

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Friday, 20 September 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Ms K. Argiropoulos Mr S. Frauenfelder
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDPP	Ms R. Avis
Counsel for Police Handlers	Mr G. Chettle
Counsel for AFP	Ms I. Minnett

09:52:41 1 COMMISSIONER: Yes, I note that the appearances are as they
09:52:43 2 were for yesterday save that, Ms Argiropoulos, you're
09:52:46 3 appearing with Mr Frauenfelder.
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09:52:50 5 MS ARGIROPOULOS: That's correct, Commissioner.
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09:52:51 7 COMMISSIONER: Yes, Mr Winneke.
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09:52:56 9 MR WINNEKE: Commissioner, I want to deal with a matter
09:53:01 10 this morning which concerns Nicola Gobbo and the
09:53:05 11 Commission's desire to hear evidence from Ms Gobbo. As
09:53:08 12 you're aware, we have communicated with legal
09:53:12 13 representatives for Ms Gobbo for some time now, since very
09:53:15 14 early on in the process, with a view to facilitating her
09:53:19 15 evidence, and that communication effectively commenced in
09:53:24 16 early February when she was served with a notice to attend
09:53:30 17 on her lawyers. It's always been understood that Ms Gobbo
09:53:35 18 has been and wishes to give evidence before the Commission.
09:53:39 19 There are obviously some - when I say obviously, matters
09:53:44 20 which are obvious to the Commission and to Ms Gobbo's
09:53:47 21 lawyers, matters concerning her health and well-being which
09:53:51 22 will need to be addressed and to some extent have been
09:53:54 23 addressed. But can I say this: the Commission did write to
09:53:58 24 Ms Gobbo's legal representatives in early February
09:54:01 25 requesting a report from treating medical practitioners and
09:54:09 26 since then there has been communications around a number of
09:54:12 27 matters, including Ms Gobbo's health, funding of Ms Gobbo's
09:54:19 28 legal representatives and, as you are aware, Commissioner,
09:54:27 29 on three occasions in the early course of this Inquiry we
09:54:31 30 have had the opportunity of speaking to Ms Gobbo over the
09:54:35 31 telephone. She was invited to give evidence on oath,
09:54:41 32 although at that stage didn't do so, and there's no
09:54:46 33 criticism of her for that. Nonetheless, she has been
09:54:49 34 prepared to speak to us on the three occasions. I've got a
09:54:55 35 chronology of various communications with Ms Gobbo's legal
09:55:00 36 representatives. I'm happy to hand that up, Commissioner,
09:55:06 37 so you've got a record of it and there can be a record of
09:55:10 38 it tendered.
09:55:11 39
09:55:11 40 COMMISSIONER: Yes.
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09:55:13 42 MR WINNEKE: What I can say, Commissioner, is that the
09:55:18 43 communications have included requests to attend, requests
09:55:24 44 to have teleconferences. I think we had our first
09:55:30 45 teleconference on 20 March of this year in which I asked
09:55:36 46 Ms Gobbo a number of questions over a period of hours. She
09:55:40 47 was represented by counsel.

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COMMISSIONER: Mr Winneke, on those occasions the Commission offered her the opportunity to have those conversations on oath?

MR WINNEKE: Yes, as I indicated that's correct, Commissioner. A further teleconference occurred on 11 April 2019. Again, that was an occasion where she was represented by her counsel. And there was a further communication, or teleconference that we had on 13 June of 2019. Those conferences, each of them went in the region of two plus hours. We understand that Ms Gobbo has difficulties medically and those difficulties caused or resulted in the need to somewhat truncate or at least limit the amount of questioning that occurred and Ms Gobbo did cooperate and was prepared to answer questions on those occasions.

Can I say this: as the Commission appreciates, when this Royal Commission was initially announced it was to deal with a particular period of time, that is the period that we're now dealing with, that is the registration commencing on or about 16 September 2005. Very early on it became apparent that there was - and in that period there is a significant amount of contemporaneous record. We've got audio recordings of communications between Ms Gobbo and her handlers, a lot of which we've heard, all of which have been tendered. But we were very concerned to speak to Ms Gobbo about the earlier period of time where the records were not and are not as exhaustive as the period with which we're now dealing. That's a significant reason why we wished to speak to Ms Gobbo about those earlier matters and that occurred.

However, it is still very much the desire of the Commission to hear from Ms Gobbo if she's in a position to do so, and to that end there has been continued communications between the Commission and Ms Gobbo's lawyers. We have recently been provided with a number of medical reports which to some extent address Ms Gobbo's current health situation, and I understand our learned friends will tender those.

Before that occurs perhaps, Commissioner, if I could tender two documents. One is what's been described as a pack of documents regarding Ms Gobbo's attendance and non-attendance at the Commission, and other relevant

09:58:56 1 documentation. It provides a significant amount of
09:58:58 2 material relating to Ms Gobbo's evidence in various
09:59:03 3 proceedings.
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09:59:04 5 COMMISSIONER: Is that the chronology or is that a separate
09:59:07 6 document?
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09:59:08 8 MR WINNEKE: No, it's a separate document. If I can hand
09:59:10 9 that up. Also, Commissioner, if I can hand up a
09:59:14 10 chronology. I've got one here. It's a 14 page document
09:59:21 11 setting out the communications between the Commission and
09:59:24 12 Ms Gobbo. It speaks for itself. If you wish me to go
09:59:30 13 through it in more detail I'm happy to do so, Commissioner.
09:59:34 14 But obviously it speaks for itself.
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09:59:36 16 COMMISSIONER: There's nothing - there's no reason why
09:59:41 17 these documents can't be made available publicly?
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09:59:47 19 MR WINNEKE: Commissioner, many of those documents have
09:59:50 20 been tendered already in the Commission. Some of the
09:59:55 21 documents are on the Supreme Court website. Some of the
09:59:57 22 documents haven't been tendered and will require analysis
10:00:02 23 for public interest immunity.
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10:00:04 25 COMMISSIONER: We can tender them as confidential exhibits.
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10:00:06 27 MR WINNEKE: We can tender them as confidential exhibits.
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10:00:09 29 COMMISSIONER: What I'm asking you, Mr Winneke, is whether
10:00:11 30 the documents themselves, these documents, there's any
10:00:15 31 problem with them becoming available publicly?
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10:00:20 33 MR WINNEKE: Well, I don't believe so, Commissioner, save
10:00:22 34 that my learned friends have only just received them and I
10:00:26 35 think they'll perhaps be given an opportunity to consider
10:00:30 36 them. But I don't see any reason why they can't in due
10:00:39 37 course be publicly exhibited.
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10:00:41 39 COMMISSIONER: Are you asking me to tender them as
10:00:43 40 confidential exhibits for the moment?
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10:00:46 42 MR WINNEKE: For the moment, yes.
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10:00:47 44 COMMISSIONER: The list of documents regarding Ms Gobbo
10:00:59 45 will be Exhibit 528A as a confidential exhibit and B as the
10:01:04 46 publicly available exhibit. And the chronology of the
10:01:08 47 Commission's dealings with Ms Gobbo and her legal

10:01:13 1 representatives to date will be Exhibit 529A, the
10:01:20 2 confidential exhibit, and B the publicly available exhibit.
10:01:23 3
10:01:24 4 #EXHIBIT RC528A - (Confidential) List of documents
10:00:50 5 regarding Ms Gobbo.
10:01:26 6
10:01:27 7 #EXHIBIT RC528B - (Redacted version.)
10:01:29 8
10:01:30 9 #EXHIBIT RC529A - (Confidential) Chronology of the
10:01:08 10 Commission's dealings with Ms Gobbo and
10:01:12 11 her legal representatives.
10:01:32 12
10:01:32 13 #EXHIBIT RC529B - (Redacted version.)
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10:01:36 15 MR WINNEKE: Thanks, Commissioner. As to the current
10:01:39 16 medical situation of Ms Gobbo, perhaps our learned friends
10:01:41 17 could address that. Although, if I could make this comment
10:01:44 18 at this stage before anything's said. Clearly if it's
10:01:51 19 suggested that Ms Gobbo is not in a position to give
10:01:53 20 evidence that will need to be established to the
10:01:59 21 satisfaction of the Commission, that is there needs to be a
10:02:02 22 reasonable excuse. I would say at present, having read the
10:02:06 23 reports, it might be said that they're a little bit up in
10:02:10 24 the air at this stage but perhaps I'll leave my learned
10:02:12 25 friend to address that.
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10:02:13 27 COMMISSIONER: Thank you. Yes, Mr Nathwani.
10:02:16 28
10:02:16 29 MR NATHWANI: Commissioner, from the outset I'm grateful to
10:02:19 30 Mr Winneke for indicating, as has always been the case,
10:02:22 31 that Ms Gobbo has always been keen to assist this
10:02:26 32 Commission as best she can. However, the medical material
10:02:28 33 that I seek to tender now, if I could do that now, amounts
10:02:33 34 to a physical and mental situational circumstances that may
10:02:40 35 be an impediment. I put it no higher than that. At this
10:02:43 36 stage we understand the position of the Commission to have
10:02:49 37 some clarification and we will do that as far as we can.
10:02:54 38 If I could tender, please, and I'll do it in this order,
10:02:57 39 you should have received a report from a pain specialist, I
10:02:59 40 think called Pain Specialist 1, dated 18 September of this
10:03:05 41 year. The Commission should also have sight of, we're not
10:03:13 42 in a position to provide it because of suppression orders
10:03:16 43 and the like, but evidence given in the Supreme Court by
10:03:24 44 Pain Specialist 1 on 23 November 2016, the transcript pages
10:03:25 45 being p.127 through to 197, that person having treated
10:03:34 46 Ms Gobbo from 19 February 2008 to the beginning of this
10:03:38 47 year. Could that be - all of these exhibits at this stage

10:03:51 1 to be tendered as confidential exhibits, I hope for fairly
10:03:54 2 obvious reasons given some of their content.
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10:03:57 4 COMMISSIONER: They'll be tendered as confidential exhibits
10:04:03 5 but I would expect that in some form they will be released
10:04:10 6 publicly.
10:04:11 7
10:04:12 8 MR NATHWANI: We understand that.
10:04:14 9
10:04:15 10 #EXHIBIT RC530A - (Confidential) Report of Pain
10:04:22 11 Specialist 1.
10:04:25 12
10:04:26 13 #EXHIBIT RC530B - (Redacted version.)
10:04:37 14
10:04:48 15 COMMISSIONER: This is before Justice Ginnane, is it?
10:04:52 16
10:04:52 17 MR NATHWANI: Yes. And can I just say pausing there in - -
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10:04:58 20 COMMISSIONER: Was it transcript 127 to 197?
10:05:00 21
10:05:01 22 MR NATHWANI: Exactly, and that incorporates Pain
10:05:05 23 Specialist 1, a person who I'll later refer to as
10:05:06 24 Psychologist 1. Both their evidence is contained there.
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10:05:11 26 COMMISSIONER: Pain Specialist 1 and Psychologist 1.
10:05:21 27
10:05:21 28 #EXHIBIT RC531A - (Confidential) Evidence in the Supreme
10:04:48 29 Court trial before Justice Ginnane,
10:05:23 30 pp.127-197.
10:05:23 31
10:05:23 32 #EXHIBIT RC531B - (Redacted version.)
10:05:28 33
10:05:28 34 Yes.
10:05:29 35
10:05:29 36 MR NATHWANI: Tender then Pain Specialist 2 report of
10:05:34 37 September this year, has been treating Ms Gobbo since 18
10:05:37 38 January of this year to present.
10:05:41 39
10:05:42 40 #EXHIBIT RC532A - (Confidential) Report of Pain
10:05:43 41 specialist 2, 09/2019.
10:05:43 42
10:05:44 43 #EXHIBIT RC532B - (Redacted version.)
10:05:57 44
10:05:57 45 COMMISSIONER: Yes.
10:05:58 46
10:05:59 47 MR NATHWANI: The report of Psychologist 1 dated 16

10:06:01 1 September 2019, having treated Ms Gobbo between 2009 to
10:06:11 2 2019.
10:06:14 3
10:06:15 4 #EXHIBIT RC533A - (Confidential) Report of Psychologist 1,
10:06:23 5 16/09/19.
10:06:23 6
10:06:24 7 #EXHIBIT RC533B - (Redacted version.)
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10:06:32 9 COMMISSIONER: Yes.
10:06:33 10
10:06:33 11 MR NATHWANI: You should also have a report by Psychologist
10:06:38 12 2 dated 14 September this year. That psychologist has
10:06:44 13 treated Ms Gobbo from March of this year to present.
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10:06:56 15 COMMISSIONER: Yes.
10:06:57 16
10:06:58 17 #EXHIBIT RC534A - (Confidential) Report by Psychologist 2
10:06:38 18 dated 14/09/19.
10:07:03 19
10:07:04 20 #EXHIBIT RC534B - (Redacted version.)
10:07:09 21
10:07:10 22 MR NATHWANI: Finally you should have a report dated 18
10:07:12 23 September of this year by Psychiatrist 1. It includes two
10:07:19 24 enclosures. One is a psychiatric report dated 1 September
10:07:24 25 and the other is the results of some testing. That person
10:07:31 26 having treated Ms Gobbo since April of this year to
10:07:34 27 present.
10:07:38 28
10:07:39 29 #EXHIBIT RC535A - (Confidential) Report of Psychiatrist 1
10:07:43 30 18/09/19, including annexures.
10:07:49 31
10:07:49 32 #EXHIBIT RC535B - (Redacted version.)
10:07:56 33
10:07:56 34 MR NATHWANI: I'm sorry, Psychiatrist 1.
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10:08:01 36 COMMISSIONER: Psychiatrist. You've cracked the code,
10:08:06 37 Ms Argiropoulos. 535A is the report of Psychiatrist 1 of
10:08:11 38 18 September 2019, including annexures.
10:08:17 39
10:08:17 40 MR NATHWANI: Thank you. I'm in your hands, Commissioner,
10:08:20 41 as to whether you wish to hear any further submissions or
10:08:23 42 anything else.
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10:08:24 44 COMMISSIONER: It's up to you what you want to say. I mean
10:08:26 45 we had actually intended, the Commission had hoped to be
10:08:28 46 calling Ms Gobbo at about this time.
10:08:32 47

10:08:33 1 MR NATHWANI: Of course I'm aware of that. I understand
10:08:38 2 the need to discuss this openly. We want to do so but the
10:08:43 3 Commission will be well aware there are certain
10:08:47 4 circumstances that cannot be discussed at all in an open
10:08:52 5 environment that underpin - - -
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10:08:54 7 COMMISSIONER: Can you say what you can say openly and then
10:08:56 8 if necessary we can have a closed hearing to hear further
10:09:00 9 submissions?
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10:09:01 10
10:09:02 11 MR NATHWANI: Of course. Just going through the reports
10:09:04 12 then if I may. If one were to look at Pain Specialist 1,
10:09:07 13 for example, someone who treated Ms Gobbo for a significant
10:09:12 14 period of time, diagnosed - if we were to turn up that
10:09:22 15 report to the second page. It sets out a diagnosis of
10:09:28 16 severe stress disorder, chronic severe neuropathic facial
10:09:34 17 pain and headache. At 5, reports that Ms Gobbo's pain
10:09:49 18 profile had not altered all that greatly. Moderate to
10:09:53 19 severe level, impacted upon her life enormously. And at 7,
10:09:59 20 which is relevant to here, what effect has the pain had on
10:10:04 21 her ability to concentrate, and it sets out, "Her pain
10:10:07 22 significantly impacts on her attention and concentration".
10:10:11 23 We can go through because it's contained within all the
10:10:14 24 reports. Commissioner, you'll be aware, I'm sure, that the
10:10:17 25 documents here - obviously we have the ICRs and the
10:10:19 26 transcripts upon which we hear exactly what Ms Gobbo says
10:10:24 27 or is reported to say. She, of course, has had no access
10:10:29 28 to any of those documents and for her ever to be able to
10:10:32 29 give evidence fairly she would need to be able to consider
10:10:35 30 them, like all other witnesses who have come before the
10:10:38 31 Commission, and her circumstances, as one looks at when you
10:10:40 32 consider all of the reports cumulatively, and that's why we
10:10:43 33 provide them all, is that her ability to focus and
10:10:47 34 concentrate due to, as I've outlined, her physical pain,
10:10:51 35 her mental ailments and her situational circumstance, I
10:10:55 36 can't be more clear in relation to those, are not such that
10:11:00 37 she could spend and dedicate daily time to this task. If
10:11:06 38 you wish to hear more in relation to that I'm afraid we'd
10:11:10 39 have to go into a private session.
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10:11:12 41 COMMISSIONER: We've been hearing this for many months now.
10:11:17 42 We've been trying to get her to provide a statement to the
10:11:20 43 Commission and get her to give evidence. We've been asking
10:11:23 44 for reports for many months now. We finally received these
10:11:28 45 reports with the threat of a directions hearing if they
10:11:32 46 were not received, and we specifically asked that they
10:11:37 47 address if and when she was able to give evidence and the

10:11:40 1 reports don't do that, Mr Nathwani.
10:11:43 2
10:11:43 3 MR NATHWANI: If I could ask you to turn up, and I'm going
10:11:45 4 to try and do this in open, if we were to go to - perhaps
10:11:52 5 the best evidence is Psychologist 2.
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10:12:06 7 COMMISSIONER: Could you hand me a copy of the reports as
10:12:08 8 you refer to them, please?
10:12:10 9
10:12:10 10 MR NATHWANI: I can just hand you - - -
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10:12:11 12 COMMISSIONER: I have read them.
10:12:13 13
10:12:13 14 MR NATHWANI: The only one you need to look at really is
10:12:15 15 paragraph 10. If necessary I can - I have had the benefit
10:12:19 16 of speaking to these experts.
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10:12:21 18 COMMISSIONER: Yes.
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10:12:22 20 MR NATHWANI: And at paragraph 10, and again I'm sorry for
10:12:26 21 the redactions, but we did ask counsel for the Commission
10:12:30 22 whether you wished to have the reports wholly unredacted or
10:12:34 23 in fact redacted and we were told that redacted in the
10:12:38 24 first instance would suit the needs of the Commission,
10:12:40 25 otherwise we would have given you them unredacted.
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10:12:44 27 COMMISSIONER: Yes.
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10:12:45 29 MR NATHWANI: Obviously it contains - - -
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10:12:47 31 COMMISSIONER: Yes, obviously security is very critical and
10:12:50 32 I wanted to maintain that security at the highest possible
10:12:54 33 level.
10:12:55 34
10:12:55 35 MR NATHWANI: But in effect that psychologist, it may not
10:12:56 36 be the clearest, but it indicates that in her current
10:13:01 37 circumstances, and I'm using - I'm paraphrasing to a
10:13:06 38 degree, that Ms Gobbo, I think she uses the words it's not
10:13:10 39 conducive in her current circumstances, which having spoken
10:13:14 40 to the expert I understand to be unable to give evidence in
10:13:18 41 her current circumstances, that they would have to
10:13:20 42 materially change. I'm sorry, I can't be clearer. But I
10:13:25 43 think the Commission understands what I mean by "her
10:13:28 44 current circumstances".
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10:13:29 46 COMMISSIONER: Yes.
10:13:30 47

10:13:30 1 MR NATHWANI: They would have to change significantly in a
10:13:33 2 way that is unlikely, given the security measures you've
10:13:38 3 just referred to.
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10:13:39 5 COMMISSIONER: Yes.
10:13:40 6

10:13:41 7 MR NATHWANI: They are such that they are causing, as I've
10:13:44 8 indicated, mental anguish to Ms Gobbo, coupled with anguish
10:13:51 9 to others associated to her.
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10:13:55 11 COMMISSIONER: Yes.
10:13:57 12

10:13:58 13 MR NATHWANI: Whilst there's hope one day, and again - the
10:14:06 14 hope that's expressed in the reports of Ms Gobbo being able
10:14:10 15 to be in a position to give evidence, those circumstances I
10:14:16 16 cannot see occurring with the present issues in relation to
10:14:22 17 security existing as they do. I'm sorry I can't be - - -
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10:14:26 19 COMMISSIONER: Yes, and the need for that is unlikely to
10:14:29 20 change in the foreseeable future.
10:14:31 21

10:14:31 22 MR NATHWANI: Exactly.
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10:14:32 24 COMMISSIONER: Yes. Certainly not in the life of this
10:14:35 25 Commission.
10:14:36 26

10:14:36 27 MR NATHWANI: No.
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10:14:37 29 COMMISSIONER: The only other thing that concerns me is
10:14:43 30 that the reports should address the matter that emerged in
10:14:49 31 evidence before the Commission in the transcript 5728, and
10:14:54 32 that is that in the past there was a recording of her
10:15:01 33 speaking to police officers in which she appears to state
10:15:08 34 to police her willingness to feign medical symptoms in
10:15:12 35 order to obtain an adjournment in court. Now I would like
10:15:17 36 that transcript to be shown to the medical practitioners
10:15:20 37 and to be informed as to whether that affects their
10:15:24 38 opinion.
10:15:25 39

10:15:25 40 MR NATHWANI: Of course. Part of the reason we provided
10:15:27 41 reports going all the way back to 2008 was to make clear
10:15:32 42 and underline there is a body of experts who have treated
10:15:36 43 Ms Gobbo for a significant period of time, way before any
10:15:39 44 thought to a Royal Commission into her conduct and that of
10:15:43 45 Victoria Police was ever envisaged.
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10:15:45 47 COMMISSIONER: Yes, but she has given evidence before.

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10:15:50 2 MR NATHWANI: I understand.
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10:15:51 4 COMMISSIONER: Indeed, one of the reports that I saw this
10:15:52 5 morning, the most recent one, seemed to suggest that giving
10:15:55 6 evidence might in fact - the sooner the better might be
10:16:00 7 therapeutic.
10:16:01 8
10:16:01 9 MR NATHWANI: Again, I can address why that's written but
10:16:05 10 it would have to be in closed court.
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10:16:07 12 COMMISSIONER: Well what I would like you to do, and
10:16:09 13 perhaps we will need to have part of the next hearing on
10:16:14 14 this issue in closed court, is to ask the medical
10:16:18 15 practitioners to specifically address if and when she's
10:16:22 16 able to give evidence and the issue that I've raised with
10:16:26 17 you at 5728 of the transcript before the Royal Commission.
10:16:30 18
10:16:30 19 MR NATHWANI: Understood. I'm more than happy to just set
10:16:32 20 out, it would take no more than a minute or two in closed
10:16:38 21 court to indicate clearly, two of the issues I think that
10:16:41 22 may assist the Commission to understand why the reports are
10:16:46 23 couched in the terms they are.
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10:16:47 25 COMMISSIONER: But will dealing with that in closed session
10:16:50 26 make the directions hearing that I proposed to give
10:16:55 27 redundant?
10:16:57 28
10:16:58 29 MR NATHWANI: It may make - not necessarily redundant, but
10:17:11 30 may make it difficult for them to be properly answered.
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10:17:19 32 COMMISSIONER: All right then.
10:17:20 33
10:17:20 34 MR NATHWANI: I'm sorry, I can't be - I understand the need
10:17:25 35 to do this in public but I - - -
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10:17:28 37 COMMISSIONER: All right then. I take it nobody else with
10:17:31 38 standing leave has any interest in making submissions about
10:17:34 39 this matter? No. Mr Winneke, did you want to say
10:17:37 40 anything?
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10:17:38 42 MR WINNEKE: Only this, Commissioner. If my learned friend
10:17:40 43 takes the view that in private he can explain why those two
10:17:47 44 requests that the Commission has made, he might have
10:17:51 45 difficulty dealing with, it might be worthwhile hearing
10:17:54 46 what that is.
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10:17:55 1 COMMISSIONER: And the closed session should not involve
10:17:57 2 media, is that - - -
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10:18:01 4 MR WINNEKE: I don't think it should involve media.
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10:18:03 6 COMMISSIONER: These are privacy issues.
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10:18:05 8 MR WINNEKE: In fact, really, the only people who are
10:18:07 9 interested in this are the Commission and Ms Gobbo's legal
10:18:10 10 representatives.
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10:18:10 12 COMMISSIONER: Yes, all right. Does anyone else want to be
10:18:15 13 heard contrary to that submission before I rule?
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10:18:20 15 MS ARGIROPOULOS: Commissioner, I'm at a slight
10:18:22 16 disadvantage in that I can read between the lines. I think
10:18:25 17 I know where this is headed but it seems to me that my
10:18:28 18 client may be able to assist or at least should be present
10:18:33 19 or at least perhaps I should be present to hear what is
10:18:35 20 said. It seems to me that my client may be able to assist
10:18:42 21 the Commission. But as I say, I don't, I'm not across the
10:18:45 22 details and so I'm at a bit of a disadvantage in terms of
10:18:50 23 what the particulars are.
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10:18:52 25 COMMISSIONER: Mr Nathwani.
10:18:53 26
10:18:54 27 MR NATHWANI: In the first instance can ask that just the
10:18:58 28 Commission counsel and us be present.
29
10:19:01 30 COMMISSIONER: Yes. I think that would be the best. I am
10:19:03 31 across the reports and indeed that may not be helpful,
10:19:09 32 Victoria Police's involvement may not be helpful.
10:19:11 33
10:19:11 34 MS ARGIROPOULOS: Yes. Thank you, Commissioner.
35
10:19:16 36 COMMISSIONER: I'm satisfied under the Inquiries Act that
10:19:18 37 access to the Inquiry during the discussion of these
10:19:21 38 matters involving Ms Gobbo is now limited to legal
10:19:25 39 representatives and staff assisting the Royal Commission
10:19:29 40 and the legal representatives of Ms Gobbo. All other
10:19:35 41 people are now requested to leave the hearing room and a
10:19:38 42 copy of this order is to be posted on the door of the
10:19:41 43 hearing room.
44
45 (IN CAMERA HEARING FOLLOWS)
46
47

1 UPON RESUMING IN OPEN COURT:
2
10:45:06 3 COMMISSIONER: After considering the matters raised both in
10:45:09 4 public and private hearing I'm satisfied it's appropriate
10:45:12 5 to make the following orders. Ms Gobbo is to provide
10:45:15 6 further medical reports by 1 pm Thursday 3 October 2019
10:45:23 7 addressing the issues of if and when she will be well
10:45:26 8 enough to give evidence before the Commission and whether
10:45:31 9 the medical practitioner's opinion remains the same after
10:45:38 10 considering the transcript before the Royal Commission in
10:45:47 11 which she indicates that some years ago she appeared to
10:45:58 12 state to police her willingness to feign medical symptoms
10:46:01 13 in order to obtain an adjournment in court, namely as
10:46:05 14 transcript 5728 of the Commission transcript.
10:46:08 15
10:46:08 16 The matter will be mentioned again on 4 October 2019.
10:46:16 17
10:46:17 18 Yes, thank you. We can now return to Mr Porter's
10:46:20 19 evidence. Thanks very much Mr Porter. Of course, you're
10:46:23 20 on your former oath. Yes, Mr Chettle.
10:46:26 21
10:46:27 22 <MARK PORTER, recalled:
10:46:30 23
10:46:30 24 MR CHETTLE: Thank you, Commissioner. Mr Porter, when we
10:46:33 25 concluded I was asking you I think about the records that
10:46:36 26 were maintained by HSMU. Can you tell the Commission
10:46:40 27 whether there were hard files, electronic files, how were
10:46:44 28 the records kept at HSMU?---On a stand alone computer
10:46:50 29 system that was not connected to the broader Victoria
10:46:53 30 Police network, mostly. The original files relating to
10:46:58 31 registrations before the establishment of the Unit were
10:47:01 32 hard copy.
33
10:47:03 34 Yes?---And I believe they were just kept in a safe.
35
10:47:06 36 Were there hard copy documents kept in relation to current
10:47:09 37 registrations of sources?---Not normally. Whenever I
10:47:16 38 attended in there I would look at the computer to look at
10:47:20 39 documents.
40
10:47:21 41 Did each source have its own unique HSMU file number or
10:47:27 42 reference number?---Yes, that's correct.
43
10:47:30 44 Even though she might have been known as 3838, Ms Gobbo, at
10:47:35 45 SDU, she'll have her own number at HSMU, her own file
10:47:42 46 number?---No, sorry. We used a code generator to generate
10:47:46 47 a - for want of a better term - a random number that

10:47:51 1 couldn't be associated with the identity of the person
10:47:53 2 being registered.
3
10:47:54 4 So that random number became associated with the files for
10:47:59 5 each Unit - source?---Yes.
6
10:48:03 7 Ms Gobbo's records were stored on the system in the same
10:48:07 8 way as other high risk human sources maintained by or
10:48:11 9 managed by SDU?---Yes.
10
10:48:17 11 Yesterday, I think it was yesterday, you were taken - can I
10:48:22 12 have Exhibit 525, the [REDACTED] management notes up on the
10:48:27 13 screen. If you go through to p.4 of those documents.
10:48:45 14 That's the wrong one, I'm sorry. That's the document that
10:48:47 15 I asked you to - no. It's Exhibit 525, it's
10:48:58 16 VPL.0100.0120.0008. There we are. Page 4 of that
10:49:02 17 document, please. Right down the bottom under "Management
10:49:13 18 and high risk management of HS", Ms Tittensor took you to
10:49:16 19 this when she asked you questions, it said, "HSMU 3838 was
10:49:20 20 allocated supergrass status and not on HSMU database.
10:49:25 21 Envelope registration". That's just simply wrong, isn't
10:49:29 22 it?---For me that's the first time I became aware of her
10:49:36 23 being registered and me attending at the Unit to audit, it
10:49:41 24 was on the system.
25
10:49:42 26 That is like every other source on the database?---Yes,
10:49:45 27 that's correct.
28
10:49:46 29 Can I perhaps throw some light on this. If you put up
10:49:51 30 Exhibit 284 for 27 September of 05, please. I appreciate
10:49:58 31 this is before your time but if you look at the - that's
10:50:06 32 it, that highlighted entry. Thank you very much.
10:50:08 33 According to the log maintained by Mr White at the SDU he
10:50:15 34 had a meeting with Assistant Commander Thomas, who was your
10:50:20 35 predecessor, was he not?---Yes, that's correct.
36
10:50:24 37 "Discussed security members for HS intel. Agreed higher
10:50:29 38 level of protection required and all documents to be
10:50:31 39 delivered to Deputy Registrar McLean who will record the
10:50:33 40 same in partitioned IMU database", do you see that?---Yes.
41
10:50:44 42 That's indicative there was a discussion between SDU and
10:50:48 43 Commander Thomas about some form of higher level security
10:50:51 44 that might be put in place in relation to Ms Gobbo's
10:50:53 45 records?---Yes.
46
10:50:54 47 Mr McLean was the man, you told us yesterday, was the

10:51:00 1 Inspector effectively in charge of the HSMU when you got
10:51:02 2 elevated to Central Source Registrar?---That's correct.
3
10:51:10 4 Again, I don't know, have you ever heard him use the term
10:51:14 5 supergrass?---No, I can't recall the term being used at all
10:51:20 6 in my time at State Intelligence.
7
10:51:23 8 What I want to suggest is that there was a discussion about
10:51:26 9 treating her records in a separate way but it didn't
10:51:28 10 happen, put it as simply as that. From your recollection
10:51:31 11 that's right, isn't it?---That's correct.
12
10:51:34 13 Thank you. Can I take you now to the process of
10:51:42 14 registrations. Before a source can be registered there has
10:51:46 15 to be an assessment of the source as to their suitability
10:51:49 16 to be registered, is there not?---Yes.
17
10:51:52 18 And that assessment can take some period of time?---Yes.
19
10:51:57 20 And in order to carry out that assessment a number might be
10:52:02 21 assigned to a source before formal registration is
10:52:07 22 complete?---Yes.
23
10:52:08 24 So in this case people often say she was registered on 16
10:52:13 25 September, but in fact the evidence has been that she was
10:52:18 26 assessed for a number of meetings by SDU in the weeks
10:52:21 27 following that, do you follow?---Yes, that's correct.
28
10:52:26 29 Mr White gave evidence that her registration is not
10:52:31 30 formalised or complete until the acceptance of risk is
10:52:36 31 signed off by the Central Source Registrar based on the
10:52:42 32 risk assessment provided in relation to the application to
10:52:45 33 register?---I would agree with that, yes.
34
10:52:48 35 So in this case although she was put on, given a number on
10:52:52 36 16 September, the first risk assessment provided to the CSR
10:52:58 37 a few weeks later would be part of - the registration
10:53:03 38 process would be complete when that risk was accepted by
10:53:07 39 the Central Source Registrar?---Yes.
40
10:53:10 41 Thank you. As to the audit conducted by Mr Biggin, you had
10:53:17 42 some involvement in both Mr Biggin and - I've just
10:53:27 43 forgotten the name of the other officer who did the -
10:53:33 44 Nolan, Jacinta Nolan. She conducted an audit of all the
10:53:38 45 files bar 3838 and Mr Biggin did 3838, are you aware of
10:53:43 46 that?---I recall something like that occurring, yes.
47

10:53:50 1 Put it this way, that was done as a result of a direction
10:53:53 2 from Assistant Commander - Acting Commander
10:53:59 3 Maloney?---Commander Maloney.
4
10:54:01 5 Commander Maloney, all right. He gave the direction for
10:54:04 6 those audits to be completed?---I would assume so, yes.
7
10:54:10 8 You had an understanding that there was a concern, you said
10:54:14 9 yourself, "How are we going to manage the risks associated
10:54:17 10 with this particular source", yet you can't recall the
10:54:20 11 details but you believe you had discussions. The
10:54:23 12 requirement for an independent audit is consistent with
10:54:27 13 Command checking to see how things are going, is it
10:54:31 14 not?---Yes.
15
10:54:33 16 In that regard, if I can take you again to Exhibit 284, the
10:54:40 17 log, and go through to 19 April in that log, of 06. Thank
10:55:15 18 you. Keep going down. It's the entry on the next page.
10:55:29 19 No, go back up. Thank you. It's not in the log, I
10:55:45 20 apologise. It's in Mr White's diary. Thank you. You can
10:55:50 21 take that down. On 19 April Mr White records in his diary
10:55:54 22 that he met with you and you told him that Superintendent
10:56:00 23 Biggin was to review the 3838 file. Does that accord with
10:56:04 24 your recollection?---I can't recall the actual conversation
10:56:07 25 but it sounds reasonable.
26
10:56:10 27 Do you have an entry in your diary for 19 April of 06 of
10:56:15 28 meeting with Mr White? I ask you because I haven't seen
10:56:21 29 your diaries?---19 April 2006. I do have a note that says,
10:57:09 30 "DSU - White's time sheets imprest".
10:57:15 31
10:57:15 32 That's all it says, is it?---Yes.
33
10:57:19 34 Can I put up Exhibit 392, please, which is an extract of
10:57:23 35 Mr White's diary. It hasn't been loaded? It's Exhibit
10:58:03 36 392, it's p.56 of his diary, if that helps. Can we bring
10:58:22 37 that up? Thank you. The first entry relates to concerns
10:58:31 38 he had about the admissibility of evidence relating to
10:58:34 39 [REDACTED]. I won't go into that. Can you keep going up,
10:58:38 40 please?
10:58:39 41
10:58:40 42 MS ARGIROPOULOS: Sorry, Commissioner, we are in open
10:58:41 43 hearing. That will need to be removed from the live
10:58:44 44 stream.
45
10:58:45 46 COMMISSIONER: There is of course a non-publication in
10:58:47 47 place.

10:58:49 1
10:58:49 2 MR CHETTLE: Keep coming up, thank you. Do you see the
10:58:52 3 notation in the centre of the page. "3838 file to be
10:58:55 4 viewed by Superintendent Biggin"?---Yes.
5
10:58:58 6 On the 19th. Then underneath that, "Discussed the need for
10:59:04 7 independent oversight of management of 3838 in accordance
10:59:09 8 with investigators". "Investors"? I think it's probably
10:59:16 9 investigators.
10
10:59:19 11 COMMISSIONER: Independent oversight of - and says agreed.
10:59:22 12
10:59:23 13 MR CHETTLE: Yes, agreed. I'm sorry, I conflated two
10:59:26 14 documents. There were tactical decisions re 3838 made in
10:59:31 15 accordance with investigators. "Two, independent review
10:59:34 16 to" - - - ?---"Check process."
17
10:59:37 18 "Check process being complied with"?---Yes.
19
10:59:41 20 "And consideration whether 3838 is too high a risk" and
10:59:49 21 further agreed, if we keep going?---Yes.
22
10:59:52 23 One more, down a bit. "Will minimise chance of compromise
10:59:56 24 by spread of misinformation", which is a different topic I
11:00:01 25 don't need to take you to. So the point I'm making is that
11:00:04 26 it would appear from the entries in the diaries of Mr White
11:00:07 27 that the independent oversight of the management of 3838 to
11:00:11 28 ensure issues that arose were being dealt with properly led
11:00:18 29 or was related to the independent audit by Mr Biggin that
11:00:22 30 you discussed with Mr White?---Yes.
31
11:00:24 32 All right, thank you. Did you get an opportunity to review
11:00:35 33 the way in which the SDU handlers went about their job and
11:00:41 34 carried out their duties?---Over a period of time I learnt
11:00:52 35 as I went about their methodology.
36
11:00:56 37 I want to put to you something that Mr White has written.
11:01:01 38 I'm reading from part of Exhibit 289 which was tendered
11:01:05 39 during his evidence, Commissioner. He says this, "Finally
11:01:08 40 I should add that the team of source handlers at the SDU
11:01:13 41 are the dedicated and motivated group of police officers I
11:01:18 42 have worked with. Each truly believed they were setting
11:01:21 43 the bar for best practice in source management nationally.
11:01:23 44 Each of those members worked extraordinarily long hours and
11:01:28 45 were completely dependable at any hour of the day, both to
11:01:32 46 the office and the sources they managed". What would you
11:01:35 47 say as to that statement?---I concur with that statement,

11:01:39 1 that's correct.
2
11:01:40 3 As far as Officer White was concerned, did he show you that
11:01:45 4 he was, he himself was obviously dedicated to setting best
11:01:49 5 practice for source management in the country?---He was
11:01:54 6 fully committed to not only achieving best practice in the
11:01:57 7 country but equalling best practice in the world.
8
11:02:01 9 To that end, to your knowledge, things were being -
11:02:09 10 involvement with Canadian experts?---Correct.
11
11:02:13 12 As I read it, there was some attempt to model the Victorian
11:02:17 13 provisions on what was happening with the Royal Canadian
11:02:21 14 Mounted Police?---That's correct.
15
11:02:31 16 Risk assessment was a topic that you would have - was a
11:02:35 17 subject that developed over the development of the SDU from
11:02:40 18 2004 onwards, was it not?---Yes.
19
11:02:44 20 The Commission has had evidence that the first risk
11:02:48 21 assessment that you were taken to by Ms Tittensor in
11:02:51 22 November of 2005 was the first and most comprehensive risk
11:02:58 23 assessment that had been completed at that stage by
11:03:01 24 Victoria Police?---Yes.
25
11:03:04 26 It was an evolving process, wasn't it? It was going on as
11:03:09 27 time went on and they did the best they could to improve
11:03:14 28 the risk assessments they conducted?---Yes, noting that
11:03:16 29 that's just a document. The risk assessment process was
11:03:19 30 actually continuous. It was a continuous ongoing process.
31
11:03:23 32 Right. The document, what I'm suggesting to you, was the
11:03:28 33 most comprehensive and full document of the type that had
11:03:32 34 been done to date, at that stage, but thereafter they
11:03:34 35 continually assessed the risk to the source effectively on
11:03:38 36 an interaction by interaction basis?---That is correct.
37
11:03:46 38 There was an attempt to have SDU members undertake further
11:03:50 39 training in the provision of risk assessment, were you
11:03:52 40 aware of that?---I do recall something like that, yes.
41
11:04:02 42 They sought to do further risk assessment work but
11:04:05 43 management didn't approve the expense for them to go to the
11:04:08 44 course, does that ring any bells?---I can't recall whether
11:04:14 45 they actually did the training or not.
46
11:04:17 47 But certainly they attempted to improve the whole process

11:04:20 1 of risk assessment as time went on?---Yes.
2
11:04:23 3 And there was a New Zealand model I think that was adopted
11:04:29 4 as some form of guidance, was it not?---Well the basis for
11:04:34 5 risk assessment in Australia is a combined Australian New
11:04:40 6 Zealand model. Whether it's that or another specific New
11:04:43 7 Zealand model I can't recall.
8
11:04:44 9 I think you're right. A joint approach that was being
11:04:48 10 developed by the New Zealanders?---Yes.
11
11:04:50 12 With the New Zealanders. You've touched on this and I
11:04:59 13 won't go through it. When a subpoena was issued it was
11:05:03 14 HSMU's job to ensure that effectively the subpoena was
11:05:07 15 properly complied with?---Yes.
16
11:05:11 17 It was HSMU's job to deal with reward applications as well,
11:05:16 18 was it not?---Yes.
19
11:05:17 20 Do you recall in relation to 3838 that there was a - that
11:05:22 21 reward application process was used in order to have two
11:05:27 22 speeding fines that she got revoked?---Yes.
23
11:05:37 24 Can I bring up an exhibit that was tendered yesterday. I
11:05:46 25 think it's Exhibit 514 but I'll - yes, Exhibit 514. This
11:05:57 26 is the informer registration or reactivation application.
11:06:03 27 It's a form that you'd complete if you were registering for
11:06:06 28 the first time or if you were being reactivated; is that
11:06:10 29 right?---That's correct.
30
11:06:10 31 There's no distinction between those two activities, you
11:06:14 32 use the one form, regardless of whether it's reactivation
11:06:18 33 or initial registration?---That's correct.
34
11:06:21 35 You'll see there are two numbers written on the right, 472
11:06:24 36 and 727?---Yes.
37
11:06:26 38 They're examples of those random generated codes that you
11:06:29 39 were talking about before that the Unit produced in
11:06:32 40 relation to informers, are they?---No, sorry. So the
11:06:38 41 registration number is the random code.
42
11:06:42 43 That's the 3838?---38 - yeah, 2180, 3838.
44
11:06:47 45 Did you have file numbers at HSMU, that's what I was trying
11:06:50 46 to ask you about before?---I can't recall. It is possible
11:06:57 47 that there was a separate numbering system for filing.

1
11:07:02 2 All right?---But that didn't relate to the actual
11:07:05 3 registration number of the person.
4
11:07:07 5 But that one's got - you'll note the two numbers there, 472
11:07:12 6 and 727?---Yes.
7
11:07:13 8 Can I bring up the document, Exhibit 515 first, next, which
11:07:21 9 was tendered immediately after this yesterday. All right.
11:07:29 10 If that document is the correct date, on 27 October of 07
11:07:34 11 file number - or number of files, including registration 13
11:07:39 12 of 99 was received at the HSMU office; is that
11:07:46 13 right?---Yes.
14
11:07:46 15 And if we go to the next page. It attached with it a
11:07:52 16 document in relation to her earlier registration because we
11:07:57 17 go to the next page after that. It's apparent that that
11:08:00 18 relates to a registration by Jeff Pope of Nicola Gobbo, is
11:08:06 19 it not?---Yes, correct.
20
11:08:10 21 If we take that off the screen and put up
11:08:27 22 VPL.0005.0013.1370. That's the document I put to you
11:08:29 23 before. You won't have seen this document but it's got
11:08:33 24 material relevant to what we've just been looking at.
11:08:37 25 Firstly, this is a document completed by Mr Black, you know
11:08:42 26 who I'm talking about?---Yes.
27
11:08:43 28 And you'll see it's self-evident that in November of 2015
11:08:48 29 he was asked by Detective Inspector Swain to make some
11:08:52 30 inquiries as to what had occurred in relation to any reward
11:08:55 31 application that may have been made or done on behalf of
11:08:58 32 3838, do you follow?---Yes.
33
11:09:02 34 If we go down - up a bit, thank you. He conducted - a
11:09:07 35 search at HSMU and SDU holdings revealed the following
11:09:12 36 items, and you'll see that he makes reference to, firstly,
11:09:16 37 what we've just - the workshop that I just took you to, the
11:09:21 38 minutes of the workshop that's been blanked out?---Yes.
39
11:09:29 40 Then there's a number of other documents in relation to
11:09:32 41 summaries of assistance. But I want to show you items I
11:09:37 42 and J, please. I is an HSMU safe file number 472 hard
11:09:37 43 copy management files and it relates for the period 13/5/99
11:09:45 44 to 23/9/08. Follow that?---Yes.
45
11:09:48 46 Then underneath it is HSMU safe 727, hard copies from
11:09:55 47 16/9/05 to 21/12/09?---Yes.

1
11:09:59 2 They're the same two numbers we saw written on that
11:10:01 3 application form before in relation to Nicola Gobbo?---Yes.
4
11:10:06 5 The 472 and the 727. That would appear to be, as at 2015
11:10:14 6 when Mr Black went to the safe, there was an envelope with
11:10:19 7 hard copy - relating to hard copy management files for that
11:10:23 8 period from 13/05/99, which is the date that Pope
11:10:30 9 registered it, do you follow?---Yes.
10
11:10:32 11 To 23/9/08, which is a date which really does not make any
11:10:37 12 sense, does it? By that stage she's already been
11:10:40 13 registered on 05, the registration process started on 16
11:10:44 14 September 05 with the SDU?---Yes.
15
11:10:48 16 So the 727 file number relates to her registration with SDU
11:10:55 17 from 16 September to 12 January?---Yes.
18
11:10:59 19 And the 472 relates to at least the start of a registration
11:11:05 20 period with The Pope registration?---Yes.
21
11:11:09 22 Are you able to help as to how it was that she was still
11:11:11 23 registered in the Pope matter until 23 September 08?---No,
11:11:24 24 it seems odd. My recollection was that in 2003 when the
11:11:30 25 Chief Commissioner's instruction was first issued about the
11:11:33 26 new process for managing human sources, hard copy files
11:11:37 27 from around the entire organisation were collected and kept
11:11:40 28 centrally at the then Informer Management Unit. It seems
11:11:46 29 odd that the Major Fraud Group files took so long to - - -
30
11:11:52 31 You got them in 2007, we saw that in the previous exhibit.
11:11:58 32 They sent them in. That particular registration was
11:12:04 33 received by HSMU in October 07, I think?---Yes, that seems
11:12:09 34 odd to me. I can't recall why they were so delayed.
35
11:12:11 36 Indeed, not only were they delayed but she keeps being,
11:12:16 37 according to this document that Mr Black saw, she was still
11:12:19 38 registered under Pope's registration until 27 November 08,
11:12:24 39 which doesn't make any sense, does it?---No.
40
11:12:27 41 All right. Certainly the one underneath that is correct
11:12:31 42 because she was with the SDU officially from September 05
11:12:34 43 to April - sorry, September 05 to January 09?---Yes, that's
11:12:40 44 correct.
45
11:12:43 46 And just underneath that there's a reference to, "Witness F
11:12:47 47 catalogue". Now Witness F was the name by which Ms Gobbo

11:12:51 1 came to be known after her litigation with Victoria Police
11:12:54 2 in 2010 onwards, do you follow?---Yes.
3
11:12:58 4 "Witness F catalogue. All HSMU physical files moved to AC
11:13:03 5 Pope on 13 August 2012". You'd gone by that stage I take
11:13:09 6 it?---That's correct.
7
11:13:10 8 And had no - I take it you've got no knowledge of what
11:13:13 9 happened with those physical files?---No.
10
11:13:19 11 But what are the - do you know what they're talking about,
11:13:22 12 that "Witness F catalogue, all HSMU physical files", what
11:13:26 13 they would be?---So they would be all hard copy documents
11:13:33 14 relating to the person then known as Witness F.
15
11:13:38 16 Would that encompass her earlier registrations?---Yes. If
11:13:43 17 hard copy documents were used in parts of those process,
11:13:46 18 yes.
19
11:13:47 20 All right. Going back to the - it's clear that somewhere,
11:13:52 21 it would appear, about October of 07 HSMU have become aware
11:13:59 22 of the earlier registration by Mr Pope of Nicola
11:14:05 23 Gobbo?---It would appear so, yes.
24
11:14:07 25 Is that news to you? You have no recollection of that
11:14:10 26 coming to your attention?---No. That doesn't mean that it
11:14:15 27 wasn't brought to my attention but I just, I don't recall
11:14:17 28 it.
29
11:14:18 30 It may not have been - there's also a possibility that
11:14:20 31 whoever was running HSMU, Mr McLean at that stage, didn't
11:14:24 32 bring it to your attention. That's a possibility I
11:14:27 33 assume?---Yes.
34
11:14:33 35 Members of the SDU have given evidence to this Commission,
11:14:38 36 and one still to come I know will be giving evidence on the
11:14:42 37 same topic, that they would have been extremely interested
11:14:45 38 to know about her prior registrations. You can understand
11:14:49 39 that, I assume?---Yes.
40
11:14:51 41 It would appear that there's been a decision made not to
11:14:55 42 tell them about that earlier registration. Can you think
11:14:59 43 of any reason why that would occur?---Not now, no.
44
11:15:08 45 All right. Can I have Exhibit RC287 brought up, please.
11:15:28 46 Sorry, Commissioner, I'll tender that letter that I just
11:15:31 47 cross-examined on. It's - - -

1
11:15:35 2 COMMISSIONER: It's a memo, isn't it? Briefing note.
11:15:38 3
11:15:38 4 MR CHETTLE: Briefing note of Officer Black. Can you go
11:15:41 5 back to the top for me, please? Dated 10 November 2015.
6
11:15:49 7 COMMISSIONER: To the HSMU. Briefing note 10/11/15 from
11:15:56 8 Officer Black to the HSMU.
11:15:59 9
11:16:00 10 #EXHIBIT RC536A - (Confidential) Briefing note 10/11/15
11:16:04 11 from Officer Black to the HSMU.
11:16:04 12
11:16:04 13 #EXHIBIT RC536B - (Redacted version.)
11:16:07 14
11:16:08 15 MR CHETTLE: Thank you. Can we go to the Exhibit 287,
11:16:18 16 please. It's the draft form of the acceptance of
11:16:26 17 responsibility document. Do you have Exhibit 287? Perhaps
11:17:02 18 I'll try it without the exhibit. Acceptance of
11:17:06 19 responsibility forms changed over the period of time from
11:17:09 20 2004 onwards, did they not?
11:17:12 21
11:17:12 22 COMMISSIONER: Acknowledgement I think.
11:17:15 23
11:17:16 24 MR CHETTLE: Acknowledgement of Responsibility, thank you,
11:17:18 25 Commissioner?---Yes, I would expect that they evolved as
11:17:21 26 the process developed.
27
11:17:22 28 In 2005, at the time she was registered, the document was a
11:17:25 29 standard four point document which - a copy of which I
11:17:33 30 thought was tendered but no one's got it.
31
11:17:42 32 COMMISSIONER: What is this?
11:17:43 33
11:17:44 34 MR CHETTLE: Acceptance of responsibility.
35
11:17:45 36 COMMISSIONER: Acknowledgement of responsibility. It was
11:17:47 37 tendered. You had the right exhibit number.
11:17:47 38
39 MR CHETTLE: 287 but it's not there.
40
41 COMMISSIONER: I think they're just trying to find the VPL.
42
11:17:47 43 MR CHETTLE: The one we had that I handed up as a hard copy
11:17:51 44 document was a hard copy blank form. I don't know where it
11:17:56 45 is. It would be available - it's just a pro forma,
11:18:01 46 Commissioner, it would be easily found I'm sure.
47

1 COMMISSIONER: Have you got the hard copy there? Where is
11:18:03 2 it?
11:18:09 3
11:18:09 4 MR CHETTLE: It's probably my fault. I'll accept it. I
11:18:13 5 haven't got my junior again, Commissioner. But it was hard
11:18:17 6 copy pro forma and the Chief Commissioner's standing orders
11:18:25 7 provided forms that had to be filled in, didn't
11:18:28 8 they?---Yes.
9
11:18:28 10 I take it it's asking too much for you to remember the
11:18:32 11 details of those forms without putting them in front of
11:18:35 12 you?---Yes, definitely.
13
11:18:36 14 I don't blame you, I'm sorry.
15
11:18:38 16 COMMISSIONER: All I've got is it's a 2005 document.
11:18:42 17
11:18:42 18 MR CHETTLE: Yes. It was, Commissioner. I don't know
11:18:44 19 whether the Victoria Police can help because clearly it's a
11:18:47 20 record that would come from their database.
21
11:18:54 22 COMMISSIONER: Yes, apparently it's not on Relativity.
11:19:00 23
11:19:00 24 MR CHETTLE: I'll get another one, Commissioner. It's a
11:19:02 25 standard form, noncontroversial document.
11:19:05 26
11:19:05 27 MS ARGIROPOULOS: Just looking for it, Commissioner. My
11:19:08 28 recollection is it was produced by Mr Chettle and my
11:19:12 29 instructors have been trying to get hold of it. With the
11:19:16 30 PII review I don't think we've actually got it but I'm just
31 trying to see if we've got a version of the system that can
11:19:18 32 assist.
33
11:19:19 34 COMMISSIONER: The note we have is that it's not on
11:19:21 35 Relativity and we're also trying to find it.
11:19:25 36
11:19:26 37 MR CHETTLE: I will make a note, Commissioner, and have
11:19:28 38 another copy provided. My clients will be able to obtain
11:19:32 39 one for you. In which case I'll leave that topic. You do
11:19:42 40 agree with the general proposition that they changed and
11:19:44 41 developed over time and went from being a relatively simple
11:19:49 42 document and got more complicated as time went on?---Yes,
11:19:52 43 and my recollection is also that the policy also changed in
11:19:56 44 parallel as we went along.
45
11:19:58 46 And those changes of policy and the changes of forms and
11:20:03 47 standing operating procedures were driven to a large extent

11:20:08 1 by the work of Mr White, were they not?---That is correct.
2
11:20:17 3 Do you have a recollection of Mr McWhirter, Inspector
11:20:21 4 McWhirter, who was I think one of the part-time Inspectors,
11:20:25 5 was he not?---Yes.
6
11:20:26 7 Do you have a recollection of him acting as an actual
11:20:29 8 controller in relation to 3838?---No.
9
11:20:35 10 Mr White went on leave and Mr McWhirter stepped into the
11:20:41 11 breach. If that's in the records you'd accept that that
11:20:44 12 occurred?---Yes.
13
11:20:45 14 There was for a large period of time at least a part-time
11:20:50 15 Inspector overseeing the SDU, was there not?---That's
11:20:53 16 correct.
17
11:20:56 18 Calishaw was first I think, Doug Calishaw?---Yes.
19
11:21:02 20 There was man called Hardy, Rob Hardy?---Rob Hardy became
11:21:09 21 the officer-in-charge at a later time, yes.
22
11:21:16 23 McWhirter, I've obviously mentioned?---Yes.
24
11:21:18 25 He was before Hardy, was he not?---Yes.
26
11:21:22 27 Do you recall who was after Hardy?---I think it was Andrew
11:21:28 28 Glow.
29
11:21:29 30 That's right. Sorry, thank you. Mr Glow and then after
11:21:33 31 Mr Glow finally there was Jock O'Connor?---Correct.
32
11:21:38 33 But Jock O'Connor had not been there at the Unit at the
11:21:43 34 time that Ms Gobbo was being managed?---I don't think so.
35
11:21:47 36 He came after she left?---That's correct.
37
11:22:06 38 One of the problems that SDU suffered from was, as you
11:22:10 39 pointed out, lack of administrative support?---Yes.
40
11:22:15 41 You had meetings with Mr White where he explained to you
11:22:20 42 the need of further support to help him, for example, get
11:22:23 43 the ICRs up-to-date and on time?---Yes.
44
11:22:29 45 Ms Gobbo generated enormous administrative need or work for
11:22:34 46 the Unit, did she not?---Yes.
47

11:22:39 1 The policy, and what SDU sought to do with their ICRs, was
11:22:46 2 as accurately and as comprehensively as possible record
11:22:51 3 everything she told them?---Yes.
4
11:22:53 5 There was no editing or filleting, you put everything down
11:22:58 6 and then you worked out what you did with it later?---Yes.
7
11:23:01 8 Because the idea was to make the Unit as transparent and
11:23:09 9 accountable as possible?---Yes.
10
11:23:33 11 Some of the documents the Commission has received contain
11:23:39 12 the suggestion of the possibility that the SDU deliberately
11:23:46 13 downplayed risks and didn't document risks in order to
11:23:51 14 protect, to make sure that management didn't derail her
11:23:56 15 registration, do you follow what I'm putting? That there
11:24:00 16 was some sort of plan or conspiracy to not pass up the line
11:24:03 17 all the risks associated with her?---That is not the case.
18
11:24:08 19 Indeed, as far as you can see they attempted to, as I said
11:24:14 20 before, be totally transparent in what they were doing and
11:24:18 21 reported up the line?---Yes.
22
11:24:20 23 When Mr Biggin took over as the Local Source Registrar,
11:24:31 24 from your knowledge he was often involved in the activities
11:24:33 25 of the SDU?---Yes.
26
11:24:36 27 And he had, to your knowledge, a good understanding and
11:24:39 28 oversight of what they were doing?---Yes.
29
11:24:47 30 Interpose. You make reference in your statement to
11:24:50 31 Interpose. That was a computer system that Victoria Police
11:24:53 32 struggled with for a period of time, wasn't it?---Yes,
11:24:56 33 that's correct.
34
11:24:56 35 Can I suggest to you the following: that although Interpose
11:24:59 36 was trialled throughout Victoria Police in various units,
11:25:02 37 such as Homicide and things like that, it was not adopted
11:25:05 38 for use by the SDU until 2009?---That sounds right.
11:25:17 39 Perhaps if I can clarify. That's the human source
11:25:22 40 management function within that system.
41
11:25:24 42 No, the SDU - yes, the management of the files?---That
11:25:26 43 system performs other functions as well.
44
11:25:29 45 3838's management file at SDU was not on Interpose, that's
11:25:34 46 the point I'm trying to make?---Yes.
47

11:25:37 1 You agree with that?---Yes.
2
11:25:46 3 Excuse me. I think I have all I wanted to ask you about.
11:25:58 4 So far as you're concerned, everything you saw with the
11:26:05 5 SDU, there was never any attempt by them to be anything
11:26:10 6 other than transparent in its disclosure to courts, subject
11:26:14 7 to PII applications?---Yes, there was never anything.
8
11:26:21 9 Anything untoward?---No, there was never anything untoward.
10
11:26:29 11 Yes, thank you, Commissioner. Can I ask that - we might
11:26:40 12 have solved the AOR problem. Can I ask some other
11:26:43 13 questions?
14
11:26:44 15 COMMISSIONER: Yes.
11:26:46 16
11:26:47 17 MR CHETTLE: Thank you, can you pull up VPL.0100.0124.0149.
11:26:55 18 It may or may not be the correct one. We'll have a look,
11:26:58 19 Commissioner.
11:27:16 20
11:27:17 21 MS ARGIROPOULOS: I should just indicate, Commissioner,
11:27:18 22 while that's being done, we've just located this form on
11:27:21 23 the Victoria Police system. I'm not sure that it's the
11:27:23 24 exact version that was tendered previously but it might
11:27:27 25 just assist for today's purposes.
11:27:29 26
11:27:29 27 MR CHETTLE: It's not. I've just seen it on the screen.
11:27:33 28 The one is the later one version, Commissioner, with eight
11:27:35 29 points. The one I was looking for only had four points.
11:27:38 30 But I'm happy to bring it up because I've called for it.
31
11:27:41 32 COMMISSIONER: Do you want to ask questions about it?
11:27:43 33
11:27:43 34 MR CHETTLE: I do. I'll quickly contrast it to what the
11:27:47 35 original one was.
36
11:27:47 37 COMMISSIONER: You probably want to tender that one too?
11:27:49 38
11:27:50 39 MR CHETTLE: I will. I'll have the witness identify it,
11:27:54 40 not me, Commissioner. Do you see that's a blank
11:28:18 41 Acknowledgement of Responsibility form?---Yes.
42
11:28:21 43 If you go back to the top of it, it says, "New 0903VP
11:28:33 44 1093". Would that indicate that was the form as it stood
11:28:35 45 at September 03?---Yes. Yes.
46
11:28:45 47 I'll tender it, Commissioner, but I'm not sure it's the one

11:28:48 1 I tendered previously and I'll wait until Mr Black gives
11:28:52 2 evidence, who can tell you about it in some detail.
3
11:28:55 4 COMMISSIONER: All right then. What was the date on it?
11:29:10 5
11:29:10 6 MR CHETTLE: It says 09/03.
7
11:29:14 8 COMMISSIONER: Because it's a blank form I imagine that can
11:29:18 9 be a public document.
11:29:20 10
11:29:21 11 MR CHETTLE: I don't have a problem with it.
11:29:23 12
11:29:23 13 MS ARGIROPOULOS: I'm not sure about that, Commissioner. I
11:29:25 14 need some instructions in relation to whether there's a
11:29:28 15 methodology issue concerning publication of that version.
11:29:31 16 So if that could be given A and B, please, Commissioner.
11:29:37 17
11:29:37 18 MR CHETTLE: It's 2003 methodology.
11:29:40 19
11:29:40 20 #EXHIBIT RC536A - (Confidential) Blank Acknowledgement of
11:29:02 21 Responsibility form 09/03.
11:29:42 22
11:29:42 23 #EXHIBIT RC536B - (Redacted version.)
11:29:44 24
11:29:44 25 MR CHETTLE: I'll chase up the earlier one I had,
11:29:47 26 Commissioner. I have no further questions.
11:29:50 27
28 RE-EXAMINED BY MS TITTENSOR:
29
11:29:50 30 I'll just take you to that last matter first, Mr Porter.
11:29:54 31 You've just given some evidence that insofar as you were
11:29:57 32 concerned there was nothing untoward, there was never any
11:30:00 33 attempt other than to be transparent by the SDU in relation
11:30:04 34 to its disclosure to courts. Did you just give that
11:30:10 35 evidence?---Yes.
36
11:30:11 37 We went through yesterday matters relating to disclosure of
11:30:15 38 Ms Gobbo's role to courts, do you recall that?---Yes.
39
11:30:18 40 The material that the Commission has indicates constant
11:30:23 41 communication as between the SDU and Purana detectives when
11:30:26 42 court matters were occurring, indicating whether or not
11:30:32 43 anything had come out in the evidence at court relating to
11:30:35 44 Ms Gobbo's role, do you understand that?---Yes.
45
11:30:39 46 The reality was there was no disclosure to courts in
11:30:43 47 relation to the role played by Ms Gobbo with Victoria

11:30:46 1 Police and its use of her as a police agent. Do you agree
11:30:49 2 with that?---Yes.
3
11:30:54 4 How can you say then that insofar as you're concerned there
11:30:58 5 was never any attempt to be other than transparent?---I was
11:31:01 6 asked if the Unit, the Source Development Unit had been
11:31:04 7 transparent.
8
11:31:05 9 And they clearly hadn't been transparent, had they?---Well,
11:31:09 10 yes, they were transparent with the Purana Task Force.
11
11:31:12 12 But transparent insofar as disclosure to court, what do you
11:31:16 13 say about that?---The requirement to disclose to the court
11:31:20 14 rested with Purana.
15
11:31:22 16 So if the Source Development Unit were aware that Purana
11:31:27 17 investigators were not complying with their obligations of
11:31:30 18 transparency to court, that doesn't matter?---I don't think
11:31:38 19 it's as simple as that. They would have to know that
11:31:41 20 somebody at Purana was deliberately not doing something
11:31:45 21 that they should.
22
11:31:46 23 They necessarily knew that because they were in constant
11:31:48 24 communications about whether Ms Gobbo's role had come out
11:31:52 25 in evidence in court, so they necessarily knew it hadn't
11:31:55 26 come out by disclosure before that. What - - - ?---But
11:32:04 27 that doesn't mean that the SDU wasn't transparent. My
11:32:07 28 understanding was that they were upfront with everything
11:32:10 29 that they'd done with the investigators. The requirement
11:32:14 30 to produce or reveal was with the investigators.
31
11:32:17 32 Yes, but they knew that the investigators were not
11:32:20 33 complying with their obligations. If you're aware that
11:32:24 34 someone else in Victoria Police is perverting the course of
11:32:28 35 justice, what's your obligation?---To report it.
36
11:32:40 37 Would it have been appropriate for them to put these kinds
11:32:43 38 of risks in any risk assessments if they're aware that the
11:32:47 39 transparency with courts is not being complied with? That
11:32:54 40 would be a risk, wouldn't it, to Victoria Police - - -
11:32:57 41 ?---If it became obvious to them that it was a clear risk
11:33:00 42 they may document it or they may address it.
43
11:33:04 44 Well they should address it in a risk assessment. Doesn't
11:33:06 45 the risk assessment - one of the risks we went through
11:33:08 46 yesterday was a risk to Victoria Police and potential
11:33:11 47 reputational damage and look where we are today?---M'hmm.

1
11:33:17 2 Do you agree with that?---Yes.
3
11:33:22 4 Mr White gave some evidence that the HSMU was responsible
11:33:28 5 for disclosure. Does it then fall upon - - -
11:33:32 6
11:33:32 7 MR CHETTLE: Again, Commissioner, I don't want to object
11:33:34 8 but he gave evidence that HSMU was responsible for dealing
11:33:38 9 with the subpoenas.
10
11:33:40 11 COMMISSIONER: For the?
11:33:41 12
11:33:41 13 MR CHETTLE: The subpoenas. There's a subtle difference
11:33:43 14 and I know - I don't want - the evidence is the evidence
11:33:48 15 but if it's misstated I've got to say something about it,
11:33:52 16 or at least make the submission I do.
17
11:33:56 18 COMMISSIONER: You could clarify it.
11:33:59 19
11:34:00 20 MS TITTENSOR: I accept that. Subpoenas being a form of
11:34:02 21 disclosure, Mr White gave some evidence indicating that it
11:34:04 22 fell upon the HSMU being responsible. What do you say
11:34:08 23 about that, were the HSMU transparent in its responses to
11:34:15 24 court processes?---Yes.
25
11:34:19 26 Was legal advice ever taken by the HSMU about Ms Gobbo's
11:34:23 27 role and disclosing Ms Gobbo's role?---No.
28
11:34:27 29 You gave some evidence yesterday in relation to your
11:34:31 30 primary concern being the safety of Ms Gobbo in decision
11:34:34 31 making?---Yes.
32
11:34:38 33 We've heard some evidence in relation to the transitioning
11:34:41 34 of Ms Gobbo from source to witness, particularly relating
11:34:45 35 to that matter?---Yes.
36
11:34:49 37 Whilst you say the risk to personal safety of Ms Gobbo was
11:34:52 38 a dominant issue in your consideration, it wasn't the only
11:34:57 39 issue, you accept that?---Yes.
40
11:35:01 41 The decision was ultimately made by Command that regardless
11:35:04 42 of the risks to personal safety of Ms Gobbo, they wanted a
11:35:08 43 statement from Ms Gobbo in order to advance the prosecution
11:35:13 44 firstly against former member of police Mr Dale and then
11:35:17 45 later former member of police Mr Waters, that's the
11:35:20 46 case?---Yes.
47

11:35:22 1 Do you accept that the risk to the personal safety of
11:35:24 2 Ms Gobbo was not the dominant concern of Command?---I
11:35:32 3 wasn't involved in the Command decision making process so I
11:35:37 4 can't say what weight was given to her personal safety.
11:35:40 5 But it would not appear so to me from my position.
6
11:35:46 7 You were also asked some questions this morning about some
11:35:50 8 best practice adopted by the SDU and the risk
11:35:54 9 assessments?---Yes.
10
11:35:58 11 Mr White and the Unit being dedicated to best practice and
11:36:02 12 the risk assessments being the most comprehensive and being
11:36:05 13 a continuous and evolving process?---Yes.
14
11:36:09 15 Critically, though, the risk assessments never included any
11:36:14 16 risks associated with Mr White and the other handlers
11:36:17 17 becoming aware of some very concerning issues in relation
11:36:22 18 to the use of Ms Gobbo, do you agree with that?---Yes.
19
11:36:26 20 They included Ms Gobbo having told them pretty early in the
11:36:31 21 piece that the ethics of what they were doing was "fucked",
11:36:34 22 that Ms Gobbo was providing - they became aware that
11:36:38 23 Ms Gobbo was providing legal advice to people she'd
11:36:41 24 informed upon. They became aware that as a result evidence
11:36:46 25 that was being obtained might be compromised, and they were
11:36:50 26 told a few months later by Ms Gobbo that she'd thrown
11:36:54 27 privilege out the door. Now those are pretty critical
11:36:59 28 matters to be missing from a risk assessment, you'd agree
11:37:01 29 with that?---In hindsight, yes.
30
11:37:06 31 Well if you're aware of those at the time, pretty critical
11:37:12 32 at the time wouldn't they be?---Yes.
33
11:37:24 34 You've been referred to a review, the Comrie review that
11:37:28 35 took place in 2012. You were asked some questions about
11:37:31 36 that by Mr Chettle yesterday?---Yes.
37
11:37:34 38 After that review Mr Sheridan in an email to Mr Pope was
11:37:40 39 discussing what was to become of the SDU and he said this,
11:37:43 40 "What really tips the scales for me is that the handling of
11:37:47 41 Witness F has been undertaken and managed by the best
11:37:51 42 trained human source personnel within the force. These
11:37:56 43 individuals have travelled the world and been trained and
11:37:58 44 educated by the best and yet they still lost their way. In
11:38:02 45 short, our best people in this area must be able to ensure
11:38:05 46 that we do not make these mistakes in the future". In his
11:38:09 47 evidence to the Commission, having been taken by Mr Winneke

11:38:12 1 through many of the issues I've taken you through in
11:38:16 2 relatively short compass Mr White accepted that they'd lost
11:38:23 3 their way in relation to Ms Gobbo. Are you able to comment
11:38:25 4 on whether, what your view is of why such a thing could
11:38:30 5 have occurred or how such a thing could have occurred? Or,
11:38:34 6 first of all, do you accept that such a thing occurred?---I
11:38:37 7 would accept now or I do accept now that the handling of
11:38:43 8 that particular human source could have been better. How
11:38:49 9 we ended up there when we had the highest trained members
11:38:54 10 handling it was that it was such an extraordinary
11:38:59 11 circumstance that we found ourselves in at that particular
11:39:04 12 time and I suppose I defy any Human Source Management Unit
11:39:11 13 anywhere in the world to resolve it adequately.

14
11:39:15 15 This was a case from the outset that was screaming out to
11:39:19 16 get advice, was it not? "Can we use a lawyer to get
11:39:30 17 advice" - - - ?---From the outset - - -

18
11:39:34 19 "Can we use a lawyer to get information in relation to her
11:39:36 20 clients?" It was something that was screaming out for
11:39:39 21 advice and it was something that time and time again right
11:39:42 22 through the process no advice was taken at every turn when
11:39:47 23 advice was screaming, the circumstances were screaming for
11:39:50 24 it. Is it a case that Victoria Police just simply didn't
11:39:57 25 want to be told no in relation to the use of Ms Gobbo?---I
11:40:03 26 can't say that that was the case.

27
11:40:06 28 Was there too much focus on achieving a desired end rather
11:40:10 29 than - achieving a desired end regardless of proper
11:40:20 30 process?---In hindsight now potentially, yes.

31
11:40:24 32 Thank you Mr Porter. Those are the questions,
11:40:26 33 Commissioner.

34
11:40:27 35 COMMISSIONER: Thank you. Thanks Mr Porter, you're excused
11:40:29 36 and free to go.

37
38 (Witness excused.)

39
40 <(THE WITNESS WITHDREW)

41
11:40:33 42 MR WINNEKE: Commissioner, the next witness is Mr Flynn. I
11:40:35 43 note the time, do you wish to have a break before we
11:40:38 44 commence?

45
11:40:39 46 COMMISSIONER: Do we need one? We've had a few
11:40:41 47 interruptions early and a late start. I'm happy to go on

11:40:45 1 if everyone else can manage. Okay.
2
11:44:47 3 COMMISSIONER: Yes, Mr Flynn, if you could go into the
11:44:51 4 witness box, thank you. Oath or affirmation,
11:44:56 5 Mr Flynn?---Oath, Commissioner.
11:44:57 6
11:44:57 7 Just take your time, get organised.
11:45:04 8
11:45:04 9 <DALE STEVEN FLYNN, sworn and examined:
11:45:28 10
11:45:31 11 MS ARGIROPOULOS: Could you just repeat your full name for
11:45:33 12 the Commissioner, please?---Dale Steven Flynn.
11:45:36 13
11:45:37 14 Are you a serving member of Victoria Police?---I am.
11:45:39 15
11:45:40 16 What's your current rank and position?---I'm an Inspector.
11:45:44 17 I work with the State Emergency and Support Command. I'm a
11:45:48 18 Regional Management Inspector for Southern Region.
11:45:52 19
11:45:53 20 Inspector, have you made a statement to this Royal
11:45:57 21 Commission dated 17 June this year?---I have.
11:46:00 22
11:46:02 23 Do you have a copy of that in front of you, both an
11:46:06 24 unredacted and a redacted version?---Correct.
11:46:10 25
11:46:13 26 Reading over that statement recently do you have a number
11:46:15 27 of amendments that you wish to make?---Yes, that's correct.
11:46:19 28
11:46:19 29 Do you have a pen there in the witness box that you're able
11:46:22 30 to note those amendments on to the unredacted statement as
11:46:27 31 we go through them?---Yes, I do.
11:46:31 32
11:46:32 33 Is the first amendment at paragraph 19 where there's a name
11:46:39 34 of a legal practitioner referred to in that line, the
11:46:44 35 second line of that paragraph, the person's first name
11:46:49 36 should be Georgia?---Correct. Do you wish me to amend the
11:46:56 37 unredacted?
11:46:57 38
11:46:57 39 Yes, please.
11:46:58 40
11:46:58 41 COMMISSIONER: Yes, thank you. And initial it too, thanks.
11:47:06 42
11:47:08 43 MS ARGIROPOULOS: The next one is at paragraph 34. In the
11:47:14 44 first line of that paragraph there's a number of dates that
11:47:17 45 are referred to?---Yes.
11:47:19 46
11:47:20 47 Do you wish to amend that so that you are referring to the

11:47:25 1 between dates, namely the first number that's mentioned
11:47:28 2 there through to the last number?---Yes, 3rd to 7th
11:47:35 3 inclusive.
11:47:35 4
11:47:36 5 Thank you. The next amendment you seek to make, is that to
11:47:43 6 paragraph 37 of your statement?---Correct.
11:47:47 7
11:47:48 8 And do you wish to add a line to the end of that paragraph
11:47:55 9 which indicates that, "On 22 November 2005 I attended a
11:48:06 10 briefing with Jim O'Brien and Gavan Ryan which detailed the
11:48:11 11 objectives of the Task Force"?---Correct.
11:48:13 12
11:49:16 13 The next one is over the page at p.8. Have you been
11:49:21 14 advised that footnote 5 is incorrect?---Yes, I have.
11:49:24 15
11:49:25 16 And the correct footnote should be
11:49:37 17 VPL.0005.0035.1204?---Correct.
11:49:38 18
11:49:39 19 And finally, paragraph 88. Commissioner, there's a person
11:49:51 20 referred to whose identity can't be mentioned in open
11:50:00 21 hearing but an incorrect pseudonym has been applied. I
11:50:04 22 wonder if I could just ask Mr Flynn to mark that alteration
11:50:09 23 on his copy of the statement. Counsel assisting is aware
11:50:14 24 of what the correct pseudonym should be.
11:50:19 25
11:50:19 26 COMMISSIONER: I'm not so when he's made it if I could be
11:50:22 27 shown it, please. Would you show me that last alteration,
11:50:49 28 please.
11:50:55 29
11:50:55 30 MS ARGIROPOULOS: Subject to those amendments, Mr Flynn,
11:50:57 31 are the contents of your statement true and correct?---Yes,
11:51:00 32 they are.
11:51:01 33
11:51:01 34 I tender the statement in redacted and unredacted form,
35 Commissioner.
11:51:19 36
11:51:20 37 #EXHIBIT RC538A - (Confidential) Statement of Dale Flynn.
38
11:51:24 39 #EXHIBIT RC538B - (Redacted version.)
11:51:25 40
11:51:26 41 Mr Flynn, is there one area that you wish to expand upon
11:51:32 42 and it relates to a reference that you have in your
11:51:39 43 statement at paragraph 66. Have you in preparing to give
11:51:57 44 evidence gone back to your diary entry for that date?---I
11:52:01 45 have.
11:52:01 46
11:52:01 47 And wish to add some further details in relation to that

11:52:07 1 paragraph?---Yes, I do.
11:52:09 2
11:52:10 3 Before you do that, can I just remind you that we're in
11:52:13 4 open hearing at the moment so there's a person we can't
11:52:17 5 mention in this context. Are you able to give that
11:52:20 6 evidence in this context or should we wait until we're in
11:52:24 7 closed hearing, without mentioning that person?---It does
11:52:29 8 involve that person, so.
11:52:31 9
11:52:31 10 Yes. We might leave it until we go into closed hearing,
11:52:35 11 Commissioner. The relevant diary entry has been produced
11:52:37 12 to the Commission so the parties should be aware of what
11:52:42 13 the matter is. It's a matter which the witness wishes to
11:52:48 14 expand upon in evidence-in-chief in closed hearing.
11:52:50 15
11:52:50 16 COMMISSIONER: Thanks Ms Argiropoulos. Yes, Mr Winneke.
11:52:54 17
18 <CROSS-EXAMINED BY MR WINNEKE:
19
11:53:01 20 Inspector, you graduated from the Police Academy in
11:53:06 21 1988?---Correct.
11:53:06 22
11:53:07 23 And carried out various junior policing activities until
11:53:11 24 you became a member of the Drug Squad in about 1992, a
11:53:16 25 Detective Senior Constable?---Correct.
11:53:17 26
11:53:18 27 And you remained in that unit until 94 as a Detective
11:53:23 28 Senior Constable?---Yes.
11:53:23 29
11:53:25 30 Thereafter you were, from 94 through to 2002, for the most
11:53:31 31 part involved in criminal investigations of one sort or
11:53:35 32 another?---Yes.
11:53:36 33
11:53:36 34 You were at Parkdale as a Detective Senior Constable from
11:53:40 35 94 to 99?---Correct.
11:53:43 36
11:53:44 37 Then you were a Sergeant at Elsternwick, in uniform I take
11:53:48 38 it?---Yes.
11:53:49 39
11:53:49 40 2000 you were a Detective Sergeant at Caulfield?---Yes, on
11:53:54 41 assignment, yes.
11:53:55 42
11:53:55 43 On assignment?---Yes.
11:53:56 44
11:53:56 45 So once again involved in investigating crime?---Yes.
11:54:00 46
11:54:01 47 Then 2001 you were at the Moorabbin Regional Response as a

11:54:08 1 Sergeant. That perhaps isn't so much investigation of
11:54:12 2 crime, is it?---It's really a group of police officers that
11:54:18 3 are designed to investigate whatever the major problem is
11:54:23 4 in that region at the time, but there is a focus on drug
11:54:27 5 investigations.
11:54:27 6
11:54:31 7 You would say yes, investigating crime and in particular
11:54:35 8 drugs?---Yes.
11:54:35 9
11:54:36 10 And involved in putting together briefs of evidence?---Yes.
11:54:38 11
11:54:39 12 Presenting them to the prosecution?---Yes.
11:54:42 13
11:54:43 14 From 11 February 2002 you went back to the Drug Squad, or
11:54:51 15 the new Drug Squad as it was then, the MDID, is that
11:54:55 16 right?---That's correct.
11:54:55 17
11:54:56 18 I'll come back to that in due course. You remained there
11:55:01 19 until 05 when you went to Purana and we'll come back to
11:55:06 20 that in some detail. And then you rose to the rank of
11:55:13 21 Senior Sergeant in June 2007, correct?---That's correct,
11:55:16 22 yes.
11:55:16 23
11:55:16 24 In 2008 you went to a unit called the Drug Task Force, is
11:55:21 25 that right?---Correct.
11:55:23 26
11:55:23 27 Is that a joint agency Task Force?---No, it's the,
11:55:27 28 effectively the same unit as the old Drug Squad and the
11:55:32 29 MDID, just with a different name.
11:55:34 30
11:55:34 31 So the MDID in effect became the Drug Task Force, did
11:55:38 32 it?---Correct.
11:55:38 33
11:55:39 34 When did that occur?---I can't be certain. I suspect it
11:55:48 35 probably happened whilst I was at Purana but I can't be
11:55:51 36 certain.
11:55:52 37
11:55:52 38 Did it involve itself in joint operations?---From time to
11:55:56 39 time, yes.
11:55:56 40
11:55:57 41 With which agencies?---Well, any, any other law enforcement
11:56:02 42 agencies, it could be interstate police, it could be the
11:56:04 43 AFP, it could be the ACC.
11:56:07 44
11:56:07 45 Were you involved in any joint operations in the period
11:56:10 46 that you were there?---From time to time, I was, yes.
11:56:12 47

11:56:17 1 You remained there until 2012, is that correct?---Correct.
11:56:22 2
11:56:22 3 And then you transferred as an acting Inspector to the
11:56:26 4 Briars Task Force?---Yes. In my annexure I haven't
11:56:31 5 included all the upgradings. I initially transferred as a
11:56:35 6 Detective Senior Sergeant for a period of about three weeks
11:56:38 7 to the Briars Task Force.
11:56:39 8
11:56:39 9 When was that?---That was in 2012.
11:56:41 10
11:56:42 11 Right?---And then I took over the Acting Inspector role of
11:56:45 12 the Task Force.
11:56:46 13
11:56:47 14 All right. So in effect as an Acting Inspector with
11:56:51 15 respect to Briars you had an overall supervisory
11:56:57 16 role?---Yes.
11:56:57 17
11:56:57 18 You remained there until 2014 at which time the matter went
11:57:01 19 to trial?---Yes.
11:57:02 20
11:57:03 21 Were you present when the matter went to trial?---No.
11:57:05 22
11:57:07 23 Who was, to your understanding, the supervising Inspector
11:57:12 24 when the matter went to trial?---So when I left I believe
11:57:22 25 an officer by the name, that you've been using the
11:57:25 26 pseudonym of Sandy White was upgraded for a period of time.
11:57:28 27
11:57:28 28 Yes?---I'm not sure if someone else came in after that but
11:57:32 29 when I left he took over or was upgraded into that
11:57:36 30 position.
11:57:36 31
11:57:37 32 [REDACTED] took over your position when you left in 2014 to
11:57:41 33 go to the SESC, is that right?---He already had a position
11:57:45 34 there but he was just upgraded into the Acting Inspector
11:57:50 35 role.
11:57:50 36
11:57:51 37 State Emergency Support Command as Inspector in 2014.
11:57:58 38 You're still in that role but in the southern regional
11:58:02 39 area, is that correct?---That's correct.
11:58:03 40
11:58:04 41 You received rewards in the nature of commendations for
11:58:09 42 your role in Operation Rakus?---Rakus, yes.
11:58:13 43
11:58:14 44 I might come back to that in due course, and also for
11:58:17 45 Purana, is that right?---Correct.
11:58:19 46
11:58:19 47 You were presented with an ethical leadership award in

11:58:24 1 2012, is that right?---Correct.
11:58:27 2
11:58:27 3 Was that for a particular matter?---The certificate reads
11:58:34 4 over a period of time of running drug investigations. I
11:58:37 5 suggest the application for me to receive the award was
11:58:43 6 over one specific investigation but it read that it was
11:58:46 7 over a period of time.
11:58:48 8
11:58:48 9 And what was the specific investigation you received the
11:58:51 10 ethical leadership award for?---It was an operation called
11:58:54 11 Operation Showroom where there was a large quantity of
11:58:57 12 cash, about \$3.7 million seized, a large quantity of drugs,
11:59:03 13 a couple of firearms seized.
11:59:05 14
11:59:06 15 Can I come back to the MDID period, that is when you were
11:59:10 16 there in 2002. At that stage you were a Detective Sergeant
11:59:20 17 and you were reporting to a Senior Sergeant?---Yes.
11:59:24 18
11:59:24 19 Was that Jim O'Brien?---Yes.
11:59:27 20
11:59:27 21 And there was a Detective Inspector Paul Newman?---Correct.
11:59:32 22
11:59:34 23 And Anthony Biggin, Tony Biggin was the Detective
11:59:38 24 Superintendent, is that right?---Correct.
11:59:39 25
11:59:39 26 They were in effect your line superiors?---Yes.
11:59:42 27
11:59:43 28 Did that remain the case in the period that you were at the
11:59:46 29 MDID?---Certainly Senior Sergeant Jim O'Brien as my direct
11:59:53 30 report did not change except whenever he was on leave.
11:59:56 31
11:59:56 32 Yes?---The Inspector role did change, so at one stage I was
12:00:01 33 reporting to Detective Inspector John Shawyer.
12:00:10 34
12:00:12 35 Did you have a close working relationship with Jim
12:00:15 36 O'Brien?---Yes.
12:00:16 37
12:00:16 38 And how long had you known him for?---Prior to me there
12:00:21 39 moving to the MDID we had only crossed paths in top of
12:00:27 40 upgrading positions in southern CIBs. I think we worked at
12:00:34 41 Springvale CIB together for a period of three or four
12:00:39 42 weeks, a similar type of period at Frankston, maybe some
12:00:42 43 time at Parkdale. He was upgraded to a Senior Sergeant and
12:00:45 44 I was upgraded to a Sergeant at the time.
12:00:47 45
12:00:48 46 I'm speaking of generalities at the moment but would you
12:00:52 47 describe it as a close working relationship where you would

12:00:56 1 communicate with him on a daily basis if you're obviously
12:00:58 2 both working?---Yes.
12:00:58 3
12:00:59 4 If you were looking at a particular job, then you would be
12:01:03 5 communicating with him about the job you were involved
12:01:07 6 in?---On a regular basis, yes. I don't know whether it
12:01:10 7 would be daily but certainly we'd have formal management
12:01:14 8 meetings at the start of each week and any other type of
12:01:17 9 update that I thought was required I would update
12:01:20 10 Mr O'Brien.
12:01:21 11
12:01:22 12 When you commenced at the MDID it had at that stage, as we
12:01:27 13 understand it, recently Phoenixed, if you like, as a result
12:01:32 14 of some major corruption issues in the old Drug Squad, is
12:01:36 15 that right?---Yes.
12:01:37 16
12:01:38 17 There had been a Task Force set up by ESD, we understand,
12:01:43 18 the Ceja Task Force?---Yes.
12:01:44 19
12:01:44 20 And whilst you were there that Task Force was also busily
12:01:49 21 looking into conduct of former and indeed some then current
12:01:55 22 members of the MDID?---Yes.
12:01:59 23
12:02:00 24 There had been a number of Drug Squad members who had left
12:02:05 25 in fairly troubling circumstances, Messrs Paton Rosenes,
12:02:10 26 correct?---Yes.
12:02:11 27
12:02:11 28 Who were charged in July of 2001 and obviously Mr Strawhorn
12:02:14 29 who was charged with serious offences in March of
12:02:18 30 2003?---Yes, I don't know the dates but I know that they
12:02:21 31 were charged, yes.
12:02:22 32
12:02:25 33 As a general proposition I take it that you would have been
12:02:28 34 aware at the time of some of the issues surrounding those
12:02:33 35 matters?---Yes.
12:02:33 36
12:02:34 37 And in particular, and again without going into too much
12:02:39 38 detail, problems arose with the relationship between
12:02:43 39 detectives and informers?---Yes.
12:02:44 40
12:02:44 41 And one informer in particular who we obviously don't need
12:02:48 42 to name, do you agree with that?---I'm not quite sure which
12:02:51 43 informer you're talking about but certainly when I look
12:02:54 44 back at those histories of corruption issues, a lot of them
12:03:02 45 were informer based.
12:03:03 46
12:03:06 47 Ultimately those relationships led to unethical, corrupt

12:03:11 1 criminal behaviour on the part of these police officers
12:03:14 2 I've just been talking about?---Correct.
12:03:16 3
12:03:19 4 Can I now ask you some questions, general questions about
12:03:26 5 investigations and the knowledge of you in particular and
12:03:33 6 your understanding of police in general of the laws and
12:03:37 7 ethics involved in police investigations. Firstly, laws
12:03:44 8 affecting police officers who carry out investigations, are
12:03:48 9 they taught on the job?--Well there is I think
12:03:59 10 approximately ten per cent of policing time is in training
12:04:03 11 and there is some introductory training obviously when you
12:04:08 12 join the organisation and then when you get through your
12:04:10 13 initial training period.
12:04:12 14
12:04:12 15 You're given a fairly rudimentary introduction to the
12:04:16 16 criminal law as it is and as it affects the role of police
12:04:20 17 officers who carry out investigations?--That's right. And
12:04:22 18 then if you branch off into Detective field there's
12:04:27 19 Detective Training School and again at Detective Sergeant
12:04:30 20 rank you do like an abridged version of Detective Training
12:04:34 21 School which, when I completed it it was called the
12:04:38 22 investigators managers course.
12:04:40 23
12:04:41 24 Obviously as you rise up the ranks you're expected and in
12:04:46 25 fact do become more knowledgeable both because of those
12:04:50 26 extra training regimes you undergo, and also because of
12:04:54 27 your experience, you become more familiar with the criminal
12:04:57 28 law and the law as it affects police officers carrying out
12:05:01 29 investigations?---Certainly, yes.
12:05:02 30
12:05:04 31 Clearly in these sorts of courses that you've discussed you
12:05:07 32 learn about investigative techniques?---Yes.
12:05:11 33
12:05:11 34 You learn about evidence laws and the means by which
12:05:15 35 evidence can be gathered in a lawful manner?---Yes.
12:05:18 36
12:05:18 37 The importance of gathering evidence in a lawful
12:05:22 38 manner?---Yes.
12:05:22 39
12:05:25 40 The risks associated with gathering evidence in an improper
12:05:29 41 or an unlawful manner?---Yes.
12:05:32 42
12:05:32 43 Would that be fair to say those are the sort - you do learn
12:05:36 44 those things?---Yes. I would have worded it in a way that
12:05:40 45 we would learn, you know, how to ensure that our evidence
12:05:43 46 is admissible before the courts and what won't be admitted
12:05:46 47 before the courts.

12:05:47 1
12:05:47 2 So as a general proposition evidence which is improperly or
12:05:50 3 unlawfully obtained is likely to be, at least stands a good
12:05:57 4 chance of being rejected by the courts as
12:05:59 5 inadmissible?---Yes, correct.
12:06:00 6
12:06:01 7 Either expressly by particular provisions or by virtue of
12:06:07 8 discretions on the part of a judge to exclude the
12:06:10 9 evidence?---Yes.
12:06:10 10
12:06:12 11 I take it you were also taught about the rights afforded to
12:06:18 12 suspects, people who are the suspects of police
12:06:22 13 investigations?---Yes.
12:06:22 14
12:06:23 15 The people who are accused persons, you understand that or
12:06:28 16 you're taught about rights which those people are entitled
12:06:31 17 to?---Yes, we are.
12:06:32 18
12:06:33 19 As a general proposition, right to silence is
12:06:37 20 significant?---Yes.
12:06:37 21
12:06:37 22 The provisions of the Crimes Act which affect the person's
12:06:41 23 right to speak to or give a person a right to speak to a
12:06:45 24 lawyer, 464C I think it is, is that right?---Yes.
12:06:48 25
12:06:49 26 And additionally are you taught about the means and the
12:06:54 27 manner in which you put together a trial brief?---I can't
12:07:04 28 recall if that's - I'm sure there would be some type of
12:07:08 29 training that would occur especially in our Detective
12:07:11 30 training and there might be some of that that's also on the
12:07:15 31 job training as well.
12:07:15 32
12:07:16 33 Detectives are aware that they are obliged in putting
12:07:18 34 together a hand-up brief to put into the brief material
12:07:23 35 with which, or upon which it intends to rely to prosecute
12:07:28 36 charges?---Certainly, yes.
12:07:29 37
12:07:30 38 And in addition to that there's a requirement to place
12:07:36 39 either in the brief or amongst materials to be provided to
12:07:39 40 an accused person material upon which it's not intended to
12:07:43 41 rely but may be relevant to the charge nonetheless?---Yes.
12:07:47 42
12:07:47 43 Do you accept that?---Yes, I remember a, I think one of the
12:07:51 44 pro forma brief heads used to have an area where you would
12:07:54 45 put that information in there.
12:07:56 46
12:07:56 47 And there were provisions, you may or may not be aware,

12:08:00 1 there were provisions I think in the old Magistrates' Court
12:08:03 2 Act, the schedule which dealt with those sorts of things,
12:08:06 3 do you understand that?---Yes.
12:08:07 4
12:08:12 5 Can I ask you this: you were aware that a person who is
12:08:21 6 charged is entitled to a fair trial, as a police officer
12:08:24 7 you would be aware of that?---Yes.
12:08:26 8
12:08:26 9 They're entitled to be advised by and represented by an
12:08:30 10 independent legal practitioner, you are aware of
12:08:32 11 that?---Yes.
12:08:33 12
12:08:33 13 You would have been aware of that in 2004, 5?---Yes, I
12:08:36 14 would have.
12:08:37 15
12:08:37 16 And by that I mean a lawyer who is independent of the
12:08:41 17 organisation which is investigating and prosecuting, do you
12:08:44 18 accept that?---Sorry, can you just repeat the independence
12:08:50 19 part?
12:08:51 20
12:08:51 21 A person is entitled to be represented by an independent
12:08:54 22 lawyer and specifically a person who is independent of the
12:08:59 23 police?---Yes.
12:08:59 24
12:09:04 25 There are a number of principles, I suggest, which have
12:09:09 26 been or which are drummed into police officers as they go
12:09:15 27 through the ranks as they are trained which - perhaps I can
12:09:22 28 ask you. Are they accepted learnings? For example, do
12:09:28 29 detectives understand and are they taught a principle that
12:09:32 30 an investigation is a search for the truth in the interests
12:09:36 31 of justice and under the specifications of the law?---Yes.
12:09:40 32
12:09:40 33 Is that a mantra, if you like, that's been drummed into
12:09:43 34 detectives over many, many years?---I would imagine that
12:09:46 35 was being delivered both at Detective Training School and
12:09:50 36 at the investigation management course.
12:09:53 37
12:09:53 38 What do you understand that to mean?---Well, it's, it's
12:10:01 39 just a search for the truth is probably the main words out
12:10:05 40 of that paragraph that I take precedence on. It's not to
12:10:09 41 get - I suppose it's a, perhaps a caution not to get tunnel
12:10:14 42 vision in a particular way and making sure that you search
12:10:18 43 for all avenues of inquiry.
12:10:19 44
12:10:21 45 There's certainly two parts to it. There's a search for
12:10:25 46 the truth but it's conditioned upon the search for the
12:10:28 47 truth being in accordance with the requirements of the law

12:10:33 1 and in the interests of justice. They seem to be the
12:10:37 2 components of it, do you accept that?---Yes.
12:10:38 3
12:10:40 4 Would you accept then that the role of a police officer is
12:10:43 5 in effect to be one, one part or one cog of the criminal
12:10:48 6 justice system to ensure that the criminal justice system
12:10:52 7 operates smoothly and in accordance with the law?---Yes, I
12:10:54 8 would accept that.
12:10:55 9
12:10:58 10 That's the situation which pertains or applies regardless
12:11:03 11 of the seriousness of the crime, do you accept that?---Yes,
12:11:06 12 I do.
12:11:06 13
12:11:06 14 Indeed, I suppose the more serious the crime, the more that
12:11:11 15 is at stake, the more important it is that detectives are
12:11:15 16 obliged to ensure that the investigation is a search for
12:11:20 17 the truth in the interests of justice and under the
12:11:25 18 specifications of the law, do you accept that?---Yes, I do.
12:11:28 19
12:11:28 20 You wouldn't hold with any argument, for example, to the
12:11:32 21 effect that, look, because we are dealing with very
12:11:36 22 significant matters and we've got a lot of criminal
12:11:39 23 activity going on, in those circumstances it's appropriate
12:11:44 24 to bend the rules in any way at all, I take it you wouldn't
12:11:50 25 accept such an argument?---No, because we would know that
12:11:52 26 any potential prosecution could be at risk.
12:11:55 27
12:11:55 28 Yes. Yes, I follow that. Another thing we understand that
12:12:03 29 is drummed into police officers is that they're expected to
12:12:09 30 commit to the highest ethical standards as espoused in a
12:12:14 31 code of ethics which include an acronym, a self test, do
12:12:19 32 you know that?---Yes.
12:12:19 33
12:12:20 34 The acronym is SELF. Do you know what those letters stand
12:12:26 35 for?---Yes, I do.
12:12:27 36
12:12:30 37 And if you are faced with a situation which may be a grey
12:12:37 38 situation, are you asked and do you ask yourself the SELF
12:12:42 39 question, is that what police officers are told?---My
12:12:44 40 understanding is the SELF test, the four points of
12:12:52 41 scrutiny, ethics, lawful and fair is a decision making tool
12:13:01 42 to help us to make, to consider these options when we are
12:13:04 43 having difficult decisions to make.
12:13:06 44
12:13:07 45 When you have a difficult decision to make you have to ask
12:13:11 46 yourself, firstly, "Will this decision if I make it in a
12:13:14 47 particular way withstand scrutiny"?---Yes, correct.

12:13:16 1
12:13:17 2 "Withstand scrutiny from my superiors, by the
12:13:20 3 courts"?---Yes, that's correct.
12:13:20 4
12:13:20 5 "Is the decision that I'm considering making an ethical
12:13:24 6 decision", is that right?---Yes, that's correct.
12:13:25 7
12:13:25 8 "Is the decision or the course that I'm going to take a
12:13:29 9 lawful course", that's a question that you'd ask yourself
12:13:33 10 or are taught to ask yourself?---That's right.
12:13:36 11
12:13:36 12 "Is the decision a fair, the course that I'm taking or
12:13:40 13 proposing to take a fair decision", is that right?---That's
12:13:43 14 correct, yes.
12:13:44 15
12:13:44 16 In other words, is your decision fair on the community,
12:13:47 17 your colleagues, your family, yourself and
12:13:51 18 others?---Correct.
12:13:51 19
12:13:51 20 Is it fair on a person, for example, an accused person, is
12:13:56 21 that relevant or a suspect?---Fair would include that, yes.
12:13:59 22
12:14:04 23 If you give evidence on oath, do you understand the oath is
12:14:10 24 generally speaking - and you've given evidence on many
12:14:14 25 occasions before, is that right?---I have, yes.
12:14:16 26
12:14:16 27 You swear to tell the truth, the whole truth and nothing
12:14:19 28 but the truth?---I do, yes.
12:14:22 29
12:14:22 30 Does that mean you don't simply tell half of the truth or
12:14:26 31 half the story, if you're asked a question you tell the
12:14:29 32 full story as you understand it?---Whatever the answer is
12:14:32 33 it has to be the truth, you can't lie. That's how I
12:14:36 34 understand it.
12:14:36 35
12:14:36 36 What about the whole truth? If, for example, an answer is,
12:14:40 37 it may well be technically accurate but in the scheme of
12:14:45 38 things it's not the whole truth, it's a sort of a by
12:14:49 39 omission you leave information out which may well create a
12:14:54 40 misinterpretation or a misleading impression, would that
12:14:59 41 need additional information?---No, I would certainly not
12:15:03 42 provide an answer that was misleading in any way but, you
12:15:08 43 know, you can answer very simply a truthful answer, yes, I
12:15:12 44 wouldn't hesitate to do that.
12:15:13 45
12:15:18 46 Can I ask you this now. Obviously we're going to deal with
12:15:21 47 over the next little while your involvement as an

12:15:25 1 investigator in some very serious criminal
12:15:33 2 activities?---Yes.
12:15:33 3
12:15:33 4 And are you able to say, sitting in the witness box here
12:15:38 5 now, when you consider the SELF test, and the various other
12:15:44 6 ethical obligations, are you able to say now that looking
12:15:48 7 back you adhered to all of those principles in your
12:15:50 8 investigations in this case?---Well, certainly at the time
12:15:55 9 I believed that I was adhering to those principles.
12:15:58 10
12:15:58 11 Yes?---You know, in preparing to give evidence for this
12:16:02 12 Commission and looking back over the course of these
12:16:04 13 investigations there's probably things that if I had my
12:16:07 14 time again I could, I would change but generally at the
12:16:12 15 time of conducting the investigations I believed I was
12:16:14 16 adhering to those principles, yes.
12:16:16 17
12:16:16 18 Thanks for that answer. I'm going to go into detail but is
12:16:22 19 there a particular matter or matters which concern you now
12:16:26 20 looking back?---Well, if I looked at my own actions during
12:16:30 21 the course of it all, I was an investigator, so I suggest
12:16:34 22 as we progress today there'll be references to other people
12:16:38 23 had certain responsibilities. I think if I look back there
12:16:41 24 was probably opportunities to ask a few more questions and
12:16:45 25 especially when we start talking about legal professional
12:16:49 26 privilege, there are a few specific instances I thought,
12:16:53 27 "Yeah, we could probably do that again". The arrest on ■
12:16:56 28 ■ I think that if we had our time again we would
12:17:00 29 probably do that differently, and not that it's really a
12:17:05 30 matter for me, but I know through reading the Comrie report
12:17:09 31 that there was no legal advice sought for several years
12:17:12 32 after the registration, so, you know that's something I
12:17:15 33 look back and think that's perhaps something we should have
12:17:18 34 done earlier, although I accept, I understand the reasoning
12:17:22 35 why it wasn't done at the time.
12:17:24 36
12:17:24 37 I appreciate that, thanks very much. Can I ask you some
12:17:30 38 questions about disclosure. I asked you before about your
12:17:34 39 understanding of obligations insofar as putting a brief
12:17:38 40 together?---Yep.
12:17:39 41
12:17:44 42 And you say that you understood the importance of providing
12:17:49 43 all material to an accused person that you, that is the
12:17:55 44 informant, the investigator intended to rely on, but you
12:17:59 45 also understood there was an obligation to produce material
12:18:03 46 which might cast doubt on a police case?---Yes.
12:18:05 47

12:18:06 1 Or place the case or the allegations put by the police in
12:18:10 2 their proper perspective, you understand that?---Yes.
12:18:12 3
12:18:12 4 Anything which might cast doubt upon the reliability of a
12:18:16 5 witness?---Yes.
12:18:17 6
12:18:17 7 You would have an obligation to produce that material.
12:18:21 8 Anything that came to light, for example, during the course
12:18:25 9 of a court proceeding and you discovered that defence were
12:18:31 10 taking a particular course or were interested in a
12:18:34 11 particular matter, if you had information which you then
12:18:37 12 realised might well be relevant to that investigation or
12:18:41 13 inquiry, is that something that you would be constrained to
12:18:46 14 either put forward to the prosecutor or discuss with your
12:18:50 15 superiors?---Yes, something that I would consider, that's
12:18:56 16 right.
12:18:56 17
12:18:59 18 Can I give you a hypothetical example, just whilst we're
12:19:03 19 dealing with generalities. If there was an issue in a
12:19:08 20 trial or indeed a committal about the process by which a
12:19:12 21 statement came into existence, because, for example, it
12:19:17 22 might be relevant to the reliability of the evidence or the
12:19:22 23 credibility of a witness who was giving the evidence and it
12:19:25 24 appeared to you that the defence were very interested in
12:19:27 25 the way in which the statement process came about, would
12:19:33 26 you accept that as an experienced investigator it may be
12:19:39 27 important for you to reveal information which hadn't been
12:19:44 28 revealed in the hand-up brief or in the disclosure
12:19:48 29 materials?---It would depend on the circumstances but, you
12:19:53 30 know, that would be a matter where I would probably be
12:19:55 31 looking for advice either speaking with the prosecutor or
12:19:58 32 with my own colleagues.
12:20:02 33
12:20:03 34 You understand and you certainly would have understood as a
12:20:06 35 criminal investigator who had given evidence in committals,
12:20:09 36 that very often defence counsel do, particularly in
12:20:12 37 committal proceedings, really explore how a statement came
12:20:16 38 about, do you accept that?---Yes.
12:20:17 39
12:20:17 40 It may well be in due course at trial that matter is left
12:20:20 41 to one side but certainly at committal it's something
12:20:22 42 that's looked at very closely, isn't it?---Yes.
12:20:25 43
12:20:33 44 Insofar as disclosure, looking back then, would you accept
12:20:42 45 that it was an obligation on police officers to produce
12:20:46 46 material not simply if there was a subpoena asking for
12:20:51 47 particular material but if you were aware that material was

12:20:53 1 relevant it was an obligation upon police to produce
12:21:03 2 it?---It would depend on what the material was I suppose,
12:21:06 3 but I mean we don't produce every note that we make unless
12:21:09 4 we're actually asked for them and things like that.
12:21:12 5
12:21:12 6 No?---But I think I understand what you're saying.
12:21:15 7
12:21:15 8 If it's relevant and it becomes quite apparent that defence
12:21:18 9 counsel are really looking into, for example, the process
12:21:21 10 by which a statement came about, if you come to the view
12:21:24 11 that you've got relevant material, you've got an obligation
12:21:27 12 to hand it over, in effect, to come clean with the material
12:21:31 13 without having to wait for a subpoena to produce it, do you
12:21:34 14 agree with that?---I can't ever recall doing that in
12:21:38 15 relation to the drafting of statements. Normally it's any
12:21:42 16 information along that way it's been provided at a request.
12:21:46 17
12:21:46 18 Yes?---So, you know, statement taking is a very, very
12:21:49 19 common process through criminal investigations, we take
12:21:52 20 them all the time. If we get asked about certain
12:21:55 21 particulars, about how it was taken, then we provide it. I
12:22:00 22 took by your question that I be would taking the initiative
12:22:03 23 and handing over material initially, but that's probably
12:22:08 24 not how it happens in practice.
12:22:11 25
12:22:14 26 Particularly if, for example, during the course of an
12:22:15 27 inquiry or committal it became apparent that defence
12:22:17 28 counsel were very interested in the way in which a
12:22:20 29 statement came about and the processes, the possibility
12:22:23 30 that some people might have had a part in influencing what
12:22:27 31 went into the statement, if that's looked into, would you
12:22:30 32 agree that without the necessity for a subpoena it would be
12:22:33 33 reasonable to in effect produce the material?---Yes.
12:22:36 34
12:22:37 35 Can I give you another example. I know I'm talking about
12:22:41 36 generalities at the moment. It may be an obvious example.
12:22:44 37 If as an experienced investigator a junior Detective came
12:22:50 38 to you with a proposition that he's investigating someone
12:23:00 39 who wants to speak to a lawyer and the idea is to provide
12:23:05 40 him with a telephone and a telephone number which goes to a
12:23:08 41 Sergeant in the next room in the expectation that he'd ring
12:23:11 42 it, thinking he's going to speak to an independent lawyer
12:23:15 43 in the knowledge that the Sergeant's going to say, "'Fess
12:23:18 44 up and assist the police". Now, if someone came to you
12:23:21 45 with that suggestion, that would be a very wrong thing to
12:23:25 46 do, wouldn't it?---Yes, most definitely.
12:23:28 47

12:23:28 1 Because in effect that would mean that that course of
12:23:31 2 conduct is depriving the person of the right to speak to an
12:23:35 3 independent lawyer?---Yes, I agree.
12:23:37 4
12:23:38 5 And there could be very significant consequences for that
12:23:42 6 sort of conduct down the track, couldn't there?---Yes.
12:23:46 7
12:23:46 8 For example, not just the fact that the officer, the junior
12:23:50 9 officer might be guilty of ethical breaches or perhaps even
12:23:56 10 worse, more, there's a real risk that admissions made
12:24:00 11 during the course of the record of interview would be
12:24:02 12 excluded?---Yes, correct.
12:24:03 13
12:24:03 14 Can you imagine trying to justify that conduct in front of
12:24:06 15 a Supreme Court judge?---No, I would not, could not.
12:24:11 16
12:24:12 17 The judge would hit the roof?---Yes.
12:24:13 18
12:24:13 19 If you became aware that that conduct had occurred, there
12:24:16 20 would be an obligation upon an investigator to hand it
12:24:19 21 over?---Yes.
12:24:20 22
12:24:21 23 And to indicate to an accused person, "Look, this is what
12:24:26 24 had occurred"?--Well certainly there would be a cause to
12:24:30 25 start some type of inquiry that could most potentially lead
12:24:34 26 down that road, yes.
12:24:35 27
12:24:36 28 And may lead to the withdrawal of admissions and
12:24:41 29 charges?---Yes.
12:24:41 30
12:24:41 31 The important thing to do, if you became aware of that,
12:24:44 32 would be to convey it either to a lawyer, in your
12:24:51 33 organisation, correct?--Well stop it if we can, stop it
12:24:55 34 occurring in the first place and then, and then it would
12:25:00 35 just be a matter of if it had occurred, dealing with
12:25:04 36 management in relation to how we're going to deal with it.
12:25:08 37
12:25:08 38 Yes, all right, okay. You appreciate why I ask that
12:25:11 39 question?---Yes.
12:25:11 40
12:25:11 41 In due course?---Yes.
12:25:12 42
12:25:12 43 I'm going to come to what occurred on [REDACTED] Yes.
12:25:18 44
12:25:22 45 If you did have difficult ethical decisions that you faced,
12:25:29 46 what did you do in your role back in 2005, 6, 7, what did
12:25:36 47 you do?---Well, the ethical decisions that I was making at

12:25:52 1 the time related to the progress of an investigation.
12:25:56 2 There are other areas dealing with other situations that,
12:26:02 3 as I referred to before, that perhaps I should have had a
12:26:05 4 little bit more to say about, but it was very easy for me
12:26:08 5 at that time to say, "No, no, that's being handled by
12:26:11 6 somebody else".
12:26:12 7
12:26:13 8 I'll stop you there. To be fair, I'm just asking you not
12:26:15 9 about specific matters. But if hypothetically you had
12:26:18 10 problem, who would you go and speak to, would you speak to
12:26:21 11 Jim O'Brien, would you speak to Mr Newman, Mr Biggin?---Jim
12:26:25 12 O'Brien would always be the first person I'd speak to.
12:26:28 13
12:26:29 14 The first person?---Yes.
12:26:30 15
12:26:33 16 Did you discuss it with other colleagues in Purana, for
12:26:37 17 example Stuart Bateson, would you have discussions with him
12:26:41 18 about the investigations and ethical decisions you might
12:26:47 19 have had?---Stuart and I rarely crossed paths, we didn't
12:26:52 20 work at Purana together for that long. We did occasionally
12:26:55 21 converse. I remember getting advice from him about the
12:26:58 22 statement taking process, but really aside from that I
12:27:00 23 can't think of any other conversations I had with him.
12:27:03 24
12:27:05 25 So I don't forget, which statement process are you talking
12:27:08 26 about?---This is, it's going to relate to a lot of stuff.
12:27:11 27
12:27:12 28 It's going to relate to a witness who's name we can't
12:27:16 29 mention in open hearing, I think I know the one you're
12:27:18 30 talking about. We'll come back to it. If I can move on.
12:27:36 31 You've obviously been asked to provide a statement by the
12:27:39 32 Commission. You've done so?---Yes.
12:27:41 33
12:27:42 34 One of the questions, I think question 10, without going
12:27:46 35 into detail, was whether you have any concerns about the
12:27:50 36 use of Ms Gobbo as a human source and effectively what you
12:27:52 37 did in your statement was to refer to the long answer that
12:27:56 38 you gave in, I think it was in answer to question 6 which
12:28:02 39 was your personal contact or your contact with Ms Gobbo.
12:28:05 40 Again, before we go into details, are you able to expand on
12:28:08 41 that because it seemed to me in your long answer you talked
12:28:12 42 about complexities in a couple of cases. But that's about
12:28:17 43 all. Are you able now with hindsight, before we go into
12:28:21 44 detail, to tell the Commissioner about any concerns that
12:28:24 45 you had about the use of Ms Gobbo as a human
12:28:30 46 source?---Concerns at the time?
12:28:31 47

12:28:31 1 At the time and - firstly at the time and now looking back
12:28:36 2 - perhaps starting with looking back?--Well looking back
12:28:40 3 and the fact I'm here in front of a Royal Commission, you
12:28:42 4 know, giving evidence about this issue was something we
12:28:46 5 never, ever would have dreamed would have occurred. It
12:28:49 6 played out the way it did. So obviously I have to look
12:28:52 7 back and think, well, you know, there was some sort of
12:28:58 8 systemic fault or error made by the organisation during the
12:29:01 9 course of 2005, 2006. But if I go back to 2005 and 2006
12:29:07 10 when this occurred, I mean as soon as I became aware that
12:29:12 11 she was going to be registered or was in fact registered,
12:29:17 12 it was certainly unusual, I'd never come across a solicitor
12:29:21 13 or a barrister that had been registered and used as a human
12:29:27 14 source before, but in my own opinion I'm thinking, well,
12:29:30 15 you know as police we like things very black and white and
12:29:33 16 I was aware of legal professional privilege but it wasn't a
12:29:38 17 clear, "No, you cannot register a barrister or a solicitor
12:29:42 18 as a human source". Legal professional privilege talks
12:29:47 19 about some conversations, not all conversations, so I
12:29:51 20 suppose that had, in my affect, in my mind think, "Oh well,
12:29:57 21 there is scope there for that to occur" and of course
12:29:59 22 that's all overridden by what I've written in the main part
12:30:04 23 of my statement about that, well, there were other people I
12:30:06 24 thought were looking after those issues.

12:30:08 25
12:30:09 26 We'll come to that. Have you had any discussions with any
12:30:13 27 colleagues of yours at the time, then colleagues, more
12:30:18 28 recently after this Royal Commission was announced about
12:30:23 29 the matters that had gone on? Have you sat down with
12:30:26 30 colleagues and discussed what had occurred and how you
12:30:29 31 might respond to the Royal Commission?--I certainly, I've
12:30:34 32 certainly had meetings, I've caught up with my old crew
12:30:37 33 very early on in the piece, probably early this year and
12:30:41 34 just - - -

12:30:41 35
12:30:41 36 What was the purpose of that and with whom did you
12:30:45 37 meet?--My crew when I transferred to Purana was then
12:30:49 38 Detective Senior Constable Rowe, there's another Detective
12:30:54 39 that I think has a pseudonym name because of his work later
12:31:00 40 on in this, these investigations.

12:31:04 41
12:31:04 42 COMMISSIONER: Perhaps he can be shown Exhibit 81.

12:31:07 43
12:31:08 44 MR WINNEKE: It might be Exhibit 81 if there's no objection
12:31:11 45 to him being shown Exhibit 81.

12:31:14 46
12:31:14 47 COMMISSIONER: There's a lot of people there with

12:31:16 1 pseudonyms but you might find that one there.
12:31:20 2
12:31:20 3 WITNESS: So the officer who was on my crew uses the
12:31:24 4 pseudonym of officer Graham Evans.
12:31:28 5
12:31:29 6 MR WINNEKE: Thank you. So you spoke to Graham Evans. You
12:31:34 7 spoke to Paul Rowe?---And Angela Hantsis I think was the
12:31:42 8 other one who came, so they were all members of my crew
12:31:44 9 when I transferred to Purana.
12:31:46 10
12:31:46 11 What about Mr Hayes, did you speak to him?---He was invited
12:31:49 12 but I don't think he attended from memory.
12:31:51 13
12:31:54 14 You sat down, did you, and you had a discussion about
12:31:59 15 what?---Well, just that the, you know, it was all over the
12:32:03 16 news then that the Royal Commission had been announced,
12:32:06 17 that it's progressing, some of us, if not all of us might
12:32:10 18 be required to give evidence at some stage.
12:32:12 19
12:32:12 20 Yes?---You know, just - a bit of a welfare check on them
12:32:18 21 and make sure they're okay and - - -
12:32:21 22
12:32:21 23 Did you talk about how you might respond to any of the
12:32:25 24 questions that you might be faced with, the real, the
12:32:29 25 difficult questions that you might be faced with?---Not in
12:32:32 26 any great detail that I can remember. It would make -
12:32:38 27 about a registration and things like that, you know, we
12:32:41 28 might have said things like, well that was SDU's issue,
12:32:45 29 something along those lines. We didn't go into details.
12:32:49 30
12:32:50 31 You might have said, "That wasn't our look out, that was
12:32:53 32 something for the SDU to be concerned about"?---I can't
12:32:55 33 remember the specifics of the conversation but it was
12:32:57 34 obviously there, we were catching up in response to the
12:33:01 35 announcement of the Royal Commission.
12:33:02 36
12:33:03 37 Yes?---And, you know, I'm sure we would have discussed
12:33:09 38 things like, you know, we thought we were all doing the
12:33:12 39 right thing, we thought we were doing our jobs at the time,
12:33:16 40 we weren't intentionally trying to do the wrong thing.
12:33:21 41 There would be conversations along those general lines.
12:33:23 42
12:33:23 43 Along those lines?---Yes.
12:33:25 44
12:33:25 45 In effect how you might respond to difficult
12:33:29 46 questions?---Yes.
12:33:30 47

12:33:30 1 Yes?---I can't remember specifically raising that, so - but
12:33:37 2 the obvious question was about why was she registered in
12:33:40 3 the first place and things like that, which I refer to what
12:33:44 4 I said earlier.
12:33:44 5
12:33:44 6 I follow that. Were you aware that there had been previous
12:33:52 7 reviews which had been carried out with respect to
12:33:57 8 Ms Gobbo's registration which focused on the SDU to the
12:34:03 9 exclusion of the people to whom the SDU provided
12:34:07 10 information?---Yes, I was aware.
12:34:09 11
12:34:12 12 In particular, the Comrie review looked closely at the SDU,
12:34:17 13 didn't it?---It did but I've only been able to read the
12:34:22 14 Comrie review, well since the Royal Commission was
12:34:26 15 announced. It certainly wasn't available to me any earlier
12:34:30 16 than that. I think I'd heard about it at the time that
12:34:33 17 there'd been a review on the SDU, but I didn't have access
12:34:37 18 to it.
12:34:37 19
12:34:37 20 Is it the case that you have never been asked questions
12:34:43 21 about your involvement in these matters?---No, I have been
12:34:48 22 asked questions, yes.
12:34:49 23
12:34:49 24 You have been?---Yes.
12:34:50 25
12:34:50 26 You've been asked questions I think in 2014, you refer to
12:34:55 27 that in your statement?---Yes.
12:34:56 28
12:34:57 29 Prior to that had you ever been asked questions about
12:35:00 30 Purana's involvement in the use of information by
12:35:03 31 Ms Gobbo?---So in 2010 I think was the first time that I
12:35:10 32 received a call from Inspector Hughes.
12:35:13 33
12:35:13 34 Inspector Hughes?---Yep, and that was in relation to a, I
12:35:17 35 think that's when a reward claim had been put in or some
12:35:23 36 type of request for information around some action that she
12:35:27 37 was involved in.
12:35:29 38
12:35:33 39 There was an issue as to whether or not Ms Gobbo should
12:35:37 40 receive an award. Some sort of financial award or
12:35:42 41 reward?---I think so.
12:35:43 42
12:35:43 43 You were asked to make a contribution to that
12:35:48 44 question?---Inspector Hughes contacted me and wanted to
12:35:53 45 know some circumstances around it.
12:35:54 46
12:35:55 47 What were the circumstances that he wanted to know?---Well,

12:35:59 1 I really can't remember. Look, it might be in my diary.
12:36:05 2
12:36:07 3 Perhaps if I can shortcut this. Was that about the
12:36:12 4 appropriateness of your conduct or about whether Ms Gobbo
12:36:15 5 should be entitled to a reward?---The latter.
12:36:18 6
12:36:18 7 The latter?---Yes.
12:36:19 8
12:36:19 9 What I was getting at has Victoria Police, any senior
12:36:22 10 member of Victoria Police, prior to the Kellam inquiry,
12:36:25 11 ever come to you and said, "Look, can you please tell us
12:36:32 12 about your involvement in this, whether you had any
12:36:36 13 concerns in the process at all", have you ever been asked
12:36:40 14 any of those sorts of questions by Victoria Police?---The
12:36:43 15 only later stage was when Loricated started and I spoke to
12:36:47 16 Inspector Jill Wilson then. But that was more about, you
12:36:52 17 know, what do I do, what are the circumstances?
12:36:55 18
12:36:56 19 In what context? What did you do in relation to what, in
12:37:01 20 relation - again, bear in mind we're in open session at the
12:37:06 21 moment?---I think she was just looking for background
12:37:09 22 information. She might have been - I remember she
12:37:13 23 specifically asked me about the brief of evidence, a brief
12:37:17 24 of evidence which will come up later I think.
12:37:20 25
12:37:20 26 Is this a brief of evidence which was shown to
12:37:23 27 someone?---Yes.
12:37:23 28
12:37:23 29 In October of 2006?---I don't know the dates but that
12:37:26 30 sounds correct, yes.
12:37:27 31
12:37:31 32 That is shown to Ms Gobbo?---Yes.
12:37:33 33
12:37:35 34 So you think that's what you were asked about?---Yes.
12:37:37 35
12:37:38 36 Anything else?---No.
12:37:39 37
12:37:48 38 Have you ever been asked to produce your diaries? Again
12:37:51 39 putting aside Mr Kellam, have you ever been asked to
12:37:56 40 produce your diaries to anyone so as they could be
12:38:01 41 examined?---I'm not sure about that. I think perhaps I was
12:38:10 42 but I really can't recall the circumstances.
12:38:13 43
12:38:13 44 Have you ever been asked by Victoria Police to explain and
12:38:18 45 justify conduct around ██████████ 2006?---No.
12:38:25 46
12:38:26 47 Have you ever been asked for your views as to whether any

12:38:32 1 persons who have been convicted, whether by jury or upon a
12:38:38 2 plea and sentenced, whether any of those cases may have
12:38:42 3 been affected, have you ever been asked for your views
12:38:45 4 about that?---No. No.
12:38:49 5
12:38:50 6 All right. What I want to do is ask you a little bit about
12:38:59 7 your knowledge of Ms Gobbo. You said that you were first
12:39:13 8 at the MDID investigating drug matters in 2002. Prior to
12:39:20 9 that you also mentioned that you were involved in other
12:39:27 10 criminal investigations in other areas. Did you ever come
12:39:31 11 across Ms Gobbo in any of your earlier investigative
12:39:36 12 endeavours prior to 2002 at the MDID?---No, I don't believe
12:39:40 13 so.
12:39:40 14
12:39:40 15 Don't believe so?---No.
12:39:41 16
12:39:43 17 Did you, prior to 2002, know any police officers who knew
12:39:47 18 Ms Gobbo?---I don't think I knew, knew of her existence
12:39:52 19 until 2002.
12:39:53 20
12:39:53 21 Is that right?---Yes.
12:39:54 22
12:39:56 23 But very soon after commencing at the MDID it became
12:40:00 24 apparent to you that Ms Gobbo acted for very many people
12:40:03 25 who were charged by the detectives in that unit, is that
12:40:07 26 right?---Correct, yes.
12:40:08 27
12:40:10 28 And even at that stage she was engaged in acting for very,
12:40:15 29 or fairly significant figures in the drug trade?---Well
12:40:19 30 that's knowledge that I've accumulated over a course of
12:40:23 31 time, but yes.
12:40:24 32
12:40:29 33 I take it that as you developed experience in the MDID, it
12:40:35 34 became apparent to you that she had professional dealings,
12:40:42 35 at least, with people such as Tony Mokbel, other Mokbel
12:40:49 36 brothers?---Yes.
12:40:50 37
12:40:51 38 And associates of Tony Mokbel and the Mokbel
12:40:55 39 brothers?---Yes.
12:40:56 40
12:40:57 41 And I take it you became aware that she also advised,
12:41:01 42 provided advice to, if not appeared for, people such as
12:41:05 43 Carl Williams?---It's hard for me to put a date on when I
12:41:11 44 become aware of that information, but she certainly had
12:41:15 45 spoken to me about Carl Williams at some stage.
12:41:19 46
12:41:19 47 Yes?---And again, she certainly spoke about in particular

12:41:25 1 Tony Mokbel, although my recollection early is that that
12:41:29 2 kind of was historical, that she used to represent him and
12:41:33 3 things like that, but she certainly spoke about him, yes.
12:41:36 4
12:41:44 5 Indeed, you arrived I think at the MDID around about
12:41:48 6 February 2002?---Yes.
12:41:50 7
12:41:51 8 I think on that very first day you were involved in
12:41:54 9 arresting and charging a person?---It was the second day
12:41:59 10 that I charged somebody.
12:42:00 11
12:42:00 12 Second day?---They went to court three or four months later
12:42:05 13 in June of 2002 and that's the first time I can remember
12:42:08 14 meeting Ms Gobbo.
12:42:09 15
12:42:10 16 Indeed, it stood out to you because she made some comment
12:42:12 17 to the effect that she was going to have some fun with the
12:42:15 18 witness?---Yes, she did.
12:42:16 19
12:42:18 20 By that stage you had been involved in other investigations
12:42:26 21 which had commenced - Commissioner, I think we're getting
12:42:29 22 into an area where it's likely that we're going to be
12:42:32 23 talking about a particular person who - - -
12:42:36 24
12:42:36 25 COMMISSIONER: We'll be moving into closed hearing now?
12:42:39 26
12:42:39 27 MR WINNEKE: Yes.
12:42:40 28
12:42:40 29 COMMISSIONER: I'm satisfied under s.24 of the *Inquiries*
12:42:43 30 *Act* access to the inquiry during the evidence of this
12:42:47 31 witness is limited to legal representatives and staff
12:42:51 32 assisting the Royal Commission, the following parties with
12:42:53 33 leave to appear in the private hearing and their legal
12:42:56 34 representatives, the State of Victoria, Victoria Police,
12:42:59 35 including media unit representatives, DPP and the OPP, the
12:43:03 36 Commonwealth Director of Public Prosecutions, Ms Nicola
12:43:07 37 Gobbo, SDU handlers, the legal representatives of the
12:43:09 38 following parties with leave to appear. I think they still
12:43:17 39 have leave to appear in respect of this witness, do they?
12:43:23 40
12:43:24 41 MR WINNEKE: I believe so, Commissioner.
12:43:27 42
12:43:27 43 COMMISSIONER: I think so. Just best check which legal
12:43:35 44 representatives have leave to appear. I thought it was in
12:43:40 45 respect of a group of witnesses.
12:43:43 46
12:43:44 47 MR WINNEKE: I think with respect to this group of

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witnesses. I certainly wouldn't oppose it. My view would be that - - -

COMMISSIONER: I'm being told they do have - I've got nods they do have leave to appear. Stephen Asling, Pasquale Barbaro, Person 14, Faruk Orman, John Higgs, Paul Dale. Media representatives accredited by the Royal Commission are allowed to be present in the hearing room. The hearing is to be recorded but not streamed or broadcast. Subject to any further order there is to be no publication of any materials, statements, information or evidence given made or referred to before the Commission which could identify or tend to identify the persons referred to as Witness A, Witness B, Witness X, Person 14, any member of the Source Development Unit or their whereabouts. A copy of this order is to be posted on the door of the hearing room.

(IN CAMERA HEARING FOLLOWS)

16:32:40 1 PROCEEDINGS IN OPEN HEARING:

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16:32:40 3 COMMISSIONER: The directions hearing's principally only
16:32:44 4 affects Victoria Police but there are some preliminary
16:32:46 5 matters I think, Mr Woods, that you were going to mention
16:32:48 6 that do affect a number of parties with standing leave at
16:32:54 7 the Bar table.

8

16:32:55 9 MR WOODS: Yes, that's correct, Commissioner.

10

16:32:56 11 COMMISSIONER: We're in open hearing now.

12

16:32:59 13 MR WOODS: Yes, thank you. Those issues just really are
16:33:01 14 housekeeping type issues to do with presentation of
16:33:05 15 evidence and just to make the job a little bit simpler for
16:33:10 16 our very important evidence presentation people, which is
16:33:13 17 firstly when there are exhibits and transcripts and audio
16:33:19 18 to be displayed by any of the parties with leave in
16:33:23 19 relation to a particular witness, the process is to advise
16:33:27 20 the solicitors assisting of those first, who manage the
16:33:32 21 list to be given to the evidence presentation people. In
16:33:36 22 particular, when there's an audio of a face-to-face meeting
16:33:40 23 to be played it's very important that that's given with a
16:33:44 24 fair bit of warning because it takes some time to, firstly,
16:33:47 25 put it together and, secondly, to make sure that there are
16:33:50 26 any items that need to be removed from it have been removed
16:33:53 27 properly.

28

16:33:54 29 COMMISSIONER: How much warning is desirable, 24 hours or -
16:33:58 30 - -

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16:33:58 32 MR WOODS: I would have thought 24 hours would do it when
16:34:02 33 that happens.

34

16:34:03 35 COMMISSIONER: Yes.

36

16:34:03 37 MR WOODS: That's the first thing. That relates to other
16:34:06 38 exhibits as well, simply lists of documents that the
16:34:08 39 operator might be asked to put up.

40

16:34:10 41 COMMISSIONER: Yes, if the parties could keep that in mind
16:34:13 42 it would help things run more smoothly for everybody, thank
16:34:18 43 you.

44

16:34:19 45 MR WOODS: The second thing to do with evidence
16:34:20 46 presentation is there's been occasions when there's been
16:34:25 47 exhibits placed on the screens at the Bar table and if a

16:34:30 1 party takes exception to that being the case, as counsel
16:34:36 2 assisting we'd ask that the party who has an issue with
16:34:40 3 that occurring stand up and make an objection to the
16:34:43 4 Commissioner because it's difficult for the evidence
16:34:45 5 presentation people to deal with. Counsel assisting might
16:34:48 6 be saying, "Leave it on the screen" and others are saying,
16:34:52 7 "Take it down", so it's better to go through the formal
16:34:55 8 channel if that's possible.
16:34:56 9

16:34:58 10 COMMISSIONER: Yes. It places our talented assistants who
16:35:02 11 are busy keeping the system going in a difficult position
12 so keep that in mind future too, if everyone could do that
16:35:06 13 in future.
16:35:06 14

16:35:07 15 MR CHETTLE: Commissioner, in that regard can the default
16:35:09 16 position be that we get it on the screen unless somebody
16:35:14 17 objects?
16:35:14 18

16:35:14 19 COMMISSIONER: I think Mr Woods might agree with you on
16:35:16 20 that one.
16:35:16 21

16:35:17 22 MR WOODS: Absolutely, I think that's a very good idea,
16:35:19 23 especially the parties at the Bar table.
16:35:19 24

16:35:21 25 MR CHETTLE: I've been asking all the time for it to be put
16:35:23 26 up on mine.
16:35:25 27

16:35:25 28 COMMISSIONER: Yes. There seems to be some fear that
16:35:27 29 members of the public sitting in the court might be able to
16:35:30 30 see it. I think that's very unlikely, unless they've got
16:35:34 31 Superman type vision, that they would be able to see it.
16:35:38 32

16:35:38 33 MR WOODS: I think if that's the default position that
16:35:41 34 would certainly be preferable. It's difficult for other
16:35:44 35 parties to understand what's going on otherwise. I
16:35:48 36 certainly agree that it's not something that's going to be
16:35:51 37 necessarily very easy for other people in the room to see
16:35:54 38 if it's only on these screens. Of course we'll be cautious
16:36:00 39 about ultra sensitive documents.
16:36:03 40

16:36:04 41 COMMISSIONER: Of course. We'll deal with it on a case by
16:36:07 42 case basis, but make the submission rather than whispering
16:36:14 43 things at Commission staff. Thank you.
16:36:17 44

16:36:18 45 MR WOODS: Commissioner, the other issues really relate to
16:36:21 46 exhibits and transcripts.
16:36:21 47

16:36:21 1 COMMISSIONER: It only concerns Victoria Police. If others
16:36:25 2 at the Bar table wish to leave for the weekend they're most
16:36:29 3 welcome. Ms Argiropoulos, as you were forewarned by emails
16:36:45 4 yesterday, the Commission is concerned still at the slow
16:36:51 5 delivery of a number of types of documents from Victoria
16:36:56 6 Police. There were yesterday I think 61 outstanding
16:37:03 7 statements that we're still waiting on from Victoria Police
16:37:07 8 and there are a further five more due today which may or
16:37:11 9 may not be received today. So that's the statements.

16:37:14 10
16:37:15 11 MS ARGIROPOULOS: Yes.

16:37:16 12
16:37:16 13 COMMISSIONER: Transcripts waiting for PII review, 43 days
16:37:20 14 of outstanding transcripts awaiting PII review of in camera
16:37:26 15 hearings. Exhibits waiting PII claims from Victoria
16:37:33 16 Police, 148 outstanding exhibits, one of which is Exhibit
16:37:38 17 281 which is the bulk, which is the totality of the ICRs
16:37:44 18 which is 174 ICRs, 15 of which have so far had the police
16:37:56 19 PII preliminary assessment. And of those 8 came through
16:38:02 20 yesterday after we'd sent the email complaining about -
16:38:09 21 complaining might be too strong a word but reminding you of
16:38:13 22 the number of outstanding matters.

16:38:14 23
16:38:15 24 MS ARGIROPOULOS: Yes.

16:38:15 25
16:38:15 26 COMMISSIONER: That in a nutshell is where we're at and I
16:38:19 27 just feel as though I have to, I know that you're
16:38:24 28 struggling and that it's a big task but we don't seem to
16:38:29 29 have made an awful lot of progress since the last time this
16:38:33 30 was mentioned and that is a concern.

16:38:35 31
16:38:35 32 MS ARGIROPOULOS: Yes. If I can address each of the
16:38:39 33 matters that the Commissioner has raised with us, and we
16:38:41 34 obviously appreciate being provided notice of this last
16:38:45 35 night. Firstly, dealing with witness statements. We are
16:38:51 36 very conscious of the time frames and the limitations with
16:38:53 37 time that the Commission has and we are doing our hardest
16:38:56 38 to get witness statements completed and produced to the
16:39:00 39 Royal Commission as soon as we can. We have in recent
16:39:04 40 weeks added additional barrister resources to our witness
16:39:08 41 statement team. Unfortunately the Commission hasn't seen
16:39:11 42 the benefit of that yet but I'm instructed we're at a
16:39:14 43 position where we're very close to be able to start
16:39:17 44 producing more statements more quickly. I'm instructed one
16:39:22 45 quite substantial statement of Luke Cornelius was just
16:39:26 46 signed by the witness today, so we'll be asking for a
16:39:29 47 Notice to Produce and that statement will be provided to

16:39:32 1 the Commission shortly. But more pleasingly, I'm
16:39:34 2 instructed that there's approximately a dozen statements
16:39:40 3 that we're cautiously optimistic that would be ready to be
16:39:44 4 provided to the Commission by the end of next week. And
16:39:47 5 then in the weeks following there are further statements
16:39:49 6 that will start to be produced to the Commission more
16:39:53 7 quickly. There are some statements that will continue to
16:39:59 8 cause delays for various reasons. There are a couple of
16:40:04 9 witnesses on sick leave, there are some witnesses we act
16:40:08 10 for who are overseas at the moment. We can certainly
16:40:12 11 provide details of those if that would be of assistance to
16:40:17 12 those assisting the Commissioner, but subject to those
16:40:20 13 details we really are doing what we can to try to get
16:40:24 14 through the remaining witness statements as quickly as we
16:40:28 15 can. I'm instructed that there's something like 67
16:40:34 16 outstanding statements, 66 if we take Luke Cornelius off
16:40:41 17 the list, including five that were more recently requested.
16:40:45 18 So we're certainly committed to getting these witness
16:40:48 19 statements to the Commission as quickly as we can, while
16:40:52 20 also making sure that they're meaningful statements which
16:40:57 21 are of assistance to the Commission and taking into account
16:40:59 22 the relevant documents, and as the Commissioner is well
16:41:01 23 aware there's just such a huge volume of documents that the
16:41:05 24 document review process takes some time. But I can assure
16:41:09 25 the Commissioner we've certainly taken on board the
16:41:12 26 comments that were made last time this was raised and have
16:41:15 27 added additional resources to the witness statement taking
16:41:19 28 process.

29
16:41:21 30 If I can turn now to the issue of PII review of
16:41:27 31 exhibits, ICRs and transcripts. This, as the Commission
16:41:35 32 understands, has always been a huge task for Victoria
16:41:38 33 Police and as the Commissioner will appreciate there's only
16:41:41 34 a limited number of people with the expertise to undertake
16:41:44 35 this work. During this round of hearings and the last
16:41:48 36 round there has been a noticeable increase in the number of
16:41:52 37 exhibits tendered. I'm instructed it's over 200 and that
16:41:55 38 has unfortunately put pressure on the resources that we
16:42:00 39 have undertaking the PII review work.

16:42:02 40
16:42:03 41 COMMISSIONER: Some of those exhibits are very short
16:42:05 42 exhibits.

16:42:05 43
16:42:06 44 MS ARGIROPOULOS: Some of them are but some of them are
16:42:08 45 more substantial, including some of the review documents,
16:42:12 46 as well as things like the ICRs. One issue that I have
16:42:17 47 been informed of overnight is that as much as we have tried

16:42:23 1 to identify pinpoint references to be tendered, such as the
16:42:27 2 way that Mr Winneke undertook that exercise with the
16:42:31 3 diaries of Mr Flynn today, I'm instructed there's still
16:42:36 4 quite a few very lengthy exhibits that have been tendered,
16:42:40 5 some of them many hundreds of pages, and it would be of
16:42:44 6 assistance if those doing the work could meet with the
16:42:49 7 lawyers assisting the Commission to see if we can identify
16:42:52 8 pinpoint references for publication of those documents
16:42:55 9 which obviously just makes the whole process much quicker
16:42:58 10 for - - -

16:42:58 11
16:42:59 12 COMMISSIONER: That's sensible cooperation and I have no
16:43:02 13 doubt that my legal team will be cooperative in that
16:43:07 14 respect.
16:43:08 15

16:43:08 16 MS ARGIROPOULOS: Thank you Commissioner. There are still
16:43:10 17 are a very large number with us, I'm instructed something
16:43:14 18 like 138 exhibits that still remain to be reviewed for the
16:43:18 19 first time by Victoria Police. So there is still - - -

16:43:23 20
16:43:23 21 COMMISSIONER: 148 and I don't think that counts all the
16:43:27 22 ones that have been tendered this week.
16:43:28 23

16:43:29 24 MS ARGIROPOULOS: I think that figure I have been given
16:43:31 25 wouldn't include the ones that have been tendered yesterday
16:43:34 26 and today but certainly there's still a lot of work to be
16:43:38 27 done in the PII space.
28

16:43:40 29 In relation to the ICRs, I'm instructed that we have
16:43:44 30 now produced 15, including the nine that were sent last
16:43:49 31 night. I'm instructed there's an additional five that we
16:43:53 32 anticipate will be provided to the Royal Commission by the
16:43:56 33 end of next week but with 172 in total there's still quite
16:44:01 34 a lot of ICR review work to get through.
16:44:05 35

16:44:05 36 COMMISSIONER: Yes.
16:44:06 37

16:44:07 38 MS ARGIROPOULOS: That brings us finally to the review of
16:44:11 39 transcripts. The closed transcripts do present particular
16:44:16 40 challenges for us and at the moment they have really been
16:44:23 41 regarded as lower in priority by those undertaking our work
16:44:28 42 than the exhibits and the ICRs but we are very happy, of
16:44:33 43 course, to talk to the Commission staff about whether our
16:44:37 44 priorities and ordering are really consistent with the way
16:44:40 45 that the Commissioner would like the work prioritised. But
16:44:43 46 the closed transcripts, we've only produced four of those
16:44:47 47 I'm instructed, and they do take a very long time to review

16:44:52 1 and we would be keen to have some further discussions about
16:44:55 2 whether it's necessary for all of those to be reviewed for
16:45:01 3 publication in light of all of the other work we've got and
16:45:04 4 in circumstances where - - -

16:45:05 5
16:45:05 6 COMMISSIONER: I would like them to be done,
16:45:07 7 Ms Argiropoulos, because sometimes there's not much that
16:45:11 8 needs to be redacted. I don't know that they would be
16:45:14 9 terribly arduous. I think once someone gets into the PII
16:45:19 10 mode they know what should be taken out and they can be
16:45:23 11 done reasonably quickly.

16:45:24 12
16:45:25 13 MS ARGIROPOULOS: I'm instructed, for example, that the
16:45:26 14 ones that have been reviewed were transcripts of Sandy
16:45:28 15 White's evidence. I'm instructed the way that it's done,
16:45:32 16 the reviewers cross-reference what's been redacted from the
16:45:36 17 ICRs that are referred to and any other exhibits. So it
16:45:38 18 becomes quite a lengthy process that actually takes a lot
16:45:41 19 longer than what you would expect a day's worth of evidence
16:45:46 20 to do.

16:45:47 21
16:45:47 22 COMMISSIONER: I see.

16:45:48 23
16:45:48 24 MS ARGIROPOULOS: But we are very much trying our best to
16:45:54 25 get on top of the work but within the PII space it does
16:45:57 26 seem that we're currently in a position where there's a lot
16:46:01 27 that has backed up and we would, as I say, be keen to speak
16:46:08 28 with those assisting the Commissioner further about ways
16:46:11 29 that perhaps we could further introduce efficiencies or
16:46:15 30 prioritise the work that we have to do.

16:46:18 31
16:46:19 32 COMMISSIONER: The transcripts might not need that level of
16:46:22 33 revision, if in doubt rule out policy, without going back
16:46:27 34 to the ICRs and so forth. Of course if it's done freshly
16:46:33 35 it's probably easier to do it too.

16:46:35 36
16:46:36 37 MS ARGIROPOULOS: For example, if that approach was
16:46:37 38 acceptable that would be a much faster process than the
16:46:40 39 level of care that currently has been taken with those
16:46:44 40 transcripts.

16:46:44 41
16:46:45 42 COMMISSIONER: Let's try it for a while with the
16:46:47 43 transcripts. I think that the transcripts could be done
16:46:49 44 reasonably quickly with a broad brush approach taken.

16:46:59 45
16:47:00 46 MS ARGIROPOULOS: Then it comes back to the question, as I
16:47:02 47 said, of trying to ensure that we're directing our

16:47:04 1 resources to those matters which are priorities from the
16:47:07 2 Commission's perspective. So at the moment we prioritise
16:47:11 3 the review of witness statements and exhibits, obviously
16:47:15 4 trying to get to the ICRs as well as the transcripts as
16:47:19 5 well, bearing in mind that unfortunately there are a
16:47:22 6 limited number of people who can do this work.
16:47:24 7
16:47:24 8 COMMISSIONER: Yes. Because there is such a lot of it to
16:47:34 9 be done things like transcripts, for example, perhaps more
16:47:36 10 people could be trained up to do it. If a couple of people
16:47:39 11 were full-time on these transcripts I'm sure they'd get
16:47:42 12 through them fairly quickly. It's not to say that I'm
16:47:45 13 prioritising them over other things but, you know, I'm
16:47:50 14 conscious of the fact that I don't want to get to the end
16:47:53 15 of the Commission and still have half the material not
16:47:58 16 available to the public when some of it should be.
16:48:03 17
16:48:03 18 MS ARGIROPOULOS: Yes. Yes, I understand what the
16:48:06 19 Commissioner says about that.
16:48:07 20
16:48:07 21 COMMISSIONER: Yes. And I appreciate that you are doing
16:48:10 22 your best to hurry things along but it will be necessary
16:48:13 23 for me to keep reviewing these matters if the progress
16:48:18 24 remains as slow as it has been.
16:48:20 25
16:48:21 26 MS ARGIROPOULOS: Yes. We understand that, Thank you
16:48:24 27 Commissioner.
16:48:24 28
16:48:24 29 COMMISSIONER: Thank you.
16:48:24 30
16:48:25 31 MR WOODS: Commissioner, there's one final issue and it
16:48:27 32 relates to those ICRs. As I understand it the ones that
16:48:29 33 were provided overnight have been provided in a redacted
16:48:33 34 form, just to make for ease of reference the Commission
16:48:37 35 asks that they be provided with shading so that we're more
16:48:40 36 easily able to review the claimed redactions.
16:48:42 37
16:48:42 38 COMMISSIONER: It makes a big difference from our end when
16:48:45 39 dealing with those things.
16:48:47 40
16:48:47 41 MS ARGIROPOULOS: Yes.
16:48:48 42
16:48:48 43 COMMISSIONER: They're shaded rather than redacted. Shaded
16:48:53 44 rather than redacted is what we want.
16:48:56 45
16:48:56 46 MR WOODS: Ms Tittensor puts in a request that the red
16:49:00 47 marking of the word "confidential", because it's opaque

16:49:05 1 means you can't read the words around it, if it could just
16:49:09 2 be a lighter treatment, I don't know whether that's
16:49:11 3 possible or not.

16:49:11 4
16:49:12 5 COMMISSIONER: I'm sure it's possible. All right then,
16:49:14 6 thanks very much everyone and we'll adjourn now until 9.30
16:49:18 7 on Monday 30 September.

16:49:53 8
16:49:55 9 ADJOURNED UNTIL MONDAY 30 SEPTEMBER 2019

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