
17:08:27 46 as far as he was concerned, there should be a great deal  
17:08:33 47 more consideration given to the claim which was being



17:08:39 1 made?---Yeah, correct. I didn't tell him and as my lawyer  
17:08:43 2 he didn't ask either, he didn't instruct me that I had to  
17:08:47 3 reveal it either.  
17:08:47 4  
17:08:47 5 You didn't think that would be necessary to tell him?---No,  
17:08:53 6 he didn't advise me to.  
17:08:54 7  
17:08:55 8 What do you think Justice Curtain would have thought if  
17:08:59 9 she'd, instead of having informer X written there, saw the  
17:09:03 10 name of [REDACTED]?---I can't guess what - - -  
17:09:08 11  
17:09:08 12 I'm sorry, Ms Gobbo?--- - - - a Supreme Court judge would  
17:09:12 13 guess.  
17:09:12 14  
17:09:12 15 Fair enough. What you did know, can I suggest, is that the  
17:09:20 16 court would regard it as completely irregular,  
17:09:23 17 extraordinary?---Looking back on it now, yeah, definitely,  
17:09:33 18 yep.  
17:09:35 19  
17:09:38 20 Were you told by anyone not to tell Mr Gipp who informer X  
17:09:45 21 was?---I don't remember being told specifically not to tell  
17:09:52 22 Mr Gipp, but it was, as I said, throughout my training with  
17:09:57 23 Victoria Police and specifically this time at Purana, it  
17:10:02 24 was a constant theme to keep an informer or human source's  
17:10:08 25 identity confidential.  
17:10:10 26  
17:10:11 27 Subsequent to providing this affidavit to the court - it  
17:10:18 28 was handed back by the judge, wasn't it?---Yes, it was.  
17:10:24 29  
17:10:24 30 And you received a call from Mr Fox and he wanted to make  
17:10:29 31 sure that you returned that affidavit, or both the  
17:10:33 32 affidavits, to him?---Yes.  
17:10:36 33  
17:10:36 34 Correct?---Correct.  
17:10:36 35  
17:10:37 36 And you took both of the affidavits back, or you made sure  
17:10:41 37 that they went back to Mr Fox?---Yeah, I do have a note in  
17:10:45 38 my diary that I handed it to him, yep.  
17:10:47 39  
17:10:47 40 And Mr Fox wanted you to go and see Mr Gipp and make sure  
17:10:52 41 that all evidence about that affidavit was removed, not  
17:10:57 42 only hard copies of it, but removed from his computer,  
17:11:02 43 that's right, isn't it?---I think I have a vague  
17:11:06 44 recollection of that, yeah.  
17:11:07 45  
17:11:07 46 You do?---Yep.  
17:11:08 47

17:11:09 1 Let's see if I can remind you. Just excuse me. If we have  
17:11:31 2 a look at this document, VPL.2000.0001.4001. This is an  
17:11:45 3 entry of Mr Fox's diary dated 4 September 2008 and Mr Fox  
17:12:00 4 appears to be at the Purana office. "Spoke to Jason Kelly  
17:12:05 5 re 3838. Spoke to Tim Johns at court, phone number.  
17:12:12 6 Judge's decision has just come back. She has ruled in  
17:12:15 7 police favour"?---Is that phone number going to go - - -  
17:12:18 8  
17:12:18 9 No, that won't go. "She's required a supplementary  
17:12:22 10 affidavit with respect of IR 319", because that particular  
17:12:28 11 IR she wasn't satisfied with the affidavit, is that  
17:12:31 12 right?---Yeah.  
17:12:32 13  
17:12:32 14 "Assisted Tim", that is, "Assisted Tim in drafting,  
17:12:37 15 expanding on original affidavit as to request for PII.  
17:12:41 16 Requested copies of confidential affidavit. Only one copy  
17:12:45 17 made and he will have them returned to him this afternoon  
17:12:48 18 from the judge". Is that right?---Yeah, that's right.  
17:12:51 19  
17:12:51 20 Did he assist you, did Mr Fox assist you?---He assisted me  
17:12:58 21 throughout the process, I don't remember him, where he says  
17:13:03 22 drafting expanding on original affidavit, but - - -  
17:13:07 23  
17:13:07 24 I tender that, Commissioner, and obviously that phone  
17:13:10 25 number will be redacted.  
17:13:11 26  
17:13:12 27 COMMISSIONER: What date was that?  
17:13:13 28  
17:13:13 29 MR WINNEKE: 4 September, Commissioner.  
17:13:20 30  
17:13:20 31 COMMISSIONER: It's already been tendered, Exhibit 507.  
17:13:26 32  
17:13:26 33 MR WINNEKE: Do you know whether there were any other  
17:13:28 34 investigators or superior officers involved in this  
17:13:37 35 process?---Look, I can't recall specifically but, look, I  
17:13:50 36 know on one day I've driven to court with Dale Flynn, so I  
17:13:54 37 probably would have had discussions with him about it.  
17:13:57 38  
17:13:57 39 Right. You'll see at the bottom of the page - there's a  
17:14:04 40 redaction on this document. I have a document in, the  
17:14:07 41 diary I've got, "Placed confidential affidavit re 3838 in  
17:14:11 42 secure safe in equipment room". Could we go over to 5  
17:14:20 43 September which is at 4007. That's it. If we have a look  
17:14:45 44 at the top, at 10 am there was an update, it seems Mr Smith  
17:14:53 45 and Mr White. [REDACTED] trial and confidential affidavit  
17:14:58 46 result, everything in our favour", do you see that?---Yes.  
17:15:01 47

17:15:01 1 And then at 14:15, and this is on the 5th, "Met with Tim  
17:15:05 2 Johns, Purana", and this is Mr Fox again. "Collected  
17:15:09 3 original confidential affidavit" from you, "Confirmed only  
17:15:14 4 one copy. Inquiry as to where the electronic copy is. Tim  
17:15:18 5 said that it's on the barrister's computer". He assured  
17:15:23 6 you, that is, "The barrister assured Tim that he was going  
17:15:26 7 to delete it. Asked Tim to confirm this with Mr Gipp or  
17:15:29 8 get a copy off his computer on to a memory stick and  
17:15:32 9 forward it to the SDU. Tim to inquire now with Mr Gipp and  
17:15:36 10 update me later in the day. If he still has the electronic  
17:15:40 11 copy should try and supervise the removal of it". Now do  
17:15:44 12 you know whether that occurred?---I can't remember.

17:15:51 13  
17:15:51 14 Okay. It seems that the affidavit was then placed in a  
17:16:00 15 secure safe in the equipment room. Do you know whether  
17:16:05 16 both affidavits were returned or only the one affidavit?  
17:16:09 17 Do you have a recollection?---My note says "originals to  
17:16:14 18 same", so it suggests more than one.

17:16:19 19  
17:16:19 20 All right. Commissioner, I tender - can I tender Mr Johns'  
17:16:30 21 diaries, relevant entries between 12 August and 5  
17:16:36 22 September.

17:16:39 23  
17:16:42 24 COMMISSIONER: 08 of course, correct?

17:16:44 25  
17:16:44 26 MR WINNEKE: And can I tender also the unsigned affidavit  
17:16:47 27 of 4 September 2008.

17:16:51 28  
17:16:53 29 #EXHIBIT RC1340A - (Confidential) Mr Johns' relevant diary  
17:16:33 30 entries between 12/08-05/09/08.

17:16:57 31  
17:16:58 32 #EXHIBIT RC1340B - (Redacted version.)

17:17:01 33  
17:17:02 34 #EXHIBIT RC1341A - (Confidential) Unsigned affidavit.

17:17:09 35  
17:17:09 36 #EXHIBIT RC1341B - (Redacted version.)

17:17:11 37  
17:17:11 38 And the letter to the Subpoena Management Unit from Grigor  
17:17:15 39 Lawyers dated 1 September 2008 containing the subpoena,  
17:17:23 40 also can I tender that.

17:17:28 41  
17:17:29 42 #EXHIBIT RC1342A - (Confidential) Letter to the Subpoena  
17:17:14 43 Management Unit from Grigor Lawyers  
17:17:15 44 1/09/09 containing the subpoena.

17:17:31 45  
17:17:32 46 #EXHIBIT RC1342B - (Redacted version.)

47

17:17:38 1 Now, Commissioner, can I also tender the transcript of the  
17:17:44 2 proceedings in the Supreme Court before Justice Curtain on  
17:17:49 3 4 September. I think the earlier one has been tendered  
17:17:52 4 already. 4 September 2008.  
17:17:57 5  
17:17:58 6 #EXHIBIT RC1343A - (Confidential) Transcript of the  
7 proceedings in the Supreme Court before  
17:18:00 8 Justice Curtain 4/09/08.  
17:18:00 9  
17:18:01 10 #EXHIBIT RC1343B - (Redacted version.)  
11  
17:18:11 12 Now, obviously you'd spoken and you'd passed on information  
17:18:18 13 to Mr Fox. Did you speak to Sandy White at all around this  
17:18:29 14 time?---No, I don't think so.  
17:18:33 15  
17:18:33 16 All right. I wonder if we could have a look at this  
17:18:39 17 document, Commissioner, VPL.6025 - - -  
17:18:42 18  
17:18:42 19 COMMISSIONER: How much longer, Mr Winneke?  
17:18:43 20  
17:18:44 21 MR WINNEKE: This is the last matter. I'm sorry,  
17:19:09 22 Commissioner. I want to tender an email, Commissioner,  
17:19:34 23 from Sandy White to Mr Biggin. It may well have been  
17:19:38 24 tendered already. Given the time I think we might have to  
17:19:42 25 tender it tomorrow morning, I don't want to delay anything  
17:19:45 26 further. I won't, I'll do it subsequent. Thanks very  
17:19:52 27 much.  
17:19:52 28  
17:19:53 29 COMMISSIONER: Any cross-examination? Ms Scott?  
17:19:56 30  
17:19:57 31 MS SCOTT: No Commissioner.  
32  
17:19:58 33 COMMISSIONER: Mr Coleman?  
17:19:58 34  
17:19:58 35 MR COLEMAN: No, thank you very much Commissioner.  
17:20:00 36  
17:20:00 37 COMMISSIONER: Mr Chettle?  
17:20:01 38  
17:20:01 39 MR CHETTLE: No questions.  
17:20:02 40  
17:20:02 41 MS ARGIROPOULOS: I have one very brief matter,  
17:20:04 42 Commissioner.  
43  
44 <RE-EXAMINED BY MS ARGIROPOULOS:  
45  
17:20:05 46 Mr Johns, I'm going to try and do this quickly without  
17:20:09 47 showing you documents but if you need to see anything just

17:20:11 1 sing out. It's apparent from your confidential affidavit  
17:20:15 2 that you had attached to the affidavit redacted and  
17:20:18 3 unredacted copies of the IRs for the judge, for Justice  
17:20:22 4 Curtain to see?---Yes, I did.  
17:20:23 5  
17:20:24 6 And it's your understanding that it's those versions of the  
17:20:28 7 IRs that now can't be located?---Yeah, the attachments,  
17:20:34 8 correct, yes.  
17:20:35 9  
17:20:37 10 The attachments. You've been shown in the hearing today a  
17:20:39 11 folder of IRs and I believe there was an email from Officer  
17:20:45 12 Fox at the front of that?---Yes, correct.  
17:20:47 13  
17:20:47 14 Do you understand those information reports to be  
17:20:52 15 information reports which had been redacted by Officer Fox,  
17:20:56 16 so they're his redactions?---Yes, that's my understanding.  
17:21:00 17  
17:21:00 18 You say in your supplementary statement that you have  
17:21:03 19 looked at those information reports and compared them to  
17:21:07 20 your confidential affidavit and you've noticed that there  
17:21:10 21 are some differences between the redactions on those  
17:21:14 22 reports and the redactions that are described in your  
17:21:16 23 confidential affidavit?---Yes, in the confidential  
17:21:20 24 affidavit there seems to be further redactions than the  
17:21:23 25 redactions in these documents.  
17:21:26 26  
17:21:26 27 Yes. Thank you, Commissioner, they're the questions.  
17:21:29 28  
17:21:29 29 COMMISSIONER: Thanks Ms Argiropoulos. Anything arising  
17:21:31 30 out of that, Mr Winneke?  
17:21:35 31  
17:21:36 32 MR WINNEKE: Yes, Commissioner, what I'd like to have is a  
17:21:39 33 shaded copy of that supplementary, sorry, the draft  
17:21:45 34 affidavit which I haven't been provided with. If we can  
17:21:48 35 have that I'll tender that also.  
17:21:50 36  
17:21:51 37 COMMISSIONER: That can be provided, Ms Argiropoulos?  
17:21:54 38  
17:21:54 39 MS ARGIROPOULOS: If it hasn't already been produced I'll  
17:21:57 40 ensure that's done, Commissioner.  
41  
17:21:59 42 MR WINNEKE: Thanks very much.  
17:21:59 43  
17:21:59 44 COMMISSIONER: What exactly is this that will be tendered  
17:22:02 45 now?  
17:22:03 46  
17:22:04 47 #EXHIBIT RC1343A - (Confidential) Affidavit of 4/09/08.

17:22:09 1  
17:22:10 2 #EXHIBIT RC1343B - (Redacted version.)  
17:22:12 3  
4 MR WINNEKE: This is the affidavit of 4 September 2008,  
5 Commissioner.  
6  
17:22:16 7 COMMISSIONER: A shaded version, we already have one  
17:22:18 8 tendered for that day, haven't we?  
9  
10 MR WINNEKE: As far as I know it's a blacked out version,  
11 it doesn't have [REDACTED]'s name on it.  
12  
13 COMMISSIONER: You're wanting a shaded version - so it's a  
14 shaded version of 1341, is it? Is that what we're looking  
15 for?  
16  
17 MR WINNEKE: Yes.  
18  
19 COMMISSIONER: Shaded version. All right then. All right,  
17:22:36 20 we'll adjourn until tomorrow morning. I have offered to  
17:22:46 21 start at 9 o'clock but I'm told that's not necessary, so  
17:22:49 22 we'll start at 9.30, we'll briefly deal with some  
17:22:52 23 directions hearings. Then we'll deal with Mr O'Connell  
17:22:56 24 next, is that right?  
17:22:59 25  
17:23:01 26 MR WINNEKE: Mr Nolan next, Commissioner, and then  
17:23:02 27 Mr O'Connell will be the last witness.  
17:23:04 28  
17:23:05 29 COMMISSIONER: Okay. All right, adjourn until 9.30. I  
17:23:06 30 should mention, I have changed my flight arrangements and I  
17:23:09 31 can sit tomorrow until quarter to 6 if needs be.  
17:23:14 32  
17:23:43 33 ADJOURNED UNTIL FRIDAY 21 FEBRUARY 2020  
17:23:44 34  
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36  
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