

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

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Friday 21 February 2020

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Mr S. Holt QC Ms K. Argiropoulos
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr R. Nathwani
Counsel for DPP/SPP	Mr P. Doyle
Counsel for CDP	Ms A. Haban-Beer
Counsel for AFP	Ms I. Minnett
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for Chief Commissioner of Police	Mr A. Coleman SC Mr P. Silver
Counsel for John Nolan	Ms E. Ruddle
Counsel for Shane O'Connell	Ms S. Kelly Ms H. Jager

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

09:41:08 1 COMMISSIONER: The appearances are largely as they were
09:41:12 2 yesterday, save that we have Mr Nathwani back for Ms Gobbo,
09:41:16 3 we have Mr Doyle for the DPP, we have Ms Condon for
09:41:23 4 Mr Mullett and Mr Ashby, we have Ms Ruddie for Mr Nolan and
09:41:28 5 we have Ms Kelly and Ms Jager for Mr O'Connell. There are
09:41:35 6 some retrospective applications for leave to appear for the
09:41:43 7 VLSB&C in respect of Nicola Gobbo. Counsel assisting
09:41:45 8 doesn't oppose, I take it nobody else has any objections to
09:41:50 9 that. It's mainly to receive evidence. The Victorian
09:42:01 10 Legal Service Board and Commission, there were some puzzled
11 looks at the Bar table. I assumed it was an acronym that
09:42:07 12 was well-known to you all. There's also an application for
09:42:10 13 Mr Mullett and Mr Ashby for retrospective leave to appear
09:42:14 14 in respect of Rod Wilson and counsel assisting does not
09:42:18 15 oppose. I understand there are applications for leave to
09:42:24 16 appear in respect of Mr O'Connell for Mr Nolan and also to
09:42:33 17 cross-examine, is that right?
09:42:34 18
09:42:35 19 MS KELLY: That's so, Commissioner. There's an application
09:42:38 20 for Mr O'Connell's representatives to cross-examine
09:42:42 21 Mr Nolan, which I understand is not opposed by counsel
09:42:43 22 assisting.
09:42:43 23
09:42:43 24 COMMISSIONER: Yes, it's going to be very brief and on a
09:42:45 25 discrete point.
09:42:46 26
09:42:47 27 MS KELLY: Very brief and on a discrete point.
09:42:47 28
09:42:47 29 COMMISSIONER: Yes. You're content with that, Mr Winneke?
09:42:49 30
09:42:50 31 MR WINNEKE: Yes, I am, Commissioner.
09:42:51 32
09:42:52 33 COMMISSIONER: Anyone want to say anything against that?
09:42:55 34 No. Are there any other applications for leave to
09:43:00 35 cross-examine, Mr Winneke?
09:43:01 36
09:43:02 37 MR WINNEKE: Ms Condon had made an application on behalf of
09:43:05 38 Mr Mullett and Mr Ashby. I've spoken to Ms Condon about
09:43:06 39 that and I'm going to ask some questions which may well be
09:43:10 40 of assistance and it may obviate the need for Ms Condon's
09:43:15 41 cross-examination.
09:43:16 42
09:43:16 43 COMMISSIONER: All right. So you're not pursuing that at
09:43:18 44 this stage?
09:43:19 45
09:43:19 46 MS CONDON: Not at this stage, Commissioner.
09:43:20 47

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

09:43:20 1 COMMISSIONER: We'll do that later if necessary.

2

3

MS CONDON: Thank you.

4

09:43:22 5 COMMISSIONER: I think that deals with all those
09:43:25 6 applications.

09:43:26 7

09:43:26 8 Now the directions hearing. Perhaps it might be more
09:43:30 9 convenient if we deal with the OPP matter first. Mr Doyle,
09:43:38 10 are you appearing in respect of that, the directions
09:43:41 11 hearing?

09:43:42 12

MR DOYLE: Yes, Commissioner.

09:43:45 13

09:43:46 14

09:43:46 15 COMMISSIONER: The Commission has been receiving continuous
09:43:50 16 disclosure materials from the Office of Public Prosecutions
09:43:52 17 over many months and is very grateful for the assistance
09:43:56 18 and cooperation given by way of the provision of key
09:43:58 19 documents relating to potentially affected persons. I
09:44:03 20 understand that the final production of the outstanding
09:44:06 21 documents is to be done by 20 March 2020 and I just wanted
09:44:12 22 to be sure that that was on track. The outstanding
09:44:16 23 documents relate to 62 individuals and that material has
09:44:19 24 not yet been received from the OPP to allow the Commission
09:44:24 25 to review their case to assess whether it may have been
09:44:27 26 affected. Now, I know the Commission legal team and the
09:44:35 27 OPP's legal team have been working closely and
09:44:38 28 cooperatively with that but I am worried about time, given
09:44:41 29 that we're now into the second year of hearings and we're
09:44:45 30 still waiting on material, so it is imperative that those
09:44:48 31 time frames are met.

09:44:52 32

09:44:52 33 MR DOYLE: I understand, Commissioner. I don't understand
09:44:54 34 that whenever the OPP receive material there's any material
09:44:58 35 delay at its end in passing it on, but as to the
09:45:01 36 outstanding material relating to those 62 individuals, I'll
09:45:06 37 have to make an inquiry this morning in order to update
09:45:09 38 you, Commissioner, on where that sits.

09:45:11 39

09:45:11 40 COMMISSIONER: The update that I've got from my people is
09:45:14 41 that it's, the two teams have been working cooperatively
09:45:19 42 over an extended period but my concern of course is that
09:45:22 43 there is still all this material outstanding and so far
09:45:26 44 into the work of the Commission and I'm just wanting to
09:45:29 45 absolutely make certain the last of that is received by no
09:45:33 46 later than 20 March and earlier, if possible. So if you
09:45:38 47 could pass that on.

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

09:45:39 1
09:45:39 2 MR DOYLE: Yes, we will, Commissioner.
09:45:40 3
09:45:41 4 COMMISSIONER: All right, thank you. Now, Mr Holt. A few
09:45:49 5 matters. I'm pleased to see that you've been able to
09:45:52 6 attend to a number of these at short notice overnight.
09:45:55 7
09:45:56 8 MR HOLT: Yes, we have. I'm sorry for the late provision
09:45:57 9 of the letter but we thought it might save time to have it
09:46:01 10 in writing as well.
09:46:02 11
09:46:02 12 COMMISSIONER: Is that the letter relating to the 21
09:46:04 13 outstanding matters?
09:46:05 14
09:46:06 15 MR HOLT: There's that and another letter which has just
09:46:08 16 been provided.
17
18 COMMISSIONER: It hasn't filtered through to me yet.
19
09:46:10 20 MR HOLT: No, I understand. But I can address any of those
09:46:11 21 matters, Commissioner.
09:46:12 22
09:46:12 23 COMMISSIONER: If needs be, okay. All right. First of
09:46:14 24 all, Mr Holt, I wanted to say last week you foreshadowed
09:46:18 25 that the Commission would receive a letter from your
09:46:20 26 instructors in response to the issue of your client's
09:46:24 27 statement taking process, you'll recall that you mentioned
09:46:26 28 that in court.
09:46:27 29
09:46:28 30 MR HOLT: That had been provided before the directions
09:46:30 31 hearing, Commissioner.
09:46:30 32
09:46:31 33 COMMISSIONER: It had, but it hadn't come through to me.
34
35 MR HOLT: I'm sorry.
36
09:46:34 37 COMMISSIONER: It had been provided some time in the early
09:46:38 38 hours of the morning.
39
40 MR HOLT: Yes.
41
42 COMMISSIONER: And it hadn't come through to me by the time
43 we had the directions hearing on the Friday.
44
45 MR HOLT: I'm sorry.
46
09:46:39 47 COMMISSIONER: So I've now read it and I take it that

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

09:46:45 1 following my acceptance of your assurance that your client
09:46:49 2 and your legal team was attending to these matters properly
09:46:52 3 and ethically and that any actual perceived shortcomings
09:46:56 4 were not deliberate, no more needs to be said about that
09:47:01 5 issue at this stage?

09:47:01 6
09:47:02 7 MR HOLT: No, and you'll have seen, Commissioner, that
09:47:02 8 there have been a couple of additional supplementary
09:47:05 9 statements filed since in accordance with that process.

09:47:07 10
09:47:07 11 COMMISSIONER: Yes, and the Commission is very grateful for
09:47:10 12 that and looks forward to that process continuing when and
09:47:15 13 if the occasion arises.

09:47:16 14
09:47:17 15 MR HOLT: And it already has arisen. I think there is
09:47:17 16 another one coming today, so we are continuing that
09:47:20 17 process, Commissioner.

09:47:21 18
09:47:21 19 COMMISSIONER: Thank you. Although we will today
09:47:23 20 substantially conclude the Commission's scheduled hearings,
09:47:28 21 the Commission is still waiting on a considerable amount of
09:47:31 22 material from Victoria Police and that list has shrunken
09:47:40 23 overnight. Can I just run through with you what I
09:47:42 24 understand is still outstanding. Now this letter you might
09:47:45 25 deal with it but perhaps if you can tell me - - -

09:47:46 26
09:47:46 27 MR HOLT: I think I can deal with each question.

09:47:48 28
09:47:48 29 COMMISSIONER: Okay. So you've got the list I've got. The
09:47:51 30 first relates to the Notice to Produce of 26 November 2019
09:47:56 31 followed up on 20 February 2020.

09:47:59 32
09:47:59 33 MR HOLT: Yes, and that was the issue where there was the
09:48:03 34 witness not called and so we had assumed that the
09:48:06 35 underlying documents we'd provided weren't required. They
09:48:09 36 were produced yesterday, Commissioner.

09:48:10 37
09:48:10 38 COMMISSIONER: I understand there will be ongoing
09:48:13 39 discussions at solicitor level next week I think.

09:48:15 40
09:48:16 41 MR HOLT: Not on one that, Commissioner, is that NTP447?

42
43 COMMISSIONER: 451.

44
45 MR HOLT: I'm sorry.

46
09:48:21 47 COMMISSIONER: Maybe that note relates to 447 and I've just

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

09:48:24 1 misread it.
09:48:24 2
09:48:25 3 MR HOLT: The note. So 447 is the material relating to a
09:48:27 4 particular witness.
09:48:27 5
09:48:28 6 COMMISSIONER: That's been received, I'm told.
09:48:29 7
09:48:29 8 MR HOLT: Yes, yesterday.
09:48:29 9
09:48:29 10 COMMISSIONER: The rest of those dot points under that
09:48:32 11 heading have been received.
09:48:33 12
09:48:34 13 MR HOLT: So 451, yes, Commissioner. So there will need to
09:48:37 14 be a meeting, I think we proposed it for early next week.
15
16 COMMISSIONER: That's what I understood.
17
09:48:42 18 MR HOLT: About that. We're certain that can be resolved
09:48:45 19 but we just need to - I need to find out precisely what is
09:48:48 20 required.
09:48:49 21
09:48:49 22 COMMISSIONER: Email production. The Commission has
23 requested confirmation that Victoria Police has now
09:48:51 24 completed its production of all emails for the period
09:48:54 25 January 07 to August 2007.
09:48:56 26
09:48:56 27 MR HOLT: Yes, so those are the gap emails and I can
09:48:57 28 confirm that those have all now been produced. We have
09:49:00 29 confirmed in the letter this morning that as a result of
09:49:02 30 the audit processes we've been going through there is one
09:49:06 31 production of emails remaining in relation to Mr Waddell.
09:49:12 32 They will be produced tomorrow. But all of the other, all
09:49:15 33 of the emails in that gap period January to August 2007
09:49:20 34 have now been concluded and produced.
09:49:22 35
09:49:22 36 COMMISSIONER: Then the next item request for information.
09:49:25 37 On 20 February this year Mr Chettle requested the monthly
09:49:30 38 management meetings. I think we dealt with that.
09:49:32 39
09:49:33 40 MR HOLT: Yesterday.
09:49:34 41
09:49:34 42 COMMISSIONER: Yesterday in hearings. You're on to that.
09:49:35 43
09:49:36 44 MR HOLT: Yes.
09:49:37 45
09:49:38 46 COMMISSIONER: So then the request to disseminate documents
09:49:41 47 to other parties. Paul Dale has requested access to

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

09:49:47 1 Exhibit 679.
09:49:48 2
09:49:49 3 MR HOLT: We have now provided, Commissioner, this morning
09:49:50 4 the list of transcript references which we had promised
09:49:54 5 which should allow that now to be done with no objection to
09:49:57 6 that material as we've noted it being provided.
09:49:59 7
09:50:00 8 COMMISSIONER: Thank you. Then the problematic delay in
09:50:06 9 public interest immunity review. You've been asked to
09:50:11 10 provide a timeline for review of exhibits and transcripts,
09:50:15 11 37 transcripts, including 27 closed hearing and 10 public
09:50:20 12 hearing transcripts and almost 500 exhibits.
09:50:24 13
09:50:24 14 MR HOLT: Yes Commissioner. Can I deal with those in turn.
09:50:27 15 In terms of the closed hearing transcripts, there are 72
09:50:33 16 closed transcripts in total. We have submitted PII claims
09:50:37 17 for 47 of those. For open transcripts that remain, PII
09:50:44 18 review for 17 out of 37 have been completed and all of the
09:50:50 19 transcripts, that is closed and open, we expect to provide
09:50:53 20 to the Commission within a two to three week period.
09:50:56 21 Exhibits, Commissioner, our estimate is that there are 400
09:51:02 22 outstanding, we think the difference is probably by virtue
09:51:05 23 of the fact that production has been continuing. We have
09:51:08 24 had about 17, I think some more went last night. 100 have
09:51:12 25 been produced this week alone, in the Commission have been
09:51:15 26 tendered this week alone in the Commission, I'm sorry. So
09:51:17 27 again we expect a full review of remaining exhibits
09:51:20 28 assuming that the production today is only as it normally
09:51:23 29 would be for a day of hearings, again within two to three
30 weeks, Commissioner.
31
32 COMMISSIONER: Thanks, that's good.
33
09:51:26 34 MR HOLT: And we're diverting heavy resources into that
09:51:30 35 process. So the hope is it might even be quicker.
09:51:33 36
37 COMMISSIONER: Thank you.
38
39 MR HOLT: But that I think is a realistic time frame.
40
09:51:33 41 COMMISSIONER: And as part of that process there's the ICRs
09:51:35 42 which are, which we thought were closer to being able to be
09:51:40 43 published than apparently they are.
09:51:41 44
09:51:42 45 MR HOLT: Can I indicate, can I explain that matter,
46 Commissioner.
47

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

1 COMMISSIONER: Yes.

2

09:51:46 3 MR HOLT: So we've written to the Commission, as you'll
09:51:49 4 know, indicating that we have a concern in relation to the
09:51:51 5 ICR redactions. That has arisen because of the work that's
09:51:55 6 been done in relation to disclosure to particular affected
09:52:00 7 persons. By virtue of a comparison between those things,
09:52:03 8 some very specific issues about risks to individuals have
09:52:05 9 been identified. I'm bound to say not presently in a
09:52:11 10 position to identify the scale of the problem.

11

12 COMMISSIONER: Sure.

13

09:52:14 14 MR HOLT: The hope is it's relatively limited but obviously
09:52:17 15 as Commissioner you'll understand where safety is at issue
09:52:20 16 we just need to be cautious about it. What we propose to
09:52:22 17 do, if it pleases the Commission, it certainly won't please
09:52:25 18 the Commission, but if the Commission is prepared to accept
09:52:27 19 it, is that we'll need I think a week to identify the
09:52:30 20 issues, deal with the specific matters that have been
09:52:33 21 raised and raise that back with the Commission and we'll
09:52:37 22 have a sense of the scale of it. Again my very firm hope
09:52:41 23 is it will be an issue that we can deal with on a limited
09:52:42 24 basis.

25

09:52:42 26 COMMISSIONER: Perhaps you're rather fortunate that the
09:52:43 27 ICRs that had been PIIed hadn't been published, it was
09:52:47 28 waiting until they were a complete set.

29

30 MR HOLT: Absolutely, Commissioner, and I'm bound to say -

31

- -

32

09:52:50 33 COMMISSIONER: Good luck there. If I'd known that they
09:52:52 34 were waiting to be published, I had assumed that they were
09:52:55 35 being published as they came in with PII review, but anyway
09:52:59 36 it's perhaps fortunate that that wasn't done.

37

09:53:02 38 MR HOLT: It is, Commissioner, and it really does
09:53:03 39 demonstrate the complexity of the jigsaw puzzle issue in
09:53:08 40 relation to the human sources in that document. We just
09:53:09 41 have to be cautious. If we could just have a little time
09:53:13 42 to confirm that issue I'd be grateful.

43

09:53:15 44 COMMISSIONER: Yes, all right then. Then there's the
09:53:16 45 disclosure to Mr Arnautovic.

46

09:53:18 47 MR HOLT: We've explained that in a letter this morning,

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

09:53:21 1 Commissioner. Rather than go into any detail because that
09:53:23 2 may give rise to issues can I simply indicate we've set
09:53:26 3 that out in the correspondence this morning, and the
09:53:30 4 position at a high level is that there has been
09:53:33 5 communication with Mr Arnautovic's solicitors about next
09:53:36 6 steps and we've been following that up and continued to do
7 that as recently as a few days ago and we'll continue to do
09:53:44 8 so.
09:53:44 9
09:53:44 10 COMMISSIONER: Is there at some time that disclosure is to
09:53:46 11 be given to Mr Arnautovic?
09:53:50 12
09:53:51 13 MR HOLT: A level of disclosure has already been given,
09:53:53 14 Commissioner. Another level - I have to be coy.
15
16 COMMISSIONER: Yes.
17
09:53:54 18 MR HOLT: It requires another step to be taken and that's
09:53:57 19 what we're working with Mr Arnautovic's solicitors about.
09:54:00 20 That's clear in the correspondence and I can deal with
09:54:03 21 that, perhaps with counsel assisting, otherwise I would
09:54:06 22 need to do it in a different forum which I don't want to go
09:54:08 23 into if we can avoid it, Commissioner.
09:54:09 24
09:54:10 25 COMMISSIONER: I just want to be sure. There's been such a
09:54:12 26 very lengthy delay in providing this, I just want to be
09:54:18 27 sure that it's still moving towards a conclusion.
09:54:21 28
09:54:21 29 MR HOLT: It very much is, Commissioner. There's a legal
09:54:25 30 block to it and we need to work with Mr Arnautovic's
09:54:30 31 solicitors to undo that legal block and that's what the
09:54:34 32 correspondence indicates that we're doing.
09:54:37 33
09:54:38 34 COMMISSIONER: All right. Apparently some additional
09:54:40 35 potential sources, human sources, or some additional human
09:54:42 36 source information has been obtained and is to be provided
09:54:45 37 to the Commission. I've seen the letter relating to that,
09:54:48 38 the 21 human sources, with some possibility they may be
09:54:53 39 relevant to the work of the Commission. But it seems
09:54:56 40 unlikely, although obviously the Commission will have to
09:54:58 41 investigate that with police, it seems unlikely they'll be
09:55:02 42 relevant.
09:55:02 43
09:55:03 44 MR HOLT: Highly unlikely, Commissioner. And can I just
09:55:05 45 indicate this, Commissioner, as you know and I think has
09:55:07 46 been made clear in the evidence, one of the issues with the
09:55:09 47 analysis process is that there were a number of records

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

09:55:13 1 where the occupation field wasn't completed and that was an
09:55:17 2 issue for the Commission staff when dealing with audit and
09:55:19 3 it was an issue for Victoria Police. What Victoria Police
09:55:22 4 have done is gone back and manually back captured by
09:55:26 5 reference to files and speaking to handlers and those sorts
09:55:28 6 of things to get the occupations, and that's what's given
09:55:32 7 rise to that new list. The analysis, Commissioner, as you
09:55:35 8 indicate that we've said, indicates it's highly unlikely
09:55:41 9 that they'll be relevant but that material has been
09:55:45 10 provided on an encrypted file to those assisting you, I
11 think it will be today, if not very soon, to allow the
09:55:49 12 Commission to be satisfied of that question.

13

14 COMMISSIONER: Yes.

15

16 MR HOLT: And I should say, Commissioner, if it assists,
09:55:51 17 that I'm instructed that once that issue is identified the
09:55:53 18 Interpose system has now been altered such that that field
09:55:57 19 is mandatory, and so a person cannot be registered unless
09:56:00 20 that field is completed, for the Commission's information.

09:56:04 21

09:56:04 22 COMMISSIONER: Thank you. Then back to the orders in
09:56:12 23 respect of non-publication for ██████████'s matters. I
09:56:20 24 think Victoria Police has now completed all that it has to
09:56:23 25 do at this stage and we're waiting for reply submissions
09:56:28 26 from counsel assisting.

09:56:30 27

09:56:31 28 MR HOLT: Yes.

09:56:31 29

09:56:31 30 COMMISSIONER: And then it has to be determined whether an
09:56:36 31 oral hearing for that will be necessary.

09:56:38 32

09:56:38 33 MR HOLT: Commissioner, can I enquire as to whether there's
09:56:40 34 a likely time frame, I'm not obviously holding anyone to
09:56:41 35 any - - -

09:56:41 36

09:56:41 37 COMMISSIONER: I think there have been some health issues
09:56:44 38 for the counsel assisting involved and I think that's been
09:56:48 39 the hold up.

09:56:49 40

09:56:49 41 MR HOLT: Thank you.

42

09:56:50 43 COMMISSIONER: And then lastly, the Commission has
09:56:57 44 identified 1297 matters requiring investigation as to
09:57:03 45 whether people may be potentially affected on the master
09:57:07 46 list. But in addition to those names 35 names have been
09:57:13 47 supplied by Victoria Police. So we have been waiting for

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

09:57:19 1 some time now for further information and disclosure in
09:57:21 2 respect of the 35 names that don't tally with our list, and
09:57:28 3 I think the teams for Victoria Police and the Commission
09:57:33 4 working particularly on that issue have been working on
09:57:39 5 this but there is delay in providing that material.

09:57:42 6
09:57:43 7 MR HOLT: I'm sorry, Commissioner, I wasn't aware of that
09:57:46 8 this morning. I'll obtain immediate instructions and hope
09:57:47 9 that I can update you later in the day.

09:57:49 10
09:57:49 11 COMMISSIONER: Okay. What we're really wanting to ensure
09:57:52 12 is that the further information and any disclosure
09:57:54 13 necessary is given to the Commission as soon as possible.

09:57:57 14
09:57:57 15 MR HOLT: Yes, of course Commissioner.

09:57:58 16
09:57:59 17 COMMISSIONER: So that those lawyers can complete the work
09:58:01 18 on that material.

09:58:02 19
09:58:03 20 MR HOLT: I'm sure those inquiries have been already made,
09:58:06 21 Commissioner, and I'll get up to speed on that issue. I
09:58:08 22 apologise that I'm not.

09:58:10 23
09:58:10 24 COMMISSIONER: That's all right. Now there are some
09:58:10 25 statements and exhibits to be tendered but I think we'll
09:58:15 26 probably do that at the conclusion of hearings because I
09:58:18 27 think they need a little bit more refining. That concludes
09:58:22 28 the directions hearing.

29
09:58:24 30 We'll now continue with evidence from Mr Nolan, is
09:58:31 31 that right?

09:58:31 32
09:58:32 33 MR WINNEKE: Yes. Commissioner, just before we do, can I
09:58:38 34 just make a couple of points. As to the exhibits today, I
09:58:41 35 should say, I don't want to disappoint Mr Holt, but there
09:58:43 36 may be more exhibits today than he otherwise anticipated.
09:58:47 37 There are a number of matters that, I don't want to say
09:58:50 38 we're going to jump on them, but there'll be probably a
09:58:54 39 significant number of exhibits later on today which will be
09:58:57 40 tendered, documents that have been referred to during the
09:59:01 41 course of the Commission which haven't been tendered, so
09:59:03 42 that will occur.

09:59:04 43
09:59:05 44 MR HOLT: The phrase "significant number" terrifies me.

45
46 MR WINNEKE: Yes.

47

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

1 MR HOLT: Is it possible to get a ball park idea of what
09:59:09 2 that might - - -
09:59:09 3
09:59:09 4 COMMISSIONER: It's not that bad. It's a few pages of
09:59:13 5 exhibits.
09:59:13 6
09:59:14 7 MR WINNEKE: I'll speak to Mr Holt about that today and
09:59:16 8 I'll also speak to Mr Holt today about the situation with
09:59:20 9 respect to Mr Arnautovic. That is a concern because it is
09:59:25 10 now many months since those issues first arose.
09:59:27 11
09:59:28 12 COMMISSIONER: It is.
09:59:28 13
09:59:28 14 MR WINNEKE: I note in the communications which I've just
09:59:30 15 seen that there's been no response from Mr Arnautovic's
09:59:35 16 lawyers. I'll speak to Mr Holt about that during the
09:59:39 17 course of the day and we might need to come back to that
09:59:43 18 this evening. So I think that's all I need to say now,
09:59:53 19 Commissioner. If we can get on with calling the last
09:59:57 20 couple of witnesses, I'll call Mr Nolan.
10:00:00 21
10:00:01 22 COMMISSIONER: Mr Holt, for your information I'm told there
10:00:04 23 are approximately 148 exhibits to be tendered.
10:00:06 24
10:00:07 25 MR HOLT: I don't think that will materially change our
26 estimate, Commissioner, but it will depend on the nature of
10:00:18 27 the documents of course.
10:00:18 28
29 COMMISSIONER: We're not going to tender all 145,000
30 documents received.
31
32 MR HOLT: Thank you Commissioner.
33
10:00:25 34 COMMISSIONER: Yes, oath or affirmation, Mr Nolan?---Oath.
35
10:00:30 36 Take the Bible in your right hand.
10:00:33 37
10:00:33 38 <JOHN DOUGLAS NOLAN, sworn and examined:
10:00:41 39
10:00:41 40 MS RUDDLE: Could you please repeat your full name?---My
10:00:44 41 full name is John Douglas Nolan.
10:00:46 42
10:00:46 43 What is your current rank?---Inspector.
10:00:49 44
10:00:49 45 Where are you stationed?---Mildura.
10:00:51 46
10:00:52 47 Thank you. Have you made two statements in relation to

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

10:00:54 1 this Commission?---I have.
 10:00:56 2
 10:00:56 3 Is the first of those dated 10 December 2019?---To my
 10:01:01 4 recollection, yes.
 10:01:02 5
 10:01:02 6 And is the second of those a statement dated 18 February
 10:01:07 7 2020?---Correct.
 10:01:08 8
 10:01:08 9 And is the second statement a supplementary statement to
 10:01:11 10 clarify and add to the first statement?---Correct.
 10:01:16 11
 10:01:17 12 Have you got a copy of each of those statements in the
 10:01:19 13 witness box with you?---I have, yes.
 10:01:21 14
 10:01:21 15 Can I take you first to the statement dated 10 December at
 10:01:26 16 paragraph 26. In the third-last line of that paragraph do
 10:01:36 17 you need to delete the first time the word "Briars"
 10:01:41 18 appears?---Correct.
 10:01:42 19
 10:01:42 20 And is that just a typographical error?---It's
 10:01:45 21 typographical, yes.
 10:01:46 22
 10:01:47 23 Thank you. Can I then take you to paragraph 48?---Yes.
 10:01:50 24
 10:01:51 25 And in the first line do you need to add the word "the"
 10:01:57 26 between "to" and "deputy"?---Correct.
 10:01:59 27
 10:02:00 28 And delete the word Ashton?---Correct. Can I give some
 10:02:04 29 explanation to that if you don't mind?
 10:02:06 30
 10:02:06 31 Yes, but we'll just go through the full paragraph. Do you
 10:02:09 32 need to make the same change in the fifth line?---Correct.
 10:02:12 33
 10:02:13 34 "Emailed to the Deputy Director"?---Correct.
 35
 10:02:17 36 And delete the word "Ashton"?---Correct.
 10:02:20 37
 10:02:20 38 And would you like to explain why that change needs to
 10:02:23 39 made?---As is indicated in my statement I haven't been
 10:02:26 40 provided with the material from the Office of Police
 10:02:32 41 Integrity when I was there, other than the sequence of
 10:02:34 42 diaries from 2006 to 2009 - - -
 43
 44 COMMISSIONER: Can you bring the microphone a little
 10:02:36 45 closer. It's just hard to hear. Thank you?---There's a
 10:02:37 46 whole lot of notes and case entries and Outlook calendars
 10:02:43 47 and emails that I haven't been given access to and I

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

10:02:46 1 haven't got my diaries post I think 2009. So I've really
10:02:51 2 struggled to put things in date sequence. I've got good
10:02:55 3 recollections of some things and reasonable recollections
10:02:57 4 of others but date sequence is quite difficult for me. So
10:03:02 5 I've been struggling with that particular paragraph and I
10:03:05 6 raised it with my counsel yesterday. So I did some
10:03:09 7 Googling last night, because one of the people that was
10:03:12 8 present at that meeting was Superintendent Doug Fryer and
10:03:15 9 he was in charge of the Driver Task Force, which means that
10:03:18 10 it was after Carl Williams had been killed and Graham
10:03:23 11 Ashton had already gone to Victoria Police at that stage,
10:03:26 12 so that email would have been sent to Deputy Director Paul
10:03:33 13 Jetkovic who was his replacement.
10:03:35 14
10:03:35 15 Is it your specific recollection that you sent it to the
10:03:39 16 Deputy Director of OPI but at the time you made the
10:03:43 17 statement you couldn't recall who exactly was the Deputy
10:03:46 18 Director at that time?---At the time I made the statement I
10:03:49 19 thought it was Graham Ashton, but trying to sequence these
10:03:53 20 dates it couldn't have been Graham Ashton, it had to be
10:03:55 21 Paul Jetkovic.
10:03:56 22
10:03:56 23 Thank you. With those two changes to that statement is
10:03:58 24 that statement true and correct?---That is correct, yes.
10:04:00 25
10:04:00 26 And are there any changes you need to make to the statement
10:04:04 27 dated 18 February 2020?---Yes.
10:04:06 28
10:04:08 29 Is that statement true and correct?---Yes.
10:04:09 30
10:04:10 31 I tender each of those statements, Commissioner.
10:04:14 32
10:04:14 33 #EXHIBIT RC1345A - (Confidential) First statement of John
10:04:17 34 Nolan 10/12/19.
10:04:17 35
10:04:18 36 #EXHIBIT RC1345B - (Redacted version.)
10:04:18 37
10:04:18 38 #EXHIBIT RC1345C - (Confidential) Second statement of John
10:04:18 39 Nolan 18/02/20.
10:04:18 40
10:04:18 41 #EXHIBIT RC1345D - (Redacted version.)
10:04:21 42
10:04:22 43 COMMISSIONER: Mr Nolan, have you made the changes to the
10:04:25 44 statement yourself?---No.
10:04:26 45
10:04:26 46 We'll give you a pen, if you could just make the changes
10:04:32 47 and initial, please.

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

10:04:53 1
10:04:54 2 MS RUDDLE: Paragraph 26?---Paragraph 26, thank you.
10:05:01 3
10:05:02 4 Third-last line?---Thank you.
10:05:05 5
10:05:05 6 And paragraph 48?---I've got that.
10:05:08 7
10:05:08 8 No further questions, Commissioner.
10:05:09 9
10:05:09 10 COMMISSIONER: Thanks very much Ms Ruddle. Yes Mr Winneke.
10:05:12 11
12 <CROSS-EXAMINED BY MR WINNEKE:
13
10:05:14 14 Thanks Commissioner. Can I just deal with those.
10:05:19 15 Paragraph 26, you say that you recall expressing concerns
10:05:24 16 to Assistant Director Ashton about how the OPI could
10:05:29 17 maintain its statutory independence from Victoria Police
10:05:33 18 while having an active role in the investigation albeit in
10:05:36 19 a support role. Now, which investigations are you talking
10:05:42 20 about or are you talking generally about the concept of
10:05:46 21 joint investigations?---You'd have to sequence me. There
10:05:51 22 was MOU's for Briars and there were MOU's for Petra, I'm
10:05:57 23 not sure which one came first, but in any event it was
10:06:00 24 those joint operations in particular that precipitated that
10:06:04 25 conversation.
10:06:04 26
10:06:05 27 I know it's a bit of a nuisance but you'll need to get
10:06:09 28 closer to the microphone so everyone can hear you.
10:06:11 29
10:06:11 30 COMMISSIONER: We'll move the microphone to you I think.
10:06:14 31
10:06:14 32 MR WINNEKE: One or the other. As a general concept,
10:06:17 33 before I get down to particulars, did you have a view about
10:06:21 34 the OPI being the police regulator in effect engaging in
10:06:26 35 joint operations with Victoria Police?---From my
10:06:30 36 perspective it was an issue, not an un-resolvable issue but
10:06:36 37 it was an issue.
10:06:37 38
10:06:37 39 Why was it an issue?---Because if there were complaints
10:06:39 40 generated or concerns generated during the course of the
10:06:42 41 investigations by Victoria Police, we would normally have a
10:06:45 42 role to investigate those.
10:06:46 43
10:06:46 44 Yes?---It would be particularly difficult for us to
10:06:49 45 investigate those sorts of complaints if we were actually a
10:06:52 46 party to the investigation.
10:06:53 47

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

10:06:53 1 Yes, I follow that. If, for example, there was a
10:06:56 2 suggestion that an investigation had gone wrong or gone off
10:07:02 3 the rails, if I can use that generally, it would be hard
10:07:04 4 for the OPI to remain objective and to investigate an
10:07:09 5 allegation that the investigation had been improperly
10:07:12 6 carried out, is that what you're saying?---That is correct,
10:07:15 7 yes.
10:07:15 8
10:07:15 9 Now, did you ever have any discussions with Ken Jones about
10:07:22 10 that?---Ken Jones wasn't around at that time.
10:07:24 11
10:07:24 12 You never spoke to him?---No.
10:07:26 13
10:07:26 14 Okay. And you say you spoke to Graham Ashton about
10:07:30 15 that?---Yes.
10:07:31 16
10:07:33 17 Is your recollection that it related to the joint
10:07:39 18 investigations concerning firstly Briars, which I think was
10:07:46 19 around March of 2007, followed shortly by Petra?---Yes, and
10:07:52 20 then there was subsequently operations that fell out of
10:07:54 21 those as well.
10:07:55 22
10:07:55 23 Fell out of those?---Yes.
10:07:56 24
10:07:56 25 Was there a particular concern that you had with respect to
10:08:00 26 Briars?---Not that I recall.
10:08:03 27
10:08:03 28 Not that you recall?---It was more an overall concept or
10:08:07 29 principle.
10:08:07 30
10:08:07 31 Right. It related to that concept that you were talking
10:08:10 32 about?---Yes.
10:08:11 33
10:08:12 34 Thanks very much. Now, you were a policeman for, prior to
10:08:22 35 going back to the Police Force, about 25 years before you
10:08:26 36 went to the OPI?---Before going to the OPI about 26 or 27,
10:08:30 37 yes.
10:08:30 38
10:08:30 39 You had general policing duties in uniform and then as a
10:08:34 40 Detective for many years, is that right?---Yes.
10:08:37 41
10:08:37 42 The last five-odd years of your time at Victoria Police was
10:08:42 43 as an Inspector in the Ethical Standards Division, is that
10:08:46 44 right?---Correct.
10:08:46 45
10:08:47 46 And is that why you felt that you had the qualifications
10:08:55 47 necessary to be involved in the OPI?---I was asked by the

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

10:09:02 1 then Deputy Ombudsman to apply for the position, and I was
10:09:06 2 happy to do that.
10:09:12 3
10:09:12 4 In that position I take it you were involved in
10:09:24 5 investigations of police, correct?---Yes.
10:09:28 6
10:09:28 7 You reported to two people in your position, is that right,
10:09:36 8 initially?---Yeah, initially the manager investigations at
10:09:40 9 that time, and I won't go through the re-titling, but that
10:09:43 10 was Peter Donaldson who was an ex former AFP officer.
11
10:09:47 12 Yes?---And then subsequent to that I assumed that role and
10:09:50 13 then I reported to Graham Ashton.
10:09:52 14
10:09:54 15 What was your working relationship with Mr Ashton
10:09:58 16 like?---Very good.
10:09:59 17
10:10:00 18 How frequently would you see Mr Ashton?---I'd see him once
10:10:04 19 or twice a day if he was in the office.
10:10:07 20
10:10:07 21 Would you have discussions with him about investigations
10:10:10 22 that the OPI was carrying out?---Yes.
10:10:15 23
10:10:20 24 Did you have a view about the role that the OPI conducted
10:10:26 25 with respect to the investigation of police officers or
10:10:32 26 complaints made by, in relation to police officers, that it
10:10:37 27 was most important that investigations were objective and
10:10:42 28 independent?---Yes.
10:10:43 29
10:10:44 30 And is that something that you discussed with Mr Ashton at
10:10:48 31 all?---I think that was just understood by all.
10:10:53 32
10:10:54 33 Insofar as your role as a police officer, I understand that
10:10:58 34 you would take notes?---Yes.
10:11:01 35
10:11:02 36 And people who were investigating on your behalf would also
10:11:08 37 take notes of their investigations, is that right?---Yes.
10:11:10 38
10:11:11 39 And did you maintain a diary throughout the time that you
10:11:14 40 were at the OPI?---Yes.
10:11:16 41
10:11:18 42 Was there any period of time that you didn't maintain a
10:11:21 43 diary?---No.
10:11:22 44
10:11:24 45 Were there concerns that you had during the period that you
10:11:27 46 were at the OPI about the ability of persons who might want
10:11:36 47 to obtain copies of your notes, were there concerns that

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

10:11:39 1 you had that they might be able to do so?---I know there
10:11:44 2 were a lot of concerns raised about the strength of the
10:11:49 3 legislation to resist broad subpoenas for information and
10:11:56 4 that was a matter that was resolved subsequently through
10:11:59 5 legislative change.
10:12:00 6
10:12:00 7 Yes?---But I wasn't particularly concerned about putting
10:12:05 8 notes in my diary.
10:12:06 9
10:12:07 10 Was the issue with respect to the notes and whether people
10:12:11 11 could obtain those notes that they may not be subject to a
10:12:16 12 claim for public interest immunity or was it broader than
10:12:20 13 that?---I don't know the intricacies of that.
10:12:24 14
10:12:24 15 When you say it was resolved do you understand how it was
10:12:27 16 resolved?---Through legislative change.
10:12:30 17
10:12:30 18 Did the legislative change mean that it was no longer
10:12:33 19 possible at all to obtain notes?---To be quite frank, my
10:12:38 20 recollection of the legislative change, my view is it went
10:12:42 21 too far, it meant you could resist everything, so I felt it
10:12:46 22 went too far, and in fact you could resist even people
10:12:49 23 being called to give evidence from the OPI is my
10:12:51 24 recollection of the legislation. I thought it went too
10:12:54 25 far.
10:12:54 26
10:12:54 27 As far as you were concerned, if you're conducting an
10:12:58 28 investigation there was no reason why you shouldn't take
10:13:02 29 notes and record notes of what you were doing?---No.
10:13:04 30
10:13:05 31 If there were valid claims for public interest immunity
10:13:07 32 they could be made, but otherwise you were carrying out
10:13:10 33 investigations and assuming you were carrying out
10:13:13 34 investigations properly and recording those investigations,
10:13:16 35 it's appropriate to keep notes, contemporaneous
10:13:21 36 notes?---Correct.
10:13:21 37
10:13:23 38 The investigators under you, did they keep notes?---They
10:13:30 39 would keep notes but more broadly they'd keep investigation
10:13:35 40 logs. So they'd probably say I was involved in this
10:13:37 41 investigation, the log would record their activities for
10:13:40 42 the day.
10:13:41 43
10:13:42 44 Did you ever have any discussions at all with Mr Ashton
10:13:46 45 about whether or not notes should be kept?---There were
10:13:56 46 conversations about notes being kept in relation to Briars
10:13:58 47 and Petra, yes.

.21/02/20

14709

NOLAN XN

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

10:13:59 1
10:13:59 2 What were the discussions in relation to Briars and
10:14:02 3 Petra?---My words not Mr Ashton, but there should be a
10:14:07 4 single source of truth.
5
10:14:08 6 A single source of?---Truth. That's my words, not
10:14:09 7 Mr Ashton's
8
10:14:10 9 Yes?---That was the general context of it. And that
10:14:13 10 Victoria Police for those would be maintaining minutes for
10:14:16 11 those and we shouldn't try and create our own minutes as
10:14:19 12 we're going through because the problem with that is if you
10:14:23 13 have many people attending a meeting everyone has a
10:14:27 14 different version of what was said. You're better to have
10:14:29 15 consolidated minutes and get them adopted and that becomes
10:14:34 16 a single source of truth.
10:14:35 17
10:14:36 18 As I understand it in Victoria Police if someone is taking
10:14:38 19 notes, then there's a way in which you can establish that
10:14:43 20 both people agree with what was said and that would be if
10:14:46 21 someone signs off on someone else's notes by way of
10:14:51 22 acknowledging that they agree with the notes, that would be
10:14:54 23 one way of making sure that everyone agrees, wouldn't
10:14:57 24 it?---Which would be the minutes.
10:14:58 25
10:14:58 26 Would be the minutes?---It's the minute's taker's notes
10:15:04 27 became that source.
10:15:06 28
10:15:06 29 At the next meeting there would be minutes circulated and
10:15:09 30 if everyone agreed with those minutes they'd be signed off
10:15:12 31 on, or if people had differences in views about what was
10:15:15 32 said during the meeting that might be raised at the next
10:15:19 33 meeting?---Correct.
10:15:19 34
10:15:20 35 Did you understand that in Briars and Petra there weren't
10:15:23 36 minutes taken, certainly after a while there were no
10:15:27 37 minutes taken?---During the initial phases there was a
10:15:34 38 female Inspector, bear with me.
10:15:36 39
10:15:37 40 [REDACTED] I think?---Yes.
10:15:39 41
10:15:40 42 There were some note although they were pretty desultory in
10:15:43 43 any event, weren't they?---My understanding is she was the
10:15:45 44 minute taker, yes.
10:15:46 45
10:15:47 46 But after a while notes ceased being taken?---I wasn't
10:15:52 47 aware of that.

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

10:15:53 1
10:15:53 2 Was it your understanding that notes would continue to be
10:15:56 3 taken and did continue to be taken of those meetings
10:16:00 4 throughout?---I didn't attend them. So in the initial
10:16:04 5 phases I attended probably four or five when Graham wasn't
10:16:07 6 present.
10:16:08 7
10:16:08 8 In relation to Petra?---Again, Petra, Briars, they all fell
10:16:14 9 into - - -
10:16:15 10
10:16:15 11 Run together?---All the operations sort of ran together
10:16:18 12 with me. So it was generally one meeting and there would
10:16:21 13 be a sequence of people coming in to brief but OPI was
10:16:24 14 across those.
10:16:25 15
10:16:25 16 Effectively you'd go - on the occasions that Mr Ashton
10:16:28 17 wasn't there you would go to Victoria Police, you would go
10:16:31 18 to the Deputy Commissioner's, ESD, you would sit down and
10:16:39 19 you'd be there for about an hour, there would be
10:16:42 20 investigators coming in and briefing you, is that
10:16:44 21 right?---Yes.
10:16:45 22
10:16:46 23 And you'd be given a weekly update or whatever it might
10:16:51 24 be?---Yes.
10:16:52 25
10:16:54 26 You didn't take notes, record your own observations on
10:16:58 27 those weekly updates, is that right?---No, in fact I gave
10:17:02 28 them back.
10:17:03 29
10:17:03 30 Did you give them back or did you take them back to the OPI
10:17:06 31 and put them in a folder Mr Ashton kept?---If I was
10:17:11 32 receipting Mr Ashton, I'd take them back and put them in
10:17:15 33 his safe.
10:17:16 34
10:17:16 35 Yes?---He had a folder in his safe. But the weekly update
10:17:17 36 stuff that we used to get, so we'd have tasking meetings as
10:17:21 37 well at a lower level
10:17:22 38
10:17:22 39 Yes?---The weekly updates would be given to the crews and
10:17:25 40 we'd allocated tasks to be done for the week or the
10:17:28 41 fortnight, whatever it may have been, but I would generally
10:17:31 42 give those back.
10:17:32 43
10:17:38 44 In your statement you refer to your understanding of the
10:17:50 45 use of, or at least Ms Gobbo's involvement in both of those
10:17:57 46 operations?---Yes.
10:17:59 47

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

10:17:59 1 Now, if I can focus on Petra. When did you become aware
10:18:06 2 that Ms Gobbo had relevance to that particular
10:18:13 3 operation?---If we're talking about the leak of IR 44 as
10:18:20 4 being part of Petra, which there was some connection there,
10:18:24 5 probably a strong connection, but I was aware that there
10:18:27 6 were concerns raised, when I first got to OPI, that Tony
10:18:32 7 Fitzgerald had done a report on the leak of IR 44 and I
10:18:36 8 knew there were some concerns that Ms Gobbo might have been
10:18:39 9 involved in the circulation of that report. But in terms
10:18:44 10 of Ms Gobbo's involvement in Petra subsequent to that, it
10:18:50 11 was 19 July or a date similar to that where she gave
10:18:55 12 evidence at the OPI.

10:18:56 13
10:18:56 14 That's the first time you, I think you say in your
10:18:59 15 statement, you were aware she was operationally, you were
10:19:02 16 aware of her operationally, is that right?---Yes, yeah. I
10:19:06 17 was aware - she'd been, there had been a conversation
10:19:08 18 earlier than that where Gavan Ryan had asked for I think
10:19:13 19 Tim Argall and Nicola Gobbo to be called before a hearing,
10:19:15 20 but that decision I think was referred to Graham to make
10:19:18 21 and then the first I became aware she was coming up on 19
10:19:23 22 July, whenever that was, 2007 I think.

10:19:25 23
10:19:26 24 And subsequent to that, did you have knowledge of her
10:19:31 25 involvement in Petra?---She came to another hearing
10:19:38 26 subsequent to that but I was overseas when that occurred.

10:19:40 27
10:19:41 28 That was in August. Did you become aware that it was
10:19:44 29 intended to seek a statement from her?---Yes.

10:19:49 30
10:19:50 31 And when did you become aware of that?---It would have been
10:19:53 32 through the tasking meetings or the operations meetings.

10:19:56 33
10:19:56 34 The tasking meetings?---Yes.

10:19:57 35
10:19:58 36 How frequently did you go to tasking meetings?---We'd have
10:20:01 37 one of those a week pretty much.

10:20:03 38
10:20:03 39 You would go to a tasking meeting at Petra once a
10:20:06 40 week?---Yes.

10:20:06 41
10:20:07 42 And on occasions you'd stand in for Mr Ashton at the
10:20:11 43 steering committee meetings?---Correct.

10:20:13 44
10:20:16 45 And you say at no time during the course of your
10:20:19 46 involvement in the tasking meetings did it become, or did
10:20:26 47 you become aware that she had been providing information to

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

10:20:29 1 Victoria Police as a human source?---Not as a human source,
10:20:32 2 no.
10:20:32 3
10:20:48 4 Now, you say that you didn't become aware that Ms Gobbo was
10:20:55 5 going to be called before the OPI until a day or so, if not
10:21:00 6 the day that she appeared on the 19th, is that
10:21:04 7 right?---Correct, yes.
10:21:05 8
10:21:06 9 Now - - -?---That's my recollection, yes.
10:21:10 10
10:21:10 11 And how did you find out?---Graham Ashton told me.
10:21:14 12
10:21:17 13 Were you aware that Victoria Police had debriefed her, did
10:21:23 14 he make it known that Victoria Police had debriefed her
10:21:26 15 prior to that hearing?---What does debrief mean?
10:21:31 16
10:21:31 17 Spoken to her, members of Victoria Police had spoken to her
10:21:34 18 and taken detailed, got information from her?---I was
10:21:38 19 unaware of that.
10:21:39 20
10:21:39 21 Do you think that's something that would be
10:21:44 22 appropriate?---Debrief her in preparation for the hearings,
10:21:46 23 is that what you're telling me?
10:21:48 24
10:21:48 25 Yeah, to sit down with her and extract a lot of information
10:21:52 26 from her prior to an OPI hearing, it occurred in May of
10:21:55 27 2007. That's news to you, is it?---I don't have a
10:22:00 28 recollection of that.
10:22:01 29
10:22:02 30 That wasn't something that you were told about?---I don't
10:22:04 31 have a recollection of ever being told that.
10:22:06 32
10:22:07 33 Would you expect that if the OPI had a view that it wanted
10:22:11 34 to speak to a witness, that that witness would come along,
10:22:18 35 in effect fresh, and not having had discussions with
10:22:21 36 Victoria Police members about more or less the information
10:22:25 37 that she might be going to give before the OPI?---Unless
10:22:32 38 Graham knew something about that, from a personal
10:22:34 39 perspective if Graham didn't know that would be
10:22:37 40 inappropriate.
10:22:37 41
10:22:37 42 Do you think it's something that, if you were, if the OPI
10:22:42 43 was carrying out an investigation, should police
10:22:45 44 communicate with the OPI and say, "Well look, this is what
10:22:47 45 we're proposing to do, it may or may not meet with your
10:22:54 46 requirements"?---Put it this way, I hadn't heard of that
10:22:56 47 occurring in any other hearings.

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

10:22:58 1
10:22:58 2 Did you know about an operation called Operation Khadi?---I
10:23:04 3 was taken to that. So I understand in very basic terms now
10:23:09 4 the nature of that operation and I understand that Ms Gobbo
10:23:14 5 may have had some involvement in that. That was occurring
10:23:19 6 when I first went there as a team leader, so I had a team
10:23:22 7 of investigators, and that investigation was being
10:23:25 8 conducted by John Kapetanovski, who had his own team of
10:23:29 9 investigators. But subsequent to that I was promoted to
10:23:35 10 the assistant director or what became the assistant
10:23:38 11 director's position. If that report came through while I
10:23:42 12 was in that position I would expect to have seen it. I
10:23:45 13 don't have an independent recollection of that though.
10:23:48 14
10:23:49 15 Have you looked into, you say you've been asked about that
10:23:53 16 in the period of time that you've been preparing to give
10:23:56 17 evidence to the Royal Commission, is that right?---Correct,
10:23:58 18 yeah.
10:23:58 19
10:23:59 20 And have you been shown any documents in relation to
10:24:04 21 Operation Khadi?---I don't recall. I may very well have, I
10:24:10 22 don't recall specifically this document.
10:24:13 23
10:24:13 24 At the initial stages of it - when the investigation was
10:24:17 25 going on in its initial stages, it concerned allegations
10:24:25 26 against police at [REDACTED] police station?---I know who the
10:24:27 27 subject was, yes.
10:24:28 28
10:24:28 29 You're aware that Ms Gobbo certainly had an involvement
10:24:32 30 with one or other of these police officers?---I don't know
10:24:37 31 the specifics. I can't recall the specifics of it. I've
10:24:41 32 got no doubt there is a report sitting in OPI that might
10:24:44 33 even have my signature on it. I don't have an independent
10:24:48 34 recollection of it.
10:24:48 35
10:24:50 36 Obviously you weren't aware that, you can't say now whether
10:24:54 37 you're aware that she was going to be called or may have
10:24:58 38 been called before the OPI to answer questions about that
10:25:02 39 matter?---I've heard subsequently. I listened to one
10:25:04 40 hearing where that was mentioned, yes.
10:25:07 41
10:25:09 42 Can I ask you about some, a meeting that you had, I think
10:25:17 43 on 20 February of 2007. There was a meeting on that day
10:25:31 44 between yourself, Mr Ashton, Mr Overland, Mr Cornelius and
10:25:35 45 Mr Moloney. Have you looked for your diary about, and
10:25:41 46 examined your recollection about this meeting?---So which
10:25:45 47 paragraph are you referring to on my statement?

.21/02/20

14714

NOLAN XN

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

10:25:48 1
10:25:48 2 I'm not necessarily referring to a paragraph. Perhaps I
10:25:51 3 can show you firstly your diary?---Yep.
10:25:53 4
10:25:54 5 It's IBAC.0019.0001.0001 at p.21. 20 February 07. Do you
10:26:16 6 see at the bottom of the page there you've referred to a
10:26:21 7 meeting at 3 o'clock?---Yep.
10:26:25 8
10:26:27 9 With those officers. GA I assume is Graham Ashton, is
10:26:37 10 it?---Correct.
10:26:38 11
10:26:38 12 Mr Overland, Luke Cornelius and Danye Moloney. You don't
10:26:43 13 record any notes in your diary about what was
10:26:48 14 discussed?---I think I know what was discussed there.
10:26:51 15
10:26:51 16 What was it?---At about that time we were doing an
10:27:00 17 operation called Operation Eagle and Eagle was about
10:27:05 18 management of human sources by Victoria Police.
10:27:07 19
10:27:07 20 Yes?---And as part of that process we did a review of a
10:27:15 21 significant number of warrants to see whether sources had
10:27:19 22 been identified in those warrants which you would expect by
10:27:22 23 way of name or by way of source number.
24
10:27:24 25 Yes?---And I know Victoria Police had significant concerns
10:27:27 26 about us reviewing those.
10:27:29 27
10:27:29 28 Yes?---And there were, this meeting was to establish some
10:27:32 29 protocols where they felt safe in providing that
10:27:35 30 information.
10:27:35 31
10:27:36 32 Okay. What was the concern about, what was Victoria
10:27:41 33 Police's concern about providing that
10:27:47 34 information?---Source, be it community source or human
10:27:50 35 source, being identified.
10:27:51 36
10:27:51 37 Obviously that would be, I take it, one of the concerns
10:27:54 38 would be about records that might be kept or maintained and
10:27:57 39 whether those records might be accessible?---Just more
10:28:01 40 broadly, they wanted to be absolutely confident that these
10:28:06 41 documents would go no where else.
10:28:08 42
10:28:09 43 The following day Mr Ashton determined to no longer keep a
10:28:17 44 daily diary and the evidence is that on that day or at
10:28:24 45 least the following day he took the view that there were
10:28:29 46 concerns with respect to the ability of people to access
10:28:34 47 his notes, using appropriate means, but the protections

.21/02/20

14715

NOLAN XN

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

10:28:42 1 being available to the OPI to resist that were insufficient
10:28:49 2 and up in the air and he says he got legal advice about
10:28:52 3 that and thereafter he ceased taking notes until
10:28:55 4 legislation was enacted, and we've already talked about
10:28:59 5 that, about I think 18-odd months later or whatever time it
10:29:04 6 was. Do you think you had discussions with Mr Ashton about
10:29:07 7 this time or perhaps on this day about this note issue or
10:29:12 8 not - diary issue, I apologise?---If that had been a
10:29:18 9 concern expressed to me I perhaps would have stopped doing
10:29:23 10 a diary myself. I don't recall that being expressed to me.
10:29:26 11
10:29:27 12 Do you recall whether or not Mr Overland or any other
10:29:31 13 Victoria Police officers at that stage suggested it might
10:29:34 14 be advisable to cease taking diary notes?---I don't - I
10:29:41 15 have no knowledge of that.
10:29:43 16
10:29:43 17 You weren't present at a meeting where that might have been
10:29:46 18 suggested?---No.
10:29:46 19
10:29:47 20 You certainly don't recall that occurring on this
10:29:50 21 day?---No.
10:29:50 22
10:29:51 23 Do you believe that you were present at that meeting for
10:29:53 24 the entirety of the time that the officers there, Overland,
10:29:58 25 Cornelius and Moloney were present?---Assuming that's
10:30:03 26 Eagle, yes.
10:30:04 27
10:30:06 28 Were there matters other than Eagle that were discussed in
10:30:09 29 the meeting?---I don't know. I'd have to look at case
10:30:13 30 notes which I don't have access to.
10:30:15 31
10:30:15 32 If Mr Ashton's notes - perhaps if we can have a look at - I
10:30:20 33 tender those notes, Commissioner. Before we do, if we go
10:30:24 34 to the next day, can we move down to the following day. Do
10:30:28 35 you see there's a meeting at 15:00 hours there, do you see
10:30:32 36 that? This is on the 21st?---Yes.
10:30:37 37
10:30:38 38 Where the cursor is. Does that say Moloney there?---Yes.
10:30:42 39
10:30:43 40 Does it relate to Operation Eagle, that note?---I'm
10:30:47 41 assuming it does.
10:30:48 42
10:30:49 43 It says something like, "Chief Commissioner of Police's
10:30:54 44 instruction", is that right?---Yes.
10:30:56 45
10:30:56 46 "Agrees in principle", and then something like "legal" and
10:30:59 47 does it say "legislation"?---I think it's "legal to legal"

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

10:31:01 1 which is probably the means of transporting information.
10:31:04 2
10:31:05 3 So that concerns, that concerns Operation Eagle?---Again if
10:31:10 4 I had access to case notes I'd be able to tell you exactly,
10:31:14 5 but I don't.
10:31:15 6
10:31:15 7 All right. I tender those diary entries, Commissioner.
10:31:18 8
10:31:21 9 #EXHIBIT RC1346A - (Confidential) Diary entries
10:31:21 10 20-21/02/07.
10:31:21 11
10:31:22 12 #EXHIBIT RC1346B - (Redacted version.)
10:31:23 13
10:31:23 14 COMMISSIONER: That's just the diary entries for 20th - - -
10:31:26 15
10:31:27 16 MR WINNEKE: 20 and 21 February 2007, Commissioner.
10:31:31 17
10:31:31 18 COMMISSIONER: Thank you.
10:31:32 19
10:31:33 20 MR WINNEKE: Just before I move away from this, if we can
10:31:35 21 have a look at Mr Ashton's diary of 20 February 2007,
10:31:43 22 RCMPPI.0097.0001.0001 at p.66. You'll see that there's an
10:31:52 23 entry at 15:00 hours at the bottom right of the diary,
10:31:59 24 "ESD, OPI", it seems to say "directions meeting", is that
10:32:05 25 right, "With LC, general issues discussed", Luke Cornelius
10:32:13 26 that is?---OPI directions, I think that's just - Mr Ashton
10:32:17 27 would have a fairly regular meeting with, particularly
10:32:22 28 Simon Overland, but often Luke Cornelius as well, which was
10:32:27 29 just about where we're both heading, what issues have you
10:32:31 30 got, what concerns have you got, that sort of stuff.
10:32:32 31
10:32:32 32 That appears to be the same time as the meeting you refer
10:32:36 33 to with Overland, Cornelius and Moloney?---Yes.
10:32:40 34
10:32:40 35 It may well be that that's the same - - -?---I think
10:32:42 36 Mr Moloney may have been in charge of the Source
10:32:46 37 Development Unit at that time or covert services, something
10:32:49 38 of that nature.
10:32:50 39
10:32:50 40 Yes, he was. And if they wanted to discuss matters that
10:32:56 41 weren't within your remit or didn't concern you then you'd
10:32:59 42 leave I assume, would you?---If it had nothing to do with
10:33:02 43 me.
10:33:02 44
10:33:03 45 If it had nothing to do with you?---Yes.
10:33:05 46 If we can move to the following day in Mr Ashton's diary,
10:33:09 47 again a note of 1500 which again appears to be the same

.21/02/20

14717

NOLAN XN

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

10:33:16 1 time as your diary entry of a meeting with Mr Moloney, we
10:33:21 2 see an entry of Mr Ashton's which says, "Briefed John Nolan
10:33:27 3 re yesterday meeting with Luke Cornelius". Now, you can't
10:33:32 4 enlighten us about that?---There may have been some matters
10:33:37 5 that Luke didn't want to discuss in front of me but Graham
10:33:40 6 was happy to, so that's possible.
10:33:42 7
10:33:42 8 Yes, all right. So it may well be that during the course
10:33:48 9 of some of that period of the meeting the day before you
10:33:51 10 weren't present?---Correct.
10:33:52 11
10:33:53 12 And he's updated you the following day?---Yes.
10:33:57 13
10:33:57 14 I follow. Thanks very much. Now, there was never any
10:34:11 15 instruction given to you by Mr Ashton or any of the other
10:34:15 16 investigators about whether or not you should keep notes,
10:34:18 17 diary notes or records of your investigations, I take it,
10:34:22 18 is that right?---Certainly not in relation to case notes.
10:34:26 19 It's not possible to run an investigation without case
10:34:29 20 notes.
10:34:29 21
10:34:29 22 No. To keep diaries. Just to be absolutely clear, were
10:34:39 23 you ever directed or any of your investigators directed not
10:34:42 24 to keep general diaries of their activities?---To my
10:34:49 25 knowledge all the investigators kept diaries for the entire
10:34:52 26 time that I was there.
10:34:54 27
10:34:54 28 All right?---Including myself.
10:34:55 29
10:34:56 30 And there was no direction not to?---I don't know whether -
10:34:59 31 if there had been a direction it would have been
10:35:05 32 implemented.
10:35:06 33
10:35:06 34 It would have been complied with?---Yes.
10:35:08 35
10:35:09 36 You mentioned before that as far as the involvement in
10:35:15 37 Briars and Petra was concerned Mr Ashton's view, to use
10:35:21 38 your words, was "there's one truth". Your words, but of,
10:35:27 39 the effect of what you understood Mr Ashton to be saying,
10:35:30 40 your words?---Correct. And Victoria Police were going to
10:35:35 41 be custodian of those, which may very well lead into the
10:35:38 42 issue of Mr Ashton having concerns about the ability to
10:35:41 43 retain them, I don't know.
10:35:43 44
10:35:45 45 If the OPI's role is to oversight an investigation that
10:35:50 46 Victoria Police is carrying out, why would it not be
10:35:57 47 appropriate to keep detailed notes and detailed records of

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

10:36:00 1 what Victoria Police were doing?---I don't disagree with
10:36:08 2 that.
10:36:09 3
10:36:09 4 Right. And so if you are going to tasking meetings and
10:36:16 5 you're provided with records of what Victoria Police are
10:36:21 6 doing, it would seem appropriate not to hand those records
10:36:25 7 back but to take them back and to keep them and, as a
10:36:30 8 record of what Victoria Police were doing?---Can I -
10:36:36 9 perhaps I'll step forward in time a little bit.
10:36:39 10
10:36:39 11 Yes, by all means?---So oversight became quite a complex
10:36:42 12 issue for OPI and Victoria Police more broadly as to what
10:36:46 13 that actually means.
14
10:36:48 15 Yes?---So after the death of a young boy at the hands of
10:36:53 16 police, I did a review of the oversight mechanisms that
10:36:59 17 were operating around Australia and as a result of that we
10:37:01 18 came up with ten principles of oversight.
10:37:05 19
10:37:05 20 Yes?---And what - in very basic terms, and you can have a
10:37:11 21 look at that, that's an OPI public report, it relates to
10:37:16 22 deaths associated with police contact or something similar
10:37:19 23 to that. But what the overriding principle was is that
10:37:22 24 oversights about guarding the integrity of the process
10:37:26 25 rather than be engaged in the process. So for me it was
10:37:32 26 more about, if you look at those ten principles, I'm not
10:37:35 27 sure they need to be, you don't need to get into the depths
10:37:40 28 of the investigation and whilst we were engaged as
10:37:46 29 effectively a partner agency in some of these
10:37:47 30 investigations, that was a view Graham had that we should
10:37:53 31 do that, and I'm not adverse to that view. In fact in
10:37:57 32 hindsight it should have given us a really good
10:38:00 33 understanding of whether the process had integrity.
10:38:03 34
10:38:03 35 Yes?---And yet even with that depth of involvement, I
10:38:09 36 didn't become aware of the issues with Ms Gobbo.
10:38:12 37
10:38:12 38 Right?---So oversight can be a bit tricky when you expect
10:38:17 39 oversight to be an in-depth investigation of the
10:38:19 40 investigation, it's not that. It's looking at the
10:38:21 41 principles. Are the principles being adhered to?
10:38:27 42
10:38:28 43 Right. One of the obvious issues in this case is, in this
10:38:32 44 matter is the use by Victoria Police of a barrister whose
10:38:38 45 main focus was defending people alleged of very serious
10:38:43 46 criminal offences and using that person was an informer.
10:38:46 47 Now, as a general proposition, if those matters are put to

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

10:38:54 1 you, we've got a barrister acting for criminals who is also
10:38:57 2 acting as in effect an agent of police providing
10:39:00 3 information to Victoria Police, at the same time as
10:39:04 4 actively being in practice. If that's put to you, what's
10:39:12 5 your immediate reaction, what's your gut reaction to
10:39:15 6 that?---I suspect it's the same as yours. It defies
10:39:23 7 belief.
10:39:24 8
10:39:25 9 Yes?---If that's the legitimate proposition, it defies
10:39:30 10 belief.
10:39:30 11
10:39:34 12 And you say you weren't aware during the period of time you
10:39:37 13 were sitting in Petra and Briars and in the tasking
10:39:40 14 meetings, you weren't aware of it. If you had become aware
10:39:44 15 of it, just that concept that I've put to you, if you
10:39:47 16 became aware of that, what would you do?---I would have
10:39:52 17 screamed the house down.
10:39:53 18
10:39:55 19 Right. Now, the evidence is that Mr Ashton became aware,
10:40:01 20 on his own admission, around the time that Ms Gobbo was
10:40:06 21 called before the OPI in July of 2007. There's evidence he
10:40:10 22 may have become aware of it earlier than that, in 2006.
10:40:14 23 Was that ever conveyed to you by him that Ms Gobbo was
10:40:18 24 acting as a human source?---That, the human source issue is
10:40:20 25 something I was never aware of until I expect right up to
10:40:25 26 this Royal Commission. When there was some publicity going
10:40:28 27 on there were a couple of suspects that I thought it may
10:40:31 28 relate to but I had no clear sight of that.
10:40:35 29
10:40:36 30 Right. And if you, as a member of the OPI, that is the
10:40:39 31 police regulation or oversight body, heard of that you say
10:40:43 32 you'd scream the house down. But in practical terms, in
10:40:46 33 real terms, what would the steps be that you would
10:40:51 34 take?---Well there was a pretty simple step, I just can't
10:40:58 35 believe - Michael Strong was a judge at the OPI, he was the
10:41:02 36 Director, he was a former judge, from my perspective he was
10:41:06 37 a wonderful jurist. He was a fellow that had absolute
10:41:12 38 commitment to a fair cause and ethics in investigations and
10:41:15 39 the law.
10:41:15 40
10:41:16 41 Right?---If he knew about this, be assured, something would
10:41:23 42 have been done.
10:41:23 43
10:41:24 44 Right. What about Mr Brouwer who was his predecessor?---I
10:41:34 45 don't know.
10:41:34 46
10:41:38 47 Is it the case that, certainly in the time that you were at

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

10:41:44 1 the OPI, that the management of informers, human sources,
10:41:50 2 was an ongoing issue that the OPI considered virtually
10:41:58 3 every year?---The management of human sources was probably,
10:42:02 4 in historical sense, probably the greatest risk Victoria
10:42:07 5 Police has.

10:42:07 6
10:42:08 7 Right. There had been a number of investigations,
10:42:10 8 obviously you've referred to one of them, Operation
10:42:13 9 Eagle?---Yes. I did another one which was, one down one
10:42:17 10 missing, which was Joe Diallo leaking information about
10:42:22 11 informers in a book which was another matter the OPI
10:42:25 12 investigated.

10:42:26 13
10:42:30 14 So was it a matter or was that interaction with human
10:42:35 15 sources something that, as far as you were concerned, the
10:42:38 16 OPI was interested in and had good reason to be interested
10:42:41 17 in?---Correct.

10:42:42 18
10:43:01 19 If the human source obviously was a legal practitioner
10:43:06 20 acting in criminal law, that's just an added level of
10:43:09 21 concern, is that what you're saying?---It's an added level
10:43:13 22 of complexity but, like, Victoria Police, particularly
10:43:18 23 those involved in the investigation of serious crime, are
10:43:22 24 alert to issues of legal professional privilege.

10:43:25 25
10:43:25 26 Yes?---And I'll give you a couple of examples of how that
10:43:29 27 operates. So, for example, with telephone intercept,
10:43:34 28 that's a thing that we did in relation to a lot of high
10:43:38 29 profile investigations, I did those at Ethical Standards
10:43:41 30 Department, I did those at the OPI, I was involved in the
10:43:48 31 joint operations that I believe Victoria Police had
10:43:52 32 telephone intercepts in those joint operations.

10:43:53 33
10:43:54 34 Yes?---Now, when you look up telephone intercept you'll go
10:43:59 35 along and you might have three or four thousand calls and
10:44:03 36 then there will be a gap in the numbers and you'll say -
10:44:05 37 you'll ring up and say, "What's the story with the gap?
10:44:08 38 What's there?" They'll say, "That matter has been
10:44:11 39 quarantined, it's believed it may be legal professional
10:44:15 40 privilege". So at the OPI, one of our solicitors, we had a
10:44:19 41 large bank of solicitors, but one who was independent from
10:44:22 42 the investigation preferably would go and review that call
10:44:27 43 and establish whether it was in fact LPP. If it was you
10:44:32 44 never saw it. None of the investigators saw it. So that
10:44:36 45 was a consistent practice right across the Force. So
10:44:39 46 everyone was alert you can't be using material that would
10:44:42 47 attract legal professional privilege. And I'll give you an

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

10:44:47 1 example when I was at the Ethical Standards Department
10:44:49 2 there was a gap in the sequence and I was told it was legal
10:44:55 3 professional privilege and I asked them to do CCRs on the
10:44:58 4 call, it just, it didn't make sense there would be a
10:45:02 5 solicitor involved at that early juncture, and it turned
10:45:04 6 out it was legal advice being provided by another police
10:45:07 7 member and as a consequence that member got charged for
10:45:11 8 quite abhorrent advice being given to a member about a
10:45:15 9 corruption matter.

10:45:17 10
10:45:17 11 Providing legal advice without being legally
10:45:20 12 qualified?---Yeah, but what I'm saying is you have to look
10:45:21 13 to see - someone has to validate is this legal professional
10:45:23 14 privilege or is it not? If it's legal professional
10:45:25 15 privilege it's out, you don't even see it.

10:45:27 16
10:45:28 17 Yes?---So from the Source Development Unit, what I'm
10:45:34 18 hearing in the evidence I would have expected there would
10:45:36 19 be a process to all of that, but if it's even grey on legal
10:45:41 20 professional privilege it gets quarantined or someone
10:45:44 21 validates that it's right to go.

10:45:46 22
10:45:47 23 It may well be, and it will be said that legal professional
10:45:51 24 privilege was being considered. But the broader concept
10:45:57 25 simply of a conflicted relationship, that is a person who
10:46:00 26 is acting for Victoria Police at the same time as providing
10:46:04 27 information about the person, not necessarily with respect
10:46:08 28 to matters that they're currently dealing with, so that
10:46:12 29 conflicted situation, do you say that that's an issue as
10:46:15 30 far as you would be concerned?---I'm not adverse to a
10:46:18 31 solicitor or a barrister or even a judge being a human
10:46:22 32 source. It's when it transgresses into what is clearly
10:46:25 33 legal professional privilege. And acting as an agent. If
10:46:31 34 the proposition you put to me earlier was that Ms Gobbo's
10:46:34 35 effectively a witness in a matter and acting for the client
10:46:38 36 who she is a witness in, that's if you wanted to look at it
10:46:41 37 that way, or she's being operationally deployed, I don't
10:46:45 38 know if that's the case.

10:46:46 39
10:46:46 40 If she is being operationally deployed or getting
10:46:51 41 information about a particular person and feeding that
10:46:53 42 information to the police and then when the person is
10:46:55 43 arrested Ms Gobbo turns up and advises that person as to
10:46:59 44 what course they should take?---I'm not sure it's legal
10:47:04 45 professional privilege, but I'd have serious reservations
10:47:07 46 about it.

10:47:07 47

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

10:47:08 1 It's wrong as far as you were concerned?---It just doesn't
10:47:12 2 pass the Herald Sun test, does it?
10:47:15 3
4 The Herald Sun test?---And hasn't.
5
10:47:16 6 All right. Now, that meeting that you had on 20 February
10:47:20 7 2007, the people who were present with you were Mr Ashton,
10:47:24 8 Overland, Cornelius and Moloney?---Yes.
10:47:27 9
10:47:27 10 Now, all very senior members of Victoria Police. And that
10:47:32 11 meeting was about concerns, the OPI's concerns about the
10:47:46 12 management of human sources?---Again, I haven't got my case
10:47:49 13 notes, that's what I believe it was about.
10:47:51 14
10:47:51 15 If it's Operation Eagle that's what it's likely to be
10:47:55 16 about?---If it's Operation Eagle, yes.
10:47:57 17
10:47:57 18 There would be no doubt in the minds of senior members of
10:48:00 19 the Victoria Police that the OPI was concerned about the
10:48:02 20 management of human sources, do you agree with that?---It
10:48:04 21 was an operation that was endorsed by the Director at the
10:48:07 22 time and it was being conducted.
10:48:09 23
10:48:18 24 Now, insofar as Operation Briars is concerned, were you
10:48:29 25 aware of the role that Ms Gobbo played, if I can put that
10:48:41 26 generally, in that operation? I'm going to ask you about
10:48:44 27 tasking of Ms Gobbo. Were you aware, firstly, that
10:48:47 28 Ms Gobbo was playing a role in that investigation?---I knew
10:48:52 29 she was a witness in it.
10:48:53 30
10:48:53 31 You knew she was a witness?---I'm not sure if she ever
10:48:57 32 signed a statement, but she was to be a witness.
10:49:01 33
10:49:01 34 Did you understand or were you ever made aware that it was
10:49:04 35 proposed to feed her or give her information that she would
10:49:10 36 then deliberately convey to Mr Waters to see what effect
10:49:16 37 that might have subsequently, evidentiary speaking, are you
10:49:25 38 aware of that?---I don't recall, no.
10:49:26 39
10:49:27 40 The effect of that information was that a certain person,
10:49:32 41 I'm not going to mention the person's name, the person who
10:49:36 42 was proposed to be a significant witness in the Briars - -
10:49:39 43 -?---Is that ■?
10:49:40 44
10:49:41 45 Sorry?---Is that ■?
10:49:42 46
10:49:43 47 Well the person who was, he was in custody at the time?---I

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

10:49:46 1 know who you're talking about.
10:49:47 2
10:49:47 3 You know him?---Yes.
10:49:48 4
10:49:48 5 And the idea was the information would be fed to Mr Waters
10:49:52 6 that that particular person was going to be a witness and
10:49:56 7 was going to make a statement and was going to be charged
10:50:01 8 and ultimately might be making a statement and giving
10:50:05 9 evidence against people?---I'm not aware of that.
10:50:08 10
10:50:08 11 You weren't aware of that?---No.
10:50:10 12
10:50:12 13 MR HOLT: Sorry, Commissioner, could the letter that was
10:50:16 14 used be taken out?
10:50:18 15
10:50:19 16 COMMISSIONER: All right, line 39 and 41 take out that
10:50:21 17 initial, thanks.
10:50:22 18
10:50:23 19 MR WINNEKE: So effectively what was being proposed is that
10:50:25 20 a person who was a human source, that is Ms Gobbo, was
10:50:32 21 going to be provided with information to feed to a suspect
10:50:37 22 which would in effect out, if you like, a person as a
10:50:44 23 proposed witness in a proceeding. Would you have a view
10:50:48 24 about that, the propriety of that sort of behaviour?---I'm
10:50:53 25 not sure I do at this stage, I'd have to look at that.
10:50:59 26 It's probably too quick. I'd really want to digest that.
10:51:04 27
10:51:05 28 If I can give you more details. In September of 2007
10:51:15 29 Mr Iddles in effect provided a script that was to be given
10:51:20 30 to Ms Gobbo?---H'mm.
10:51:22 31
10:51:22 32 That that person we're talking about was to be charged with
10:51:26 33 another murder in the next two or three weeks. That that
10:51:31 34 person had made a statement implicating Waters and Lalor in
10:51:35 35 the preparation of the murder and that person was prepared
10:51:40 36 to give evidence. And further details were given in order
10:51:44 37 to draw out a response from Waters [REDACTED]
10:51:47 38 [REDACTED] reported back to Ms Gobbo,
10:51:52 39 right? And then the evidence we have is that Ms Gobbo was
10:51:56 40 given that information, she was happy to pass it on, and
10:52:01 41 she did pass that information on at a meeting. She relayed
10:52:04 42 the message as per the instructions. Right. Do you follow
10:52:16 43 so far?---The concern I would have at this stage, is she
10:52:20 44 representing this person that she's conveying the
10:52:22 45 information to?
10:52:23 46
10:52:23 47 No, she's not representing, although there may be, there

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

10:52:27 1 may be a possibility that that person might believe that
10:52:31 2 Ms Gobbo - - -?---Look, I'd really have to look at that, I
10:52:37 3 don't - I'm not sure I'd object to it. If there is a clear
10:52:41 4 indication that she is representing him that would be a
10:52:45 5 different circumstance.

10:52:45 6
10:52:45 7 That would be different. If there was any concern that
10:52:47 8 this person might believe that she was his lawyer, that
10:52:49 9 would be a concern to you?---I suppose it's the, is
10:52:52 10 representation in the eyes of the lawyer or the eyes of the
10:52:55 11 client? I'm not sure. There's a whole range of issues
10:52:59 12 there.

10:52:59 13
10:53:06 14 In any event you say you weren't aware of that?---No.

10:53:08 15
10:53:11 16 What about from the perspective of the person, the proposed
10:53:18 17 witness that we're talking about, is there any issue in
10:53:21 18 relation to that, that that person might in effect thereby
10:53:22 19 be outed as a person who was going to give
10:53:35 20 evidence?---Look, there was some issues with, as to whether
10:53:38 21 that person had already been outed.

10:53:43 22
10:53:43 23 So you'd want to make certain - - -?---I think I make
10:53:48 24 mention in my statement of an issue about the brotherhood.
10:53:51 25 Did I make mention of that in the statement, I can't
10:53:54 26 recall? Where there was a meeting which was apparently
10:53:59 27 attended by Waters in which someone from, I think Purana,
10:54:02 28 was alleged to have outed that person.

10:54:05 29
10:54:05 30 All right?---So I'm not sure the outing was as significant
10:54:10 31 an issue as you talk about.

10:54:11 32
10:54:12 33 COMMISSIONER: It's paragraph 63 you mention that.

10:54:14 34
10:54:14 35 MR WINNEKE: In any event before you did that you'd want to
10:54:18 36 look very carefully at the risk and make sure that safety
10:54:21 37 issues had been covered off before such a, you engage
10:54:27 38 Ms Gobbo in such a task, is that what you'd say?---Safety
10:54:31 39 issues for Ms Gobbo or for the witness?

10:54:32 40
10:54:33 41 For the witness?---Probably both.

10:54:35 42
10:54:35 43 Probably both?---H'mm.

10:54:37 44
10:54:38 45 All right, okay. Now, you say in your statement that you
10:54:43 46 believe it would have been prudent for Victoria Police to
10:54:45 47 advise the OPI of Ms Gobbo's status as a human source and

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

10:54:48 1 deployments before she was engaged by Petra and
10:54:52 2 Briars?---Yes.
10:54:52 3
10:54:53 4 You say that almost - perhaps you explain why you say
10:54:57 5 that's the case?---To put it very simply, you can't
10:55:02 6 oversight what you can't see and one of the board of
10:55:07 7 management roles significantly is - I liken it to a company
10:55:13 8 director's role, it's understanding and the risk appetite
10:55:18 9 of the organisation and being careful about risk assessment
10:55:22 10 of the operation or the company. So when there are ethical
10:55:28 11 risks attached there I don't think it's fair you're kept
10:55:31 12 out of that. And from my perspective, if you retain a
10:55:35 13 secret, you retain, you retain responsibility for the risk.
10:55:40 14 And I'm not even all that fussed about the absoluteness of
10:55:45 15 maintaining the identity of a human source in that sort of
10:55:48 16 environment, I don't.
10:55:50 17
10:55:50 18 Why do you say that?---Because you'd want to know what
10:55:54 19 you're dealing with in terms of the risk. Human sources
10:55:57 20 are particularly risky and all the more reason to have
10:56:00 21 something like the human source development unit or the
10:56:03 22 SDU. It's a complex and difficult task.
10:56:06 23
10:56:07 24 All right. Now can I ask you about a matter that's raised
10:56:12 25 in paragraph 9 of your supplementary statement, if you can
10:56:15 26 have a look at that. You say that you can recall a
10:56:19 27 conversation with Mr O'Connell following a Task Force
10:56:23 28 meeting, is that right?---Correct.
10:56:24 29
10:56:25 30 And it was a discussion about something that Ms Gobbo had
10:56:30 31 said?---Correct.
10:56:31 32
10:56:32 33 And he says to you that, "You're not going to believe what
10:56:37 34 she said last night"?---Yeah, that's my recollection. So
10:56:41 35 this, we used to have a weekly tasking meeting and there
10:56:45 36 was, at one juncture I believe that Steve Smith and Shane
10:56:49 37 O'Connell were tasked with looking after Ms Gobbo and that
10:56:55 38 was a particularly difficult time for not only them but for
10:57:00 39 everyone in the Task Force, that dealing with Ms Gobbo's
10:57:02 40 issues at that time.
10:57:03 41
10:57:03 42 Right?---So after one of the meetings he was sort of
10:57:09 43 venting about having to look after Ms Gobbo and the toll it
10:57:13 44 was taking on him and Steve and he said something to the
10:57:16 45 effect that, "You wouldn't believe what she told me last
10:57:19 46 night" and then he went on to tell me something about one
10:57:22 47 of her clients had told her about an armed robbery and the

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

10:57:25 1 proceeds of that crime.
10:57:26 2
10:57:26 3 Right?---So my response was effectively, "What are you
10:57:34 4 doing with that?" And his view was that it was going to
10:57:38 5 Mr Overland.
10:57:40 6
10:57:40 7 Do you recall, if not the exact words, the gist of what he
10:57:44 8 said?---In terms of the - - -
10:57:47 9
10:57:47 10 The information?---Look, he might have even told me who it
10:57:52 11 was, the client was. Not that I recall that. But the
10:57:56 12 issue for me was, it's not right that he should have to
10:58:01 13 hold on that information and that risk. So, "What are you
10:58:04 14 doing about it?" And his response to me on my recollection
10:58:07 15 is that he said, "The process is it's got to go to
10:58:12 16 Mr Overland".
10:58:12 17
10:58:12 18 You say in your statement he explained there was a clear
10:58:16 19 directive from the Petra steering committee that any
10:58:19 20 information that came from Ms Gobbo that was outside the
10:58:22 21 scope of Petra was to be recorded in an IR?---Yeah.
22
10:58:24 23 And provided to Mr Overland for a decision as to what to
10:58:28 24 do?---Yes, which I just took as part of that quarantine
10:58:31 25 process.
10:58:32 26
10:58:32 27 The quarantine process?---The quarantine process that I
10:58:35 28 spoke about earlier in terms of TI, but it seemed a pretty
10:58:39 29 logical thing to do.
10:58:42 30
10:58:42 31 Right, okay. You didn't understand or you didn't wonder
10:58:45 32 why she'd be providing that information to
10:58:52 33 Mr O'Connell?---I suspected because there was talk about,
10:58:55 34 at that time, about Shane O'Connell and Steve Smith being
10:59:01 35 replaced by someone else.
36
10:59:03 37 Right?---And I know from the history when someone else
10:59:06 38 dealt with her she got really antsy about it and would
10:59:13 39 start throwing out things to drag them back in, whether it
10:59:16 40 was safety concerns, illness concerns, all those sorts of
10:59:18 41 things.
10:59:19 42
10:59:19 43 Did you have an understanding as to why she needed to have
10:59:22 44 someone to speak to and what the point of that
10:59:27 45 was?---Because, I don't want to be rude to Ms Gobbo, but my
10:59:34 46 view was she had mental health issues and she was a risk to
10:59:40 47 herself.

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

10:59:40 1
10:59:42 2 Right. Despite that you still maintain the view that you
10:59:45 3 didn't know that she was an informer or had been providing
10:59:48 4 information to Victoria Police?---She'd been providing
10:59:51 5 information to Victoria Police.
10:59:52 6
10:59:52 7 In the nature of what?---Not as a human source.
10:59:54 8
10:59:55 9 But as a person who was assisting Victoria Police?---Yeah.
10:59:58 10
10:59:59 11 In the prosecution of people such as Mr Dale, is that your
11:00:02 12 understanding?---Dale and Waters and Lalor, yeah. And
11:00:06 13 Perry I think too might have been in there as well.
11:00:09 14
11:00:13 15 As far as you were concerned that was how she was assisting
11:00:16 16 police, not as a human source otherwise or a registered
11:00:21 17 human source?---I wasn't aware she was a registered human
11:00:25 18 source. I wasn't aware she had involvement with the SDU.
11:00:28 19
11:00:31 20 Have you heard of the expression "noble cause
11:00:35 21 corruption"?---Yes.
11:00:35 22
11:00:36 23 What's your understanding of it?---The ends justifies the
11:00:41 24 means.
11:00:41 25
11:00:42 26 As a now senior member of Victoria Police what do you have
11:00:45 27 to say about that concept?---As I said, my role over the
11:00:51 28 last, for as long as I was in that corruption investigation
11:00:55 29 is the process, you're regarding of the process and
11:00:58 30 unfortunately sometimes the process doesn't get you there,
11:01:01 31 but if you short-circuit it, nothing can be believed. So,
11:01:07 32 for example, if you do an investigation, you short-circuit
11:01:12 33 the process, you might get the right outcome initially, but
11:01:18 34 it's all going to come undone.
11:01:21 35
11:01:21 36 Would it be a concern as far as you were concerned if
11:01:23 37 senior members of Victoria Police are still maintaining
11:01:25 38 publicly that the times back in 2005, around about the time
11:01:30 39 that Ms Gobbo was registered, were such that it was
11:01:34 40 necessary and appropriate to register her as a human source
11:01:37 41 and get information from her?---I can understand that that
11:01:43 42 was - so a lot of the work we did on human source
11:01:46 43 management is saying, what are the things that are ticking
11:01:50 44 over in the mind of police, how does the process get
11:01:55 45 abused, and the investigation by the Purana Task Force just
11:01:58 46 about ticked every one of those boxes. So you've got
11:02:01 47 people dealing with bereaved relatives, who are

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

11:02:05 1 investigators, you've got media demanding some resolution,
11:02:09 2 you've got police under pressure, you've got people getting
11:02:13 3 killed at a, I don't know, a level that we'd never seen
11:02:19 4 before in Melbourne, so I understand why those dynamics
11:02:25 5 were at play, and they were at play, there's no doubt about
11:02:28 6 that, but they can't be justified.

11:02:31 7
11:02:31 8 Are you aware that the registration occurred at a time when
11:02:35 9 most of those people who had been responsible for the
11:02:39 10 murders that had been arrested, not yet dealt with, but the
11:02:43 11 reason why Ms Gobbo is registered initially is to, if we
11:02:50 12 accept the evidence that the Commission has, was to in
11:02:53 13 effect bring down the Mokbel clan?---I'm not sure of the
11:02:57 14 dynamics of that.

11:02:58 15
11:03:00 16 You're not sure of the dynamics of that?---But the Mokbel
11:03:02 17 clan were involved in some of these issues as well, the
11:03:05 18 sensitive issues I spoke about.

11:03:07 19
11:03:07 20 But ultimately what you say is if you obtain evidence
11:03:10 21 improperly, if you go down a path of cutting corners and
11:03:18 22 engaging in improper conduct to obtain evidence, then
11:03:23 23 that's not an appropriate way of going about it, is that
11:03:26 24 what you say?---It's the beginning of the rot.

11:03:28 25
11:03:28 26 Beginning of the rot?---H'mm.

11:03:30 27
11:03:30 28 Would you say that there's no basis now to maintain that
11:03:36 29 it's a reasonable thing to do?---On the examples that
11:03:40 30 you've provided me, they were - I don't know how you could
11:03:46 31 justify that.

11:03:47 32
11:03:47 33 Thanks very much.

11:03:48 34
11:03:49 35 COMMISSIONER: Beginning of the rot, Mr Nolan, in fact a
11:03:53 36 form of corruption?---Rot is a corruption and it can seep
11:03:56 37 under and if it goes unchecked it just keeps going.

11:03:56 38
11:04:01 39 You couldn't get access to your diaries, why was that, some
11:04:04 40 of your diaries?---Well, when I was initially asked to make
11:04:08 41 a statement - so I hadn't had really any concern about the
11:04:12 42 Commission and I took no notice of it really, to be quite
11:04:14 43 frank, and I was rung out of the blue and said, "We need
11:04:19 44 you to make a statement", and I said, "Righto". So I said,
11:04:22 45 "Well I'd I will need, you need to get me my emails, my
11:04:26 46 case notes", and I said I'm happy to go up to IBAC, who
11:04:30 47 will be the custodian, and I'll just review them over a

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

11:04:35 1 couple of weeks and get ready to make the statement. I
11:04:39 2 made a statement in December, after being advised that
11:04:44 3 they'd only released a couple of years of diaries, and they
11:04:46 4 were the only documents that I'd been part of, the
11:04:49 5 investigations that I'd been involved in that I was given
11:04:52 6 access to, other than Victoria Police documents.
11:04:55 7
11:04:56 8 So they being IBAC?---I assume IBAC. I was told by Corrs
11:05:00 9 that they'd requested them and they hadn't been provided.
11:05:04 10
11:05:07 11 MR WINNEKE: Actually, there's a couple of matters that I -
11:05:09 12 - -
11:05:09 13
11:05:10 14 MR COLEMAN: Commissioner, we have the same problem from
11:05:13 15 course with Mr Ashton getting access to materials way back
11:05:17 16 and Mr Winneke is aware of that.
11:05:19 17
11:05:19 18 MR WINNEKE: There's no question about that, Commissioner.
11:05:21 19 It's a question of IBAC finding them and if we could get
11:05:24 20 them, we'd much appreciate it. A couple of matters I
11:05:29 21 actually did want to ask you about. You know
11:05:33 22 Mr Wilson?---Rod Wilson?
11:05:34 23
11:05:34 24 Rod Wilson?---Yes.
11:05:36 25
11:05:37 26 Are you able to tell the Commission of what role he had, if
11:05:40 27 any - we understand that you, your name's on a warrant
11:05:50 28 dated 8 June 2007. You were the applicant I gather for a
11:05:58 29 warrant issued by the Supreme Court to John Nolan, manager
11:06:04 30 operations in the office of the OPI for surveillance under
11:06:08 31 the surveillance devices legislation?---Yep.
11:06:12 32
11:06:12 33 Do you know whether Mr Wilson had any role in initiating
11:06:18 34 that warrant or providing information to you which led to
11:06:20 35 the initiating of that warrant?---Is this before or after
11:06:24 36 the joint agency?
11:06:25 37
11:06:26 38 This is 8 June 2007. Do you want to have a look at the
11:06:31 39 warrant, I've got it here?---I don't recall this. I know I
11:07:12 40 went up to the court on a couple of occasions, one might
11:07:16 41 have been - was VCAT I think doing TI affidavits at that
11:07:20 42 stage, so VCAT might have been one and the Supreme Court
11:07:24 43 for the surveillance devices.
11:07:24 44
11:07:25 45 Right?---My understanding was that the legal team would
11:07:28 46 prepare the affidavits based on material that we had and
11:07:33 47 Victoria Police provided as well and then I'd satisfy

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

11:07:36 1 myself as to the truth of the affidavit.
11:07:37 2
11:07:38 3 Yes?---And then go up as the applicant for those.
11:07:40 4
11:07:40 5 As to whether or not Mr Wilson had any information or
11:07:43 6 provided any information, are you able to say?---I don't
11:07:45 7 know.
11:07:46 8
11:07:46 9 Don't know. Right, I wonder if I can have that back,
11:07:50 10 please?---I would have known at the time but I can't recall
11:07:52 11 now.
11:07:52 12
11:07:52 13 You'd need to go back to your logs?---Yes, correct.
11:07:55 14
11:07:57 15 You say in your statement that you're quite sure that
11:08:05 16 Ms Gobbo did not provide information, any information that
11:08:09 17 was relevant to Operation Diana?---That's correct.
11:08:12 18
11:08:13 19 On what basis do you say you're quite sure about that, how
11:08:17 20 can you be sure?---I was intricately involved in that
11:08:22 21 investigation, so when I was at Office of Police Integrity
11:08:28 22 I had management responsibility and almost direct
11:08:31 23 management responsibility for any investigations that
11:08:32 24 involved the Chief Commissioner, Deputy Commissioners or
11:08:35 25 Assistant Commissioners. So that particular operation
11:08:39 26 related, in part to Mr Ashby, who was an Assistant
11:08:45 27 Commissioner. The reason I didn't say I'm absolutely sure,
11:08:49 28 there was a period of four weeks in that operation where I
11:08:53 29 wasn't in Australia.
11:08:54 30
11:08:54 31 Right. When was that?---August to September I think.
11:09:00 32
11:09:00 33 Of 2007?---Correct, yeah. So that was a trip Mr Ashton was
11:09:06 34 going on too, but he got told by Mr Brouwer he wasn't
11:09:10 35 permitted to go due to the operations afoot and I went in
11:09:13 36 his stead to that, so.
11:09:16 37
11:09:18 38 Perhaps just finally, it appears that senior and very
11:09:23 39 senior members of Victoria Police knew that Ms Gobbo was
11:09:27 40 being engaged as a human source to provide information to
11:09:32 41 Victoria Police to assist them in investigating,
11:09:37 42 prosecuting and convicting associates of Mr Mokbel and
11:09:45 43 Mokbel cartel members, people who Ms Gobbo, on the evidence
11:09:51 44 that the Commission has, the police knew Ms Gobbo was
11:09:55 45 acting for, right?---H'mm.
11:09:57 46
11:09:57 47 Are you able to offer an explanation from your perspective

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

11:10:01 1 as to how that could have occurred, knowing those things,
11:10:04 2 that you're using a barrister as an informer to attempt to
11:10:08 3 bring down those people when there's a very real prospect
11:10:12 4 that she's providing legal advice to them?---Again, you'll
11:10:18 5 have to date sequence me. Was she being actively die
11:10:22 6 employed at the time these people knew?
11:10:25 7
11:10:25 8 Yes?---And with concurrence?
9
11:10:30 10 Yes?---I'd have problems with that.
11:10:31 11
11:10:31 12 You'd have problems with it?---Yes.
11:10:33 13
11:10:33 14 If even currently Mr Ashton is on radio last week or the
11:10:36 15 week before saying it passes the pub test because of the
11:10:40 16 difficulties that were going on at the time, is that a
11:10:44 17 concern to you as a senior member of Victoria Police?---It
11:10:47 18 is, yeah.
11:10:48 19
11:10:48 20 It is?---It's either corrupt or it's not and if it's
11:10:51 21 corrupt it's not on.
11:10:53 22
11:10:54 23 Thanks very much.
11:10:56 24
11:10:56 25 COMMISSIONER: Mr Nathwani?
11:10:57 26
11:10:58 27 MR NATHWANI: No thank you.
28
29 COMMISSIONER: Yes Mr Coleman.
11:10:58 30
11:10:59 31 <CROSS-EXAMINED BY MR COLEMAN:
11:10:59 32
11:11:00 33 Mr Nolan, my name is Coleman, I'm counsel for Mr Ashton.
11:11:04 34 You made some corrections to your statement, can I just ask
11:11:08 35 you a question about a couple of paragraphs to see if you
11:11:10 36 need to correct another paragraph. In paragraphs 49 and 50
11:11:15 37 of your first statement, you talk about your knowledge of
11:11:19 38 allegations made by Ms Gobbo that she'd had a sexual
11:11:23 39 relationship with Mr Pope?---Correct.
11:11:25 40
11:11:26 41 And in paragraph 50 you say you believe - you had the view
11:11:29 42 that that presented a conflict to him and he should stand
11:11:33 43 down from any role in Petra?---Correct.
11:11:35 44
11:11:35 45 At paragraph 50 you say you believe you had a conversation
11:11:39 46 like that with Deputy Director Ashton but you can't recall
11:11:42 47 whether that was him or the subsequent Deputy

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

11:11:45 1 Director?---Correct.
11:11:45 2
11:11:45 3 Do you have any further reflections on whether it was
11:11:48 4 Mr Ashton? Let me give you the facts. That the allegation
11:11:51 5 concerning the sexual relationship between Ms Gobbo and
11:11:54 6 Mr Pope only arose in October of 2011?---I'm aware, I'm now
11:12:00 7 aware that it arose through Boris Buick I think.
11:12:03 8
11:12:03 9 It arose in October 2011?---Yes, all right. I suppose the
11:12:07 10 issue that concerned me was, when I was initially asked
11:12:10 11 this, to do this statement, I thought it was Graham Ashton
11:12:12 12 that I spoke to about it. I'm willing to concede that if
11:12:16 13 the date sequence is wrong it would have been Paul
11:12:20 14 Jetkovic. But having said that, I'm not necessarily wedded
11:12:25 15 to the view that that information didn't come out earlier,
11:12:28 16 I just don't know.
11:12:29 17
11:12:30 18 The evidence as I understand it before the Commission is it
11:12:32 19 arose by recorded conversation with Ms Gobbo and police
11:12:37 20 officers in October 2011, it was then reported to
11:12:40 21 Mr Ashton, who then took action with Mr Pope and - - -?---I
11:12:45 22 don't dispute that's true. I just, for me it was just
11:12:49 23 saying can I be absolutely sure I wasn't notified before
11:12:52 24 then and I can't.
11:12:53 25
11:12:54 26 If that's right and it happened in 2011 you wouldn't have
11:12:57 27 had the conversation about it with him as Deputy Director
11:12:59 28 if he wasn't - - -?---If that was the first and only
11:13:03 29 notification it couldn't have been Mr Ashton.
11:13:07 30
11:13:07 31 Right, thank you. The other matter I wanted to ask you
11:13:08 32 about was the evidence you gave about what you would have
11:13:11 33 done if you were aware that Ms Gobbo was a human source,
11:13:13 34 and I think Mr Winneke put to you that if you knew that
11:13:17 35 there was a barrister who was also a human source you would
11:13:21 36 have screamed the house down or something like that I think
11:13:23 37 you said?---That was in the context of she's acting for
11:13:26 38 these people and effectively giving evidence against them.
11:13:31 39
11:13:31 40 I see, just the fact that there is a barrister who is a
11:13:34 41 human source wouldn't have caused you to scream the house
11:13:37 42 down?---No, no. As I say it's the context of legal
11:13:41 43 professional privilege.
11:13:41 44
11:13:41 45 I see. Now, there's evidence before the Commission that
11:13:48 46 Mr Brouwer, when he was director of the OPI, knew that
11:13:52 47 Ms Gobbo was a human source and he had that knowledge in

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

11:13:55 1 either July or August 2007, did you know that?---No.
11:13:58 2
11:13:59 3 And although he's put on a statement saying he doesn't
11:14:02 4 recall it, there's also evidence that Mr Fitzgerald knew
11:14:06 5 that Ms Gobbo was a human source and a barrister in July or
11:14:09 6 August 2007, did you know that?---No.
11:14:12 7
11:14:13 8 Yes, thank you.
9
10 COMMISSIONER: Yes.
11:14:17 11
12 <CROSS-EXAMINED BY MS KELLY:
13
11:14:18 14 Thank you Commissioner. Mr Nolan, my name is Siobhan Kelly
11:14:23 15 and I appear on behalf of Mr O'Connell today?---Yes.
11:14:26 16
11:14:26 17 You said earlier in your evidence, Mr Nolan, at the very
11:14:28 18 beginning of today that there are things you remember very
11:14:31 19 well and things you don't remember so well?---Correct.
20
11:14:35 21 Do you recall that?---Yes.
11:14:35 22
11:14:35 23 That's a fair description of your memory of these
11:14:38 24 events?---Yes.
11:14:39 25
11:14:39 26 When you prepared your initial statement you were careful
11:14:42 27 in that statement to indicate meetings or events that you
11:14:45 28 did not recall?---So what happened in the, in that
11:14:48 29 particular statement was I was shown documents during the
11:14:52 30 preparation of that statement. You'll see that they're
11:14:55 31 footnoted down the bottom. So there will be a footnote
11:14:57 32 that corresponds with the paragraph and they'd say, "Do you
11:15:01 33 recall going to this meeting", if I didn't I'd say, "I have
11:15:04 34 no recollection".
11:15:04 35
11:15:05 36 So if I give you an example of that, paragraph 34, you've
11:15:08 37 been shown a document and you go on to say, "I don't
11:15:11 38 independently recall that meeting or what it was
11:15:13 39 about"?---Correct.
11:15:14 40
11:15:14 41 You were also careful, Mr Nolan, where you thought you
11:15:19 42 remembered something but couldn't be certain, you were
11:15:21 43 careful to use the phrase "I believe" in your statement,
11:15:25 44 would you accept that?---If I was emphatic about it I
11:15:29 45 wouldn't use the word I believe, yes.
11:15:31 46
11:15:31 47 If I can give you an example. If you have a look at

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

11:15:32 1 paragraph 35 of your statement, please?---Yes, I understand
11:15:41 2 that.
11:15:42 3
11:15:42 4 So you accept that the use of the phrase "I believe"
11:15:45 5 indicates that you think that's what happened but you can't
11:15:49 6 state with certainty?---There's a level of assumption, yes.
11:15:53 7
11:15:54 8 And if I could then ask you to look at paragraphs 31 and
11:15:58 9 following of your statement. 61 and following of your
11:16:03 10 statement that is. You've got the heading there "other
11:16:05 11 potentially relevant conduct"?---Yes.
11:16:14 12
11:16:15 13 And the reason you've included those paragraphs is that
11:16:19 14 you've attempted to assist the Commission by including all
11:16:22 15 the information that you had at the time that you thought
11:16:26 16 might be relevant to the Commission's task, whether it
11:16:28 17 ultimately turned out to be relevant or not?---So I didn't
11:16:32 18 have information as such, I was given information at the
11:16:35 19 preparation of the statement and I was asked to comment on
11:16:39 20 documents that they presented to me during that process.
11:16:41 21
11:16:42 22 What I'm putting to you is the reason there's a heading
11:16:44 23 that says "potentially relevant contact" is because you
11:16:48 24 were careful to include everything that you thought might
11:16:51 25 ultimately be of some relevance to this
11:16:54 26 Commission?---Correct.
11:16:55 27
11:17:00 28 Part of the reason, Mr Nolan, that you were so careful in
11:17:03 29 the preparation of your statement is because, as you've
11:17:05 30 admitted and you're certainly not the only witness in this
11:17:08 31 category, you don't have a complete recollection of all of
11:17:11 32 the events?---Correct.
11:17:12 33
11:17:14 34 In paragraph 9 of your supplementary statement, Mr Nolan,
11:17:20 35 you give some evidence about a conversation you had with
11:17:22 36 Mr O'Connell?---Yes.
11:17:23 37
11:17:25 38 And you indicate, "I cannot precisely recall when this was"
11:17:29 39 but you placed it to a time when Mr O'Connell was having
11:17:33 40 what you describe as regular and difficult telephone
11:17:36 41 contact with Ms Gobbo?---Yes.
11:17:37 42
11:17:37 43 Would you accept that Mr O'Connell's evidence will be that
11:17:40 44 that period of time was January 2009 through to February
11:17:44 45 2010?---If that's the case, yes.
11:17:48 46
11:17:48 47 You'd have no reason to disagree with that evidence?---No.

.21/02/20

14735

NOLAN XN

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

11:17:52 1
11:17:57 2 Now you can't place this conversation specifically in
11:18:02 3 time?---No.
11:18:03 4
11:18:04 5 And in terms of context, your recollection is only that it
11:18:07 6 happened after a tasking committee meeting?---Correct.
11:18:10 7
11:18:11 8 And you used the phrase "words to the effect of" because
11:18:14 9 you don't recall precisely what it was that Mr O'Connell
11:18:18 10 said to you?---Not in - I couldn't give you a verbatim
11:18:22 11 account, that was the tenor of it.
11:18:24 12
11:18:25 13 Now, in your written statement you said that he explained
11:18:33 14 to you that they were under a clear directive from the
11:18:37 15 Petra steering committee that any information that came
11:18:40 16 from Ms Gobbo that was outside the scope of Petra was to be
11:18:43 17 recorded in an information report and provided to
11:18:46 18 Mr Overland for decision about what was to be
11:18:50 19 done?---Correct.
11:18:50 20
11:18:50 21 Outside of that conversation with Mr O'Connell do you have
11:18:54 22 any direct knowledge of such a direction being given?---No.
11:18:58 23
11:19:00 24 And that's true both in relation to the Petra steering
11:19:05 25 committee giving such a direction or any individual giving
11:19:07 26 such a direction?---I have no recollection of any such
11:19:10 27 direction.
11:19:10 28
11:19:10 29 And you certainly never heard of any such direction at the
11:19:14 30 weekly tasking meetings that you were attending?---No.
11:19:17 31
11:19:20 32 Do you accept that it would have been unusual for the
11:19:23 33 steering committee to give a direction of that
11:19:28 34 kind?---You're asking me to speculate?
11:19:30 35
11:19:31 36 It is, I'm asking you to speculate?---I'll speculate, I
11:19:34 37 think it would have been a pretty good idea if they did.
11:19:37 38
11:19:38 39 But do you accept that it would have been unusual if they
11:19:41 40 had, Mr Overland had a very senior position at this time,
11:19:44 41 that all IRs were to be sent to him for decision?---So - -
42 -
43
44 Do you accept that was an unusual directive if it had been
11:19:49 45 give?---Unusually - I think he was Chief Commissioner at
11:19:51 46 the time, yes.
11:19:52 47

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

11:19:52 1 He became Chief Commissioner in March so there was an
11:19:55 2 overlap between the two positions?---Right.
11:19:58 3
11:19:58 4 But I think you're accepting that it would have been an
11:20:00 5 unusual directive if it had have been given?---I don't
11:20:06 6 think I thought it was unusual given the level of, or the
11:20:11 7 issues that were surrounding Ms Gobbo and given some of the
11:20:15 8 defences that were being raised at that time about legal
11:20:19 9 professional privilege in relation to I think at some
11:20:22 10 juncture, I'm not sure, again I can't date stamp this, but
11:20:27 11 I know there was concerns about whether Dale's statement
11:20:31 12 might be subject to legal professional privilege, whether
11:20:32 13 Waters' statement might be legal professional privilege. I
11:20:34 14 was aware of those, so not really, I wasn't surprised by
11:20:37 15 it.
11:20:37 16
11:20:37 17 Would you expect that if such a directive had been given by
11:20:41 18 the steering committee it would have been recorded in
11:20:43 19 writing?---I would expect that, yes.
11:20:44 20
11:20:45 21 And you would expect that if a directive of that kind had
11:20:49 22 been given and it had been followed there would be a record
11:20:52 23 of the information reports being disseminated to
11:20:54 24 Mr Overland?---Correct.
11:20:55 25
11:20:55 26 You would also accept that if a direction of that kind was
11:20:57 27 given and followed there would then be a record of
11:21:00 28 Mr Overland's decisions in relation to those?---Correct.
11:21:03 29
11:21:07 30 Now, Mr O'Connell will give some evidence about this
11:21:10 31 matter, Mr Nolan, and I'll tell you briefly what that
11:21:16 32 evidence will be. His evidence will be - on a couple of
11:21:20 33 matters. The first thing he'll say is, "I was trying to
11:21:24 34 discourage her from continuing to provide information and
11:21:26 35 so I did not generate any information reports based on
11:21:29 36 information she gave me", that's the first thing that he
11:21:32 37 will say. The second thing that he will say is that no
11:21:36 38 such direction was given to him by the Petra steering
11:21:38 39 committee or anybody else?---Yep.
11:21:39 40
11:21:40 41 Just accept those two things for the moment?---I'll accept
11:21:43 42 those.
11:21:43 43
11:21:46 44 Accepting, Mr Nolan, that you don't have a clear
11:21:49 45 recollection of all of these events, and accepting that
11:21:52 46 this conversation didn't find its way into your first
11:21:56 47 statement, do you accept that it's possible that you don't

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

11:22:00 1 clearly recall the details of what Mr O'Connell said to
11:22:04 2 you?---So just in terms of, I'm not sure whether you're
11:22:10 3 suggesting recent invention or something of that note, but
11:22:12 4 this issue I raised in the preparation of my first
11:22:15 5 statement and I was told it wasn't relevant. So when I
11:22:19 6 came back for the second statement I said, "I don't feel
11:22:22 7 comfortable with this being out, so I want it in", so it
11:22:26 8 went in. So subsequent to that, all I'd say about that is,
11:22:34 9 on my oath that's my recollection. If Mr O'Connell on his
11:22:40 10 oath has a different view, I'm not fussed about that
11:22:44 11 particularly. He's an ethical bloke, I worked with him for
11:22:48 12 a lot of years, so if he honestly doesn't believe it
11:22:52 13 happened I accept that he honestly doesn't believe it did.

11:22:57 14
11:22:58 15 You've said Mr O'Connell is an ethical bloke?---Yes.

11:23:02 16
11:23:02 17 I'm sure he'd be pleased to hear that description. Would
11:23:07 18 you accept then that if Mr O'Connell had been given such a
11:23:09 19 direction that you've got no reason to believe he wouldn't
11:23:12 20 have followed it?---I'd agree with that.

11:23:14 21
11:23:14 22 And if ultimately Mr O'Connell's evidence is that no such
11:23:19 23 direction was ever given to him, are you prepared to accept
11:23:22 24 that your recollection that he spoke about a Petra steering
11:23:26 25 committee directive might be wrong?---All I can swear on is
11:23:30 26 that that's my recollection.

11:23:32 27
11:23:32 28 What I'm asking is, if Mr O'Connell's evidence is that no
11:23:36 29 direction was ever given to him, that he never filed any
11:23:40 30 form of IR and that there's otherwise no evidence
11:23:42 31 suggesting that this direction was given, are you prepared
11:23:44 32 to accept that your recollection might be wrong?---I can
11:23:47 33 only swear on my recollection, so - and I also acknowledge
11:23:52 34 the frailty of human memory but that's my recollection, and
11:23:57 35 could I just say that, things that shock you generally seer
11:24:04 36 into your brain. Like if it's business as usual you forget
11:24:07 37 it the minute you turn around, but if it's something that
11:24:11 38 shocks you, and that shocked me that she's giving
11:24:15 39 information about her clients, and for me it was more
11:24:19 40 about, "I hope you've got your arse covered with this
11:24:23 41 because this should be reported up", and he said, "This is
11:24:23 42 the process, it goes to Simon Overland", so that's my
11:24:28 43 recollection.

11:24:28 44
11:24:28 45 Your evidence today, Mr Nolan, is despite conceding earlier
11:24:33 46 that you don't have a complete recollection of all of these
11:24:35 47 events, that it's not possible that your memory is wrong

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

11:24:40 1 that content is - - -
11:24:40 2
11:24:40 3 MS RUDDLE: That's not what the witness said. He made very
11:24:42 4 clear what his position is, that it is his recollection.
11:24:44 5 It's really not for this witness to speculate as to whether
11:24:48 6 or not that recollection is right or wrong.
11:24:49 7
11:24:49 8 COMMISSIONER: He said that's his recollection, he said why
11:24:52 9 he remembers it. But by the same token he has also
11:24:57 10 conceded the frailty of human memory, I don't know that
11:25:00 11 you're going to get any further with that. You've probably
11:25:05 12 gone as far as you can.
11:25:06 13
11:25:07 14 MS KELLY: Thank you Commissioner, there's nothing further.
15
11:25:10 16 COMMISSIONER: Thanks very much Ms Kelly.
11:25:10 17
18 <CROSS-EXAMINED BY MR CHETTLE:
19
11:25:11 20 One question. Mr Nolan, in relation to the recollection of
11:25:16 21 the conversation about Mr Pope being involved in a sexual
11:25:23 22 relationship with Ms Gobbo, certainly what was put to you
11:25:26 23 is the evidence of Boris Buick as to when he found out, but
11:25:30 24 there is evidence before this Commission that some time
11:25:33 25 during the period of time that the SDU were managing her
11:25:36 26 between 2005 and the end of 2008 there were rumours going
11:25:40 27 around about Pope having had a sexual affair with her.
11:25:44 28 Could that have been what was being, information conveyed
11:25:48 29 to you at an earlier period of time?---The information came
11:25:52 30 to me from Briars Task Force, Briars or Petra Task Force
11:25:56 31 detectives, that they were concerned about it. And I
11:26:00 32 undertook to take it to the committee through whoever the
11:26:05 33 Deputy Director was at that time frame. In my first
11:26:08 34 recollection I thought it was Mr Ashton I told. And that's
11:26:11 35 why I'm not, I can't necessarily concede that it was
11:26:15 36 Jetkovic, it may have come to me earlier that it was the
11:26:18 37 Boris Buick tape, I just don't know.
11:26:20 38
11:26:20 39 Thank you.
11:26:22 40
11:26:22 41 COMMISSIONER: Mr Holt?
11:26:23 42
11:26:24 43 MR HOLT: Nothing Commissioner.
11:26:28 44
11:26:29 45 COMMISSIONER: Ms Ruddle.
11:26:29 46 <RE-EXAMINED BY MS RUDDLE:
47

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

11:26:31 1 Just one question. The Commissioner asked you about what
11:26:34 2 records you didn't have. Have you set out at paragraph 3
11:26:37 3 of your first statement the records that you requested that
11:26:41 4 were not able to be provided?---Correct.
11:26:43 5
11:26:43 6 Thank you. No further questions, Commissioner.
11:26:45 7
11:26:46 8 COMMISSIONER: And Mr Winneke.
11:26:47 9
10 <RE-EXAMINED BY MR WINNEKE:
11
11:26:48 12 Just one matter. So an issue has arisen as to what stage
11:26:51 13 you screamed the house down. Let's just assume the only
11:26:54 14 thing you knew is that a barrister who acts for criminals
11:27:01 15 and is active at the time is also a human source. You
11:27:06 16 mightn't scream the house down but what do you do?---Well
11:27:09 17 it's got to be reviewed.
11:27:11 18
11:27:11 19 It's got to be reviewed. And what does that
11:27:13 20 involve?---You'd have to do a reconciliation of who her
11:27:17 21 clients are with the information that's been given.
11:27:19 22
11:27:19 23 So you'd look into it?---Had to look into it.
11:27:22 24
11:27:22 25 Would you look into whether there were any protocols,
11:27:26 26 whether there was any instructions given to the people who
11:27:28 27 were getting information from her?---Look, it would have
11:27:31 28 been, for me that would have been urgent. Look, I think
11:27:34 29 anyone who has been told that Ms Gobbo was a human source,
11:27:38 30 like it knocks you off your socks.
11:27:41 31
11:27:41 32 You'd do something about it?---You'd want to be really
11:27:45 33 satisfied that the appropriate controls and mechanisms were
11:27:48 34 in place.
11:27:48 35
11:27:49 36 All right. Thanks very much.
11:27:50 37
11:27:50 38 COMMISSIONER: Thanks very much, Mr Nolan?---Thank you.
11:27:52 39
11:27:52 40 And thank you for making yourself available, I know you've
11:27:56 41 been waiting around to give evidence for a few days which
42 is no doubt inconvenient to your busy schedule but thank
11:28:06 43 you for that.
44
45 MR WINNEKE: Thank you Commissioner. Mr O'Connell is next.
46
11:28:07 47 COMMISSIONER: Yes, we'll have the midmorning break.

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

11:28:09 1
11:28:10 2 (Short adjournment.)
11:28:10 3
11:49:05 4 COMMISSIONER: Yes, Ms Tittensor. I think we have got
11:49:07 5 Mr O'Connell returning to the witness box.
11:49:10 6
11:49:10 7 MS TITTENSOR: Yes, Commissioner.
8
11:49:13 9 COMMISSIONER: Thanks Mr O'Connell. You're on your former
11:49:16 10 oath, of course?---Thank you.
11:49:20 11
11:49:21 12 <SHANE O'CONNELL, recalled:
11:49:24 13
11:49:27 14 MS TITTENSOR: Thanks, Mr O'Connell. If I'm going too
11:49:30 15 fast, we've got a lot to get through, if I'm going too fast
11:49:35 16 just tell me to slow down. I'm sure the transcribers would
11:49:39 17 appreciate that too?---Yes.
18
11:49:41 19 On 5 February 2008 the SDU were advised by Detective
11:49:49 20 Inspector Ryan that Petra investigators wanted to speak to
11:49:53 21 Ms Gobbo. The source management log indicates that they
11:49:57 22 were advised by yourself that you were aware - well, who is
11:50:02 23 aware of Ms Gobbo's status but that the investigators were
11:50:06 24 not. Now is that your understanding?---I've got - I can't
11:50:10 25 recall that. If that's a recollection from a log, I can't
11:50:16 26 recall that specifically. It's clearly not a log
11:50:21 27 maintained by myself so they're someone else's notes, so
11:50:24 28 it's difficult, if not impossible, for me to comment on the
11:50:28 29 accuracy of those notes. But I can't recall that specific
11:50:31 30 incident or date.
31
11:50:33 32 But do you accept the accuracy of a log maintained by the
11:50:39 33 Source Development Unit, the source management log?---I
11:50:41 34 don't think it's possible for me to do that because I
11:50:43 35 didn't make the entry, nor do I have a recollection of the
11:50:48 36 conversation or incident or even time frame so I have got
11:50:51 37 nothing to compare it to.
38
11:50:53 39 Okay. February 2008 Ms Gobbo was interviewed by Petra
11:50:57 40 investigators, do you accept that?---Without notes to
11:51:04 41 assist in my memory, as I say, I can't recall that
11:51:07 42 particular time frame.
43
11:51:10 44 Do you accept that Ms Gobbo was interviewed by Petra
11:51:12 45 investigators in February 2008?---I can't comment one way
11:51:17 46 or the other because I have no recollection of that period
11:51:22 47 of time without any form of notes to assist me with that

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

11:51:25 1 recollection.
2
11:51:26 3 If there are numerous records available to the Commission
11:51:28 4 in the form of SDU logs, ICRs, diary notes of other people,
11:51:35 5 do you accept that?---I don't mean to be difficult,
11:51:39 6 Commissioner, but I'm not sure that I'm in a position to
11:51:42 7 assert to the accuracy or otherwise of someone - - -
8
11:51:45 9 COMMISSIONER: Are you able to dispute it might be another
11:51:49 10 way of putting it?---I don't dispute notes or records that
11:51:53 11 were made by other people, but having said that I haven't
11:51:56 12 seen them, so.
11:51:57 13
11:51:57 14 MS TITTENSOR: You're aware that Ms Gobbo was interviewed
11:52:00 15 by Petra Task Force investigators during the course of the
11:52:03 16 investigation?---Yes.
17
11:52:04 18 Right. You've been shown recently a profile, is that
11:52:08 19 right, that was created by Petra in relation to
11:52:12 20 Ms Gobbo?---I'm aware there was one.
21
11:52:15 22 Yes. You've been shown that recently?---Yes, I believe so.
23
11:52:19 24 That's the type of document, when it was created, you would
11:52:21 25 have been familiar with?---Yes.
26
11:52:25 27 In that document that refers to various matters, including
11:52:30 28 that Azzam Ahmed - Ms Gobbo had previously confirmed his
11:52:37 29 alibi and that required further investigation, do you
11:52:43 30 recall that?---Not specifically but if there's a copy of
11:52:49 31 the document I'd be more than happy to read that.
32
11:52:51 33 You don't dispute that that would be - if that's in the
11:52:53 34 document - I'll move on. Do you accept that in that
11:52:58 35 document there's reference to her representation of Tony
11:53:01 36 Mokbel from 2002?---Again, I've seen the document. I
11:53:07 37 haven't read it word for word. I don't dispute what you're
11:53:10 38 telling me but I have no recollection of that specifically,
11:53:13 39 no.
40
11:53:14 41 You don't have a recollection of it now but you would have
11:53:17 42 been familiar with it around the time?---I may have been.
11:53:19 43 I've seen the document, and it's likely that I've read it,
11:53:23 44 but again I can't be that definitive because I can't
11:53:26 45 recall.
46
11:53:27 47 Given the nature of the investigation that you were

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

11:53:28 1 conducting and that that document includes an indication
11:53:33 2 that she's represented Tony Mokbel from 2002 and knew that
11:53:39 3 Terrence Hodson was an informer from that time, that would
11:53:42 4 have been a piece of information that you would have
11:53:44 5 known?---It's likely that I would have.
6
11:53:46 7 Yes. It referred to her representation of Carl and George
11:53:53 8 Williams in 2004?---Again, I won't dispute that but I
11:54:00 9 haven't seen the document in that much detail to be able to
11:54:03 10 confirm that.
11
11:54:05 12 It referred to her representation of Abby Haynes, and still
11:54:10 13 maintains a friendship with Abby Haynes?---Again, I don't
11:54:10 14 dispute that but can't confirm it.
15
11:54:13 16 You referred to that document I think in your first
11:54:19 17 statement at paragraph 27; is that right?---That would
11:54:33 18 appear to be the case, yes.
19
11:54:34 20 The next paragraph in your statement, paragraph 28, you're
11:54:38 21 dealing with things in chronological order, you deal with
11:54:42 22 an event in May of 2008, you skip forward a number of
11:54:47 23 months?---Yes, the next paragraph makes a reference to May
11:54:54 24 2008.
25
11:54:55 26 You didn't deal with Ms Gobbo's involvement with Petra
11:54:59 27 between that period of time; is that right?---I don't
11:55:03 28 recall doing so.
29
11:55:05 30 Well, that statement doesn't deal with Ms Gobbo's
11:55:08 31 involvement with Petra between those periods of time; is
11:55:15 32 that right?---Yes, paragraph 27 refers to February 2008,
11:55:20 33 paragraph 28 refers to May 2008.
34
11:55:29 35 You don't dispute that Ms Gobbo was interviewed by Petra
11:55:32 36 investigators on the 26th and the 28th of February 2008,
11:55:38 37 that's right?---I'd be relying upon your dates to be
11:55:42 38 correct. I can't recall those specific dates but if
11:55:46 39 there's material that suggests that I don't dispute it.
40
11:55:49 41 You don't dispute that she then assisted Petra in part of
11:55:53 42 its investigation dealing with Andrew Hodson?---I don't
11:56:01 43 have any recollection of that.
44
11:56:04 45 Do you dispute it?---I'm not sure of the question and
11:56:07 46 whether it's sufficiently specific enough. What's the
11:56:11 47 reference?

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

1
11:56:14 2 Do you dispute that Ms Gobbo assisted Petra in its
11:56:19 3 investigation in dealing with Andrew Hodson?---You'd have
11:56:22 4 to provide me with some context. What capacity?
5
11:56:24 6 That she was tasked by the SDU, in coordination with you
11:56:28 7 and Mr Ryan, to deal with Andrew Hodson?---Yeah, I can't
11:56:33 8 recall that.
9
11:56:34 10 Do you dispute that?---I can't recall that.
11
11:56:36 12 Yes, but do you dispute it?---I do because I can't recall
11:56:39 13 it, and I haven't seen any material that would suggest
11:56:42 14 that.
15
11:56:42 16 Have you not been taken through material recently by your
11:56:45 17 lawyers?---Quite possibly but there was quite an amount of
11:56:48 18 it, so if I could have that material shown to me again it
11:56:52 19 would potentially assist.
20
11:56:54 21 Were you at your lawyers on Monday and were you taken
11:56:56 22 through material relating to Andrew Hodson?---I can't
11:57:02 23 recall every single document that I was taken through on
11:57:04 24 Monday, or prior to that, or since.
25
11:57:11 26 If we can - the material indicates that following her
11:57:17 27 interview with Petra investigators there was some
11:57:21 28 discussion about Ms Gobbo assisting Petra and that
11:57:28 29 investigators had asked Ms Gobbo to tape-record
11:57:33 30 conversations with Terrence Hodson and John Higgs. I
11:57:39 31 understand that you'll say "I've got no recollection of
11:57:42 32 that", but if your investigators, Mr Davey and Mr Solomon,
11:57:47 33 are asking Ms Gobbo to engage in conduct like that, is it
11:57:51 34 likely that you would have been aware of those
11:57:53 35 things?---It's possible.
36
11:57:55 37 Is it likely?---I couldn't put it at that height. It's
11:57:58 38 possible.
39
11:58:00 40 Do you think your investigators would be asking Ms Gobbo to
11:58:05 41 tape record suspects on behalf of Petra without first
11:58:08 42 discussing it with you?---Yes.
43
11:58:21 44 Ms Gobbo told those investigators that recordings that she
11:58:25 45 made along those lines would be privileged and she didn't
11:58:28 46 want to give evidence. Do you recall being told that
11:58:33 47 information?---No.

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

1
11:58:38 2 If we can bring up your diary, please, RCMP.0146.0001.0002
11:58:47 3 at p.28. This is 29 February 2008. Ms Gobbo had been
11:59:03 4 interviewed by Mr Davey and Mr Solomon on the 26th and the
11:59:06 5 28th of February. Perhaps I'll read the entry out to you,
12:00:41 6 Mr O'Connell. We can show it to you if need be. It's 7.20
12:00:45 7 in the morning. Your diary indicates you discussed
12:00:48 8 strategy for Andrew Hodson with Davey and Solomon. You
12:00:53 9 were to speak to him after the Mokbel extradition hearing.
12:00:58 10 Do you recall around this time that Mr Hodson [REDACTED]
12:01:02 11 about [REDACTED] and [REDACTED] in some
12:01:07 12 way?---I have read some subsequent diary entries that would
12:01:12 13 - that provided me, or that suggested there was a concern
12:01:16 14 from Mr Hodson in relation to Mr Mokbel.
15
12:01:19 16 And that you were going to consider a polygraph test, do
12:01:24 17 you recall that?---That was a consideration at the time,
12:01:25 18 yes.
19
12:01:26 20 Was that something that was unusual?---Yes.
21
12:01:30 22 Had you ever done it before?---I can't recall. I may have
12:01:34 23 but I'm unclear on that.
24
12:01:40 25 We have that diary entry from you which is - here we go.
12:01:47 26 We see it on there. We want 29 February. You see that
12:01:59 27 there in the middle of the page reflecting what I've just
12:02:02 28 been asking you?---Yes.
29
12:02:06 30 If we can scroll up, please. Do you see that we've got -
12:02:22 31 we have an entry there, the next entry is on 3 March,
12:02:30 32 dealing with meetings essentially that you had with
12:02:35 33 superiors; is that right?---Correct.
34
12:02:37 35 And then if we scroll up. Keep going. The next entry we
12:02:46 36 have in relation to operational matters or investigation
12:02:50 37 matters is on 10 March, do you see that?---Yes.
38
12:02:56 39 That's again a conversation that you're having with Davey
12:03:00 40 and Solomon?---Correct.
41
12:03:03 42 Do we take it that you've written nothing of relevance
12:03:06 43 between those dates because that's not been - because the
12:03:09 44 Commission's not been provided with anything between those
12:03:12 45 dates other than those entries?---I'm not sure what those
12:03:17 46 other entries are off the top of my head but I don't
12:03:20 47 dispute that.

.21/02/20

14745

O'CONNELL XXN

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

1
12:03:21 2 Right. So in terms of operational matters, you've got an
12:03:24 3 entry in your diary on 29 February and then the next one is
12:03:29 4 10 March, do you accept that?---It would appear so, yes.
5
12:03:34 6 If we can go to Mr Sandy White's diary for 29 February.
12:03:42 7 VPL.2000.0001.1373. Do you see there at 11 o'clock in the
12:04:15 8 morning Mr Sandy White - you know who I'm talking about
12:04:20 9 when I say Sandy White?---Yes.
10
12:04:22 11 Head of the SDU. Records at 11 o'clock he received a call
12:04:25 12 from you. Ms Gobbo had visited yesterday. Andrew Hodson
12:04:31 13 rang, I think that should be Cam Davey, and [REDACTED]
12:04:36 14 [REDACTED]. Very distressed and crying. Ms Gobbo
12:04:38 15 had offered to assist and investigators want to use her.
12:04:42 16 Every time he needs advice he seeks her out. If we put
12:04:45 17 pressure on him he will ring her and considering putting
12:04:50 18 Andrew Hodson on polygraph, do you see that?---Yes.
19
12:04:57 20 Do you accept you had that conversation with Sandy White on
12:04:59 21 29 February 2008?---Look, I can't recall that conversation.
12:05:02 22 I'm not - if - - -
12:05:05 23
12:05:05 24 If he's written it, if he's made a contemporaneous record
12:05:08 25 of the conversation with you about those issues, do you
12:05:10 26 accept you had a conversation along those lines with Sandy
12:05:14 27 White?---Again, it's difficult for me to accept a document
12:05:18 28 that I didn't create, notes that I didn't make, relating to
12:05:23 29 a conversation that I can't recall. I do apologise for
12:05:28 30 that.
31
12:05:29 32 Do you dispute you had this conversation?---I can't confirm
12:05:32 33 or dispute. I'm just not in a position to because I just
12:05:37 34 can't recall.
35
12:05:38 36 COMMISSIONER: We understand it's your position, but to get
12:05:40 37 through the evidence we'll work on the basis that we
12:05:43 38 understand that's your position, you're not - you don't
12:05:48 39 recall it, you're not disputing it, and we'll proceed on
12:05:50 40 that basis if that's satisfactory to you. You've noted
12:05:53 41 very firmly that you have no recollection and you can't
12:05:56 42 accept it or deny it, all right, so we'll go on that
12:06:00 43 basis?---That's fine.
44
12:06:01 45 And just proceed on that basis.
12:06:03 46
12:06:03 47 MS TITTENSOR: Do you recall generally having

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

12:06:05 1 communications with the SDU through this period?---No, not
12:06:08 2 really, no.
3
12:06:09 4 Total blank?---This period, yes.
5
12:06:13 6 Is there a reason why you might want to block this
12:06:16 7 out?---I'm not blocking it out and to be a little bit frank
12:06:19 8 I'd sort of resent the connotation, but the fact is
12:06:22 9 that - - -
10
12:06:23 11 COMMISSIONER: It is a long time ago?---Yeah, and this
12:06:25 12 period of time I haven't had to recall since - until
12:06:31 13 Monday.
14
12:06:31 15 It is a long time ago.
12:06:34 16
12:06:34 17 MS TITTENSOR: If we look at your statement there's a
12:06:36 18 couple of paragraphs, paragraph 31 and 35, where you record
12:06:41 19 in your diary communications with the SDU; is that
12:06:48 20 right?---Sorry, which paragraphs were they?
21
12:06:50 22 Paragraphs 31 and 35, you record in your diary that some
12:06:55 23 contact that you've had with the SDU, including contact
12:06:58 24 that's been about Ms Gobbo?---31 appears to be - - -
25
12:07:18 26 I'm just making the point, in your diary - - - ?---Yes.
27
12:07:21 28 - - - you will on occasion record your contact that you've
12:07:25 29 had with the SDU; is that right?---Correct.
30
12:07:29 31 And there's nothing controversial about those entries, is
12:07:34 32 there?---Those paragraphs recount notes from my diary.
33
12:07:40 34 Yes. If we can go back to the diary of Sandy White,
12:07:48 35 please, at 14:55. See following the conversation that he
12:07:57 36 records having had with you he has a conversation with GR,
12:08:01 37 Gavan Ryan, in relation to Ms Gobbo's offer to assist Petra
12:08:05 38 and that investigators, Mr Davey and Mr Solomon presumably,
12:08:09 39 are to be told that any contact in relation to Ms Gobbo
12:08:13 40 will go through Mr Ryan because of issues in relation to
12:08:17 41 legal privilege, et cetera, do you see that?---I can.
42
12:08:24 43 Are you aware that Mr Ryan had some involvement back with
12:08:27 44 Petra around this period of time?---Not specifically, but
12:08:34 45 again no reason to dispute.
46
12:08:42 47 Similarly if we were to go to it, Mr Wolf, a handler of

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

12:08:48 1 Ms Gobbo at the time, VPL.2000.0001.0066 at p.30, has a
12:08:59 2 conversation with Mr White, you'll see at the top of the
12:09:04 3 page. There's some concerns that Ms Gobbo needs to stop
12:09:08 4 suggesting ideas and offering assistance. There's an
12:09:11 5 indication that Petra will be told by Ryan that Gobbo may
12:09:16 6 or may not assist and she would deal with Ryan, who had a
12:09:23 7 history with her at Purana. That Mr Ryan would decide what
12:09:30 8 Gobbo was to do and that it would be coordinated by Mr Ryan
12:09:34 9 and the SDU. It goes on that Ms Gobbo was to be told that
12:09:42 10 pressure would be applied to Mr Hodson and that this may
12:09:45 11 result in him going to Gobbo, which would be coordinated by
12:09:49 12 the SDU. Do you see that written there?---Yes.
13
12:09:53 14 And that Ryan would be told about anything worthwhile
12:09:58 15 knowing, do you see that?---Yes.
16
12:10:01 17 Do you expect that you would have been liaising with
12:10:05 18 Mr Ryan about these matters?---Not necessarily, no.
19
12:10:09 20 Would Mr Ryan be conducting such inquiries or matters
12:10:16 21 without consulting you?---That's highly likely in these
12:10:20 22 circumstances, yes.
23
12:10:22 24 All right. If we have a look further on you'll see that
12:10:27 25 the handler has a - no, we've gone too far. Sorry. The
12:10:33 26 handler has a conversation with Ms Gobbo and that included
12:10:37 27 Ms Gobbo being told that Petra were interested in
12:10:40 28 Mr Hodson's movements if he came to see her again. Then we
12:10:44 29 see under the heading "Higgs" that Ms Gobbo was told that
12:10:52 30 Hodson may approach her after certain events or pressure
12:10:55 31 was applied, that it would be controlled by the SDU and
12:10:58 32 Ryan, and that she was, if we move up the page, very
12:11:02 33 excited by this. Then there was some concern by her about
12:11:09 34 how that would all be explained to investigators and she
12:11:12 35 was told that the investigation was very high risk because
12:11:15 36 of her occupation and her background with Ryan. This was
12:11:19 37 best to protect her. If there's some strategies like that
12:11:25 38 being developed by Petra investigators, if it included
12:11:32 39 yourself and Mr Ryan, would those matters be reported to
12:11:37 40 the steering committee?---I'm not aware of this. I haven't
12:11:42 41 seen this log prior. There's nothing in here that would
12:11:44 42 indicate I've got involvement or knowledge here and I don't
12:11:47 43 recall it, have any recollection of it at all.
44
12:11:51 45 Well, there's a conversation that you've had with Mr Sandy
12:11:56 46 White indicating that if we put pressure on Mr O'Connell
12:12:01 47 he's going to go, or he might go - sorry, if we put

.21/02/20

14748

O'CONNELL XXN

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

12:12:06 1 pressure on Mr Hodson he might go to seek some advice from
12:12:09 2 Ms Gobbo?---Sorry, can you take me to that part again?
12:12:14 3 Because I haven't seen my initials or name in this document
12:12:17 4 at all, other than the very first entry.
5
12:12:19 6 Yes, at 11 o'clock. At 11 o'clock. Sorry, this was in
12:12:26 7 Sandy White's diary. The diary that I took you to earlier.
12:12:36 8 Sandy White's diary. Just stay on this diary entry. Sandy
12:12:52 9 White's diary, I took you to it earlier, it indicated that
12:12:55 10 he'd had a call from you. That Andrew Hodson had rang
12:13:01 11 Cameron Davey and had [REDACTED] He was very
12:13:05 12 distressed and crying. You recall me reading this out to
12:13:08 13 you before?---Yes, I do, yes.
12:13:09 14
12:13:10 15 That 3838 had offered to assist and investigators wanted to
12:13:13 16 use her. Every time he needs advice he seeks her out. If
12:13:17 17 we put pressure on him he will ring her and you were
12:13:21 18 considering putting him on a polygraph?---Yes, I remember
12:13:24 19 you reading that.
20
12:13:25 21 Right. That's a conversation with you. There we go.
12:13:29 22 Apologies but we need to go back to Mr Wolf's diary,
12:13:41 23 VPL.2000.0001.0098 at p.2. If we can go up the page,
12:14:21 24 please. You see there at 11.30 there's a conversation
12:14:29 25 recorded by Ms Gobbo's handler, Mr Wolf, with you, do you
12:14:33 26 see that?---Yes.
27
12:14:36 28 It's called "Shane O'Connell re 2958 (Ms Gobbo) and Petra's
12:14:42 29 next instalment". There's a conversation recorded there,
12:14:52 30 "Advised him that Ms Gobbo was concerned re time in office
12:14:56 31 and exposure and would prefer a later shift to avoid
12:14:59 32 compromise. Happy for Ms Gobbo to delay arrival at Petra
12:15:03 33 Task Force office". It seems as though Ms Gobbo's going to
12:15:06 34 be making a visit to the Petra Task Force office, do you
12:15:08 35 see that?---Yes.
36
12:15:11 37 Ms Gobbo was to be made aware that Petra Task Force
12:15:20 38 members, or that Gavan Ryan would speak to her about
12:15:23 39 helping out with Andrew Hodson, do you see that?---Yes.
40
12:15:28 41 That Mr Ryan had advised investigators that this was a
12:15:31 42 difficult situation which needed to be managed properly,
12:15:34 43 that Ms Gobbo was an eminent figure in the community and
12:15:38 44 legal fraternity and things had to be done properly in
12:15:42 45 order to avoid raising suspicion. Do you accept at this
12:15:48 46 stage Mr Davey and Mr Solomon had no idea that Ms Gobbo was
12:15:52 47 a human source?---I can't be specific on that but that's my

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

12:15:55 1 understanding.
2
12:15:58 3 There's references there about Hodson may be spoken to
12:16:03 4 later in the week, especially after the Tony Mokbel hearing
12:16:05 5 in Greece?---Yes.
6
12:16:11 7 And there's reference to Hodson may be asked to take a
12:16:15 8 polygraph. Hodson may then approach Ms Gobbo to discuss
12:16:19 9 whether or not he should subject himself to the polygraph
12:16:22 10 test, do you see that?---Sorry, what was that last
12:16:32 11 reference?
12
12:16:33 13 There's the dot point just above the gap, "Hodson may be
12:16:37 14 asked to take a polygraph. Hodson may then approach
12:16:41 15 Ms Gobbo to discuss whether he should subject himself to a
12:16:44 16 polygraph test. Ms Gobbo may ask the person of interest,
12:16:50 17 Mr Hodson, why he would not take the test"?---Yes, I see
12:16:54 18 that entry, yep.
19
12:16:55 20 It appears as though you've had a conversation about these
12:16:58 21 matters with the handler, you accept that?---That would
12:17:02 22 appear so, although I can't recall that conversation, yes.
23
12:17:10 24 And you see the concern down the bottom, and it's being
12:17:14 25 raised, "The SDU issue is that if Mr Hodson makes an
12:17:17 26 admission and then seeks Ms Gobbo to represent him, finding
12:17:20 27 an excuse not to and covering it later in pre-trial
12:17:24 28 disclosures or more open hearings", do you see that?---Oh,
12:17:27 29 I can see that entry, yes.
30
12:17:30 31 If we can move along to p.5, it's at 17:19. There's a
12:17:43 32 reference down the bottom to Petra Task Force and if we can
12:17:46 33 move up the page. Ms Gobbo will tell Petra that she
12:17:53 34 doesn't want to be mentioned in their notes due to
12:17:56 35 pre-trial disclosure and she was told that this was a good
12:17:59 36 idea. That's a conversation she's having with her handler
12:18:04 37 at the time, okay?---(Witness nods.)
38
12:18:05 39 If we move - sorry, 20:25, this is now 5 March, the
12:18:15 40 following day. Ms Gobbo is reporting to her handler after
12:18:19 41 just having finished at Petra. She indicates - do you see
12:18:26 42 that?---This is the last entry on the page?
43
12:18:28 44 20:25?---Yes, got that.
45
12:18:32 46 You see over there, "Received a call from 2958. Had just
12:18:34 47 finished at Petra". She records the day book issue had

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

12:18:37 1 just been addressed. The investigator was writing on loose
12:18:42 2 paper. His diary would reflect that he'd spoken to her but
12:18:46 3 there would be no content in the diary about what he'd
12:18:49 4 spoken to her about. Can I just ask, is that a usual
12:18:52 5 process in terms of recording within Victoria Police where
12:18:56 6 you don't want any record kept for subsequent disclosures
12:19:00 7 that might have to be made in court?---I'm not sure that
12:19:03 8 the entry goes that far, but the manner in which material
12:19:09 9 is recorded in terms of notes is a matter for each
12:19:13 10 individual investigator, so that's not me, so it's not
12:19:17 11 really for me to comment. I don't know the context or the
12:19:20 12 circumstances around that notation.

13
12:19:21 14 Do you yourself engage in a practice, or have you, where
12:19:25 15 you don't write things in your diary because you don't want
12:19:28 16 them disclosed later at court?---No.

17
12:19:31 18 You've never done that?---Not that I can recall and not
12:19:35 19 that I'm aware of. It wouldn't be a practice that I would
12:19:38 20 engage in I wouldn't have thought.

21
12:19:41 22 Further towards the bottom it indicates that the
12:19:45 23 investigator stated that he'd been told by you, and you'd
12:19:51 24 been told by Mr Ryan, that anything to do with the Hodson
12:19:58 25 or Higgs' proposals seems would be done, it would come from
12:20:05 26 Ryan. If we go over the page, second dot point there.
12:20:08 27 Ms Gobbo believes there must be some - "Ms Gobbo stated
12:20:18 28 that it must be something to do with her previous
12:20:21 29 relationship with Ryan over at Purana. Petra were also
12:20:25 30 keen for her [REDACTED]'. Do you
12:20:28 31 recall Petra having an interest in Higgs around this period
12:20:31 32 of time?---Not specifically, no.

33
12:20:35 34 Ms Gobbo was very concerned about how it would be kept from
12:20:38 35 people in pre-trial disclosures. If we go about halfway
12:20:44 36 down the page. "Investigators were asking if Ms Gobbo had
12:20:51 37 any documents in relation to Dale (material that Dale
12:20:54 38 supplied her about informers). Gobbo told them that she
12:21:00 39 had notes given to her whilst he was in custody. She told
12:21:05 40 them that she could not recall exactly where they were.
12:21:08 41 She told the handler that she'd given either a copy or the
12:21:12 42 originals to the SDU and she wanted that matter followed
12:21:15 43 up". And she commented that there was a lot in the notes.
12:21:20 44 Do you see that?---I can see that entry, yes.

45
12:21:26 46 Do you recall ever seeing those notes?---No, I don't.

47

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

12:21:33 1 If we go over the page. Under the bolded name of Mr Hodson
12:21:55 2 there's issues being discussed about recording a
12:22:01 3 conversation with him. Ms Gobbo would not be able to
12:22:05 4 represent Mr Hodson, which is what he will ask for, and she
12:22:09 5 would have to come up with a reason why she can't represent
12:22:12 6 him. "Would having dealt with Dale be enough for conflict
12:22:17 7 of interest", she says, do you see that?---I can see that
12:22:22 8 entry, yes.
9
12:22:38 10 Can we just move down the page. There's a conversation
12:22:48 11 that's occurring I think on the 5th. Sorry, wrong way.
12:23:08 12 There's discussions you see at the top of the page there
12:23:11 13 about recording conversations. "Mr Davey had guaranteed it
12:23:17 14 wouldn't be used as evidence as he didn't want blood on his
12:23:20 15 hands", second dot point there. "Ms Gobbo believed that
12:23:25 16 Mr Hodson would talk openly to her over dinner, that he
12:23:28 17 would either call she or Mr Valos, but if the pressure was
12:23:34 18 applied after hours Valos would not answer and naturally he
12:23:38 19 would call her and she could suggest dinner". Do you see
12:23:41 20 that?---Yes, I can see that entry.
21
12:23:44 22 Ms Gobbo was concerned that Mr Hodson might say something
12:23:47 23 crucial, or even confess, which would be hard then not to
12:23:50 24 act upon, and there's a query there, an SDU issue [REDACTED]
12:23:56 25 [REDACTED] ' [REDACTED] was done
12:23:59 26 by the SDU how are we going to explain that to
12:24:02 27 investigators without them understanding that she was
12:24:05 28 working with another law enforcement agency or a different
12:24:08 29 section of Victoria Police?" Do you see that?---Yes, I can
12:24:11 30 see those entries.
31
12:24:12 32 If we move to 7 March at p.10 of the document. Do you see
12:24:21 33 there at 10.05 in the morning of 7 March the handler has
12:24:27 34 recalled, has recorded having a conversation with
12:24:31 35 you?---That's what it says.
36
12:24:37 37 It appears as though you're discussing Ms Gobbo's
12:24:41 38 attendance, presumably at Petra, and that Ms Gobbo had
12:24:48 39 overreacted to conversing with Gavan Ryan. Is it the case,
12:24:54 40 do you know, that she was conversing directly with Mr Ryan
12:24:58 41 at this period of time?---I can't recall this period. I
12:25:01 42 can't recall this conversation.
43
12:25:05 44 There's mention of her playing the policemen, presumably
12:25:11 45 indicating to the police themselves the option of recording
12:25:14 46 Mr Hodson, and mentioned that they could do it by way of a
12:25:18 47 listening device. Then there's further reference to - then

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

12:25:24 1 there's reference to the investigators asking for Mr Dale's
12:25:27 2 notes, do you see that?---Yes, I can see those entries.
3
12:25:34 4 It appears as though that's been discussed as between you
12:25:38 5 and the handler, it says, "Could not recall investigators
12:25:42 6 asking for Paul Dale's notes". I've taken to you a
12:25:46 7 previous entry where Ms Gobbo had referred to that
12:25:48 8 occurring. Obviously there was a query between you and the
12:25:52 9 handler on that occasion in relation to that topic. "Petra
12:25:59 10 would call Andrew Hodson today at 4.30 pm to arrange a
12:26:03 11 chat." Do you see that?---Yes.
12
12:26:09 13 So Petra's plan was to arrange a chat with Andrew Hodson
12:26:14 14 the following Monday morning. They would mention Tony
12:26:17 15 Mokbel coming back and then when Mr Hodson came in they
12:26:20 16 would put a polygraph or an offer to take a polygraph to
12:26:24 17 him?---Yes, I can see that entry.
18
12:26:27 19 The handler recalls advising you, in line with what he'd
12:26:32 20 discussed with Ms Gobbo prior to this, that a call after
12:26:35 21 hours or on the weekend would be better, as Hodson might
12:26:39 22 otherwise call Jim Valos, do you see that?---Yes, I can see
12:26:44 23 that entry.
24
12:26:47 25 If we can move up, please, to 11.05. The handler records
12:26:56 26 speaking with you again. It's apparent that the call had
12:26:59 27 already been made to Mr Hodson. If we can then move to
12:27:08 28 17:05. If we can move further up, please. There's some
12:27:21 29 conversation at the top of that which you might have seen
12:27:23 30 relating to issues of disclosure that are going on
12:27:26 31 concurrently with this in the Orman committal. Ms Gobbo
12:27:32 32 then is informed that Petra had called Mr Hodson that
12:27:37 33 morning. She wasn't happy that Petra detectives did not
12:27:44 34 listen to her suggestions, that the time to come in was
12:27:49 35 wrong. There wasn't enough time to get a recording device
12:27:52 36 to her. When she was told that there would be no recording
12:27:56 37 she was outraged and she wanted to record. If we keep
12:28:00 38 going through the conversation she's threatening to go to
12:28:03 39 Dick Smith's to get her own recorder, make a transcript and
12:28:06 40 then destroy it so there would be nothing to call for if
12:28:11 41 there was a court proceeding. Do you see that generally
12:28:13 42 recorded in that entry?---Yeah, I can see it recorded, yes.
43
12:28:21 44 MR McDERMOTT: Commissioner, I'm sorry to interrupt my
12:28:22 45 learned friend. There was a reference to a name at p.14749
12:28:25 46 lines 20 at and 21.
47

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

12:28:27 1 COMMISSIONER: Sorry, could you speak up a little, I'm
12:28:29 2 having trouble hearing you.
12:28:32 3
12:28:32 4 MR McDERMOTT: Yes, there was a reference to a name at
12:28:36 5 p.14749, lines 20 to 21, the person identified as coming
12:28:39 6 back.
12:28:45 7
12:28:45 8 MS TITTENSOR: I don't understand that that's a
12:28:48 9 controversial name.
12:28:50 10
12:28:50 11 MR McDERMOTT: I wonder if I could just take some
12:28:53 12 instructions about that over the lunch break, I apologise.
12:28:56 13 I'm being a bit cryptic as to why that's so.
14
12:28:59 15 COMMISSIONER: Okay, the name at 20 to 21 you want out?
12:29:04 16
12:29:04 17 MR McDERMOTT: Yes, just in the context of the sentence.
18
12:29:36 19 I'm assured it's not an issue. I apologise,
12:29:37 20 Commissioner.
21
12:29:37 22 COMMISSIONER: Thank you.
12:29:42 23
12:29:42 24 MS TITTENSOR: If we can move to 8 March 2008, 13:14. I'm
12:30:00 25 not sure where we are on that page. If we can show the 8th
12:30:05 26 of March. Move up. We see - sorry, 13:41 there down the
12:30:18 27 bottom. The handler is recording a call with Gavan Ryan in
12:30:23 28 relation to the Orman issue as well as - and Ms Gobbo. If
12:30:32 29 we can continue up. Sorry. Just straddle the two pages if
12:30:41 30 that's all right. In the course of that conversation
12:30:45 31 Mr Ryan is informed that Ms Gobbo was wanting to make her
12:30:50 32 own recordings, which they agree was wrong. If we can
12:30:53 33 continue to the 9th of March. There's a conversation
12:30:59 34 there. Ms Gobbo had received a call from Mr Hodson. She
12:31:05 35 reports taking five pages of notes in that conversation.
12:31:15 36 I'm just trying to find where that is on the page, I
12:31:18 37 apologise. About five dot points down. He'd been - so
12:31:27 38 Mr Hodson was telling her that he'd been called by Petra.
12:31:30 39 He wanted to meet her before and after he met with Petra.
12:31:33 40 He had concerns. There was some conversation about her
12:31:40 41 having direct contact with the investigators and the SDU
12:31:43 42 not wanting that. She was reminded at the end of that
12:31:48 43 conversation not to tape Hodson. Then do you see in the
12:31:52 44 box underneath that you were updated in relation to the
12:31:56 45 contact from Mr Hodson. It appears that that's occurred,
12:32:00 46 do you agree?---I agree that there's a note there. I've
12:32:05 47 got no recollection of this at all.

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

1
12:32:07 2 It appears as though you were updated about that contact,
12:32:11 3 do you agree with that? And you've had a discussion - it
12:32:22 4 also appears as though you've had a discussion about
12:32:25 5 Ms Gobbo potentially making a recording, and we'll move on.
12:32:33 6 There's a further conversation that the handler has had
12:32:35 7 with Mr Ryan, and discussing Mr Dale's notes, and Mr Ryan
12:32:42 8 was going to make some inquiries about whether Petra had a
12:32:47 9 copy of those notes. If we can go to p.17, please.
12:32:59 10 Ms Gobbo is reporting on her conversation with Mr Hodson.
12:33:04 11 Reporting about his concern about the Petra contact, the
12:33:09 12 personal difficulties in his life. He's concerned about
12:33:13 13 investigators wanting to see him at the office, as opposed
12:33:16 14 to at home, as they had in the past. Ms Gobbo was down
12:33:20 15 playing that to him. She wanted guidance from her handler
12:33:24 16 as to what she should and shouldn't say to Mr Hodson.
12:33:30 17 Gobbo told him that Petra might want to, or must want to
12:33:34 18 formally interview him and was asking him why he was
12:33:39 19 concerned. Gobbo had advised him to contact the
12:33:43 20 investigator and ask if they were proposing to interview
12:33:47 21 him under caution. She expressed panic to her handler
12:33:52 22 about having advised Mr Hodson in such a way and was
12:33:56 23 reassured that that was a normal thing and it would be
12:34:00 24 suspicious if she hadn't have done that, although she was
12:34:03 25 apologetic about having provided him with that advice. She
12:34:09 26 goes on that she told Hodson that if he had nothing to hide
12:34:12 27 there would be no problem. Can I just pause there. If
12:34:18 28 this was going on, do you see any issues at all?---In the
12:34:24 29 context of her being a source and acting as legal
12:34:30 30 representation for Mr Hodson, yes.
31
12:34:34 32 Yes. What's the issue?---She's clearly not independent and
12:34:39 33 the perception may be that she's not acting in the best
12:34:42 34 interests of Mr Hodson.
35
12:34:49 36 If we can move on further up the page. You see there that
12:34:57 37 there's much more conversation that she's having with her
12:35:00 38 handler in relation to the matter. If we can move to the
12:35:04 39 next time stamp. There's further conversation with
12:35:13 40 Ms Gobbo. I think she'd had to hang up and she calls back
12:35:18 41 again. Then at the conclusion of that you'll see at the
12:35:21 42 end of the day they've given you an update. Do you see
12:35:26 43 that there on the last box?---Yes.
44
12:35:33 45 If we can go to p.19, we're now on 10 March. At 9.15 the
12:35:43 46 handler speaks to you and there's no update about anything.
12:35:47 47 At 10.05 the handler speaks to you in relation to Mr Hodson

.21/02/20

14755

O'CONNELL XXN

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

12:35:53 1 and it's indicated that Mr Davey had recovered the message
12:35:59 2 from Ms Gobbo and wanted clarification about him calling
12:36:03 3 her. Mr Davey was told that it should all go through
12:36:08 4 Mr Ryan. There's a conversation that the handler has with
12:36:12 5 Ms Gobbo at 10.20. They discuss, during that conversation,
12:36:18 6 Mr Dale's notes. She indicates she'd provided them in the
12:36:22 7 past and that they could be given to Petra. If we can
12:36:26 8 continue on. Scroll through, please. Over the page again.
12:36:33 9 Page 21. At 11.15 it's recorded that you've notified the
12:36:42 10 handler that Mr Hodson was at Petra. The handler tried to
12:36:46 11 contact Ms Gobbo. Received no contact back from her at
12:36:54 12 11:21 and told her that Mr Hodson was at Petra and that -
12:37:02 13 that he would call her afterwards, do you see
12:37:09 14 that?---Sorry, which time entry was that?
15
12:37:12 16 That was at 11:21. Do you accept that Mr Hodson came in
12:37:19 17 for interview with Petra during this period of time?---Yes.
18
12:37:26 19 And at some stage the offer for a polygraph was put to
12:37:29 20 him?---That's my understanding, yes.
21
12:37:33 22 These notes are consistent with the timing of that
12:37:36 23 occurring?---I can't comment on the timing. I can't
12:37:39 24 remember the date, other than to confirm that he did come
12:37:43 25 in.
26
12:37:45 27 At midday the handler records that he's received a call
12:37:50 28 from you that Mr Hodson had left, that he'd been asked to
12:37:54 29 do a polygraph, that he'd mentioned Mr Mokbel being
12:37:59 30 involved in the background, and he records you asking that
12:38:05 31 "Ms Gobbo not to talk Mr Hodson out of it and allude to it
12:38:11 32 being safe for Mr Hodson to participate in it, any issues
12:38:17 33 in him doing it", et cetera, do you see that?---That's what
12:38:20 34 it says.
35
12:38:24 36 Were you shown this entry this week when you were taken
12:38:27 37 through these materials?---Yeah, I believe so. But again,
12:38:33 38 I've seen a lot of documents this week.
39
12:38:35 40 You would have been - this entry would have been pointed
12:38:38 41 out to you?---Quite possibly, yes.
42
12:38:41 43 It calls for an explanation, do you accept that?---Yes, I'm
12:38:46 44 happy to explain.
45
12:38:48 46 Well, what's the explanation?---The simple fact of the
12:38:51 47 matter is, as I've eluded to already, I've got no

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

12:38:56 1 recollection of this conversation, no recollection of other
12:38:58 2 conversations that have been - that I'm alleged to have
12:39:03 3 been involved in in these entries, that these aren't my
12:39:06 4 notes. So I can't assert to the accuracy or otherwise of
12:39:11 5 them. As I say, I've got nothing to compare them to
12:39:15 6 because I just can't recall these conversations or this
12:39:18 7 much detail about the incident.
8
12:39:23 9 You didn't make any notes yourself, did you, during this
12:39:26 10 period of time that were - that the Commission's been
12:39:29 11 provided with at least that are relevant?---Without going
12:39:35 12 through my diaries, I've provided all my diaries and the
12:39:39 13 material that were archived with Victoria Police, so.
14
12:39:42 15 I think I might have taken you to one that you did make.
12:39:47 16 Right at the very outset of my examination you made a diary
12:39:55 17 entry on 10 March at this time, around this time, about
12:40:00 18 this meeting; is that right?---Sorry, is that in my
12:40:05 19 statements or - - -
20
12:40:06 21 It's in your diary. I took you to your diary and I said
12:40:09 22 you made an entry, here's your diary entry here?---Sorry,
12:40:13 23 yes.
24
12:40:15 25 7:50 in the morning you're having a conversation with Davey
12:40:20 26 and Solomon in relation to the appointment for Mr Hodson to
12:40:23 27 come in at 11 o'clock, and there's an interview plan. And
12:40:27 28 then at 11:15 Mr Hodson's in attendance, you record that.
12:40:35 29 And then that Davey and Solomon are speaking to him. Later
12:40:40 30 on you record, although there's no time, that you further
12:40:45 31 spoke to Davey and Solomon and Hodson had consented to a
12:40:51 32 polygraph test. "Denied any direct or indirect involvement
12:40:54 33 and knowledge", do you see that?---Yes.
34
12:40:58 35 So you would accept that Mr Hodson came in on this date and
12:41:01 36 that the opportunity of a polygraph test was put to him,
12:41:06 37 because you've made a note of it?---Yes.
38
12:41:23 39 If we go back to Mr Wolf's diaries. She is recording, as
12:41:40 40 you see, at midday - sorry, the handler is recording a call
12:41:48 41 from you at midday reporting just that, that Mr Hodson had
12:41:53 42 left. He was asked to do a polygraph test. Do you see
12:41:59 43 that?---Yes.
44
12:42:01 45 No reason to dispute that you might have told someone that
12:42:04 46 because that's accurate?---Yes.
47

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

12:42:10 1 That person has also gone on to record that Ms Gobbo is to
12:42:18 2 be asked not to talk Mr Hodson out of the polygraph and to
12:42:29 3 elude to Mr Hodson it was safe for him to participate in.
12:42:33 4 Do you accept that?---That's what the entry says, yes.
5
12:42:37 6 Do you see anything wrong with that, if that
12:42:40 7 occurred?---Yes, as I eluded to earlier.
8
12:42:46 9 Do you say that you didn't do that?---I don't recall doing
12:42:48 10 that. It's not consistent with what I would do. My notes
12:42:53 11 don't reflect that.
12
12:42:56 13 Your notes don't reflect anything, any of your other
12:43:03 14 contact with the SDU, or any contact with the SDU at all
12:43:06 15 during this period of time, do they?---Without going
12:43:08 16 through those notes extensively I couldn't comment on a
12:43:12 17 statement that broad.
18
12:43:14 19 At 12.03 we see a communication between the handler and
12:43:18 20 Ms Gobbo. She was informed that Mr Hodson was out at Petra
12:43:22 21 and about the above issues. The handler didn't divulge
12:43:28 22 that the polygraph had been put to Mr Hodson. He told her
12:43:33 23 that they'd done something that was not standard and
12:43:38 24 different. She wanted more information but she wasn't
12:43:41 25 given any. Shortly after that at 12:08 she reports that
12:43:47 26 Hodson had called her and wanted to meet. Then at 13:12
12:43:51 27 she reports on the meeting. Police had told him that they
12:43:55 28 believed someone had given the lay-out of the house. He
12:43:58 29 denied it was him. Hodson said the proposition was put
12:44:04 30 forward that he could have given someone the lay-out for a
12:44:07 31 run-through - you understand what a run-through is?---Yes.
32
12:44:15 33 Colloquial for an aggravated burglary?---Yes.
34
12:44:19 35 Now near the halfway mark. Ms Gobbo had discussed the
12:44:22 36 legalities with him. If he'd done that would he be an
12:44:28 37 accessory? He tells her that they'd put a lie detector
12:44:34 38 test to him and he wanted a legal opinion. And the fifth
12:44:36 39 point at the bottom, "RS (registered source) stated from a
12:44:42 40 legal point of view the test was not valid". Then goes on,
12:44:46 41 "Registered source did not state that the transcript of a
12:44:50 42 polygraph could be used as evidence in the trial". Do you
12:44:53 43 see that?---I can see the entry, yes.
44
12:44:56 45 Then if we move on up. After that conversation you were
12:44:59 46 updated. Do you see that entry?---I can see the entry,
12:45:04 47 yes.

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

1
12:45:10 2 Is it possible you were having these communications with
12:45:12 3 the SDU during that period of time?---Anything's possible.
4
12:45:22 5 If we can move to Mr Fox's diary, please.
12:45:31 6 VPL.2000.0001.3534 at p.31. Ms Gobbo had changed handlers
12:45:35 7 from Mr Wolf to Mr Fox. Do you know who Mr Fox is?---No.
12:45:39 8
12:45:41 9 COMMISSIONER: Show the card, please.
12:45:46 10
12:45:47 11 MR HOLT: There's no issue with this witness having Exhibit
12:45:49 12 81, Commissioner, if that helps.
13
12:45:52 14 COMMISSIONER: The card might be easier. Exhibit 81 is
12:45:55 15 pretty complicated. Just show the card, thank you.
12:45:59 16
12:46:00 17 MS TITTENSOR: Do you know that person?---Yes.
18
12:46:04 19 At 10.30 on 28 March Mr Fox is recording a communication
12:46:09 20 with you. That communication is that Mr Hodson has rung
12:46:16 21 saying he's not prepared to do the lie detector test and
12:46:19 22 he's currently talking to Mr Davey and you'll let Mr Fox
12:46:25 23 know the outcome, do you see that?---Yes.
24
12:46:28 25 Is there any reason why you might be having communication
12:46:30 26 with the SDU about Mr Hodson and his reluctance to engage
12:46:37 27 in a lie detector test?---No, look, again I can't recall
12:46:42 28 these conversations so it's impossible for me to comment on
12:46:45 29 context. I just don't know.
30
12:46:47 31 It would be a bit strange for Mr Fox to just record that in
12:46:51 32 his diary if it was a conversation that didn't happen,
12:46:54 33 would you agree?---It's not for me to comment on another
12:46:58 34 person's notes or diary.
35
12:47:00 36 It is for you to comment. It's a conversation that he's
12:47:03 37 recording that he had with you about - - - ?---They're his
12:47:08 38 notes.
39
12:47:11 40 At 12:19 there's a text message that the handler records
12:47:17 41 from Ms Gobbo, that she'd gotten a message, it seems, from
12:47:21 42 Mr Hodson asking her to help. "Could you please call me
12:47:29 43 ASAP." Two minutes later the handler is speaking with you
12:47:33 44 again. You're telling the handler that there was a 40
12:47:38 45 minute call by Hodson to investigators where he refused to
12:47:42 46 come in, that he'd just changed his mind and he was about
12:47:46 47 to be picked up by investigators and brought in. Advised

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

12:47:50 1 he is trying to ring Ms Gobbo. "Shane does not want any
12:47:56 2 contact that may change his mind. Advised I will let
12:48:00 3 Ms Gobbo know." Do you see that?---I do.
4
12:48:07 5 Do you see any issues if that was occurring?---If that was
12:48:12 6 occurring, yes.
7
12:48:13 8 Yes. It might be okay if he has contact with Ms Gobbo, but
12:48:18 9 as long as she doesn't give him legal advice that's adverse
12:48:23 10 to the police interests. That's what that entry
12:48:26 11 suggests?---Sorry, can you ask that again?
12
12:48:30 13 It might be okay if Mr Hodson contacts Ms Gobbo, but just
12:48:35 14 make sure she doesn't give him any advice that's contrary
12:48:39 15 to the police interests. Do you accept that that's what
12:48:43 16 that entry suggests?---It could be perceived that way, yes.
17
12:48:56 18 Well that's what you did, isn't it?---I don't recall that
12:48:59 19 conversation. And, again, these aren't, these aren't my
12:49:03 20 notes so I've got no context, I've got nothing to compare
12:49:07 21 it to.
22
12:49:09 23 It would be appalling conduct if that's what you did?---It
12:49:13 24 would be inappropriate and on that basis I don't believe
12:49:18 25 that I would have said that or engaged in that
12:49:21 26 conversation.
27
12:49:22 28 If we can go to Mr Fox's diary of 1 May 2008,
12:49:32 29 VPL.2000.0001.3687, 8:55 in the morning. We've jumped
12:49:41 30 forward a few months. Mr Fox is recording a conversation
12:49:45 31 with you in relation to Mr Hodson and investigators had
12:49:50 32 spoken to him the night before and told him that he'd
12:49:53 33 failed the lie detector test and that he will probably want
12:49:56 34 to speak to Ms Gobbo about this, do you see that?---This is
12:50:00 35 the entry at 8:55?
36
12:50:02 37 Yes?---Yes. Can I just what date this entry is?
38
12:50:07 39 This is 1 May 2008?---Thank you.
40
12:50:12 41 You've seen this entry?---I haven't, no.
42
12:50:15 43 This is one of the only entries that you refer to in this
12:50:19 44 period in your supplementary statement?---My apologies if
12:50:25 45 that's the case. Could you take me to that paragraph?
46
12:50:34 47 Footnote 20, paragraph 43. Do you see that in your

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

12:51:16 1 statement?---I can see that it makes reference to being
12:51:19 2 shown a series or shown documents relating to interactions.
12:51:26 3 I don't recall seeing this one.
12:51:28 4 "I was shown documents relating to interactions between the
12:51:34 5 Petra Task Force and the SDU in relation to Ms Gobbo in the
12:51:37 6 period February 2008 to August 2008", and there's a
12:51:41 7 footnote 20 and it says, "See, for example", and there are
12:51:46 8 two documents referred to there, do you see that?---I do.
9
12:51:49 10 Two document numbers. You don't refer at all to what the
12:51:54 11 contents of those are, just the document numbers in a
12:51:59 12 footnote, is that right?
12:52:03 13
12:52:04 14 MS KELLY: Commissioner, that's not accurate. The whole of
12:52:06 15 paragraph 43 has to be read and if my learned friend had
12:52:09 16 read on it says this, "It appears that as early as 2008
12:52:12 17 there was an interaction between Ms Gobbo and the Petra
12:52:15 18 Task Force", and it goes on. So it's not correct to say he
12:52:18 19 doesn't refer to the content.
20
12:52:19 21 COMMISSIONER: Yes.
12:52:23 22
12:52:24 23 MS TITTENSOR: You don't mention Andrew Hodson's name once
12:52:27 24 in your statement; is that right?---Without having read
12:52:31 25 it - - -
26
12:52:33 27 Your own statement?---Right now I can't recall if his
12:52:36 28 name's mentioned in there or not.
12:52:38 29
12:52:39 30 MS KELLY: Commissioner, can I direct my learned friend's
12:52:41 31 attention to paragraph 45, as an example.
12:52:43 32
12:52:43 33 MS TITTENSOR: Sorry, yes. I withdraw that.
34
12:52:45 35 COMMISSIONER: Yes, thank you.
12:52:47 36
12:52:49 37 MS TITTENSOR: I'll read that out. "I've now been shown
12:52:52 38 documents about interactions between the SDU, Ms Gobbo and
12:52:55 39 the Petra Task Force in relation to Andrew Hodson"; is that
12:53:00 40 right?---Yes, that's what it says.
41
12:53:01 42 "Despite reading these documents I have no recollection
12:53:03 43 about these matters"?---That's what it says, yes.
44
12:53:06 45 If we then go to 23 May 2008. We see at 9:20 Mr Fox
12:53:22 46 records another conversation with you, do you see
12:53:27 47 that?---Yes.

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

1
12:53:29 2 Do you recall the fact that Mr Andrew Hodson failed the lie
12:53:34 3 detector test?---Yes.
4
12:53:36 5 Do you recall that you called him to have a conversation
12:53:39 6 with him?---We met him at a police station, yes.
7
12:53:46 8 You accept that this reporting by you to Mr Fox is
12:53:52 9 consistent with those events?---Again, I don't recall
12:54:04 10 conversing with Mr Fox. I don't recall this conversation.
12:54:07 11 I do recall meeting Mr Hodson though.
12
12:54:10 13 Is there any reason, other than Ms Gobbo's use in the
12:54:16 14 investigation in relation to Andrew Hodson, that you would
12:54:19 15 be having such conversations with an SDU handler?---Sorry,
12:54:26 16 can you go through that again for me, please?
17
12:54:29 18 If you weren't using Ms Gobbo in relation to your
12:54:36 19 investigation of Andrew Hodson, is there any other reason
12:54:39 20 why you might be having such a conversation with an SDU
12:54:44 21 handler?---I don't know. I don't have a recollection of
12:54:49 22 this era in speaking with members of the SDU, so I'm not
12:54:55 23 able to comment on any other possibilities or any other
12:55:01 24 context that might be associated with those, with that
12:55:03 25 contact.
26
12:55:03 27 Why were you talking to the SDU about Andrew Hodson?---I
12:55:09 28 don't know, I can't recall contact with the SDU through
12:55:11 29 this period.
30
12:55:17 31 The handler records on this occasion that you have advised
12:55:22 32 him that you're going out to see Andrew Hodson to give him
12:55:27 33 the coach's address on where he stands in this
12:55:29 34 investigation and that he'd failed the lie detector test,
12:55:33 35 do you see that?---Yes, that's what the entry says.
36
12:55:36 37 Ms Gobbo, ten minutes later, tells her handler that
12:55:44 38 Mr Hodson had just rang her, that he's panicking because an
12:55:48 39 Inspector from Petra had rung wanting to meet him at a
12:55:51 40 police station and he didn't know why. Do you see
12:55:56 41 that?---Yes.
42
12:55:58 43 And down the bottom of that entry he says, "I'll call you
12:56:02 44 when I get out". If we can go to the following page,
12:56:05 45 please. At 12:50 Ms Gobbo reports having spoken to
12:56:14 46 Mr Hodson again. She reports that he's told her that the
12:56:20 47 police want him to make a statement saying that it was Tony

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

12:56:25 1 Mokbel who was involved in his parents' murder, "That
12:56:31 2 Andrew was very firm that Tony had nothing to do with it".
12:56:36 3 Then it goes on, "If he did, Andrew says he would have
12:56:40 4 killed himself".
5
12:56:42 6 COMMISSIONER: Killed him.
12:56:43 7
12:56:44 8 MS TITTENSOR: "Killed him himself. This is in reference
12:56:46 9 to his mother and Andrew could not care less about his
12:56:49 10 father", do you see that?---Yes.
11
12:56:51 12 Do you recall if you had a conversation with Mr Hodson
12:56:55 13 about [REDACTED]?---That's news
12:56:58 14 to me. The conversation with Andrew Hodson, and whilst I
12:57:04 15 can't remember word for word, was around us raising
12:57:08 16 concerns with him that we felt that he had more information
12:57:11 17 to provide than he'd currently provided to Petra. But I
12:57:20 18 doubt very much whether it would have been so blatant or
12:57:24 19 blunt as to suggest [REDACTED]
12:57:30 20 [REDACTED].
21
12:57:37 22 You say you've just got no memory of any contact with the
12:57:40 23 SDU through this period at all; is that right?---Yeah,
12:57:44 24 that's correct.
25
12:57:44 26 I'd suggest that if you were having contact in the nature
12:57:49 27 that it appears you were in these documents, it'd be
12:57:52 28 something that you would be unlikely to forget?---No, well,
12:57:59 29 I can't answer that.
30
12:58:01 31 These documents - - - ?---I simply just can't answer that.
12:58:09 32 All I can suggest to you is that I can't recall these
12:58:10 33 contacts. It's some time ago and I've had a fair bit of
12:58:13 34 water go under the bridge since then.
35
12:58:15 36 These documents suggest that you were involved in the
12:58:17 37 tasking of Ms Gobbo to pretend that she was providing
12:58:20 38 independent legal advice to someone that was suspected of
12:58:23 39 murdering his parents?---I accept that that's an
12:58:28 40 interpretation from the documents. But these documents
12:58:30 41 weren't created by me. They aren't reflective of my notes,
12:58:35 42 so I can't make any comment as to the accuracy of those
12:58:37 43 notes one way or the other.
44
12:58:38 45 You say that they're reflective of you notes. You just
12:58:39 46 simply make no notes of any communications you've had with
12:58:42 47 the SDU during this period at all?---Yeah, and that of

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

12:58:45 1 itself is capable of being interpreted that there was no
12:58:48 2 such conversations and not that I would infer that, but
12:58:52 3 that's also an interpretation that could be drawn if one
12:58:56 4 was inclined to do so.
5
12:58:58 6 That the SDU have coincidentally made up these references
12:59:01 7 that seem to correspond with actual events, is that what
12:59:04 8 you're suggesting?---Not at all. Not at all. I just have
12:59:08 9 no recollection of these conversations or engagement with
12:59:11 10 the SDU during this period. I can't take that any further.
11
12:59:14 12 This is one of the most significant murder investigations
12:59:18 13 in the State's history, do you accept that?---It's a
12:59:21 14 significant murder investigation, yes. As they all are, to
12:59:24 15 be honest.
16
12:59:25 17 For anyone to have done this, let alone in a case such as
12:59:28 18 this, would be unthinkable, do you accept that?---For
12:59:32 19 anyone to have done, sorry?
20
12:59:34 21 For anyone to engage a lawyer to, as a human source, to
12:59:39 22 pretend to provide independent legal advice to someone
12:59:46 23 accused of murder would be unthinkable?---I think I've
12:59:49 24 commented on that already that it would be inappropriate,
12:59:52 25 yes.
26
12:59:52 27 I'd suggest to you you just would not forget such a
12:59:59 28 manipulation of the fundamental tenants of our
13:00:00 29 law?---Again, I can't comment on that other than to repeat
13:00:02 30 I simply cannot remember this time frame. It is some, what
13:00:09 31 are we talking, 12, 13 years ago, and up until earlier this
13:00:14 32 week I have never been asked to recall these events or
13:00:17 33 conversations.
34
13:00:17 35 I'm suggesting to you that you just simply wouldn't forget
13:00:20 36 these events and that you're not being truthful?---I resent
13:00:23 37 the connotation that I'm not being truthful. That's just
13:00:27 38 inaccurate and completely wrong.
39
13:00:29 40 The fact we don't see any diary notes in your diaries
13:00:33 41 reflecting communications with the SDU is a reflection of
13:00:36 42 the fact that you knew what you were doing at the time was
13:00:40 43 very wrong?---That's incorrect.
44
13:00:45 45 You recall in those notes that there was reference to
13:00:47 46 Ms Gobbo having provided the SDU with notes given to her by
13:00:52 47 Paul Dale when he was in custody?---I think we've seen that

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

13:00:56 1 before, yes.
2
13:01:00 3 You're aware that they were notes given to her during a
13:01:03 4 professional visit in custody for the purpose of passing
13:01:06 5 along to his instructing solicitor Mr Hargreaves?---I've
13:01:11 6 been made aware that that's - not been alleged, what's the
13:01:17 7 word I'm looking for - I'm aware that issue's been raised,
13:01:22 8 yes.
9
13:01:25 10 If we can go to Mr Fox's diary, VPL.2000.0001.3534 at p.9.
13:01:36 11 Do you see this is Mr Fox's diary. He's got a call from
13:01:42 12 the earlier handler, Mr Wolf, that you had called.
13
13:01:49 14 COMMISSIONER: Have you got the date, please?
13:01:51 15
13:01:51 16 MS TITTENSOR: Apologies, Commissioner. It is 19 March
13:01:56 17 2008. Mr Davey had called Ms Gobbo looking for the
13:02:06 18 documents. She'd told them that she'd given them to Ryan
13:02:10 19 and that you'd confirmed to Mr Davey that Mr Ryan had the
13:02:15 20 documents. Do you see that?---Yes. That's what the entry
13:02:20 21 says, yes.
22
13:02:22 23 The handler, we see further on, speaks with Ms Gobbo about
13:02:26 24 the topic and she indeed indicates that she'd told Mr Davey
13:02:32 25 that she'd given the notes to Ryan. Over the page at p.11,
13:02:36 26 15:48, the handler records that he's spoken with you and
13:02:42 27 that you would give him a call after Easter to have a read
13:02:46 28 of the Paul Dale document. Do you see that?---Yes, that's
13:03:02 29 what it appears to say, yes.
30
13:03:06 31 Would you have had any concerns that Ms Gobbo, having
13:03:10 32 received those documents during a professional visit to
13:03:15 33 Mr Dale whilst he was in custody, they might be considered
13:03:19 34 privileged? That would be a natural concern I'd
13:03:21 35 suggest?---I'm not sure that those notes reflect that.
13:03:26 36 Just that there were notes being provided from him to her.
37
13:03:30 38 It would be a natural concern if a lawyer conducting a
13:03:33 39 professional visit takes away notes from the person that
13:03:38 40 they're visiting, it would be natural, I'd suggest, to be
13:03:41 41 concerned that those notes would be privileged?---As a
13:03:44 42 general assertion, yes. But I'm not - I don't think it's
13:03:48 43 clear in there that that's the manner in which she came
13:03:52 44 into possession of those, unless you can take me back to
13:03:55 45 that part.
46
13:03:56 47 There was a reference earlier on to her having received

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

13:04:00 1 those notes whilst in custody but I think we'll move on.
13:04:08 2 You did indeed go and meet Mr Fox in a bar in Melbourne and
13:04:12 3 read those notes, didn't you?---I have seen that entry but
13:04:15 4 I cannot recall that meeting.
5
13:04:17 6 If we can go to p.27. We'll just go to 13:30. Do you know
13:04:30 7 the Truss Bar in Flinders Lane?---No.
8
13:04:34 9 Do you recall having been to a bar and met with Mr Fox
13:04:37 10 ever?---No.
11
13:04:40 12 It appears as though you did on this occasion, on 26 March
13:04:44 13 2009?---According to that entry, yes, but that's not an
13:04:49 14 entry that I made.
15
13:04:50 16 Have you ever met Mr Fox?---Sorry, just Mr Fox, the name on
13:04:59 17 the card I saw before?
18
13:05:02 19 Yes?---Yes, I believe I have, but again where and when I
13:05:06 20 couldn't tell you.
21
13:05:07 22 It appears as though he's recorded that first of all the
13:05:12 23 meeting - it's in relation to 2958, Ms Gobbo, that he's
13:05:18 24 handed over phone numbers to you for Abby Haynes, Adam
13:05:23 25 Ahmed, Tony Mokbel and Paul Dale; is that right?---That's
13:05:26 26 what the entry says, yes.
27
13:05:28 28 Did you use those numbers in your investigations following
13:05:31 29 that?---Oh, I can't recall.
30
13:05:34 31 You would have been receiving those numbers for a reason I
13:05:36 32 take it?---Again, I can't recall. I can't recall this
13:05:40 33 meeting.
34
13:05:44 35 It also records that you read Paul Dale's handwritten gao1
13:05:49 36 document provided to the SDU by Ms Gobbo in approximately
13:05:53 37 May or June of the year before, do you see that?---Yes,
13:05:57 38 that's what it says.
39
13:06:03 40 You would have been aware from that profile document that I
13:06:09 41 took you to, the very first thing today, that Ms Gobbo
13:06:11 42 acted for Haynes, Ahmed and Mokbel?---I can't - I can't
13:06:19 43 comment on that. I mean if that's what the document says
13:06:22 44 then so be it.
45
13:06:35 46 In about November of 2008 investigators spoke to Ms Gobbo;
13:06:42 47 is that right?---Yes.

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

1
13:06:42 2 That was after discovery of some phones that were being
13:06:48 3 used in false names included Ms Gobbo?---Yes, that was part
13:06:55 4 of the reason that I recall, yes.
5
13:07:04 6 If we have a look at SML 2958 at p.55. Mr White records a
13:07:13 7 conversation with you and summarises the meeting with you.
13:07:19 8 Have you seen this summary?---I may have in the course of
13:07:31 9 preparing my statements.
10
13:07:36 11 It's reporting a conversation that Mr White had with you
13:07:40 12 and you're providing a summary of what occurred during the
13:07:42 13 meeting investigators had with Ms Gobbo, that she was well
13:07:47 14 aware of the corrupt relationship between Williams and
13:07:50 15 Dale, she admitted to being a conduit prior to the murders,
13:07:54 16 do you see that?---Yes, that's what the entry says.
17
13:07:57 18 Admitted the mobile's likely used by her and so forth and
13:08:04 19 she says she has no knowledge about the plot to kill the
13:08:07 20 Hodsons. "Ideally want a statement at some point." If we
13:08:17 21 keep moving up, please. If we keep going. You see there
13:08:26 22 towards the bottom, ideally want a statement, and that was
13:08:30 23 the case, is that right, at that stage?---That's what the
13:08:34 24 entry says, yes.
25
13:08:36 26 And do you agree with that?---I can't - again, I can't
13:08:40 27 recall this conversation and I can't recall what my or what
13:08:47 28 position we were at in the investigation as to whether or
13:08:50 29 not we were thinking at this point that, based on the
13:08:55 30 information being provided, that a statement would have
13:08:57 31 been worthwhile or not.
32
13:09:00 33 It says - so this is a conversation that's been recorded,
13:09:05 34 involving you, and you've indicated, "Says is prepared to
13:09:10 35 make a statement but wants to think about it. Can give
13:09:12 36 details that Williams and Dale were in a corrupt
13:09:15 37 relationship". That's something that Petra would have
13:09:19 38 wanted a statement about, I suggest?---Again, Detective
13:09:23 39 Sergeant Solomon and Cameron Davey were the lead
13:09:27 40 investigators driving the investigation for this. In terms
13:09:31 41 of a statement that outlines the corruptness or the corrupt
13:09:37 42 relationship between those two entities there, I'm not sure
13:09:42 43 at this point in time whether that would have been a
13:09:44 44 statement that they would have wanted. But it does say in
13:09:48 45 the entry, but I can't attest to the accuracy of that
13:09:57 46 entry, that a statement would be sought.
47

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

13:10:00 1 It's apparent by 3 December 2008 the SDU are raising
13:10:04 2 objections about the prospect of Ms Gobbo becoming a
13:10:09 3 witness, do you recall that occurring?---In general terms I
13:10:11 4 do, I am aware that, again in terms of exact time and date
13:10:14 5 I couldn't tell you, but I am aware in general terms that
13:10:18 6 the SDU had concerns about that, yes.
7

13:10:23 8 Your own diary on 3 December, you see there at 13:20,
13:10:31 9 records a meeting with two SDU members, Smith and White, in
13:10:38 10 relation to a debrief re meeting with Ms Gobbo?---Yes.
11

13:10:41 12 It seems as though there'd been another meeting, I think
13:10:44 13 after the initial meeting; is that right?---Yes, it appears
13:10:51 14 as though I'm with Cameron Davey and spoke to her and had a
13:10:58 15 meeting with Inspector Smith and a subsequent meeting with
13:11:03 16 those two gentlemen.
17

13:11:04 18 Yes. If we go to the ICRs at 749. Ms Gobbo is reporting
13:11:15 19 on that meeting. She says she's just come from seeing
13:11:20 20 Petra and she's actually reporting that she's had a meeting
13:11:23 21 with you and Mr Davey. We understand that Mr Solomon was
13:11:27 22 on leave or went on leave at that stage and you were
13:11:30 23 involved in the meeting yourself. Do you recall that?---I
13:11:33 24 do recall being in some meetings, yes.
25

13:11:38 26 Ms Gobbo comes from that meeting, she reports to the
13:11:40 27 handler, amongst other things, that they will do everything
13:11:44 28 in their power to use her as a witness. There was a
13:11:48 29 discussion of recording a conversation next weekend because
13:11:52 30 it was - she'd indicated that Mr Dale was coming to town,
13:11:57 31 or back to town. She indicated that if she didn't want to
13:12:02 32 be a witness obviously she was concerned would be forced to
13:12:09 33 give evidence at another type of hearing. "O'Connell said
13:12:13 34 there are two reasons why they want her presumably as a
13:12:16 35 witness. The first being that she is credible compared to
13:12:20 36 Carl Williams. The second being the evidentiary gap and
13:12:26 37 she could confirm the corrupt relationship between Dale and
13:12:28 38 Williams. Ms Gobbo raised that Dale might consider" -
13:12:33 39 presumably in relation to the recording - "that Dale might
13:12:36 40 consider the conversation privileged" and that you said,
13:12:40 41 "Cross the bridge when you come to it", and she reports
13:12:44 42 that their attitude is to record the conversation and
13:12:47 43 consider what happens afterwards. Do you agree that that
13:12:51 44 was the nature of the conversation that you had with
13:12:54 45 Ms Gobbo on 3 December?---I can't recall the specifics of
13:13:03 46 this or any other specific conversation that I had with
13:13:08 47 Ms Gobbo. I certainly can't recall the specifics of this

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

13:13:11 1 conversation.
2
13:13:12 3 Well, taking that last matter that I raised with you about
13:13:18 4 Ms Gobbo reporting that Dale might consider the
13:13:24 5 conversation privileged and your response was essentially,
13:13:28 6 "Cross that bridge when you come to it, record the
13:13:31 7 conversation and worry about it later", your statement at
13:13:34 8 paragraph 51 refers to the possibility of covert recording.
13:13:42 9 "If the covert recording revealed probative information,
13:13:45 10 then the precise manner in which that evidence was going to
13:13:48 11 be used needed to be addressed. There was the potential
13:13:51 12 for some complexity given Ms Gobbo's status as a human
13:13:55 13 source. However my approach was that the evidence first
13:13:57 14 needed to be obtained, the question of how that evidence
13:14:00 15 was to be deployed only became relevant if that evidence
13:14:04 16 was probative"; is that right?---That's what paragraph 51
13:14:08 17 says, yes.
18
13:14:10 19 So was it your approach in relation to that conversation
13:14:13 20 occurring, "Let's get the evidence and worry about other
13:14:19 21 matters later"?---I don't believe so, no. I do recall
13:14:24 22 having conversation but again I can't articulate the time,
13:14:29 23 date and place prior to the recorded conversation with
13:14:31 24 Mr Dale occurring where we did have conversation with
13:14:36 25 Ms Gobbo about privilege and she advised that it shouldn't
13:14:42 26 exist because she'd never represented or given him advice,
13:14:46 27 and she relayed a conversation where she'd conveyed that to
13:14:50 28 him at one of the prisons.
29
13:14:52 30 If we can just move up so we see at 13:10 "Source
13:15:00 31 management". There are three SDU members there discussing
13:15:04 32 by phone, having a discussion by phone with you, do you see
13:15:08 33 that?---Yes.
34
13:15:15 35 Petra were wanting to use Ms Gobbo to show the close
13:15:18 36 relationship between Dale and Williams, that's what they're
13:15:22 37 being told. Petra want to use Gobbo as a witness if there
13:15:26 38 is a brief against Dale and you were hoping that the brief
13:15:30 39 eventuated and that you want Ms Gobbo to wear a tape
13:15:36 40 recording device, do you see that?---Yes.
41
13:15:38 42 There was a discussion about evidentiary problems and
13:15:40 43 Ms Gobbo not being able to work again, do you see
13:15:45 44 that?---Yes.
45
13:15:48 46 And it's then indicated, "Advised that human source
13:15:52 47 previous assistance may be cause to bring scrutiny on the

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

13:15:55 1 department generally and balance of value versus risk.
13:16:01 2 O'Connell admits that this may be a decision that should be
13:16:04 3 made by a person of higher authority with knowledge of all
13:16:07 4 the facts, not just his narrow area. O'Connell admits that
13:16:12 5 use of human source as a witness and all ensuing problems
13:16:15 6 are only justified if evidentiary value is there". Do you
13:16:19 7 accept you had this conversation with the SDU?---As I've
13:16:23 8 said, I can't recall specific conversations on specific
13:16:26 9 dates.
10
13:16:27 11 Did you have a conversation with the SDU about issues of
13:16:32 12 transitioning Ms Gobbo that might mean that there was
13:16:36 13 scrutiny brought upon the department?---I can recall in
13:16:39 14 general terms conversations where SDU personnel did say
13:16:44 15 they had some concerns about a transition from her being a
13:16:48 16 registered source to a witness but not specifically why.
13:16:50 17 And that notation there, notwithstanding that I can't
13:16:54 18 recall a conversation, would tend to suggest that the
13:16:57 19 extent of her informing wasn't known to me.
20
13:17:00 21 Did you go to a person of a higher authority and say, "The
13:17:05 22 SDU are concerned, they've told me that there are issues",
13:17:12 23 whether or not you were told there was scrutiny on the
13:17:14 24 department, did you go to a person of higher authority and
13:17:16 25 say, "You need to get involved here"?---We had regular
13:17:20 26 meetings with our, I think it's been referred to as
13:17:22 27 steering committee, which consisted of Mr Overland and some
13:17:27 28 other senior executive officers of Victoria Police.
29
13:17:32 30 You're aware that Mr Overland became personally involved in
13:17:35 31 the matter over the course of the next few days?---No, in
13:17:40 32 what context do you say personally involved?
33
13:17:45 34 Dealings with the SDU and Mr Biggin?---Following on from
13:17:47 35 this conversation or this meeting?
36
13:17:50 37 Well it appears to be about using Ms Gobbo as a
13:17:55 38 witness?---I don't recall that. I'm not sure whether I
13:17:58 39 would have been aware of that or not.
40
13:18:03 41 Is that an appropriate time, Commissioner?
42
13:18:05 43 COMMISSIONER: Yes. We'll adjourn until 2 o'clock.
13:18:13 44
13:18:13 45 <(THE WITNESS WITHDREW)
13:18:14 46
47 LUNCHEON ADJOURNMENT

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

13:54:29 1 UPON RESUMING AT 2.06 PM:
14:06:29 2
14:06:32 3 COMMISSIONER: Yes Ms Tittensor.
14:06:34 4
14:06:36 5 <SHANE O'CONNELL, recalled:
14:06:38 6
14:06:39 7 MS TITTENSOR: Thanks Mr O'Connell. Now, it appears as
14:06:42 8 though there were some meetings involving Mr Overland, the
14:06:47 9 SDU, Biggin, or at least Mr Overland was present for part
14:06:51 10 of the meetings that were occurring. Following those
14:06:54 11 meetings there's a number of indications in people's
14:06:57 12 diaries, the source management log and the information
14:06:59 13 contact report that there's been an agreement that if
14:07:03 14 Ms Gobbo is to be deployed in relation to Mr Dale, she's to
14:07:09 15 be done so by Petra rather than the SDU. Now do you
14:07:13 16 understand that that occurred?---I actually wasn't aware
14:07:18 17 that that had actually occurred, no.
14:07:21 18
14:07:21 19 Well the deployment of Ms Gobbo eventually was through
14:07:27 20 Petra directly, you recall that?---Yes.
14:07:29 21
14:07:29 22 You were the one who actually gave her the recorder?---Yes,
14:07:33 23 that's correct.
14:07:33 24
14:07:33 25 Prior to that, it obviously hadn't been finally determined,
14:07:38 26 but if she was a human source ordinarily that sort of thing
14:07:42 27 might be done through the SDU?---It would depend, depend
14:07:47 28 largely on the reason for the deployment. As I understand
14:07:50 29 it sources that generally work in the intel space.
14:07:57 30
14:07:57 31 Yes?---We were looking at Ms Gobbo in the context of a
14:08:00 32 possible witness, so in that regard it was the
14:08:06 33 investigator's responsibility to deal with that. It was
14:08:11 34 basically a little bit of policing 101 really. She was
14:08:14 35 attending a meeting, as we understood it, at that time with
14:08:18 36 a person that was of interest to us in the course of this
14:08:21 37 investigation and [REDACTED]
14:08:27 38 [REDACTED]
14:08:30 39
14:08:31 40 We get the source management log that describes that we're
14:08:38 41 going to use a barrier break between SDU management and
14:08:42 42 witness management should the deployment become
14:08:45 43 evidentiary, so in case it becomes evidentiary we've got
14:08:48 44 what's referred to at least there as a barrier break.
14:08:52 45 Mr White's diary reflects that there's an agreement that
14:08:58 46 deployment of Ms Gobbo is to be done by Petra to isolate
14:09:01 47 the activity in relation to Dale from the SDU in order to

.21/02/20

14771

O'CONNELL XXN

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

14:09:05 1 protect the historical relationship with the SDU from
14:09:08 2 discovery should Ms Gobbo become a witness against Dale.
14:09:14 3 Then if we can go to the ICRs at p.757.
14:09:34 4
14:09:36 5 MR HOLT: Can it not come up on the main screens?
14:09:40 6
14:09:42 7 MS TITTENSOR: We see there there's a meeting in relation
14:09:44 8 to, a meeting by the handler with the controller, Sandy
14:09:47 9 White, do you see that at the top of the page?---Yes.
14:09:50 10
14:09:50 11 It's decided that preferable for Petra to deploy human
14:09:55 12 source in this manner to minimise the risk of revealing
14:09:58 13 Ms Gobbo's role and then the handler records that they've
14:10:02 14 advised you and you're happy with that pending Ms Gobbo's
14:10:06 15 reaction, do you see that?---That's what the log says, yes.
14:10:09 16
14:10:10 17 Do you accept that you had that conversation?---I can't
14:10:13 18 recall that conversation. Can I just ask what date that
14:10:17 19 is? There's no date on the top of it.
14:10:19 20
14:10:19 21 It's 5 December 2008?---Thank you.
14:10:22 22
14:10:27 23 Do you recall discussions about concerns to avoid
14:10:34 24 disclosure of Ms Gobbo's role as a human source should she
14:10:37 25 become a witness?---No, I don't recall that being the
14:10:39 26 subject of conversation. My only recollection is in
14:10:42 27 general terms. SDU personnel being somewhat concerned
14:10:50 28 about the transition from source to witness, but aside from
14:10:55 29 that, in my dealings at this point, we're looking at her as
14:11:00 30 a potential witness subject to what was on the material or
14:11:04 31 what was on the recording as a result of the conversation.
14:11:07 32 There was no, I suppose no definitive reason at this point
14:11:13 33 to think she was going to - definitely going to be a
14:11:17 34 witness, it was always going to be dependent on the product
14:11:20 35 that was recorded.
14:11:20 36
14:11:21 37 Do you recall discussions at any stage following this about
14:11:25 38 avoiding disclosure of Ms Gobbo's relationship with the
14:11:31 39 SDU?---No. No, and I don't, I don't understand why it
14:11:36 40 would be the case because assuming that there was material
14:11:41 41 available, or that she was to become a witness, then this
14:11:45 42 material could potentially be discoverable down the track
14:11:50 43 and there would be avenues available to us to PII claims,
14:11:54 44 et cetera, that would be utilised.
14:11:55 45
14:11:55 46 You would know very well that Ms Gobbo having been handled
14:11:59 47 by the SDU for a significant period of time there would be

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

14:12:02 1 substantial documentation held by Victoria Police about
14:12:06 2 that relationship?---I didn't have and still don't have any
14:12:11 3 understanding of the internal workings of the SDU.
14:12:13 4
14:12:14 5 You would understand that they would have documents or
14:12:17 6 records relating to their communications with Ms Gobbo?---I
14:12:20 7 would expect that they would have records. In what form
14:12:23 8 they took, I still don't know.
14:12:24 9
14:12:24 10 You know that because eventually they come through a
14:12:27 11 sanitised information report to investigators, don't
14:12:31 12 they?---In general terms that's how the system works, yes.
14:12:34 13
14:12:35 14 Did you know that there were things such as informer
14:12:38 15 contact reports which were sanitised to become
14:12:42 16 IRs?---Again, I have a broad understanding or had, that's
14:12:46 17 dissipated somewhat since, but had a broad understanding of
14:12:51 18 source handling and I'm aware of the concept of informer
14:12:55 19 contact reports.
14:12:56 20
14:12:56 21 You would have been aware therefore that the SDU would hold
14:13:01 22 material in relation to their communications with
14:13:04 23 Ms Gobbo?---Yes, I've already said they would have
14:13:06 24 material.
14:13:07 25
14:13:08 26 And they would have material in relation to their
14:13:11 27 communications with Ms Gobbo that related to Paul
14:13:16 28 Dale?---Possibly. Again, I wouldn't have known the extent
14:13:19 29 of their holdings.
14:13:19 30
14:13:20 31 You would expect that they would have?---Sitting here now,
14:13:23 32 yes, but I don't know what I would have thought at that
14:13:25 33 time.
14:13:25 34
14:13:25 35 At the time you knew that the SDU were speaking to Ms Gobbo
14:13:29 36 about these matters, there were communications between
14:13:31 37 Petra and the SDU?---That's correct.
14:13:34 38
14:13:35 39 And you knew that they were communicating with her about
14:13:39 40 matters related to Dale and matters related to
14:13:42 41 Hodson?---Yes.
14:13:43 42
14:13:43 43 You would expect that they would have records relating to
14:13:46 44 those communications?---Yes, quite possibly.
14:13:49 45
14:13:50 46 You're aware that they were dealing with her more generally
14:13:53 47 in relation to other matters?---That I'm not aware. I

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

14:13:56 1 still haven't, other than the glimpses of coverage I've
14:14:00 2 seen of the Royal Commission, have no in-depth knowledge of
14:14:03 3 her activities as a source.
14:14:04 4
14:14:04 5 I'm not asking about in-depth knowledge, but you're aware
14:14:08 6 she wasn't a source because of Petra, she'd already been a
14:14:13 7 source?---Yes.
14:14:14 8
14:14:15 9 So therefore there would be records existing within the SDU
14:14:20 10 or HSMU in relation to her other dealings?---I would assume
14:14:25 11 so, yes.
14:14:26 12
14:14:28 13 Now, your statement indicates at paragraphs 60 to 62 that
14:14:34 14 you had a meeting with the SDU on 12 December 2008, is that
14:14:41 15 right? You'll see that on the screen as well?---Paragraph
14:14:53 16 60?
14:14:53 17
14:14:54 18 Yes?---Yes.
14:14:59 19
14:15:02 20 You know there's an SML entry about it, paragraph 61, you
14:15:06 21 have a corresponding entry in your diary?---Yes, that's
14:15:09 22 correct.
14:15:09 23
14:15:10 24 Then if we can go to ICR at p.769. This also refers to
14:15:19 25 that meeting at 15:35. Do you see at the top, a meeting
14:15:27 26 with the handlers recording this, a meeting at the Petra
14:15:32 27 office with the controller, Sandy White, and yourself. Do
14:15:38 28 you see that?---Yes.
14:15:40 29
14:15:41 30 Ms Gobbo has alluded to other things that she would be
14:15:44 31 worried about being questioned about in terms of her
14:15:48 32 dealings with Purana and someone that we know as [REDACTED],
14:15:52 33 do you see that?---Yes.
14:15:54 34
14:15:55 35 So that would indicate that you at least know she's had
14:15:59 36 dealings with Purana in relation to [REDACTED]?---That's
14:16:03 37 what the entry says. Again, I can't recall this, nor can I
14:16:07 38 attest to the accuracy of it, nor put any context around
14:16:11 39 it. It may very well have been mentioned in passing and
14:16:15 40 not really registered or meant too much to me at that time.
14:16:23 41
14:16:24 42 If we go down a few paragraphs. The investigators have not
14:16:25 43 asked why Ms Gobbo had bodgey phones supplied by Mr Ahmed.
14:16:30 44 Also have not put to her about having a sexual relationship
14:16:33 45 with Mr Dale and that the SDU would do this at their next
14:16:38 46 meeting, do you see that?---Yes, I see that entry.
14:16:41 47

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

14:16:41 1 There's a discussion of strategy in relation to dealing
14:16:44 2 with Ms Gobbo that's referred to under that?--Correct.
14:16:51 3
14:16:53 4 On 16 December 2008 Ms Gobbo does have a final large
14:17:02 5 face-to-face debriefing with the SDU. If we go to
14:17:10 6 Mr White's diary VPL.2000.0001.1730. You see there on 16
14:17:25 7 February his first entry in the day, he's prepping an
14:17:31 8 interrogation plan in relation to what's to be a meeting
14:17:35 9 with Ms Gobbo?---I can see - 16 December, is that what you
14:17:40 10 meant?
14:17:40 11
14:17:41 12 Yes, sorry. There's, "Prep re plan to meet with 2958",
14:17:45 13 Ms Gobbo, then he has underneath that "an interrogation
14:17:48 14 plan" and if we scroll through you'll see lots of
14:17:52 15 questions, including matters that needed to be, or that you
14:17:58 16 hadn't covered or as expressed in that last meeting. If we
14:18:03 17 continue through, do you see there at the bottom of the
14:18:05 18 page at the end of that plan, "Call to O'Connell at Petra.
14:18:11 19 Update re plan to interview Ms Gobbo and a number of
14:18:17 20 queries", do you see that?---Yes.
14:18:20 21
14:18:20 22 Now, you were working, it seems, in coordination with the
14:18:25 23 SDU in relation to the questions that the SDU were to ask
14:18:28 24 of Ms Gobbo?---I don't recall that occurring.
14:18:31 25
14:18:50 26 You recall you were still attending steering committee
14:18:54 27 meetings throughout this period of time?---I believe so.
14:19:03 28 Detective Inspector Smith also attended the meetings, so
14:19:07 29 again this changed throughout the course of Petra. Subject
14:19:11 30 to his availability as the Inspector in charge he would
14:19:15 31 generally go. There were some where we went together,
14:19:20 32 there were some where I went due to his unavailability.
14:19:23 33
14:19:23 34 There were discussions throughout this period of time at
14:19:26 35 the steering committee meetings about whether to transition
14:19:28 36 Ms Gobbo from a human source to a witness, is that
14:19:31 37 right?---I can't recall these conversations occurring in
14:19:35 38 the course of the steering committee meetings.
14:19:39 39
14:19:39 40 When you say that, do you say it didn't happen or you just
14:19:43 41 can't recall?---I can't recall.
14:19:45 42
14:19:45 43 Do you recall those types of discussions happening at
14:19:49 44 all?---I do recall a brief discussion with Deputy
14:19:56 45 Commissioner Overland which my recollection was following a
14:20:00 46 steering committee meeting where he told me his view was
14:20:05 47 that basically if she was, had, was of evidentiary value to

.21/02/20

14775

O'CONNELL XXN

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

14:20:13 1 the Dale prosecution then she was a witness.
14:20:16 2
14:20:18 3 No ifs, buts or maybes?---No.
14:20:25 4
14:20:25 5 Do you know whether that was before or after the recording
14:20:28 6 had occurred?---As I understand it, it was after.
14:20:30 7
14:20:31 8 Do you know how long after?---No.
14:20:32 9
14:20:33 10 Do you know if it was before or well before a statement was
14:20:39 11 being taken from her? The statement was being taken on 1
14:20:46 12 and 2 - - -?---I can't say well before, shortly before, but
14:20:49 13 to my recollection it was prior to the statement being
14:20:52 14 obtained.
14:20:52 15
14:20:53 16 What would have happened if she'd said no?---Hypothetically
14:20:57 17 there are other options available to investigators in terms
14:21:00 18 of hearings.
14:21:01 19
14:21:02 20 Coercive hearings?---That's one aspect of it. I believe
14:21:07 21 there's also an administrative hearing within the
14:21:09 22 Magistrates' Court process that can be utilised. It's been
14:21:13 23 a little while since I've had to turn my mind to that so
14:21:17 24 it's lost to me at the moment.
14:21:17 25
14:21:18 26 Was that put to Ms Gobbo, that if you don't - - -?---I
14:21:20 27 don't believe so. I certainly don't have any recollection
14:21:22 28 of that conversation.
14:21:23 29
14:21:23 30 You'll recall just before lunch I took you to an entry, on
14:21:29 31 3 December, where she was reporting to handlers at that
14:21:32 32 stage on 3 December that, "They were talking about forcing
14:21:36 33 me to a hearing if I wasn't to make a statement". Do you
14:21:41 34 think that might have been said to Ms Gobbo?---I don't
14:21:44 35 recall that being said.
14:21:46 36
14:21:46 37 You say at paragraph 74 of your statement that you had no
14:21:49 38 concerns about Ms Gobbo's health. Is that right?---Other
14:21:54 39 than her having told me at some point, and again I'm not
14:21:57 40 sure where this is in the time line, that she previously
14:22:00 41 had a stroke, but in terms of both her physical and her
14:22:06 42 mental health and well-being, I didn't detect any issues or
14:22:12 43 identify any issues at that point.
14:22:13 44
14:22:14 45 There's material that indicates that she'd had significant
14:22:19 46 weight loss by this stage and that she was potentially down
14:22:23 47 to a size 6. Do you recall her having had significant

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

14:22:33 1 weight loss and that that was a concern?---I had no prior
14:22:37 2 dealings with Ms Gobbo prior to these series of meetings,
14:22:42 3 so I really had nothing to compare that to and which to
14:22:47 4 base that view on.
14:22:48 5
14:22:48 6 When you were having dealings with the SDU did you have any
14:22:51 7 discussions with them about, "Whether they are things I
14:22:54 8 need to worry about"?---I can't recall that.
14:22:56 9
14:22:56 10 Is that something that you would think you would ordinarily
14:23:00 11 do in such circumstances, "Do I have anything to worry
14:23:04 12 about if this person's going to become a witness at
14:23:09 13 all"?---That's not what I'd say is an automatic part of any
14:23:13 14 conversation in this space, no.
14:23:15 15
14:23:16 16 There's a risk in undertaking that course, you would
14:23:20 17 understand that?---Which course?
14:23:22 18
14:23:23 19 Transitioning someone from a human source into a
14:23:27 20 witness?---Well, I suppose based on my experience and a
14:23:31 21 little bit of application of common sense I appreciated
14:23:33 22 that there was such a risk.
14:23:37 23
14:23:39 24 Would you think you would want to know what the risks
14:23:44 25 were?---The risks - there were risks that were apparent to
14:23:52 26 me. Obviously the transition from one to the other of
14:23:56 27 itself without having any understanding of the detail or
14:24:00 28 the depth of her role as a source would have been
14:24:03 29 relatively apparent. There's also the context of the
14:24:06 30 statement that she was providing, the context of what was
14:24:09 31 going on within Victoria at that point in time, all
14:24:13 32 presented apparent risks that I was aware of. So there
14:24:18 33 wasn't, I didn't foresee a need to delve into it any deeper
14:24:25 34 than that.
14:24:25 35
14:24:25 36 You've indicated in your more recent statement that you've
14:24:29 37 been shown the briefing note and SWOT analysis that was
14:24:32 38 prepared by Mr Biggin and the SDU, is that right?---That's
14:24:36 39 correct.
14:24:36 40
14:24:39 41 Do you agree that it raised very concerning issues?---In
14:24:45 42 general terms, yes.
14:24:46 43
14:24:46 44 Do you agree that you would have been very alarmed if you
14:24:50 45 had read that at the time?---Depending on the
14:24:53 46 circumstances.
14:24:54 47

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

14:24:54 1 The circumstances are you're about to make Ms Gobbo a
14:24:57 2 witness, you're reading a document which indicates this
14:25:01 3 brings with it the risk of judicial, Government, potential
14:25:05 4 OPI inquiries, this brings with it the risk of putting
14:25:07 5 other convictions at risk, or people bringing on appeals or
14:25:12 6 jeopardising prosecutions against Mr Mokbel, if we put it
14:25:17 7 in that context?---That presents a risk, yes.
14:25:21 8
14:25:21 9 Would you find that very concerning?---Yes.
14:25:24 10
14:25:26 11 Now, you say you were unaware of that at the time?---Yes,
14:25:30 12 that's correct.
14:25:30 13
14:25:31 14 What would you have done if you had have been aware of it
14:25:34 15 at the time?---Potentially brought that to the attention of
14:25:40 16 superiors, probably asked more questions around elements of
14:25:44 17 it, and explored that in greater depth.
14:25:48 18
14:25:48 19 Who would you ask questions of?---That would have initially
14:25:51 20 started with Inspector Smith and then subject to those
14:25:56 21 discussions progressed from there.
14:25:58 22
14:25:58 23 Would you go back to the authors of the documents and say,
14:26:04 24 "Why did you write that"?---Probably not. The authors of
14:26:08 25 the documents were within the SDU, I wouldn't have expected
14:26:12 26 of their own volition that they would have disclosed
14:26:16 27 private, confidential and secure information to me
14:26:20 28 directly. I had access to a steering committee, it was my
14:26:22 29 understanding at the time that Mr Overland and other
14:26:24 30 members of the steering committee were aware of Ms Gobbo's
14:26:28 31 status, so the obvious place to go if I hadn't have been
14:26:33 32 able to get satisfaction with Mr Smith would have been to
14:26:36 33 progress it to that level.
14:26:37 34
14:26:37 35 If you put yourself into their position, you're higher up
14:26:41 36 the ranks, you become aware of those issues, do you expect
14:26:42 37 that inquiries would have been made of the people that were
14:26:44 38 setting out those risks, saying, "Why do you say that"?---I
14:26:48 39 would have expected that that document, whoever reviewed
14:26:55 40 that document in the decision making role may have made
14:26:59 41 further inquiries on the content of that report.
14:27:01 42
14:27:01 43 The obvious place to make those inquiries would be with the
14:27:08 44 writers of the documents?---Yes, with the unit that was
14:27:16 45 raising the concerns, the SDU.
14:27:17 46
14:27:17 47 You say at paragraph 76 of your statement that you were

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

14:27:20 1 essentially confident about the protections in relation to
14:27:23 2 Ms Gobbo and you say, "It was my intention to use both the
14:27:29 3 physical and legislative protections of the WPP", that's
14:27:34 4 the Witness Protection Program, is that right?---Yes.
14:27:36 5
14:27:37 6 So you were intending on using the Witness Protection Act
14:27:40 7 along with suppression and non-publication orders to
14:27:43 8 protect his Gobbo?---They would be sought and at that point
14:27:48 9 in time that was my intention, yes.
14:27:49 10
14:27:50 11 And is that something you discussed with others?---Quite
14:27:57 12 possibly, without being able to be too definitive, they
14:28:01 13 were relatively routine methodologies, fairly commonly
14:28:07 14 used.
14:28:07 15
14:28:08 16 Is that something you would have discussed at steering
14:28:10 17 committee level?---The concept of the Witness Protection
14:28:15 18 Program, most definitely. The other material I'm not sure
14:28:19 19 whether that would have been raised at steering committee
14:28:23 20 level.
14:28:24 21
14:28:24 22 These, you're aware, Ms Gobbo throughout 2009, as well as
14:28:28 23 2010 was saying, essentially she wanted to be part of the
14:28:34 24 witness protection regime, although couldn't come to terms
14:28:39 25 obviously. But one the reasons she wanted to become part
14:28:42 26 of that regime was to be protected by provisions of that
14:28:47 27 Act, do you recall that?---In general terms that's my
14:28:50 28 understanding, yes.
14:28:51 29
14:28:51 30 And she had the understanding that once she was covered by
14:28:55 31 the Act there would be no need to disclose her history and
14:28:59 32 there would be no need to claim PII over the material?---I
14:29:04 33 can't recall her ever articulating that to me, it's not for
14:29:09 34 me to comment on what she thought.
14:29:10 35
14:29:11 36 Given that she was articulating that in correspondence with
14:29:14 37 Victoria Police and you had significant conversation and
14:29:16 38 contact with her throughout 2009, I'd suggest it's likely
14:29:20 39 the type of thing you would have been discussing with her
14:29:22 40 as well?---I can't recall specifically doing so and a fair
14:29:27 41 bit of the correspondence she was having with Victoria
14:29:30 42 Police wasn't directly with me.
14:29:31 43
14:29:32 44 You had significant contact with her throughout 2009 and
14:29:36 45 into 2010?---Yes.
14:29:37 46
14:29:38 47 Do you know how many hours?---No.

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

14:29:41 1
14:29:41 2 Ballpark?---Many.
14:29:45 3
14:29:46 4 Was it 48 hours, 200 hours?---It was spread out over a lot
14:29:51 5 of months. So it would be a shot in the dark but, you
14:29:58 6 know, quite a large number of hours.
14:29:59 7
14:29:59 8 A shot in the dark, 200 hours plus?---Yeah, probably
14:30:09 9 between one and 200, one and 150, again it's just a stab in
14:30:14 10 the dark.
14:30:15 11
14:30:15 12 There's some indications in some material - sorry, on 1 and
14:30:20 13 2 January 2009 a draft statement was taken from Ms Gobbo.
14:30:28 14 It was a statement unsigned?---Sorry, what was that date?
14:30:31 15
14:30:32 16 Between 1 and 2 January 2009?---Yes, that's my
14:30:36 17 understanding, yes.
14:30:37 18
14:30:38 19 Now, part of what was contained in that draft statement was
14:30:43 20 the fact that she'd been given a recorder to go and meet
14:30:47 21 with Mr Dale to tape the conversation. Do you recall
14:30:51 22 that?---I don't recall the statement specifically but that
14:30:54 23 sounds fairly accurate.
14:30:56 24
14:30:56 25 There's conversations that Mr Sandy White has recorded in
14:31:01 26 his diary following the taking of the statement in which
14:31:05 27 she tells him that the draft statement shows that [REDACTED]
14:31:10 28 [REDACTED] she met Dale recently, that Mr White said
14:31:14 29 that could, can be changed if she hasn't signed her
14:31:19 30 statement, it could be omitted from the statement. The
14:31:22 31 Crown could claim privilege then on the manner in which the
14:31:26 32 recording was made by way of it disclosing methodology and
14:31:32 33 Mr White said he'd speak to investigators in relation to
14:31:36 34 that. And you'll see following that he, at 18:30, he calls
14:31:43 35 Smith and they discuss consideration being given to
14:31:48 36 removing the sentence from the statement in relation to
14:31:51 37 Gobbo proactively recording Dale because it's a methodology
14:31:55 38 issue, do you see that?---Yep, I can see that.
14:31:58 39
14:32:04 40 Again, Ms Gobbo is expressing worry the next day about how
14:32:10 41 it's worded in the statement and there's reference in the
14:32:15 42 ICRs for the need for Mr White to speak with you about it.
14:32:23 43 It seems as though you've had some communication with
14:32:27 44 Mr Smith following that. Do you recall having a discussion
14:32:31 45 with Mr Smith about the possibility of amending the
14:32:36 46 statement to take out those matters?---No, I don't.
14:32:39 47

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

14:32:42 1 What do you say as to a proposal like that?---Unlikely to
14:32:46 2 happen.
14:32:47 3
14:32:47 4 What do you say about the fact of someone making that
14:32:50 5 proposal?---I'd have to know further information in the
14:32:56 6 context of conversations, the reasoning from Mr White,
14:33:00 7 Mr Smith. As to what their thinking was it's really not
14:33:05 8 for me to comment on what their thinking was. I can't
14:33:08 9 recall that proposal being put to me. It was a necessity
14:33:13 10 for us to have that recording made admissible and for it to
14:33:16 11 be introduced by the witness. There were legalities around
14:33:19 12 the activation and deactivation of the device that meant
14:33:24 13 that it couldn't be removed from the statement.
14:33:26 14
14:33:27 15 Effectively it was impossible to remove it from the
14:33:30 16 statement because otherwise you might not have had a means
14:33:32 17 for it to be admissible?---It was necessary to show that
14:33:35 18 the recording was obtained legally.
14:33:37 19
14:33:37 20 But was it appropriate to discuss removing it from the
14:33:43 21 statement to somehow protect Ms Gobbo?---Again, it's not, I
14:33:51 22 can't really put myself in their shoes, I wasn't a party to
14:33:55 23 that conversation, I don't know the depth of their thinking
14:34:00 24 and their reasoning. All I can tell you is my thoughts on
14:34:05 25 the matter in terms of all the outcomes.
14:34:05 26
14:34:06 27 On 7 January you had a conversation with Ms Gobbo before
14:34:08 28 she signed her statement?---Yes.
14:34:11 29
14:34:12 30 You refer in your first statement to having been shown a
14:34:17 31 transcript of that conversation?---Yes.
14:34:20 32
14:34:20 33 I take it you read it?---It's quite lengthy, but yes.
14:34:26 34
14:34:28 35 You go on in your first statement to essentially refute
14:34:33 36 assertions that you'd told Ms Gobbo words to the effect
14:34:38 37 that she would be looked after and be no worse off
14:34:43 38 financially, is that right?---My general recollection of
14:34:46 39 the conversation was that, an appreciation by me that
14:34:53 40 Ms Gobbo was putting herself at risk and there were safety
14:34:56 41 and security issues around her making the statement, and
14:35:00 42 that Victoria Police were aware of that, and prepared to
14:35:03 43 meet their financial obligations in response to that in
14:35:06 44 terms of [REDACTED] and then ultimate entry into the
14:35:11 45 Witness Protection Program.
14:35:11 46
14:35:12 47 Those are the types of matters that you deal with in your

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

14:35:15 1 first statement, is that right?---As I understand it, yes.
14:35:17 2
14:35:17 3 And limited to those matters?---In relation to this
14:35:22 4 specific issue?
14:35:23 5
14:35:23 6 Yes, in relation to issues, well presumably in your
14:35:28 7 statement you're addressing matters that might be of
14:35:30 8 concern to the Commission and those are the matters that
14:35:33 9 you've chosen to take out of that conversation and put into
14:35:36 10 your statement?---They were my recollections, yes.
14:35:38 11
14:35:39 12 And you've had access to the conversation and you've read
14:35:41 13 it?---I'm not sure, I can't recall - I don't believe I did
14:35:48 14 read the entire transcript word for word prior to making
14:35:52 15 the first statement. I certainly did prior to the second
14:35:55 16 one.
14:35:56 17
14:35:56 18 I'll take you through aspects of the conversation. I'm not
14:35:59 19 going to - we'll be here all day because it's a very
14:36:04 20 lengthy conversation, I'm just going to put some matters to
14:36:07 21 you that I say are reflected in the conversation and you
14:36:10 22 can tell me if you recall that or you accept that or you
14:36:14 23 don't dispute it. She said in the conversation that she'd
14:36:18 24 been working with Sandy White and the SDU since September
14:36:23 25 2005, would you accept that?---If you're reading from the
14:36:31 26 transcript, yes, I do accept it.
14:36:32 27
14:36:33 28 She spoke about the level of contact she'd had with the
14:36:37 29 SDU, saying conversations of a minimum of 40 minutes, one
14:36:41 30 hour, two hours of contact, seven days per week since
14:36:46 31 September 2005 and the amount of material that they would
14:36:49 32 have that could come out is enormous?---Yes, I accept that.
14:36:53 33
14:36:53 34 She spoke about - that she would like to think she was
14:36:57 35 eligible for a reward in the end?---Yep, I accept that.
14:37:02 36
14:37:03 37 She referred to her work with the SDU as her voluntary
14:37:06 38 second job?---I accept that.
14:37:09 39
14:37:09 40 She spoke about how she had confided in Mr Bateson in the
14:37:14 41 lead up and referred to a particular case of [REDACTED],
14:37:22 42 that's a pseudonym?---Sorry?
14:37:24 43
14:37:25 44 We'll get you a flash card again. You may or may not
14:37:38 45 recognise that name but I suggest she was telling you how
14:37:41 46 she came to be registered by the SDU. She said she'd been
14:37:45 47 confiding in Mr Bateson. She referred to [REDACTED], who

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

14:37:48 1 had been [REDACTED], which was the
14:37:52 2 straw that broke the camel's back and that she was dealing
14:37:56 3 with Paul Rowe and she was taken to meet the SDU. She said
14:38:02 4 she'd gone from wanting to be part of the crooks to being
14:38:05 5 with VicPol and SDU filling the gap. Her involvement was
14:38:10 6 initially going to be confined to the Mokbel family but it
14:38:14 7 snowballed in a massive way, do you accept those
14:38:20 8 things?---Just in relation to this material, I can't recall
14:38:22 9 reading this as part of the transcript. That's not to say
14:38:25 10 I don't accept that to be the case, I just don't recall
14:38:28 11 this part of it, so whether the transcript that I read was
14:38:31 12 incomplete or not.

14:38:31 13
14:38:33 14 We've got two versions of it. There's a version I
14:38:36 15 understand that was prepared for the Dale committal
14:38:39 16 proceedings which you might be more familiar with, we'll
14:38:42 17 bring that one up. VPL.0100.0001.3179, p.319?---Don't get
14:38:52 18 me wrong. I'm not doubting that you're reading the
14:38:55 19 transcript.

14:38:55 20
14:38:56 21 No. To be fair I'm summarising some of it because some of
14:39:04 22 these concepts take place over a period of
14:39:08 23 sentences?---Thank you.

24
14:39:13 25 So this is a file that seems to have scattered throughout
14:39:17 26 it various parts of the transcript, but if we go to p.319
14:39:21 27 of this document. There seems to be a full copy of it
14:39:25 28 commencing. Does this look familiar? If we just scroll
14:39:33 29 through briefly. Do you know whose handwriting that
14:39:41 30 is?---Looks to be mine.

14:39:42 31
14:39:42 32 So it's something that you've likely reviewed in the lead
14:39:46 33 up to the committal?---At some point in time I have, based
14:39:49 34 on those notations there, quite possibly have. By the way
14:39:55 35 this is not the document I've reviewed recently.

14:39:57 36
14:39:57 37 I understand that, and I can take you to the other
14:40:00 38 one?---That's fine.

14:40:00 39
14:40:01 40 This one may be more detailed, I guess having been reviewed
14:40:07 41 by someone that was part of the conversation it may be more
14:40:11 42 accurate for the time or you may have been able to fill in
14:40:14 43 some words that transcribers recently haven't been able to
14:40:19 44 fill in. If we can go to p.376. I'm just looking for the
14:40:36 45 word snowballed.

14:40:39 46
14:40:40 47 COMMISSIONER: It's at the top, line 2.

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

14:40:42 1
14:40:42 2 MS TITTENSOR: If we can scroll further so we can see
14:40:45 3 what's before that. Do you see there, she's talking about
14:40:54 4 being confined to the Mokbel family and then snowballing in
14:41:00 5 a massive way and things fell into her lap and she goes
14:41:05 6 on?---Yep, I see that.
14:41:06 7
14:41:07 8 During the course of the conversation there was reference
14:41:09 9 to her involvement with various people, including the
14:41:12 10 Mokbels, you'd accept that?---Yes.
14:41:14 11
14:41:15 12 The person we're referring to as [REDACTED]? This is a
14:41:23 13 person who I think you refer to in your supplementary
14:41:27 14 statement. You refer to it at paragraph 26 of your
14:41:35 15 supplementary statement?---Yes.
14:41:36 16
14:41:38 17 [REDACTED], who I've already referred to, Mr Gatto, she
14:41:43 18 refers to the recent container shipment involving Higgs,
14:41:48 19 Karam, Barbaro and the Griffiths people. Do you recall
14:41:51 20 that?---I don't specifically recall that but I accept it's
14:41:54 21 in the transcript.
14:41:55 22
14:41:56 23 She indicates, p.384, when she started talking to Sandy
14:42:02 24 White that she'd said, "Do you want to unravel the Mokbels?
14:42:05 25 This is the way to do it". She talks to them about how the
14:42:08 26 key to this is [REDACTED]. She'd spent months and months
14:42:13 27 of working on [REDACTED] leading to his arrest. The first
14:42:17 28 person that he contacted was her. He'd agreed to cooperate
14:42:22 29 and be a witness and wouldn't do it without her. Those
14:42:26 30 matters. She referred to 333 to 334, she was talking about
14:42:32 31 her involvement with [REDACTED]. Now, you recall again who
14:42:36 32 [REDACTED] is, I think I took you to - go to 333. You see
14:42:46 33 down the bottom, the third line-up?---Yes.
14:42:49 34
14:42:49 35 You know who I'm talking about is [REDACTED]?---Yes.
14:42:53 36
14:42:54 37 She talked about having spent a lot of time with him before
14:42:59 38 he became a witness. She talked about having worked on him
14:43:01 39 so the police were able to know in advance what he could
14:43:04 40 say and the sorts of things he'd be able to give evidence
14:43:07 41 about. She referred at 369 if it was subpoenaed that there
14:43:12 42 might be 35 hours' worth of conversations with the SDU
14:43:19 43 about [REDACTED]. She referred to problems in relation to
14:43:23 44 arrests where she felt unable to explain to a client or the
14:43:27 45 client's solicitor that she had a conflict and that that
14:43:29 46 was a scenario that she had so many times with so many
14:43:34 47 people, and in that context she discussed Faruk Orman with

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

14:43:39 1 you. 334. You see there it's Faruk Gorman but it should
14:43:51 2 be Faruk Orman?---I accept that, yes.
14:43:54 3
14:43:55 4 She talked about, "There were all sorts of problems with me
14:43:59 5 acting for him" because she'd acted for the person that
14:44:03 6 became a witness against him. She asked if you recalled
14:44:08 7 the biggest ever importation in the world the previous
14:44:12 8 year, this is at 322, which you did. She referred to
14:44:16 9 containers and indicated that but for her they wouldn't
14:44:19 10 have known about it. She referred to people like Mr Flynn,
14:44:25 11 Mr Bateson, Mr Kelly and Mr Rowe being aware generally of
14:44:28 12 her involvement. Do you recall that?---I don't
14:44:31 13 specifically recall it, but it's in the transcript.
14:44:35 14
14:44:35 15 If we go to 372, she's talking about Paul Dale. There's
14:44:43 16 reference to the likelihood that Paul Dale was going to
14:44:47 17 claim that their relationship was the subject of legal
14:44:51 18 professional privilege and that's something that you would
14:44:52 19 have been aware of in any case?---Yeah, I would have
14:44:56 20 expected that had the potential to occur, yes.
14:44:59 21
14:44:59 22 At 379 she tells you that Sandy White from the SDU would
14:45:05 23 know about every contact she'd had with Paul Dale since the
14:45:09 24 16th, this transcript says 15 September, I think the other
14:45:12 25 one might say 16 September. She talks about, you see
14:45:27 26 there, "Every contact I've had with anybody Sandy White
14:45:31 27 knows about. There's nobody he doesn't. And Dale fell
14:45:34 28 into the category of, look he might be useful and maybe
14:45:37 29 we'll get you to do something with him so the instructions
14:45:40 30 were to keep up rather than tell him to fuck off and die,
14:45:44 31 keep up some level of contact", do you see that?---Yes.
14:45:48 32
14:45:49 33 She says she's seen him on three to four occasions and
14:45:53 34 Sandy White could give you those details. Do you see
14:46:02 35 that?---Yes.
14:46:03 36
14:46:04 37 If we keep going up. If we just move back to the other
14:46:27 38 page. And you indicate at the bottom of the page that you
14:46:37 39 were - having spoken about Mr White being able to provide
14:46:47 40 information about the past contacts, you're saying, "I'm
14:46:49 41 just thinking about, it's one of those things where, um, I
14:46:52 42 suppose if he gives it to me, um, then it's a case of how
14:46:54 43 did you get these and I don't want that sort of stuff in my
14:46:56 44 position if it can open up", and Ms Gobbo responds
14:46:59 45 indicating, "You could say Gavan, because what Sandy White
14:47:06 46 told me to say, like when I was, when, um, Cameron and Sol
14:47:13 47 rang me seven months ago when it started", do you see that?

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

14:47:17 1 It seems to be a conversation about you not wanting SDU
14:47:21 2 material in your possession?---Possibly, but I can't be
14:47:29 3 sure what that refers to.
14:47:30 4
14:47:31 5 Would there be a reason why you wouldn't want such material
14:47:35 6 in your possession?---No.
14:47:36 7
14:47:36 8 You can't think of a reason?---No.
14:47:38 9
14:47:41 10 Might it be because once it's in your possession you know
14:47:44 11 you have to hand it over definitely?---No, from my
14:47:48 12 experience, if we're talking subpoena material, his
14:47:53 13 subpoenas generally tend to be addressed to the Chief
14:47:59 14 Commissioner and encapsulates material that's in possession
14:48:03 15 of the organisation rather than the individual.
14:48:03 16
14:48:04 17 One might think that but it doesn't always happen, does
14:48:06 18 it?---It has in my experience.
14:48:08 19
14:48:09 20 Do you see there reference to Mr Dale's notes? Do you see
14:48:17 21 that?---Yes.
14:48:18 22
14:48:19 23 And Ms Gobbo describing them, "I previously gave a copy of
14:48:23 24 them because they're privileged notes that came from gaol,
14:48:26 25 Shane"?---Yes.
14:48:27 26
14:48:28 27 Did you say to yourself at that point in time, "Oh my
14:48:32 28 goodness, those notes are privileged"?---I can't recall
14:48:37 29 what I was thinking. I can't - I'm aware of the
14:48:41 30 conversation occurring, but I can't remember the specifics
14:48:43 31 of this conversation. I'm relying on the transcript.
14:48:45 32
14:48:46 33 Would you have been pretty concerned she's telling you
14:48:49 34 she's given privileged notes to the SDU belonging to
14:48:54 35 Mr Dale?---In what - concerned in what regard?
14:49:00 36
14:49:00 37 Here's a case where you're anticipating that Mr Dale's
14:49:04 38 defence is that he's got a privileged relationship with
14:49:10 39 Ms Gobbo and you've got Ms Gobbo telling you, "I've given
14:49:14 40 away his privileged information before to police"?---That
14:49:18 41 would have got my attention, I suppose, would be the way
14:49:23 42 I'd put it.
14:49:24 43
14:49:24 44 Do you recall if you did anything about it?---No, I don't.
14:49:27 45
14:49:33 46 Now, what happened at the end of this conversation?---From
14:49:38 47 my recollection Ms Gobbo signed her statement.

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

14:49:42 1
14:49:43 2 Mr Davey came in - - - ?---Correct, yes.
14:49:45 3
14:49:45 4 - - - at the end of the conversation at some point?---Yes,
14:49:49 5 he did.
14:49:49 6
14:49:50 7 And you'd been told - accepting that you'd been told these
14:49:56 8 things, you'd been told some very, very concerning things
14:50:00 9 by Ms Gobbo?---Yes.
14:50:01 10
14:50:02 11 Did you say to yourself, "I think we need to think further
14:50:05 12 before we get this person to sign this statement"?---No.
14:50:09 13
14:50:09 14 It didn't occur to you?---No.
14:50:10 15
14:50:14 16 You've indicated that had you - do you accept that the
14:50:19 17 types of matters that I've just taken you through were
14:50:24 18 raising similar concerns to the SWOT analysis that you've
14:50:27 19 recently seen?---Yes, similar issues, yes.
14:50:31 20
14:50:32 21 You said in relation to that SWOT analysis, "If I got that
14:50:34 22 I'd go to my superiors and we'd deal with it"?---Yes.
14:50:39 23
14:50:40 24 Why didn't you take this to your superiors?---The material
14:50:45 25 that Ms Gobbo was presenting here was, she was effectively
14:50:49 26 unloading, but it was in the context of safety and security
14:50:52 27 issues that we'd been discussing as I recall, or from
14:50:57 28 reading the transcript, they were matters that I wasn't
14:51:01 29 directly involved in, they were, I wouldn't say historical
14:51:04 30 matters but they were matters that were of some age. She
14:51:08 31 did mention a number of other police members that were
14:51:11 32 involved, SDU had obviously knowledge. It was my
14:51:15 33 understanding at that point that senior executive members
14:51:18 34 of the organisation from our steering committee were aware
14:51:20 35 of her role in this, so putting all that together I formed
14:51:24 36 a view that it was being dealt with elsewhere.
14:51:28 37
14:51:28 38 How do you know that the members of your steering committee
14:51:32 39 were aware of all of this, how do you know that?---Well the
14:51:37 40 fact that they're executive members of the organisation,
14:51:40 41 the fact that she was a registered human source, and of
14:51:48 42 fair significance, I would have expected that they would
14:51:50 43 have known.
14:51:50 44
14:51:51 45 Did you make sure, did you say, "Hang on a minute, we're
14:51:54 46 just about to lay murder charges against someone. She's
14:51:57 47 told me all of this concerning information about breaches

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

14:52:00 1 of her ethical duties and we're going to hang our hat on
14:52:04 2 this person as a witness", wouldn't you want to go and talk
14:52:07 3 to someone about it?---No, my expectation was that they
14:52:10 4 would have been aware of the material that was raised by
14:52:13 5 her in the course of this conversation. My role in this
14:52:16 6 conversation, or the reason for her telling me this, was
14:52:18 7 around her safety and security so that she could be
14:52:21 8 comfortable and make sure that I was fully conversant with
14:52:27 9 persons that may pose a risk to her of safety, and that was
14:52:31 10 the context in which I took that information.
14:52:31 11
14:52:31 12 You can't just take this information in one context and
14:52:35 13 say, "This is a conversation about her"?---No, not at all.
14:52:36 14
14:52:36 15 What if she'd confessed to murder through this
14:52:39 16 conversation, "I'm sorry, this is a conversation about
14:52:41 17 safety so if she's confessed to murder I'm just going to
14:52:45 18 isolate that"?---I think you'll find that's two different
14:52:48 19 things.
14:52:49 20
14:52:49 21 Well, how can you isolate these very serious concerns of
14:52:53 22 the nature that you would have otherwise elevated up to the
14:52:58 23 steering committee in that way, how can you do that?---As
14:53:01 24 I've said, I can't recall the specifics of this
14:53:05 25 conversation. I can recall the conversation occurring.
14:53:08 26 I'm only giving you an assessment of what I think my
14:53:11 27 thinking at the time would have been and that would be that
14:53:14 28 based on all the circumstances that I'm aware of now, that
14:53:17 29 our steering committee were cognisant of her role as a
14:53:20 30 source. My assumption would have been they were aware of
14:53:25 31 the depth of that informing given their roles as executive
14:53:31 32 managers in the organisation.
14:53:32 33
14:53:33 34 How come these concerning matters were not dealt with by
14:53:35 35 you in your first statement to the Commission?---I wasn't
14:53:39 36 made aware of them as being relevant to the Commission.
14:53:42 37
14:53:42 38 You had the statement, you were shown the statement,
14:53:45 39 presumably you read the statement. You're aware of the
14:53:48 40 issues that the Commission's dealing with?---I wouldn't say
14:53:51 41 that. I think one of the first questions you asked me was
14:53:55 42 have I been paying much attention to the Commission and my
14:53:58 43 answer was not really. To be honest I paid virtually no
14:54:04 44 attention to the Commission. So I'm not over the fine
14:54:08 45 grain detail of the issues before the Commission.
14:54:09 46
14:54:09 47 You don't know that this Commission is dealing with cases

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

14:54:12 1 which may have been affected by Ms Gobbo's conduct as an
14:54:17 2 informer?---Only in general terms through some occasional
14:54:20 3 media reporting that I've read.
14:54:21 4
14:54:22 5 So you chose in your first statement when you dealt with
14:54:24 6 this, "Well I'll deal with just Ms Gobbo's health and
14:54:27 7 safety aspect but I won't deal with all the people she has
14:54:31 8 been representing in conflict and breaching legal
14:54:34 9 professional privilege"?---It wasn't a matter that came up
14:54:36 10 in the discussions in preparation of the first statement.
14:54:39 11
14:54:40 12 You would have appreciated that Ms Gobbo telling you these
14:54:44 13 things would have had serious consequences for her credit
14:54:47 14 as a witness?---I'm not sure that my sort of depth of
14:54:58 15 knowledge, I'm getting one side of the story, at this point
14:55:01 16 in time. The statement was in relation to the recording of
14:55:08 17 a conversation with another person. The evidence as such
14:55:13 18 was the contents of that recording and as such that was the
14:55:18 19 context in which I was working at the time.
14:55:21 20
14:55:22 21 You were relying on Ms Gobbo to bolster the case because
14:55:25 22 you're hanging your hat otherwise just on Carl Williams and
14:55:29 23 you needed someone like Ms Gobbo to come along and credit
14:55:33 24 was one of the central issues in the case. Her statement
14:55:41 25 went beyond just making that recording, she didn't just
14:55:44 26 present that recording. Her statement dealt with other
14:55:47 27 issues that she was the conduit between Mr Williams and
14:55:53 28 Mr Dale, do you accept that?---I haven't read Ms Gobbo's
14:55:58 29 statement for quite a long time, but I'm prepared to accept
14:56:01 30 that.
14:56:01 31
14:56:02 32 You would have known that Ms Gobbo's credit would have been
14:56:04 33 in issue in the trial?---I think the credit of all
14:56:07 34 witnesses at trial is material.
14:56:10 35
14:56:10 36 And clearly you would have known that in issue at the trial
14:56:13 37 was whether this relationship was a privileged one, legal
14:56:21 38 professional privilege was in issue?---I would have
14:56:22 39 expected, certainly sitting here now I can't say what my
14:56:26 40 state of mind at the time was, but it would be fair to say
14:56:29 41 the state of the relationship between Ms Gobbo and Mr Dale
14:56:33 42 would have been examined.
14:56:36 43
14:56:37 44 If she'd told you things about handing over his privileged
14:56:42 45 notes, that would be something that would need to be
14:56:45 46 disclosed?---Ultimately, yes.
14:56:48 47

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

14:56:50 1 If she told you about having breached her ethics in terms
14:56:56 2 of privilege and in other ways as she's described in this
14:57:01 3 conversation to you, that would have to be
14:57:04 4 disclosed?---Potentially, yes, subject to whatever
14:57:09 5 direction that would have gone down in terms of PII claims
14:57:12 6 and court orders.
14:57:14 7
14:57:19 8 You're certainly aware by this stage that the SDU hold an
14:57:24 9 enormous amount of material in relation to Ms Gobbo?---I'm
14:57:26 10 certainly aware that SDU have got material. I'm not aware
14:57:30 11 of the enormity of that material at this stage.
14:57:33 12
14:57:34 13 Ms Gobbo has described hours and hours of conversation with
14:57:37 14 the SDU to you during the course of this
14:57:41 15 conversation?---Yes.
14:57:42 16
14:57:43 17 You have numerous further conversations following that, is
14:57:47 18 that right?---Following this date?
19
14:57:49 20 Yes?---Yes
14:57:51 21
14:57:52 22 Just take you to briefly one other one. Before I do that,
14:58:00 23 you knew that if you were to reveal matters contained
14:58:05 24 within this conversation with Ms Gobbo, that it would
14:58:08 25 seriously compromise the case against Mr Dale, you would
14:58:11 26 have been aware of that?---That's not for me to make an
14:58:14 27 assessment on that.
14:58:15 28
14:58:15 29 You would have been aware that it would compromise the
14:58:19 30 case, it would weaken the case that you were bringing
14:58:21 31 against Mr Dale if this material was disclosed to the
14:58:24 32 defence?---As I say, it's not for me to say that. The
14:58:28 33 matter was referred to the Office of Public Prosecutions
14:58:30 34 and ultimately a decision from a senior Crown Prosecutor to
14:58:33 35 assess the strength of the prosecution case before it
14:58:37 36 proceeded forward.
14:58:37 37
14:58:38 38 Did you give this to the DPP?---I can't recall.
14:58:40 39
14:58:40 40 It wasn't going to help the case, was it?---Again, it's not
14:58:46 41 for me to say one way or the other.
14:58:48 42
14:58:48 43 All right. There's another conversation that you have with
14:58:50 44 Ms Gobbo on 1 February, VPL.0100.0237.6854 at p.86. Whilst
14:59:01 45 we're bringing that up, Commissioner, I need to tender that
14:59:04 46 last conversation and Mr O'Connell's diaries.
14:59:11 47

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

14:59:11 1
14:59:13 2 #EXHIBIT RC1247A - (Confidential) Mr O'Connell's diaries.
14:59:16 3
14:59:17 4 #EXHIBIT RC1347B - (Redacted version.)
14:59:19 5
14:59:19 6 #EXHIBIT RC1348A - (Confidential) Transcript of 7/01/09
14:59:23 7 between Mr O'Connell and Ms Gobbo.
14:59:25 8
14:59:26 9 #EXHIBIT RC1338B - (Redacted version.)
14:59:28 10
14:59:28 11 I might, for our records, we have an unsigned statement of
14:59:32 12 Ms Gobbo's tendered but I might just tender now the signed
14:59:38 13 version of Ms Gobbo's statement, that's at
14:59:46 14 VPL.0002.0001.1456.
14:59:48 15
14:59:51 16 COMMISSIONER: What's the date, please?
14:59:53 17
14:59:54 18 MS TITTENSOR: 7 January 2009, Commissioner.
14:59:55 19
14:59:56 20 #EXHIBIT RC1349A - (Confidential) Signed version of
14:59:57 21 Ms Gobbo's statement 7/01/09.
14:59:57 22
14:59:58 23 #EXHIBIT RC1349B - (Redacted version.)
15:00:01 24
15:00:10 25 If we can go to the 1 February 2009 conversation briefly.
15:00:27 26 Ms Gobbo during this conversation talks to you about, you
15:00:32 27 see the name of the person up the top we're calling, on
15:00:36 28 about the fourth or fifth line of Ms Gobbo, do you see that
15:00:42 29 name?---Yes.
15:00:43 30
15:00:43 31 Is that one you're familiar with?---Yes.
15:00:45 32
15:00:45 33 Ms Gobbo talks about having acted for that person and
15:00:50 34 proofreading his statement. She referred to you
15:00:54 35 appreciating that that was the turning point in things, I
15:00:57 36 think you agreed. She referred to going to see that person
15:01:04 37 on one occasion who told her he really wanted her to act
15:01:08 38 for him but Mr Bateson thought it was a bit of a conflict
15:01:11 39 because she had spoken with Carl Williams and that
15:01:14 40 apparently there was also some belief of her having an
15:01:18 41 intimate relationship with Mr Williams. Do you see
15:01:22 42 that?---I can see that, yes.
15:01:23 43
15:01:24 44 You had some involvement back in those days at Purana, is
15:01:28 45 that right?---Yes, I did work at Purana, yes.
15:01:31 46
15:01:31 47 So you were familiar with events in terms of witnesses

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

15:01:36 1 rolling over?---Some.
15:01:38 2
15:01:39 3 Were you aware of Ms Gobbo's involvement?---No.
15:01:43 4
15:01:49 5 If we go to p.96. Ms Gobbo is talking about coming on
15:02:00 6 board to the SDU and what happened at the first meeting.
15:02:03 7 She's indicating that Sandy White said, "Tell me everything
15:02:08 8 you know about Tony Mokbel", and the response, "Well how
15:02:12 9 many days do you reckon it took" and your response is,
15:02:15 10 "Strap yourself in", do you see that?---Yes.
15:02:18 11
15:02:18 12 She goes on to say, "Ethically I tried to limit it to stuff
15:02:23 13 that I could talk about and not privileged stuff. Then
15:02:26 14 over time I know I was breaching, I'd done the wrong thing
15:02:31 15 because I decided it was all too hard to try and tell half
15:02:35 16 the story. I may as well just forget the fact there's
15:02:37 17 privilege and all about everything and just say all of it
15:02:41 18 because it got too hard. That sort of worries me. If
15:02:44 19 stuff comes out I could be sued", do you see that?---Yes.
15:02:48 20
15:02:49 21 Did that cause you any concern?---I can't recall the
15:02:54 22 conversation so I can't recall what my reaction would have
15:02:59 23 been to that or was to that.
15:03:01 24
15:03:01 25 Did you think that there might be cases of people sitting
15:03:06 26 in gaol that have not had a fair trial, would that have
15:03:10 27 occurred to you do you think?---It seems to be an extension
15:03:15 28 of material that she'd already spoken to me about on the
15:03:18 29 7th, so again I may very well have been of the view there
15:03:22 30 were other investigators, SDU and executive members of
15:03:24 31 command that were dealing with this.
15:03:26 32
15:03:27 33 You'd think if there's people potentially not having had a
15:03:32 34 fair trial, Ms Gobbo has had all these ethical breaches,
15:03:36 35 it's not good enough to just think that other people might
15:03:39 36 be dealing with it, "Perhaps I should just go and
15:03:43 37 check"?---As I said, I'm aware that, or would have been
15:03:46 38 under the view the SDU were aware of it. There's
15:03:50 39 investigators being named by Ms Gobbo. My view at the time
15:03:55 40 was that executive members of command, Mr Overland,
15:03:58 41 et cetera, were aware of Ms Gobbo's role as a source. It
15:04:03 42 would have been my expectation given the positions they
15:04:06 43 held within Victoria Police that they would have been
15:04:09 44 cognisant of these issues and that they would have been
15:04:11 45 dealt with accordingly.
15:04:14 46
15:04:14 47 So you just thought, "People are going to know that these

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

15:04:18 1 cases are compromised so I just won't talk about it"?---In
15:04:22 2 the context that she was talking to me about it, the SDU
15:04:27 3 and investigators and by extension executive members of
15:04:33 4 Command appear to have had knowledge.
15:04:34 5
15:04:35 6 Was that okay by you? It's okay that these breaches and
15:04:41 7 unethical things have been going on as long as higher ups
15:04:46 8 know about?---I'm only trying to piece together, I've
15:04:51 9 already indicated I can't recall this conversation. I'm
15:04:54 10 only trying to give you a snapshot of what I may have been
15:04:57 11 thinking at that stage because I don't recall. It's quite
15:05:02 12 plausible, even possible, that I may have done other things
15:05:05 13 other than that, but at the very least my view would have
15:05:08 14 been that these matters were - well prior to this
15:05:13 15 conversation that prosecutions were well advanced, that
15:05:17 16 other investigators, as well as SDU and executive command
15:05:20 17 members, were aware of it, and that those matters were
15:05:24 18 being addressed in that forum.
15:05:26 19
15:05:26 20 As far as you were aware prosecutions are well advanced in
15:05:29 21 other cases potentially. Disclosure of Ms Gobbo's role was
15:05:36 22 an issue in your case, yes?---Sorry, is that in relation to
15:05:40 23 the - - -
15:05:40 24
15:05:40 25 In relation to Dale?---So her role as - - -
15:05:44 26
15:05:44 27 Her role as a human source, her past history was an issue
15:05:47 28 in your case?---Subject to what, you know, she may have
15:05:52 29 been doing in that role, that was yet to fully be explored
15:05:57 30 and determined.
15:05:57 31
15:05:57 32 That was because obviously it had never come out before in
15:06:02 33 any other case?---I wasn't aware of it being raised. I'm
15:06:06 34 pretty confident it hadn't been.
15:06:07 35
15:06:07 36 If it was known that she was a human source in other cases
15:06:10 37 then it wouldn't be an issue in this case?---I'm not sure I
15:06:16 38 follow that, sorry.
15:06:17 39
15:06:17 40 If it had come out, if the prosecution knew, if other
15:06:20 41 defence knew along the way that Ms Gobbo had been a human
15:06:23 42 source there wouldn't have been a need to hide it any
15:06:26 43 more?---It's not - I'm not aware of anyone's role as a
15:06:33 44 human source ever being disclosed in a prosecution to be
15:06:37 45 honest.
15:06:37 46
15:06:37 47 You know there's exceptions to the rule?---Look, I've got a

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

15:06:45 1 police lot of experience in this sort of stuff so I'm by no
15:06:50 2 means a qualified lawyer. If there are, then I may or may
15:06:54 3 not be aware of them, okay.
15:06:56 4
15:06:56 5 Taking it back a step, did you think to yourself, "If
15:07:00 6 Ms Gobbo has got all these ethical breaches, I might need
15:07:04 7 to go and check with the SDU if they've got any material
15:07:06 8 that's going to tell me one way or another whether she does
15:07:11 9 in fact have, or had some form of legal relationship with
15:07:15 10 Mr Dale"?---Again, I can't - I can't recall what I did in
15:07:23 11 consequence of any of these conversations and I may very
15:07:26 12 well have done that. I can't recall.
15:07:28 13
15:07:29 14 If you had have checked with the SDU you might have found a
15:07:32 15 couple of instances, including one where she's describing
15:07:36 16 her relationship with Mr Dale as a bizarre using friendship
15:07:40 17 where she provided legal advice for free. Might that have
15:07:44 18 given you some concern about the nature of their
15:07:47 19 relationship?---It may very well have done.
15:07:51 20
15:07:52 21 Now, later that year there was preparations underway for
15:07:59 22 the committal the following year, is that right?---Yes.
15:08:05 23 Are you talking between the committal mention and the
15:08:07 24 committal?
15:08:08 25
15:08:08 26 Yes?---Yes.
15:08:09 27
15:08:09 28 On 21 September 2009 did you understand that there was an
15:08:16 29 investigation going on in relation to the Briars
15:08:19 30 matter?---Yes.
15:08:20 31
15:08:20 32 And you had facilitated some, or helped arrange a meeting
15:08:26 33 with Ms Gobbo in Bali, is that right, for Mr Iddles and
15:08:29 34 Mr Waddell? Mr Waddell was indicating that you were
15:08:34 35 helping to make arrangements?---I've seen diary entries
15:08:40 36 that suggest I've had conversation with Mr Waddell, I
15:08:43 37 believe. I can't recall those conversations and I can't,
15:08:48 38 in the course of statement preparation for the Commission,
15:08:51 39 I wasn't - I could not recall being involved in that trip
15:08:58 40 to Bali.
15:08:59 41
15:08:59 42 In the lead up to that Mr Iddles received a copy of a
15:09:08 43 statement that Mr Waters had prepared should he be arrested
15:09:16 44 and interviewed by the police, so a statement that he was
15:09:19 45 preparing to read out. Do you understand what I mean?---I
15:09:23 46 think so. I've got next to know knowledge of the Briars
15:09:27 47 matter other than the existence of it.

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

15:09:29 1
15:09:30 2 Mr Waters had anticipated at some stage he might be
15:09:33 3 arrested. He'd prepared a statement to read out should
15:09:36 4 that be the case and he'd provided a copy of that to
15:09:40 5 Ms Gobbo seeking her advice as to that statement. Ms Gobbo
15:09:48 6 had kept that statement and provided it to the police. It
15:09:53 7 seems, I think, that you were on one of the emails taking
15:09:57 8 that statement to Mr, providing that statement to
15:10:03 9 Mr Iddles. Do you recall doing that?---Not at all, this is
15:10:06 10 completely foreign to me. I can't recall ever having
15:10:09 11 anything to do with Mr Waters or Briars.
15:10:15 12
15:10:15 13 Later that year do you understand Ms Gobbo made a draft
15:10:20 14 statement in Bali?---For, was it Briars?
15:10:25 15
15:10:25 16 Briars, sorry?---I've come to learn that subsequent to it
15:10:29 17 happening.
15:10:29 18
15:10:29 19 And that there were some concerns following that about,
15:10:33 20 similar concerns that the SDU were expressing about what
15:10:36 21 disclosure might have to be made?---I have no idea.
15:10:41 22
15:10:41 23 Later in the year Mr Waddell was getting some advice should
15:10:46 24 the statement be signed about what might occur in relation
15:10:49 25 to disclosure and other issues, and Mr Maguire provided
15:10:54 26 advice around about September 2009 which had an impact upon
15:11:02 27 the Petra prosecution. Part of his advice to Mr Waddell
15:11:07 28 was that the witness's past, Ms Gobbo's past will probably
15:11:11 29 be declared to the court at a minimum in the prosecution of
15:11:14 30 Dale. So the fact that she's been an informer would
15:11:19 31 probably be declared in the prosecution of Dale at a
15:11:23 32 minimum, all right. Mr Smith was at the, he was invited
15:11:31 33 along to the Briars meeting to hear the report about that
15:11:36 34 advice. Do you recall receiving that advice from
15:11:41 35 Mr Smith?---No.
15:11:41 36
15:11:42 37 Do you recall around that time getting Mr Gipp on board to
15:11:50 38 handle subpoenas and disclosure in relation to the
15:11:53 39 Dale/Collins committal?---Yes.
15:11:54 40
15:12:01 41 You say in your second statement that in terms of
15:12:05 42 disclosure Mr Davey and Mr Solomon were responsible for
15:12:09 43 gathering disclosure and subpoena material for the
15:12:11 44 committal, is that right?---Yes.
15:12:13 45
15:12:14 46 Neither of those people were aware that Ms Gobbo was a
15:12:16 47 human source, is that right?---That I can't comment on, I

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

15:12:22 1 don't know.
 15:12:23 2
 15:12:26 3 You were on leave, you say at paragraph 188 of your
 15:12:31 4 statement, from 31 December of 2009 to 2 February
 15:12:37 5 2010?---Sorry, what paragraph was that?
 15:12:40 6
 15:12:40 7 188?---I believe so, yes.
 15:12:53 8
 15:12:53 9 When you came back from leave you became aware of a
 15:12:56 10 subpoena which had been issued by Mr Dale, is that right?
 15:13:02 11 Or you would have become aware if the subpoena had been
 15:13:06 12 issued recently by Mr Dale?---At some point - is this prior
 15:13:10 13 to the conduct of the committal itself, the commencement of
 15:13:12 14 the committal?
 15:13:13 15
 15:13:14 16 Yes. Late January 2010, he issues a subpoena?---Yes.
 17
 15:13:19 18 The committal is happening in March?---Yes.
 19
 15:13:21 20 On 9 March it starts?---Yes.
 15:13:22 21
 15:13:22 22 If I can just put up this document, PND.0022.0001.0340. Or
 15:13:38 23 the last one will do if that's the same document. This is
 15:13:43 24 a copy of your statement in relation to the Dale matter, is
 15:13:48 25 that right?---It appears to be, yes.
 15:13:51 26
 15:13:53 27 Is that the only statement you made in that matter?---I
 15:13:57 28 believe so.
 15:13:58 29
 15:13:59 30 And essentially that's a simple continuity statement about
 15:14:03 31 providing Ms Gobbo with a recording device and receiving it
 15:14:05 32 back from her?---Yes.
 15:14:07 33
 15:14:07 34 It doesn't deal with any of your involvement in the
 15:14:10 35 investigation?---No.
 15:14:11 36
 15:14:12 37 I tender that document, Commissioner.
 38
 15:14:14 39 COMMISSIONER: No date on it?
 15:14:14 40
 15:14:24 41 MS TITTENSOR: It's dated 20 April 2009.
 15:14:28 42
 15:14:29 43 #EXHIBIT RC1350A - (Confidential) Statement of John
 44 O'Connor in relation to Dale matter
 15:13:27 45 PND.0022.0001.0340
 15:14:30 46
 15:14:30 47 #EXHIBIT RC1350B - (Redacted version.)

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

15:14:31 1
15:14:40 2 If we can look at your diary of 18 February 2010,
15:14:45 3 VPL.0005.0240.0111, at p.65. This is your diary of 18
15:14:57 4 February. You're on that date checking that recording of 7
15:15:03 5 January 2009, is that right?---Yes.
15:15:05 6
15:15:06 7 And preparing subpoena material in relation to that
15:15:09 8 matter?---Yes.
15:15:10 9
15:15:10 10 And speaking with Mr Smith and Davey in relation to the
15:15:13 11 provision of subpoena material for Loris?---Yes.
15:15:16 12
15:15:16 13 And the provision of material to Ms Gobbo. Then later that
15:15:20 14 day you're having a meeting with the lawyers?---Yes.
15:15:24 15
15:15:27 16 Now, if we go over the page. On the 24th you're redacting
15:15:33 17 some OPI transcript in relation to Ms Gobbo's
15:15:36 18 examination?---Yes.
15:15:37 19
15:15:38 20 Were you also responsible for redaction of the 7 January
15:15:43 21 conversation with Ms Gobbo?---I can't recall specifically.
15:15:49 22
15:15:49 23 Given the notations before on the version that I showed you
15:15:55 24 and your participation in that conversation, would you
15:15:59 25 expect that that would have fallen to you?---Again, I
15:16:03 26 can't, I can't be certain, I don't know.
15:16:05 27
15:16:17 28 On 1 March Mr Hargreaves sent a letter to the VGSO in
15:16:21 29 relation to a number of matters. Obviously his concerns
15:16:25 30 were not limited to just Ms Gobbo, he was also after
15:16:30 31 documentation in relation to ATO arrangements, for example
15:16:34 32 in relation to the Williams' matter, and you recall that
15:16:39 33 issue?---I am aware of the issue.
15:16:47 34
15:16:47 35 He confirms down the bottom of that letter that the credit
15:16:52 36 of both Mr Williams and Ms Gobbo were central issues in the
15:16:52 37 defence case, he's accordingly seeking every document that
15:16:55 38 exists in relation to dealings between Ms Gobbo and
15:16:58 39 Victoria Police in relation to the investigation of Paul
15:17:01 40 Dale and any, or any discussion or negotiation that had
15:17:05 41 taken place that played a role in her agreeing to give
15:17:10 42 evidence. Now she had started talking about suing the
15:17:16 43 police the previous year, is that right?---I can't tell you
15:17:21 44 when that conversation started or when that subject raised
15:17:26 45 its head.
15:17:26 46
15:17:26 47 She started writing letters to Mr Overland?---I'm aware she

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

15:17:30 1 wrote letters to Mr Overland, yes, but the date of that I
15:17:33 2 couldn't tell you.
15:17:34 3
15:17:34 4 Were you given some responsibility in terms of collecting
15:17:39 5 information or material in relation to potential civil
15:17:43 6 proceedings by Ms Gobbo?---I can't recall. Quite possibly.
15:17:48 7
15:17:52 8 Following this time - if that's not tendered, Commissioner,
15:17:57 9 I tender that letter.
15:17:58 10
15:18:01 11 #EXHIBIT RC1351A - (Confidential) Letter from Hargreaves to
15:18:02 12 Mr Elms VGS0 1/03/10 re Paul Dale.
15:18:08 13
15:18:09 14 #EXHIBIT RC1351B - (Redacted version.)
15:18:10 15
15:18:10 16 If we can then go to an email chain, VPL.6018.0008.7075.
15:18:32 17 This indicates at the bottom that Mr Hargreaves has sent
15:18:38 18 that letter I've just taken you to the VGS0. The email and
15:18:41 19 letter are forwarded to Mr Gipp to deal with the issues
15:18:45 20 raised and Mr Gipp sends it on to Mr Davey. Mr Davey then
15:18:49 21 sends it to Mr Smith and copies it to you and Mr Solomon.
15:18:54 22 If we track that through, do you see that?---Yes.
15:19:00 23
15:19:01 24 Now, I'm not going to take you right through it. Part of -
15:19:09 25 sorry. There's an indication down the bottom of that
15:19:16 26 letter that Mr Gipp has expressed some concern to Mr Davey
15:19:20 27 that, "If there are documents that exist that we've not
15:19:23 28 informed him about, then Victoria Police will look like it
15:19:25 29 has tried to hide something from the defence. Can you
15:19:29 30 ensure that anything that does exist Ron is made aware of
15:19:33 31 in order to assess the material". Do you see that?---Yes.
15:19:38 32
15:19:41 33 Do you know if there was anything in particular that
15:19:45 34 Mr Gipp might have been concerned about or anything that
15:19:50 35 was occurring around that time that might have given rise
15:19:54 36 to concerns that Victoria Police were hiding things from
15:19:56 37 him?---No.
15:19:57 38
15:20:00 39 There's an entry in your diary the following day, 2 March
15:20:05 40 2010, VPL.0005.0240.0001 at p.68. Whilst that's being
15:20:17 41 brought up, Commissioner, I failed to tender the transcript
15:20:21 42 of the conversation on 1 February 2008.
15:20:23 43
15:20:27 44 COMMISSIONER: Right. I'll just mention that last document
15:20:29 45 you had up, the email chain, was Exhibit 1198 I think.
15:20:34 46
15:20:35 47 MS TITTENSOR: Thank you Commissioner.

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

15:20:35 1
15:20:40 2 #EXHIBIT RC1352A - (Confidential) Transcript of 1/02/09.
15:20:42 3
15:20:42 4 #EXHIBIT RC1352B - (Redacted version.)
15:20:44 5
15:20:47 6 You're talking to Mr Gipp about the email from Tony
15:20:51 7 Hargreaves, do you see that?---Yes.
15:20:53 8
15:20:54 9 And you spoke to him in relation to there being 60
15:20:59 10 recordings of contact with Ms Gobbo and you describe them
15:21:04 11 to him as, "Generally re safety, security, welfare and
15:21:09 12 disclosure and Witsec matters"?---Yes.
15:21:11 13
15:21:12 14 All PII?---Yes.
15:21:14 15
15:21:15 16 And then Mr Gipp has obviously indicated to you he's going
15:21:20 17 to disclose those recordings to the defence but claim PII,
15:21:25 18 presumably on the basis of what you've just told him that
15:21:29 19 they were safety, security and welfare issues. He
15:21:32 20 requested that you prepare CDs of the recording for the
15:21:38 21 commencement of the committal, do you see that?---Yes.
15:21:39 22
15:21:40 23 It's apparent that you hadn't disclosed those recordings
15:21:43 24 that you'd had with Ms Gobbo since 7 September 2009 to
15:21:48 25 Mr Gipp prior to that point. Can you explain that?---When
15:21:53 26 was the previous - my dates are, it's a bit difficult
15:21:59 27 jumping from page to page. I'd have to, and the other part
15:22:03 28 about it as well, I'm aware that there was a subpoena
15:22:06 29 served prior to the commencement of the committal and that
15:22:10 30 there were subsequent subpoenas served at the commencement
15:22:13 31 of the committal and during the committal, but again dates
15:22:17 32 are, I'm all over the place with dates.
15:22:20 33
15:22:21 34 Mr Collins had served a subpoena months and months earlier
15:22:25 35 the previous year, by August or September 2008. Mr Dale's
15:22:32 36 served a subpoena towards the end of January 2009. That
15:22:35 37 was the only subpoena that had been issued by Mr Dale by
15:22:39 38 this point in time. The committal starts on 9 March 2010.
15:22:45 39 You're about a week away from the committal commencing and
15:22:49 40 you're having this conversation with Mr Gipp and it comes,
15:22:56 41 it seems, "Following on from his raising concerns that you
15:23:02 42 might not be telling me everything and it's going to be
15:23:05 43 like we're hiding things" and it seems as though the next
15:23:08 44 day you're having a conversation where you're telling him,
15:23:12 45 "Well there are these other recordings with Ms Gobbo about
15:23:17 46 these other things but they're all about safety, security,
15:23:19 47 welfare and disclosure and Witsec matters and it's all

.21/02/20

14799

O'CONNELL XXN

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

15:23:23 1 PII".

15:23:24 2

15:23:24 3 MS KELLY: Commissioner, I have an objection to that form

15:23:26 4 of question because this entry doesn't say that this was

15:23:29 5 the first occasion on which the secure recordings were

15:23:32 6 identified. So I think there's a premise in my learned

15:23:35 7 friend's question that isn't borne out in the material.

15:23:40 8

15:23:40 9 COMMISSIONER: I think she was trying to precis the

15:23:43 10 background to it, but perhaps you can clarify that,

15:23:45 11 Ms Tittensor.

15:23:46 12

15:23:46 13 MS TITTENSOR: All right. If we have a look at the entry.

15:23:50 14 You're having a conversation with Mr Gipp and you're

15:23:54 15 telling him about 60 recordings with Ms Gobbo, is that

15:23:58 16 right?---I think so.

15:24:00 17

15:24:00 18 You're describing the nature of them to him. Do you see

15:24:03 19 that?---Yes.

15:24:04 20

15:24:05 21 If you had have told him about those recordings before I

15:24:09 22 take it you wouldn't need to describe the nature of them to

15:24:14 23 him again?---I don't know.

15:24:16 24

15:24:16 25 If Mr Gipp is deciding at that point that, "I need to

15:24:21 26 disclose the recordings to the defence and I'm claiming

15:24:24 27 PII", it seems to indicate that this is the first occasion

15:24:27 28 upon which he has come to know about these recordings,

15:24:31 29 would you agree?---I don't know.

15:24:32 30

15:24:38 31 Do you agree that you'd still not disclosed to Mr Gipp by

15:24:42 32 this point that there were significant holdings by the

15:24:45 33 SDU?---I don't know.

15:24:46 34

15:24:53 35 If we go to your diary for 5 March, it's p.69. You see on

15:25:12 36 5 March you're meeting with Mr Gipp and Lucia Bolkas in

15:25:19 37 relation to subpoena material for Loris. Ms Bolkas had

15:25:24 38 also been briefed by that stage?---I would assume so.

15:25:28 39

15:25:29 40 It seems as though on 8 March, still on that page, there's

15:25:35 41 more preparation of subpoena material, you're meeting with

15:25:38 42 Mr Gipp and you're on that day involved in an affidavit to

15:25:42 43 claim public interest immunity. Do you see that?---I can

15:25:49 44 see that there's a meeting, yep, a meeting and preparation

15:25:53 45 of subpoena material, yes.

15:25:56 46

15:26:02 47 That might have just been a supposition of mine. The

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

15:26:05 1 following day Mr Gipp emails Mr Davey a document asking,
15:26:15 2 with a confidential affidavit for you, or a draft
15:26:18 3 confidential affidavit for you. Do you recall this
15:26:20 4 occurring in the lead up to the committal? So the 9th is
15:26:26 5 actually the day of the committal, so this is the morning
15:26:28 6 of the committal that this is being emailed through?---I
15:26:34 7 don't have an independent recollection of it, no.
15:26:36 8
15:26:37 9 Do you recall preparing a confidential affidavit for the
15:26:40 10 purposes of the committal?---No, I don't, but I do
15:26:44 11 understand there is one.
15:26:46 12
15:26:48 13 For the purpose of the transcript it's VPL.6041.0004.1680.
15:26:55 14 And the confidential affidavit unsigned is
15:27:04 15 VPL.6041.0004.1681. This is the affidavit, if we go to
15:27:13 16 paragraph 4. It's indicating that in response to various
15:27:20 17 parts of the subpoena you're producing the following
15:27:25 18 documents. It indicates an audio recording of a
15:27:29 19 conversation between yourself and Ms Gobbo on 7 January
15:27:33 20 2009, which is four hours 45 minutes in length and the
15:27:37 21 transcript. Do you see that?---Yes.
15:27:40 22
15:27:40 23 And further audio recordings between yourself and Ms Gobbo,
15:27:44 24 approximately 48 hours in length?---Yes.
15:27:47 25
15:27:48 26 Was that the limit of all the recordings that you had with
15:27:50 27 Ms Gobbo throughout that year?---I don't know, I'd have to
15:27:57 28 say yes.
15:28:00 29
15:28:04 30 At paragraph 7 of the - you indicate you've listened to the
15:28:14 31 audio, read the transcript, provided a redacted copy of the
15:28:18 32 transcript to the legal representatives of the defence and
15:28:21 33 the redacted parts of the transcript contain extremely
15:28:24 34 sensitive material which is either not relevant to the
15:28:27 35 investigation of Mr Dale and the Hodson murder
15:28:30 36 investigation or is the subject of a claim for public
15:28:33 37 interest immunity. You go on that you're relying, the
15:28:37 38 public interest immunity that you rely on is, firstly,
15:28:40 39 informer privilege and, secondly, disclosure of police
15:28:43 40 methodology and so on. Do you see that?---Yes.
15:28:46 41
15:28:50 42 At paragraph 10 you talk about a conversation with
15:28:54 43 Mr O'Connell prior to - - -?---Who?
15:28:58 44
15:28:59 45 Mr Davey I should say, prior to Ms Gobbo meeting and
15:29:03 46 signing the statement?---Yes.
15:29:05 47

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

15:29:07 1 Paragraph 12, you refer to the covert recorder operating,
15:29:13 2 paragraph 13, Mr Davey arriving at the end of the meeting
15:29:16 3 and the statement being signed. At paragraph 14 you
15:29:20 4 indicate that in the course of the conversation Ms Gobbo
15:29:24 5 had disclosed matters over which PII was claimed. She told
15:29:28 6 you she was a police informer, a registered police
15:29:31 7 informer, she had been dealing with covert police members
15:29:34 8 attached to a specialist unit and she had disclosed
15:29:37 9 criminal conduct in relation to assorted matters about
15:29:41 10 persons including Tony, Horty and Milad Mokbel, Mick Gatto,
15:29:51 11 Rob Karam, [REDACTED] and [REDACTED] do you see
15:29:54 12 that?---Yes.

15:29:54 13
15:29:55 14 At paragraph 16 you say those matters were the subject of
15:29:58 15 ongoing investigation, is that right?---Yes.

15:30:08 16
15:30:09 17 Was that right, that those matters were the subject of
15:30:11 18 ongoing investigation as far as you were aware?---I can
15:30:14 19 only assume that to be the case at this time.

15:30:17 20
15:30:17 21 At paragraph 17 there's discussion about Victoria Police
15:30:22 22 financially assisting Ms Gobbo because she couldn't work as
15:30:25 23 a barrister?---Yes.

15:30:28 24
15:30:28 25 And you say at paragraph 20, the remaining 48 hours of
15:30:32 26 conversation predominantly were about her welfare, safety,
15:30:37 27 security?---Yes.

28
15:30:39 29 And at paragraph 21 you refer to a disclosure by Ms Gobbo
15:30:44 30 about Dale calling her for advice when arrested and
15:30:47 31 remanded in 2003, where she informed him she couldn't
15:30:51 32 represent him due to a conflict of interest?---Yes.

15:30:54 33
15:30:55 34 Now, for the record there's a further version, updated
15:31:00 35 version of that confidential affidavit, I'll read out the
15:31:05 36 VPL's, but in substance it contains the same material that
15:31:08 37 I've just taken you through. It's VPL.6041.0004.1697 and
15:31:13 38 the affidavit is at 1699. I tender those two lots of
15:31:18 39 emails and affidavits, Commissioner.

15:31:20 40
15:31:32 41 #EXHIBIT RC1353A - (Confidential) Affidavit
15:31:08 42 VPL.6041.0004.1697.

15:31:33 43
15:31:34 44 #EXHIBIT RC1353B - (Redacted version.)

15:31:36 45
15:31:36 46 #EXHIBIT RC1354A - (Confidential) Affidavit
15:31:08 47 VPL.6041.0004.1698.

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

15:31:37 1
15:31:38 2 #EXHIBIT RC1354B - (Redacted version.)
15:31:40 3
15:31:41 4 MS TITTENSOR: Might that be a suitable time for a break,
15:31:44 5 Commissioner?
15:31:44 6
15:31:45 7 COMMISSIONER: Yes, all right then.
15:31:45 8
15:31:45 9 MR COLEMAN: Commissioner, before you rise can I just
15:31:48 10 inform you as a courtesy I'll be taking my leave and
15:31:50 11 Mr Silver will be appearing for the remainder.
15:32:11 12
15:32:11 13 COMMISSIONER: Yes, thanks very much Mr Coleman.
15:32:15 14
15:32:16 15 (Short adjournment.)
15:32:16 16
15:52:39 17 MS TITTENSOR: Homestretch, Commissioner.
18
15:52:40 19 COMMISSIONER: Promises, promises.
15:52:44 20
15:52:44 21 MS TITTENSOR: Mr O'Connell, following the draft affidavit
15:52:47 22 I just took you through, there were some discussions on the
15:52:53 23 first day of the committal which led to some narrowing of
15:52:56 24 subpoena issues. Do you recall that happening?---In
15:52:59 25 general terms I was aware that there was discussions but I
15:53:04 26 can't be specific as to what they were about.
27
15:53:06 28 Do you accept as a proposition that police have obligations
15:53:11 29 of disclosure over and - well, simply that police have
15:53:16 30 obligations of disclosure in relation to material that
15:53:18 31 might be relevant to a defence - in defending a
15:53:25 32 case?---That's probably something outside my scope, more a
15:53:30 33 prosecution issue that I take advice on or counsel that I'd
15:53:36 34 take advice off in that space.
35
15:53:41 36 You are a pretty experienced investigator; aren't
15:53:44 37 you?---Yes.
38
15:53:45 39 Do you accept that there are obligations of disclosure on
15:53:48 40 the police?---Yes.
41
15:53:49 42 And you don't simply wait for a subpoena before you hand
15:53:54 43 over material to the defence?---I'm not sure I can comment
15:54:02 44 on that. I'm not sure really sure what you're alluding to.
45
15:54:07 46 If you as a policeman are prosecuting someone for, say,
15:54:11 47 murder and you hold material that would assist an accused

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

15:54:20 1 with a self-defence claim, you can't simply just hold on to
15:54:24 2 that material, you're obliged to disclose that to the
15:54:27 3 defence, you would accept that?---Yes. Subject to - it's
15:54:34 4 probably not relevant to that example, but subject to any
15:54:37 5 claim of public interest immunity or other - - -
6
15:54:42 7 Yes. But you've got a positive obligation then to go and
15:54:45 8 work out whether you can make that claim. You still have
15:54:48 9 to declare to the court, "Okay, I've got this relevant
15:54:52 10 information. Ordinarily I'd have to disclose it but for
15:54:57 11 whatever reason I want to claim public interest immunity
15:54:59 12 and the court can make its decision"?---As a general
15:55:02 13 philosophy, that's correct.
14
15:55:04 15 You don't just not tell anyone about relevant information
15:55:07 16 that you've got that might assist the defence?---That's
15:55:09 17 correct.
18
15:55:09 19 Is that right?---That's my understanding, yes.
20
15:55:12 21 And you don't wait until defence issue a subpoena in
15:55:20 22 precisely the right terms in order to disclose what would
15:55:24 23 otherwise be in any case relevant to their defence?---It's
15:55:28 24 a bit hard to know what is and isn't relevant to the
15:55:31 25 defence in some instances. It's probably not that black
15:55:34 26 and white.
27
15:55:34 28 In a case like this, if Ms Gobbo said, "I've breached
15:55:39 29 privilege on numerous occasions" and the case involved a
15:55:46 30 question of whether she was acting as a lawyer and was
15:55:53 31 breaching privilege, would you say that that would be
15:55:55 32 relevant?---Again, I think these are - I am experienced as
15:56:00 33 an investigator. These are now getting, in my view, to be
15:56:04 34 matters that a legal representative would be needed to be
15:56:08 35 brought in on.
36
15:56:10 37 Did you ever redact your diaries in any case when you were
15:56:14 38 handing over your diaries?---For any case?
39
15:56:17 40 Yes?---Yes.
41
15:56:18 42 And you did that by yourself without advice from a
15:56:23 43 lawyer?---Oh, as a general rule, yes, but if I felt it
15:56:27 44 necessary I'd seek advice.
45
15:56:29 46 You'd make a decision for yourself what was relevant, what
15:56:33 47 wasn't?---Generally that was self-apparent.

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

1
15:56:37 2 In a case where the issue is Ms Gobbo's credit and Ms Gobbo
15:56:45 3 potentially acting as a lawyer, if you've got this other
15:56:49 4 relevant material where it impacts substantially upon her
15:56:56 5 credit, it impacts substantially upon the question of
15:56:59 6 whether she was acting as a lawyer, you know it's relevant,
15:57:04 7 you're obliged to disclose it or at least seek legal advice
15:57:09 8 about PII; aren't you?---My understanding was that I did
15:57:18 9 that - I don't remember when - at least at the time of the
15:57:23 10 issuing or the receipt of the subpoenas and prior to that I
15:57:27 11 can't recall.
12
15:57:28 13 I'm asking you, you knew that this material was going to be
15:57:31 14 relevant prior to any issuing of any subpoenas. You knew
15:57:35 15 that there was material in existence that was relevant
15:57:38 16 regardless of subpoenas?---I can't recall specifically.
17
15:57:41 18 You knew from at least 7 January that there was material
15:57:44 19 relevant regardless of any subpoenas?---Yeah, I read
15:57:51 20 through the transcripts and you've led me through that
15:57:54 21 today. I can't recall the conversation at the time. I
15:57:57 22 can't recall what my thinking was at the time.
23
15:58:04 24 Did you not Mr Gipp until after the committal had started
15:58:07 25 that there was relevant material being held by the SDU?---I
15:58:14 26 can't recall conversations with Mr Gipp.
27
15:58:16 28 Do you recall - - - ?---Specifically.
29
15:58:18 30 - - - that he only became aware of the existence of this
15:58:21 31 material after the committal had commenced?---I can't
15:58:25 32 recall, I don't know.
33
15:58:26 34 Do you recall he only became aware of it after he'd
15:58:30 35 specifically raised it with you, "Did this material
15:58:34 36 exist"?---I can't recall, I don't know.
37
15:58:40 38 It seems as though as part of those discussions on 9 March,
15:58:44 39 narrowing the discussions, Mr Gipp had indicated to
15:58:48 40 Mr Hargreaves, "We're going to be seeking PII on some
15:58:53 41 material", one of the bases of which was informer
15:58:58 42 privilege. Following that, if we go to your diary of 10
15:59:01 43 March, VPL.0005.0240.0111 at p.70. You see this is your
15:59:34 44 diary of 10 March. At 9.30 you're having a conversation
15:59:38 45 with Mr Gipp?---Yes.
46
15:59:40 47 Tony Hargreaves made a request for IMF re F. You

.21/02/20

14805

O'CONNELL XXN

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

15:59:45 1 understand that that's a request for the informer
15:59:47 2 management file in relation to Ms Gobbo?---Yes.
3
15:59:50 4 "Gipp requested I ascertain if informer management file
15:59:54 5 exists. If relevant disclosures are made obtain copy for
15:59:58 6 PII application", do you see that?---Yes.
7
16:00:02 8 Do you accept, on the basis of that, this is the - that you
16:00:05 9 haven't told Mr Gipp about informer management file or SDU
16:00:11 10 material existing prior to this occasion?---I don't know.
11
16:00:16 12 Is that what appears to be a strong inference from that
16:00:19 13 entry in your diary?---I can't comment any further. I
16:00:31 14 don't know.
15
16:00:34 16 If we go to an email from Mr Gipp to the VGSO of 10 March.
16:00:39 17 VGSO.2000.1510.0149. It's dealing with these matters.
16:00:49 18 Mr Hargreaves had indicated that as VicPol were making a
16:00:52 19 claim for informer privilege, having read the Victoria
16:00:56 20 Police policy, there must be an informer management file,
16:01:01 21 he'd concluded. Mr Gipp had told Mr Hargreaves that he'd
16:01:05 22 never seen one and because of the special nature of this
16:01:08 23 case it's probable there wasn't one. Mr Gipp told
16:01:11 24 Mr Hargreaves he would speak with you, and then he'd then
16:01:15 25 spoken with you and you told him it was probable that there
16:01:18 26 was a file. The reality would have been that you would
16:01:22 27 know that there was a file based upon what Ms Gobbo had
16:01:25 28 told you in the past; is that right?---Yes.
29
16:01:31 30 Mr Gipp asked you to inquire into whether there was a file
16:01:36 31 which identifies items, particular items in the subpoena,
16:01:44 32 of the Dale subpoena, and you would have known that
16:01:46 33 Ms Gobbo had told you that she'd spoken to the SDU about
16:01:50 34 Mr Dale, which would have been relevant to those subpoena
16:01:54 35 items. I'll move on. Mr Gipp indicated that he would need
16:02:06 36 to be careful in relation to not disclosing her status as
16:02:09 37 an informer in relation to other matters, do you see
16:02:11 38 that?---Yes.
39
16:02:17 40 I take it you hadn't told Mr Gipp that she'd discussed with
16:02:21 41 you ethical and legal professional privilege breaches in
16:02:24 42 the 7 January conversation?---I don't know.
43
16:02:29 44 Is it likely that you hadn't had that conversation with
16:02:31 45 him?---I don't know.
46
16:02:33 47 Mr White's got a diary entry - I think that that email

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

16:02:39 1 might have been tendered, Commissioner, I'm not 100 per
16:02:42 2 cent sure about that. I'll tender it if it hasn't been.
3
16:02:45 4 COMMISSIONER: We don't think it's been tendered.
16:02:48 5
16:02:48 6 #EXHIBIT RC1355A - (Confidential) Email from Mr Gipp to
16:00:37 7 VGS0 10/03, VGS0.2000.1510.0149
16:02:50 8
16:02:50 9 #EXHIBIT RC1355B - (Redacted version.)
16:02:56 10
16:02:56 11 MS TITTENSOR: Mr White's got an entry on 10 March 2010,
16:03:01 12 VPL.2000.0001.2280. He has a meeting that day with
16:03:08 13 Mr Smith and yourself. There's reference to the committal
16:03:15 14 having commenced on Monday with legal argument about PII in
16:03:19 15 relation to documents the defence had subpoenaed. You tell
16:03:23 16 him that Mr Gipp is representing the police on the PII
16:03:27 17 argument and it had been mentioned that a PII claim was on
16:03:35 18 the basis of informer privilege and that now Mr Hargreaves
16:03:38 19 had served a subpoena on VicPol requesting an informer
16:03:42 20 management file in relation to material relevant to Dale.
16:03:48 21 "Do not want to disclose Ms Gobbo's role as an informer.
16:03:52 22 It's unlikely that Ms Gobbo will give evidence because she
16:03:56 23 states she's too ill, however she has refused to supply
16:04:00 24 medical evidence. If she's not going to give evidence then
16:04:02 25 it would appear to be a waste of time discussing PII
16:04:06 26 issues". Do you recall that there was a discussion of, "We
16:04:09 27 might not need to disclose this material because perhaps
16:04:13 28 Ms Gobbo won't give evidence after all"?---No, I don't
16:04:16 29 recall that conversation.
30
16:04:19 31 There's then an indication that you are to speak to Mr Gipp
16:04:22 32 and the Crown in relation to determining whether Ms Gobbo
16:04:25 33 will give evidence "and therefore whether we need to
16:04:28 34 respond to the defence subpoenas". Mr Smith is to make a
16:04:33 35 written request to Mr Porter for the release of information
16:04:39 36 relevant to Mr Dale. The material could then be supplied
16:04:42 37 to Mr Gipp for PII argument or perhaps assessment. There's
16:04:50 38 a reference to defence being entitled to know whether there
16:04:52 39 are prior inconsistent statements and, "Revealing the fact
16:04:56 40 that Ms Gobbo was a human source several years prior to her
16:04:59 41 involvement with Petra will compromise her and compromise
16:05:03 42 her police assistance at the time of the Mokbel
16:05:07 43 investigation", do you see that?---Yes.
44
16:05:09 45 You knew that she'd been representing Mr Mokbel?---Well I
16:05:13 46 knew at some time but I can't say exactly when.
47

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

16:05:25 1 Your diary as well has a reference to this meeting, it's at
16:05:31 2 p.70 of your diary, indicating at 11.30 that meeting. The
16:05:42 3 informer management file does exist. There are disclosure
16:05:45 4 re Hodson murders, disclosure of material would identify
16:05:49 5 her. It'll be one to two weeks to identify material. And
16:05:54 6 insist on non-disclosure of all material re PII because it
16:05:58 7 would identify Ms Gobbo, do you see that?---Yes.
8
16:06:03 9 Do you accept you had that meeting with Sandy White and
16:06:05 10 Mr Smith?---Yes, it appears so.
11
16:06:08 12 Do you accept that you discussed the matters that are
16:06:13 13 raised in both your diary notes and Mr White's diary
16:06:16 14 notes?---I can only confirm what are in my diary notes.
16:06:22 15 I've got no control over the other document, nor did I
16:06:27 16 author it.
17
16:06:29 18 So you don't accept it?---I can't. I've got no
16:06:33 19 recollection of the meeting and it's not a document that
16:06:36 20 was prepared by myself, so I'm unable to compare one and
16:06:41 21 the other.
22
16:06:45 23 If we go to p.71 of your diary. You're having a
16:06:48 24 conversation with Mr Gipp. You're telling him about the
16:06:50 25 existence of the informer management file, the time
16:06:54 26 estimate of one to two weeks, that it would identify
16:06:58 27 Ms Gobbo, and Mr Gipp indicates that there may be no way of
16:07:03 28 preventing disclosure of material if it's relevant to the
16:07:06 29 case. The status of a witness as a registered human source
16:07:12 30 is not sufficient or relevant to non-disclosure of the
16:07:15 31 material. Do you see that?---Yes.
32
16:07:17 33 And that Mr Gipp would advise Mr Hargreaves that further
16:07:19 34 material had been identified but not the source of that
16:07:22 35 material?---At this stage, yes.
36
16:07:25 37 He'd also advised him that there'd be a PII claim and
16:07:32 38 Detective Inspector Smith was notified to make a request
16:07:34 39 for material?---Yes.
40
16:07:39 41 If we go to that request, VPL.6118.0046.5217. Mr Smith
16:07:51 42 emails Mark Porter, copies in yourself, do you see
16:07:55 43 that?---Yes.
44
16:07:55 45 And tells him about the conversation that you'd had with
16:07:58 46 Mr White the day before. It's noted that the instruction
16:08:04 47 from Mr Gipp is that on the face of it you may be obliged

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

16:08:08 1 to hand over any documents that relate to the Hodson
16:08:15 2 matter. There's an indication of an understanding of the
16:08:17 3 ramifications of this and it being discussed at length with
16:08:20 4 Sandy White and that it would be brought to the attention
16:08:22 5 of the steering committee. Were these issues discussed
16:08:25 6 with the steering committee?---I can't recall specifically
16:08:29 7 but that document would tend to suggest so.

8
16:08:37 9 If you're raising these issues with the steering committee
16:08:40 10 would you be raising the implications of the disclosure of
16:08:46 11 this material with the steering committee, that is that it
16:08:51 12 would disclose her assistance during the course of the
16:08:54 13 Mokbel case?---This is an email that's been authored by
16:09:03 14 Detective Inspector Smith. My assumption would be that he
16:09:06 15 would be the one taking it to the steering committee, I
16 16 can't remember ever having a conversation with the steering
17 17 committee on this issue.

18
16:09:14 19 Your experience of meetings, going to the steering
16:09:15 20 committee, if it were you and you were going to the
16:09:17 21 steering committee and you were going to be discussing
16:09:19 22 these issues, would you be going to tell the steering
16:09:23 23 committee, "It looks like we might need to disclose this
16:09:25 24 material, this has got ramifications, including in relation
16:09:31 25 to her assistance at the time of the Mokbel
16:09:34 26 investigation"?---I can't say. I don't know enough about
16:09:37 27 the background of it to know what specific, whether I
16:09:40 28 drilled down to specific investigations or advised them in
16:09:43 29 broader terms.

30
16:09:44 31 Might you just advise them in broad terms so they don't
16:09:49 32 become aware of concerning issues?---Again, as I've said
16:09:53 33 earlier, I can't remember the specifics of this, nor
16:09:56 34 previous conversations, nor my attendances at the steering
16:10:00 35 committees. But in response to this my expectation at that
16:10:03 36 stage would have been that the senior members of Victoria
16:10:09 37 Police executive, including members of our steering
16:10:12 38 committee, would have been well aware of Ms Gobbo's role as
16:10:15 39 a source, including matters that she was involved in.

40
16:10:18 41 Would you have been giving them the information in enough
16:10:21 42 detail so that they could be well aware of these issues
16:10:23 43 going on at this time? I mean you were attending at these
16:10:28 44 steering committee meetings quite regularly, weren't
16:10:31 45 you?---Periodically depending on who was - depending on
16:10:37 46 availability. Mr Smith, obviously by the context of this
16:10:39 47 email, was in charge of the Task Force. He appears to be

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

16:10:44 1 in charge of this matter and it suggests that he will be
16:10:46 2 taking it to the attention of the steering committee. And
16:10:48 3 I can't recall having any such conversation with the
16:10:50 4 steering committee. So on that basis it may, it appears as
16:10:55 5 though I wasn't present.
6
16:10:57 7 You couldn't say that because you're not recalling much
16:11:00 8 from around that period of time?---True, I concede that.
9
16:11:06 10 If we can go to an email of 29 March 2010, VGS0 - - -
11
16:11:12 12 COMMISSIONER: That's Exhibit 1044, that one.
16:11:15 13
16:11:16 14 MS TITTENSOR: Thank you, Commissioner.
16:11:22 15 VGS0.5000.0062.0002. It's apparent that there's been a
16:11:32 16 letter, you'll see at the bottom of the email trail or
16:11:38 17 email train, do you see that?---Yes.
18
16:11:41 19 That's been referred to. Ms Bolkas has forwarded it to you
16:11:47 20 on 29 March 2010 and your response to that is, "Lucia, we
16:11:57 21 do not comment on the existence of files referred to by
16:12:02 22 Tony Hargreaves as informer management files and any
23 questions in relation to them are not answered on the basis
16:12:06 24 of public interest immunity. As you have indicated, Ron
16:12:07 25 has never confirmed the existence of any file of this
16:12:11 26 nature. Are you able to contact Tony Hargreaves and
16:12:14 27 ascertain exactly what type of material he's seeking and if
16:12:19 28 he's relying on existing subpoena requests or if this is in
16:12:23 29 addition to his subpoena. Given that the witness has had
30 communication with police in the course of her occupation
16:12:27 31 for many years, it may also be prudent to ask Tony for a
16:12:30 32 time period. Regards, Shane". Do you see that?---Yes.
33
16:12:34 34 Were you, in doing that, attempting to see if Mr Hargreaves
16:12:40 35 might narrow the dates of his request in relation to
16:12:45 36 informer management files to the lead up of Ms Gobbo's
16:12:49 37 recording the conversation and signing her
16:12:53 38 statement?---Again, I can't remember that email
16:12:57 39 specifically, nor the context around it. Ms Bolkas, as
16:13:02 40 well as Mr Gipp, were appointed to assist us in collating
16:13:08 41 the material in answer to the subpoenas and dealing with
16:13:10 42 our PII claim. What I might add is that ultimately it was
16:13:16 43 going to be an issue for Mr Gipp, Ms Bolkas, to give us
16:13:22 44 advice in respect to whether or not the material that we
16:13:25 45 sought to have a PII claim on fitted into that category.
16:13:30 46 So we were relying on our legal representatives to provide
16:13:33 47 us advice. It was our - and I use the term layman's, it

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

16:13:39 1 was layman's or investigator view that it fell within that
16:13:42 2 category. But ultimately we had appointed counsel to
16:13:46 3 assist us in making decisions whether that claim would
16:13:50 4 withstand scrutiny.
5
16:13:52 6 What you'd been told before this by Mr Gipp is that on the
16:13:55 7 face of it you've got to hand over documents relating to
16:13:58 8 the Hodson matter and it matters not that she might have
16:14:01 9 been an informer if it's relevant in his trial. Now you're
16:14:06 10 sending this email now. It's clear Mr Hargreaves is on to
16:14:10 11 something. He wants this informer management file. What
16:14:12 12 you're doing is saying, "We don't comment on whether an
16:14:16 13 informant management file exists", clearly regardless of
16:14:19 14 whether it's relevant or not, "And why don't you ask him
16:14:23 15 about what the type of material he's seeking is and what
16:14:27 16 the time period is because we might be able to perhaps get
16:14:31 17 away with giving him a limited time period if he's only
16:14:35 18 really requesting Petra related material". Is that what
16:14:39 19 was going on here?---No, no. Like I said, I can't recall
16:14:43 20 that email specifically. That first paragraph is, in my
16:14:47 21 view, a general statement in policing terminology or
16:14:52 22 methodology. We don't tend to confirm or deny if someone
16:14:57 23 is or isn't a source and that's the context of that.
24
16:15:00 25 This is two weeks after Mr Gipp has been telling you, on
16:15:03 26 the face of it, "You've got to disclose it, we've got to
16:15:07 27 get this material, we've got a PII"?---Yep, with respect to
16:15:11 28 Mr Gipp I would expect that he wouldn't make definitive
16:15:15 29 decisions on what would and wouldn't be tendered until it
16:15:20 30 was produced him and given an opportunity to go through it
16:15:21 31 and make an informed decision on the content of material
16:15:24 32 prior to then giving advice as to whether its disclosable.
33
16:15:28 34 Ms Bolkas' response was, "Any conversations between Witness
16:15:33 35 F and police relevant to 'any disclosures made by Witness F
16:15:38 36 in relation to Paul Dale and the Hodson murders' do come
16:15:42 37 within the terms of the subpoena. That is what the defence
16:15:45 38 are entitled to". Pretty categoric reply from Ms Bolkas;
16:15:52 39 is that right?---Correct. That's what she said.
40
16:15:56 41 I tender that email, Commissioner.
16:16:01 42
16:16:01 43 #EXHIBIT RC1356A - (Confidential) VGS0.5000.0062.0002.
16:16:02 44
16:16:03 45 #EXHIBIT RC1356B - (Redacted version.)
16:16:08 46
16:16:08 47 If we can go to Mr White's diary of 31 March 2010,

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

16:16:13 1 VPL.2000.0001.2308 at p.8. This is 31 March at 11.14, so a
16:16:24 2 couple of days after Ms Bolkas' email. He records a call
16:16:30 3 to you in relation to the Witness F informer management
16:16:34 4 file. He advises you that it's ready for hand over to
16:16:39 5 Petra pending PII assessment, do you see that?---Yes.
6
16:16:42 7 Do you recall that occurring?---No.
8
16:16:45 9 He was informed by you that that file is not currently
16:16:50 10 required as the defence have been directed to specify
16:16:55 11 exactly what they want to be provided and to issue
16:16:59 12 subpoenas re the same to police. "We'll wait to see
16:17:02 13 exactly what they want prior to examining the file. It is
16:17:05 14 possible that defence believe Petra compiled a source
16:17:07 15 management file and this is all they want. They will be
16:17:10 16 provided with all recordings, et cetera, concerning witness
16:17:13 17 management. Will wait until subpoena served prior to
16:17:15 18 responding", do you see that?---Yes.
19
16:17:17 20 Does it appear that you were trying to limit what the
16:17:23 21 defence might get access to?---I can't recall that
16:17:28 22 conversation. It's not a document prepared by myself so I
16:17:32 23 can't comment on it. I don't have an independent
16:17:35 24 recollection of it.
25
16:17:44 26 Is there any particular reason why you wouldn't take
16:17:47 27 possession of the SDU material at that point just to get
16:17:51 28 the PII under way?---I can't recall. I don't know.
29
16:18:02 30 Were you having discussions with anyone around that period
16:18:04 31 of time about these matters?---I don't know, I can't
16:18:08 32 recall.
33
16:18:14 34 If I can take you to the letter from Mr Hargreaves to the
16:18:18 35 VGS0. VGS0.5000.0004.7058. It's a letter of 31 March. It
16:18:29 36 indicates that there'd been a court hearing the previous
16:18:32 37 day. He clarifies the matters that are outstanding. If we
16:18:38 38 go to item number 4. He indicates, "The additional
16:18:43 39 documents that were located by Mr O'Connell as a result of
16:18:46 40 my conversation with Mr Gipp on 10 March 2010. On that
16:18:51 41 occasion I asked Mr Gipp for the informer management file
16:18:54 42 of Ms Gobbo to be viewed. Mr Gipp returned my call later
16:18:57 43 that day and advised that without admitting that an
16:19:00 44 informer management file existed, further documents had
16:19:03 45 been identified. Mr Gipp stated that Mr O'Connell had
16:19:12 46 indicated it would take approximately five days to obtain
16:19:15 47 copies of the documents, at which time a claim for public

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

16:19:18 1 interest immunity would be considered. We've heard nothing
16:19:20 2 further about those documents since that time", do you see
16:19:23 3 that?---Yes, I see that.
4
16:19:27 5 If we can go to the response to that letter, please, from
16:19:30 6 the following day, 1 April 2010. VGS0.5000.0074.7064.
7
16:19:40 8 COMMISSIONER: The letter was Exhibit 1045.
16:19:42 9
16:19:43 10 MS TITTENSOR: Thank you, Commissioner. I'll just take you
16:19:51 11 to the heading of the first subpoena. In relation to the
16:19:54 12 first subpoena all has been produced except items in
16:20:05 13 relation to item 4. "We're instructed that these documents
16:20:12 14 are being sought for production as expeditiously as
16:20:15 15 possible." Do you see that?---Yes.
16
16:20:19 17 Are they instructions that you've provided to the VGS0?---I
16:20:23 18 can't recall. What is item 4? I don't know.
19
16:20:26 20 Item 4 was the informer management file?---I can't recall
16:20:31 21 this document. I don't know.
22
16:20:36 23 Mr Hargreaves, at item 4, was indicating what happened on
16:20:39 24 10 March and he'd asked for the informer management file.
16:20:42 25 This is responding to item number 4. "We're instructed
16:20:47 26 that these documents are being sought for production as
16:20:51 27 expeditiously as possible". Now the day before you'd had a
16:20:54 28 conversation with Sandy White saying, "Don't give them to
16:20:57 29 us". Are these instructions that you were providing to the
16:21:05 30 Victorian Government Solicitors Office?---Not that I can
16:21:07 31 recall.
32
16:21:12 33 It goes on. "The documents are not held by Petra Task
16:21:16 34 Force and are being sourced". You're instructed that the
16:21:21 35 obtaining and vetting for potential disclosure issues is a
16:21:25 36 time consuming process resulting from the quantity of
16:21:28 37 documents to be checked to establish whether they are
16:21:32 38 relevant to the subpoena, the period of time over which the
16:21:35 39 documents may have been created and consulting all
16:21:39 40 personnel involved in the creation of documents or may
16:21:39 41 otherwise have knowledge of disclosure issues", you see
16:21:42 42 that?---Yes.
43
16:21:47 44 Presumably, knowing that these documents were needed, you
16:21:52 45 would have gone back to Sandy White and said, "Righto, we
16:21:55 46 need them for the PII now". Did you ever do that?---I
16:22:00 47 can't recall. I don't know.

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

1
16:22:13 2 If I can finally take you to an email of 8 April 2010 in
16:22:18 3 relation to these matters. VGS0.2000.1511.0212. You see
16:22:32 4 it's an email essentially involving all the lawyers, do you
16:22:37 5 see that?---Yes.
6
16:22:41 7 In the course of this it indicates that the items, if you
16:22:49 8 see the third paragraph, the items from the first subpoena
16:22:52 9 concerning Ms Gobbo that still need to be dealt with are,
16:22:57 10 and the first dot point is any document relevant to the
16:22:59 11 proceedings which is in an informer management file, which
16:23:03 12 is now also covered by another new subpoena. So it's
16:23:06 13 covered by the old subpoena anyway, as Ms Bolkas had told
16:23:10 14 you previously, and it was also covered by the new
16:23:12 15 subpoena, do you see that?---Yes.
16
16:23:20 17 And the new subpoena clearly required production of
16:23:23 18 documents also concerning negotiation for any benefit to
16:23:27 19 Ms Gobbo in relation to the Hodson murder investigation. I
16:23:32 20 just want to ask you how it could be, with all the notice
16:23:38 21 that you had that there would be disclosure issues in
16:23:45 22 relation to Ms Gobbo's informer management file or SDU
16:23:48 23 holdings, that you could only be dealing with those matters
16:23:54 24 at that stage after the committal had commenced? You'd
16:24:00 25 been told about those issues, you would have known that
16:24:02 26 those issues existed from a year previously, more than a
16:24:06 27 year previously. How could it be that you were only
16:24:09 28 dealing with those issues and - - - ?---Sorry, which
16:24:12 29 issues?
30
16:24:12 31 The disclosure issues in relation to the informer
16:24:15 32 management file or material held by the SDU? You would
16:24:20 33 have known that those were issues, that you needed legal
16:24:23 34 advice as to whether that - PII covered it or what of that
16:24:30 35 material needed to be disclosed. How could it be that so
16:24:33 36 far down the track you were just getting lawyers to
16:24:36 37 consider PII arguments at that point?---I can't recall
16:24:39 38 specifically. It may very well be because up until just
16:24:44 39 prior to this we hadn't been in receipt of subpoenas. It
16:24:46 40 was a standard procedure for us to wait for subpoenas to be
16:24:50 41 received before we start the process of collating material
16:24:54 42 in answer to those.
43
16:24:56 44 This material would have been relevant regardless of any
16:24:58 45 subpoena, do you accept that?---Oh, I don't know.
46
16:25:02 47 This material likely would have been encompassed by

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

16:25:06 1 disclosure requirements, as you understood them, falling
16:25:11 2 under 8A or 10A of the - during committal processes?---I
16:25:21 3 can't comment on that, sorry, been out of circulation for a
16:25:23 4 little bit long. I can't even remember what those sections
16:25:26 5 are.
6
16:25:28 7 Thank you Mr O'Connell.
8
16:25:30 9 COMMISSIONER: Did you want to tender that 8 April 2010
16:25:33 10 email?
16:25:35 11
16:25:35 12 MS TITTENSOR: Yes, thank you, Commissioner.
16:25:37 13
16:25:37 14 #EXHIBIT RC1357A - (Confidential) Email 8/04/10.
16:25:39 15
16:25:39 16 #EXHIBIT RC1357B - (Redacted version.)
16:25:41 17
16:25:42 18 I might deal with one further matter. In September 2011
16:25:45 19 you had some meetings with Mr Buick, or at least one
16:25:49 20 meeting with Mr Buick, is that right, in relation to the
16:25:52 21 Dale ACC committal proceedings?---I don't know, I can't
16:25:58 22 remember that.
23
16:26:05 24 Did you tell Mr Buick or would you have told Mr Buick you
16:26:08 25 had advice that these materials needed to be
16:26:15 26 disclosed?---Not that I can recall. I don't recall
16:26:18 27 speaking to Mr Buick about this.
28
16:26:21 29 Thanks Mr O'Connell.
30
16:26:24 31 COMMISSIONER: Any cross-examination from you, Mr Silver?
16:26:29 32
16:26:29 33 MR SILVER: No, Commissioner.
34
16:26:31 35 COMMISSIONER: Anyone else? Mr Chettle?
16:26:32 36
16:26:33 37 MR CHETTLE: I did tell Mr Winneke I had an hour,
16:26:37 38 Commissioner, but I won't ask any questions.
39
16:26:39 40 COMMISSIONER: I think - Mr Holt, nothing?
16:26:42 41
16:26:42 42 MR HOLT: Yes.
43
16:26:44 44 COMMISSIONER: So back to you, Ms Kelly.
16:26:48 45
16:26:48 46 MS KELLY: It's fortunate, Commissioner, because I only
16:26:56 47 have an hour and a half so we'll be out of here in good

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

16:26:57 1 time.
2
3 COMMISSIONER: I see the numbers are dropping as the
4 afternoon proceeds.
5
6 <RE-EXAMINED BY MS KELLY:
7
16:27:00 8 Mr O'Connell, you were asked some questions by my learned
16:27:02 9 friend about some interactions that occurred between the
16:27:06 10 SDU, yourself and Ms Gobbo in relation to Mr Andrew Hodson.
16:27:10 11 Do you recall being asked those questions?---Yes.
12
16:27:13 13 Do you have any memory of ever asking the SDU to task
16:27:16 14 Ms Gobbo in relation to Mr Andrew Hodson?---No.
15
16:27:19 16 You were asked whether a particular entry indicated that
16:27:27 17 you had suggested that it might be okay if Mr Hodson had
16:27:30 18 contact with Ms Gobbo, so long as he didn't have contact
16:27:35 19 with her that was adverse to Victoria Police's interests,
16:27:38 20 and you accepted the proposition that the entry could have
16:27:42 21 been perceived in that way, do you recall that
16:27:46 22 evidence?---The entry that - yeah, yes.
23
16:27:49 24 You also accepted that if conduct of that kind had
16:27:55 25 occurred, it would put to you it would have been appalling
16:27:59 26 and you said it would have been appropriate, but you don't
16:28:03 27 believe you engaged in it. Do you remember giving that
16:28:03 28 evidence?---Yes.
29
16:28:05 30 Do you recall ever in your career with Victoria Police
16:28:08 31 engaging in conduct of that kind?---No.
32
16:28:11 33 Why is that, Mr O'Connell?---It would be contrary to my
16:28:14 34 work ethic.
35
16:28:17 36 You were also asked some questions about whether or not
16:28:20 37 there existed a practise of writing on loose paper where
16:28:23 38 you didn't want a record kept for subsequent disclosure
16:28:27 39 that might have to be made in court and you answered no, do
16:28:31 40 you recall that?---Yes.
41
16:28:31 42 What was your practice if you happened to write on loose
16:28:34 43 paper?---To retain it.
44
16:28:36 45 And how would you generally retain it?---In a file. No
16:28:41 46 hard and fast rule. I've got day books that were kept
16:28:51 47 during this period so my notes were retained, the

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

16:28:58 1 chronology of my day's work was retained on the right-hand
16:29:01 2 side. I would scribble contact details or other notes on
16:29:05 3 the left-hand side. If I had cause to use a, or I didn't
16:29:10 4 have my day book readily available with me and I had to use
16:29:13 5 another paper source, I was known to staple those pages
16:29:20 6 directly into my day book and retain it in that way.
7
16:29:24 8 Can you ever recall an occasion on which you recorded
16:29:27 9 something outside of your diary or day book for the purpose
16:29:30 10 of preventing it from being subsequently disclosed in any
16:29:34 11 court proceedings?---No.
12
16:29:35 13 Mr O'Connell, when you spoke of your day books there I
16:29:39 14 understand your evidence to be there came a point in time
16:29:43 15 when you ceased using day books?---Yes.
16
16:29:45 17 So your reference to using day books there, was that
16:29:49 18 evidence in relation to the period of time in which you
16:29:50 19 used day books?---Yes.
20
16:29:52 21 You were asked about some conversations you had with
16:29:56 22 Ms Gobbo in the period effectively commencing 7 January
16:30:00 23 2009 and following, do you recall that?---Yes.
24
16:30:04 25 You were asked questions about information that Ms Gobbo
16:30:07 26 gave to you in the course of those conversations about
16:30:09 27 historical matters?---Yes.
28
16:30:11 29 Can I ask you to take up your supplementary statement,
16:30:14 30 Mr O'Connell?---Yes.
31
16:30:18 32 Could you turn across to paragraphs 63 to 66 for me. Just
16:30:26 33 familiarise yourself with those paragraphs?---Yes.
34
16:31:11 35 Is that the evidence that you wish to give to this
16:31:13 36 Commission about why you didn't take any action in relation
16:31:17 37 to the evidence Ms Gobbo gave you in the course of those
16:31:19 38 conversations?---It is, yes.
39
16:31:21 40 Are there any other reasons why you didn't take action in
16:31:24 41 relation to that information?---Not that I can recall.
42
16:31:29 43 You were asked a question about the potential that Ms Gobbo
16:31:33 44 had been in a relationship with Mr Dale that might give
16:31:36 45 rise to issues concerning legal professional privilege, and
16:31:40 46 a suggestion that had you said to her in a conversation,
16:31:44 47 "We'll cross that bridge when we come to it". Do you

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

16:31:46 1 recall being asked that question?---I do, yeah.
2
16:31:50 3 It was put to you that effectively what you were saying is,
16:31:52 4 "Well, we're worry about it later", and you disagreed with
16:31:56 5 that proposition?---Yes.
6
16:31:58 7 Can I ask you to comment on what your general practice was
16:32:00 8 in relation to, firstly, the gathering of and then the use
16:32:04 9 of evidence in the course of your investigations at
16:32:08 10 Petra?---Just in general terms?
11
16:32:12 12 In general terms?---In general terms it was - my role as an
16:32:20 13 investigator within the Petra Task Force, or any
16:32:22 14 investigation for that matter, bearing in mind that I had a
16:32:25 15 supervisory management role in this and there were lead
16:32:28 16 investigators, but as a general philosophy material that's
16:32:33 17 considered relevant and admissible and significantly
16:32:37 18 probative to an investigation is gathered from - in the
16:32:45 19 case of witnesses, witnesses that are considered
16:32:47 20 compellable and competent to give that evidence.
21
16:32:50 22 And if there were issues in relation to, for example, legal
16:32:55 23 professional privilege at what stage would you deal with
16:32:57 24 those issues in the course of - - - ?---Those matters are
16:32:59 25 generally raised with prosecutors and in the court
16:33:06 26 precinct. Clearly if there's material that's gathered in
16:33:11 27 the course of responding to subpoenas and there's
16:33:13 28 representation from bodies such as the VGSO or independent
16:33:17 29 counsel, they may raise it, but it would clearly be then a
16:33:21 30 matter between respective counsels in dealing with that, or
16:33:26 31 if no decision could be made in respect of that, the matter
16:33:29 32 would be put before the courts for the trier of the fact,
16:33:33 33 the magistrate or judge, to make a decision on that.
34
16:33:36 35 Did you ever engage in a practise of trying to hide or
16:33:41 36 disguise evidence of that kind?---No.
37
38 That revealed that legally professionally privileged
16:33:44 39 information had been obtained?---No, I don't practice the
16:33:46 40 art of hiding any evidence.
41
16:33:47 42 You were asked a question about the period in which there
16:33:49 43 were discussions about whether Ms Gobbo would transition to
16:33:53 44 being a witness and you described a number of risks of
16:33:57 45 which you were aware and you described the risks from the
16:34:01 46 transition, the context of the statement in which she was
16:34:06 47 proposing to give, the context of what was going on in

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

16:34:09 1 Victoria at that time generally, and then you said you
16:34:13 2 didn't feel the need to delve into the risks in any more
16:34:16 3 detail than that. What was the risk that you saw to
16:34:19 4 Ms Gobbo, Mr O'Connell?---The risk around safety. The risk
16:34:27 5 around safety was related to the investigation. Obviously
16:34:32 6 Mr Dale had been previously remanded on a serious matter, a
16:34:42 7 key prosecution witness in that matter was murdered.
16:34:48 8 Mr Dale was under investigation as a key person of interest
16:34:51 9 in that, which was the Petra investigation. So a key
16:34:57 10 prosecution witness in our investigation such as Ms Gobbo,
16:35:02 11 I mean you have to consider that that of itself puts her at
16:35:08 12 significant risk. At this point in time in Victoria's
16:35:14 13 history there was a, not a term I'm fond with, but a
16:35:18 14 gangland war occurring where there was a number of murders
16:35:21 15 being committed by various organised crime entities and
16:35:25 16 against organised crime entities in Melbourne. So that
16:35:30 17 again added a layer of complexity and risk. Without
16:35:34 18 knowing the full gamut and full details of her informing,
16:35:39 19 that was another layer that contributed to the risk to her
16:35:42 20 safety.
21
16:35:43 22 So when you said you didn't feel the need to delve into the
16:35:46 23 risks in any more detail than that, what did you mean by
16:35:49 24 that?---Oh, at some point in time the risk level becomes
16:35:54 25 sufficiently high that it can effectively get no higher.
16:35:57 26 So management of the risk doesn't change.
27
16:36:13 28 You were asked some questions in relation to a subpoena
16:36:17 29 issued on Mr Dale's behalf in late 2009 and then another
16:36:23 30 subpoena in early 2010. Do you recall those
16:36:27 31 questions?---Yes.
32
16:36:29 33 You were asked some questions about some engagements you
16:36:32 34 had with a Mr Gipp. Can you tell who Mr Gipp was?---As I
16:36:36 35 recall Mr Gipp was a VGSO appointed barrister to assist us
16:36:43 36 with the response to the subpoenas.
37
16:36:44 38 And why was VGSO involved?---Because they - I can't recall
16:36:50 39 specifically but I would suggest because they were made
16:36:52 40 aware by us of the subpoena issues.
41
16:36:59 42 Did you engage the VGSO to assist with every subpoena that
16:37:03 43 was issued, not in relation to Mr Dale's matter, but in the
16:37:07 44 course of your investigations generally?---No.
45
16:37:11 46 When would a decision be made to engage the VGSO?---I
16:37:16 47 suppose subject to the extent of the subpoena, our belief

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

16:37:24 1 in terms of the material that was sought within that
16:37:26 2 subpoena, whether there was any requirement for exemptions
16:37:32 3 such as PII to be considered in response to those
16:37:35 4 subpoenas. So again that's outside my area of expertise
16:37:45 5 and fairly and squarely within the legal realm. So you
16:37:49 6 would, you know, we would brief the VGS0 who would come in
16:37:52 7 and would assist us in putting that material together for
16:37:56 8 production before the court.
9
16:37:58 10 Do you recall who made the decision in this instance to
16:38:00 11 engage the VGS0 to assist?---No, I don't but from memory I
16:38:13 12 believe there were fairly senior personnel from within
16:38:18 13 Victoria Police Legal Services that were involved in
16:38:20 14 meetings and discussions and it may very well have been at
16:38:23 15 that level that they were engaged, but I can't recall.
16
16:38:27 17 You were asked some questions about some transcripts that
16:38:32 18 were provided to Mr Gipp on about 9 or 10 March 2010, do
16:38:37 19 you recall that?---Yes.
20
16:38:40 21 At that stage there was an indication that it was about 48
16:38:43 22 hours worth of conversations between yourself and
16:38:46 23 Ms Gobbo?---That's correct.
24
16:38:47 25 Did you provide those transcripts to Mr Gipp?---I can't
16:38:55 26 recall.
27
16:38:55 28 There's a later - you were taken to a later diary entry
16:38:59 29 from 10 March 2010 in which you record Mr Gipp asking you
16:39:03 30 whether an informer management file existed?---Yes.
31
16:39:07 32 And which indicates that you undertook to go away and find
16:39:10 33 out, do you recall that?---Yes.
34
16:39:11 35 Did you in fact go away and find out?---I believe I would
16:39:16 36 have but I can't specifically recall doing so.
37
16:39:23 38 You were also taken to an email of 29 March 2010 which was
16:39:29 39 an exchange between yourself and a Ms Bolkas, do you recall
16:39:33 40 that?---Yes.
41
16:39:33 42 Could you just remind me who Ms Bolkas was?---A legal
16:39:37 43 practitioner engaged to assist us with this, but I can't
16:39:41 44 tell you where from.
45
16:39:43 46 Ms Bolkas sent you an email in which she provided you some
16:39:47 47 advice about the nature of the material that had to be

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

16:39:49 1 handed over?---Yes.
2
16:39:50 3 Would you have accepted her advice?---I thought her advice
16:39:54 4 - well, having looked at it today I can't recall it
16:39:57 5 specifically, but sitting here today my first observation
16:40:00 6 was when I looked at that was in the absence of actually
16:40:04 7 sighting the material the advice was somewhat premature.
16:40:06 8 It may have been a general broad advice. But providing an
16:40:10 9 advice of that nature, without having viewed the documents
16:40:12 10 that were sought by under subpoena, a little bit premature
16:40:16 11 I would have thought.
12
16:40:17 13 Was the informer management file ultimately produced in the
16:40:20 14 Dale proceeding?---I don't know.
15
16:40:33 16 You were taken to an entry in which it was suggested that
16:40:36 17 it was possible that - it was suggested that you had said
16:40:41 18 it was possible that Petra had compiled a source management
16:40:44 19 file and that was all Mr Hargreaves was looking for. Do
16:40:48 20 you recall having a view about what Mr Hargreaves might
16:40:52 21 have meant by the term informer management file?---Well
16:40:58 22 there was - I can't recall specifically what my view might
16:41:03 23 have been, but sitting here there was nothing in the
16:41:05 24 material that was provided in the brief that alluded to or
16:41:12 25 gave cause, or should have or could have or would have
16:41:15 26 given anyone cause to think or believe that Ms Gobbo was a
16:41:20 27 registered human source with Victoria Police. So in that
16:41:28 28 instance informer management file was an old vernacular.
16:41:34 29 Police had moved on from informer to the use of registered
16:41:37 30 human source, so it was a source file. So it was possible
16:41:42 31 that he was inadvertently seeking material that he didn't
16:41:48 32 know existed.
33
16:41:55 34 Did you deliberately withhold any information from Mr Gipp
16:42:01 35 which you knew to be relevant to the subpoenas issued by
16:42:03 36 Mr Dale's representatives?---No.
37
16:42:05 38 Did you deliberately withhold any information from the
16:42:08 39 steering committee that might have been relevant to
16:42:09 40 documents that were required to be disclosed under the
16:42:14 41 subpoenas issued on Mr Dale's behalf?---No.
42
16:42:19 43 Mr O'Connell, you've been made aware of a supplementary
16:42:22 44 statement filed by Mr John Nolan in this proceeding?---One
16:42:28 45 small section of it, yes.
46
16:42:30 47 One small section of it, indeed. So you're aware that

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

16:42:34 1 Mr Nolan has given some evidence that he had a conversation
16:42:36 2 with you following a tasking committee meeting about a
16:42:40 3 discussion you'd had with Ms Gobbo?---Yes.
4
16:42:43 5 You've read that paragraph of your supplementary
16:42:48 6 statement?---Yes.
7
16:42:49 8 To refresh your memory what he says is that you said to him
16:42:52 9 words to the effect of, "You're not going to believe what
16:42:55 10 she said last night", and went on to explain that you were
16:42:59 11 under a clear directive from the Petra steering committee
16:43:02 12 that any information that came from Ms Gobbo that was
16:43:04 13 outside the scope of Petra was to be recorded in an
16:43:09 14 information report and provided to Mr Overland for
16:43:12 15 decision?---Yes.
16
16:43:14 17 What do you say to the suggestion made by, or the evidence
16:43:17 18 given by Mr Nolan that you said to him words to the effect
16:43:23 19 of, "You're not going to believe what she", being Ms Gobbo,
16:43:28 20 "said last night"?---I can't recall any such conversation
16:43:31 21 occurring. That terminology doesn't sound like me and it's
16:43:34 22 not wording that I would use. There would be no reason for
16:43:41 23 me to do so. The matters, as I understand it, that were
16:43:45 24 was supposedly disclosed were of no relevance to the OPI.
25
16:43:54 26 In relation to his evidence that you said you were under a
16:43:57 27 clear directive from the Petra steering committee, do you
16:44:01 28 recall a directive of that kind being given?---No.
29
16:44:05 30 Do you recall any individual member of the steering
16:44:09 31 committee giving you a directive of that kind?---No.
32
16:44:12 33 If a directive of that kind had been given, would you have
16:44:15 34 followed it?---Given that the rank of the personnel, senior
16:44:22 35 executive with in Victoria Police, with that directive
16:44:25 36 there would have been an obligation to comply with it.
37
16:44:29 38 If a directive of that kind had been given, would you have
16:44:32 39 had anything to say about what that directive required you
16:44:35 40 to do?---I wouldn't - well, I would have sought to discuss
16:44:43 41 it. It was our intent to have Ms Gobbo appear as a
16:44:54 42 prosecution witness. We were responsible for her security
16:44:58 43 and management in that capacity and we were seeking to
16:45:03 44 influence her away from providing any further and ongoing
16:45:08 45 information to dissuade her from maintaining her prior
16:45:15 46 associations, anything we believed would, you know, put her
16:45:18 47 safety at risk. So to continue to take information from

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

16:45:23 1 her and put it into IRs like that would have been
16:45:27 2 counterproductive to that aim.
3
16:45:32 4 Bearing that in mind, what do you say to Mr Nolan's
16:45:35 5 evidence that this conversation took place?---I can't
16:45:37 6 recall any such conversation.
7
16:45:41 8 You were asked some questions, Mr O'Connell, about why your
16:45:44 9 original statement made to this Commission didn't deal with
16:45:48 10 interactions in the period February to May 2008. Do you
16:45:53 11 recall being asked about those matters?---Yes.
12
16:45:59 13 Could I ask you to take a look at paragraph 5 of your
16:46:02 14 supplementary statement, please?---Yes.
15
16:46:31 16 Is paragraph 5 the evidence you wish to give to this
16:46:35 17 Commission about why those matters weren't originally
16:46:37 18 included in your statement?---It is, yes.
19
16:46:39 20 Did you deliberately withhold any relevant material from
16:46:42 21 the Commission in relation to that time period?---No.
22
16:46:56 23 Could I ask you to turn to paragraph 68 of your
16:47:00 24 supplementary statement, Mr O'Connell?---Yes.
25
16:47:06 26 You'll see there that you're recording some advice given to
16:47:10 27 you by your legal representatives about the quantity of
16:47:13 28 material that was responsive to a search for your name.
16:47:19 29 How many documents do you think you looked at in the course
16:47:21 30 of the days you spent with your legal representatives -
16:47:28 31 ballpark?---Less than 100.
32
16:47:38 33 Were you provided with copies of - - -
34
16:47:43 35 COMMISSIONER: Was that 100 days?---No, less than a hundred
16:47:46 36 documents.
37
16:47:48 38 100 documents, right.
39
16:47:51 40 MS KELLY: You were also provided, as I understand it, with
16:47:54 41 copies of transcripts of conversations you had with
16:47:57 42 Ms Gobbo?---Yes.
43
16:47:58 44 Do you recall how many transcripts it was that you
16:48:00 45 reviewed?---No, I don't. There was quite a number of
16:48:03 46 folders but there were some transcripts that were
16:48:06 47 duplicated throughout so it would be difficult for me to

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

16:48:09 1 put a number on that.
2
16:48:13 3 You were asked some questions about a lack of diary entries
16:48:18 4 dealing with engagements that it's been suggested you had
16:48:22 5 with the SDU, do you recall that?---Yes.
6
16:48:27 7 It was put to you that you didn't keep diary entries in
16:48:32 8 relation to those interactions because you knew that what
16:48:35 9 you were doing was very wrong and you answered "incorrect".
16:48:41 10 Has it ever been your practice to leave things out of your
16:48:44 11 diaries on the basis that you knew what you were doing was
16:48:46 12 wrong and you didn't want to keep a record?---No.
13
16:48:50 14 Why is that, Mr O'Connell?---It's not appropriate.
15
16:48:56 16 Finally, Mr O'Connell, it was put to you that in relation
16:48:59 17 to the events relating to Mr Hodson and your involvement
16:49:03 18 with the SDU in relation to those matters, that you were
16:49:06 19 not being truthful to this Commission in relation to those
16:49:09 20 events, do you recall that allegation being put?---I think
16:49:13 21 so. I may have taken exception at the time.
22
16:49:16 23 I think it's fair to say you did, Mr O'Connell. Have you
16:49:23 24 been truthful in relation to the evidence you've given to
16:49:25 25 the Commission?---Yes, I have has.
26
16:49:27 27 Is there anything that you've deliberately withheld from
16:49:30 28 the Commission that's relevant to its Terms of
16:49:30 29 Reference?---No.
30
16:49:32 31 That's everything, thank you, Commissioner.
32
16:49:35 33 COMMISSIONER: Thanks Ms Kelly. Yes, Ms Tittensor.
16:49:40 34
35 RE-EXAMINED BY MS TITTENSOR:
36
16:49:41 37 Mr O'Connell, you were asked about some conversations that
16:49:43 38 you had with Ms Gobbo, and in particular one of them with
16:49:47 39 Mr Nolan, do you recall that?---Yes.
40
16:49:49 41 Did you make a record of information relating to cases that
16:49:53 42 might be of interest to Victoria Police at all when she
16:49:56 43 gave you such information?---No, I don't believe I did but
16:50:01 44 I can't be certain.
45
16:50:02 46 Did you tell anyone about the information that was being
16:50:04 47 provided?---I can't recall.

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

1
16:50:11 2 Might it be if she had a conversation with you about
16:50:14 3 something like that you would have discussed it with
16:50:16 4 someone like Mr Nolan?---No.
5
16:50:20 6 If I can just bring up a document of 12 March 2010. It's
16:50:27 7 VGS0.2000.1510.0073. This is an affidavit signed and filed
16:50:39 8 in the Dale committal, following, it seems, the narrowing
16:50:45 9 of issues in the subpoena on 9 and 10 March. Now if I can
16:50:51 10 just - if we can go to the last page you can see your
16:50:56 11 signature. See that?---Yes.
12
16:51:00 13 If we go then to paragraph 4. If we can just move up. It
16:51:07 14 indicates that you were to produce particular things in
16:51:11 15 response to the subpoena, an audio recording of 7 January,
16:51:17 16 and then further to that there were going to be some audio
16:51:22 17 recordings of conversations between yourself and Ms Gobbo
16:51:24 18 since that time, which was approximately 48 hours in
16:51:27 19 length, do you see that?---Yes.
20
16:51:29 21 As well as a number of other matters. If we move up to
16:51:31 22 paragraph 5. It talks about narrowing the issues of
16:51:38 23 dispute following the commencement of the committal on 9
16:51:41 24 March, you agree with that?---Sorry, which paragraph is
16:51:45 25 that?
26
16:51:46 27 In paragraph 5?---Yes, that's what it says.
28
16:51:52 29 Then in paragraph 6 it indicates that it was accepted by
16:51:58 30 Mr Dale's legal practitioners that it was impracticable to
16:52:02 31 listen to or obtain the transcripts of the audio recordings
16:52:06 32 conducted since that time, which were the 48 hours of
16:52:09 33 conversation, do you see that?---Yes.
34
16:52:11 35 It seems as though there was no transcripts of any of those
16:52:15 36 other conversations produced; is that right?---Yeah, I
16:52:20 37 don't know. I can only go from what it says there.
38
16:52:26 39 You were asked some questions in relation to a conversation
16:52:29 40 with Ms Bolkas on 29 March 2010. You recall that?---Yes.
41
16:52:40 42 You thought that Ms Bolkas had provided you with some
16:52:43 43 advice that was a bit premature?---Oh, just based on my
16:52:47 44 observation of that email and working on the presumption
16:52:50 45 that she hadn't seen the material.
46
16:52:52 47 Well no one had seen the material because you didn't want

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

16:52:55 1 to; is that right?---No.
2
16:52:57 3 Ms Bolkas was giving you some advice as to whether that
16:53:03 4 material would fall within the terms of the subpoena, is
16:53:08 5 that correct?---If that's what the email said.
6
16:53:15 7 And you didn't accept that advice?---No, I didn't say that.
16:53:19 8 I just felt that if the advice was of a general nature that
16:53:23 9 the material sought was in response or would fit the
16:53:26 10 request contained within the subpoena, I accept that as
16:53:29 11 advice. It's then incumbent on, I suppose, us to then seek
16:53:35 12 some advice from her and from Mr Gipp as to whether parts
16:53:38 13 of that material would fit within a claim for - public
16:53:46 14 interest immunity claim on that material. If I've
16:53:48 15 misrepresented that, the advice, I suppose - when I'm
16:53:51 16 saying premature, I'm talking about our claim of PII, that
16:53:56 17 she wouldn't have been in a position to give advice in
16:53:59 18 regards to that until the material had been provided.
19
16:54:02 20 Well that's right?---To her.
21
16:54:03 22 She was in a position to advise you that any disclosures
16:54:09 23 made by Ms Gobbo in relation to Paul Dale and the Hodson
16:54:14 24 murders would fall within the terms of the subpoena, you
16:54:16 25 accept that?---Yes.
26
16:54:17 27 Thanks. Thanks Commissioner.
28
16:54:19 29 COMMISSIONER: Thanks very much, Mr O'Connell. You're
16:54:21 30 excused and free to go?---Thank you.
16:54:23 31
16:54:23 32 <(THE WITNESS WITHDREW)
33
16:54:24 34 There was a matter - Paul Dale through his lawyers had
16:54:29 35 sought leave to appear in respect of this witness in order
16:54:34 36 to receive the transcripts. I understand there's no
16:54:37 37 objection.
38
16:54:38 39 MR WINNEKE: No objection.
40
16:54:39 41 COMMISSIONER: I assume no one else has any objection, so
16:54:41 42 leave to appear will be given to Mr Dale in respect of this
16:54:45 43 witness who has just finished.
16:54:50 44
16:54:51 45 Yes, Mr Winneke.
46
16:54:52 47 MR WINNEKE: Commissioner, Mr O'Connell was the last

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

16:54:53 1 witness we propose to call for Terms of Reference 1 and 2.
2
16:54:58 3 COMMISSIONER: Yes.
4
16:54:59 5 MR WINNEKE: I mentioned this morning I had some materials
16:55:01 6 I would wish to tender.
7
16:55:03 8 COMMISSIONER: Yes.
9
16:55:03 10 MR WINNEKE: Those are documents that have been referred to
16:55:05 11 throughout the course of the hearing which haven't been
16:55:09 12 specifically tendered but because they've been referred to
16:55:12 13 we regard it as prudent to tender them. In addition to
16:55:16 14 those sorts of documents mentioned during the hearings
16:55:19 15 there are a number of statements, about 50. I don't
16:55:22 16 propose, unless you wish me to, to go through that list. I
16:55:28 17 think late in the day on a Friday it's probably not of
16:55:31 18 benefit to do so. So I tender that list.
19
16:55:34 20 COMMISSIONER: I have one list, I think it's exhibits and
16:55:38 21 statements combined.
22
16:55:41 23 MR WINNEKE: It's one list and it contains a number of
16:55:43 24 different documents which will be exhibits, and also the
16:55:46 25 statements as well which I say is about 50. I tender that.
26
16:55:51 27 COMMISSIONER: Those will become Exhibits 1358 to 1506.
28
29 (At this stage Exhibits 1358 to 1506 inclusive were
30 tendered.)
31
16:56:10 32 MR WINNEKE: I take your word for that, Commissioner.
33
16:56:14 34 COMMISSIONER: Inclusive, and that will be as per the
16:56:17 35 schedule that we have here. Then there are some additional
16:56:21 36 statements that will go into become C and D or E and F in
16:56:30 37 respect of the original exhibit with that statement in it.
38
16:56:33 39 MR WINNEKE: Yes, indeed.
40
16:56:34 41 COMMISSIONER: So that will be done according to the
16:56:37 42 schedule. Thank you.
43
16:56:40 44 MR CHETTLE: Commissioner, can I ask that we be provided
16:56:42 45 with copies of the schedule and the statements. Ms Tighe
16:56:48 46 did it the other day in brilliant fashion, gave us the
16:56:52 47 earlier schedule and the attached statements and if that

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

16:56:58 1 could happen again.
2
16:56:58 3 MR WINNEKE: We'll provide copies to all parties at the
16:57:00 4 table.
5
16:57:01 6 COMMISSIONER: To all parties as soon as that's possible.
16:57:02 7 That will be done.
8
16:57:03 9 MR WINNEKE: Thanks Commissioner.
10
16:57:04 11 COMMISSIONER: Thank you.
12
16:57:10 13 MR WINNEKE: Those statements will be uploaded.
14
16:57:12 15 COMMISSIONER: Yes.
16
16:57:14 17 MR WINNEKE: Thanks very much.
18
16:57:16 19 COMMISSIONER: As soon as they can they'll be uploaded and
16:57:18 20 put on the website.
21
16:57:20 22 The public hearings undertaken so far form a
16:57:25 23 substantial part of the Commission's work. They have
16:57:26 24 proved a valuable avenue for gathering evidence to support
16:57:30 25 the Commission's detailed investigation and reporting of
16:57:32 26 the complex matters relevant to Terms of Reference 1 and 2
16:57:37 27 which concern the conduct of Ms Gobbo and current and
16:57:40 28 former Victoria Police members.
29
16:57:42 30 The hearings have also traversed matters relevant to
16:57:46 31 Term of Reference 3, which requires the Commission to
16:57:48 32 consider the adequacy and effectiveness of Victoria
16:57:53 33 Police's current processes for the recruitment, handling
16:57:55 34 and management of human sources who are subject to legal
16:57:59 35 obligations of confidentiality and privilege. This is
16:58:02 36 includes examining Victoria Police's compliance with
37 recommendations of the Kellam report.
38
16:58:07 39 Evidence at the hearings has sometimes touched on Term
16:58:09 40 of Reference 4, which requires the Commission to examine
16:58:11 41 the adequacy of Victoria Police's current practices for
16:58:15 42 disclosing information from specified human sources to
16:58:18 43 prosecuting agencies.
44
16:58:20 45 The remaining Terms of Reference call for the
16:58:22 46 Commission to look to the future and seek to ensure that
16:58:25 47 any past shortcomings are not repeated. Commission lawyers

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

16:58:30 1 and staff have been working hard outside the hearings to
16:58:33 2 investigate potential past individual or institutional
16:58:37 3 shortcomings, including the laborious task of identifying
16:58:40 4 cases that may have been affected by Ms Gobbo's conduct.
16:58:45 5 They've also been investigating matters relevant to the
16:58:49 6 future focused Terms of Reference so that any past
16:58:53 7 shortcomings are not repeated. This work will continue
16:58:56 8 over the coming months.
16:58:57 9

16:58:57 10 Term of Reference 5 requires the Commission to
16:58:59 11 recommend measures to address any systemic or other
16:59:02 12 failures identified in Victoria Police's processes. It
16:59:07 13 also asks the Commission to recommend measures to address
16:59:09 14 the use of any other human sources who are or have been
16:59:13 15 subject to legal obligations of confidentiality or
16:59:16 16 privilege and to come to the Commission's attention during
16:59:19 17 the inquiry.
16:59:20 18

16:59:21 19 Term of Reference 6 enables the Commission to inquire
16:59:24 20 into and report on any other matters necessary to
16:59:27 21 satisfactorily resolve the matters set out in Terms of
16:59:31 22 Reference 1 to 5. Over recent months Commission staff and
16:59:35 23 lawyers have conducted a comprehensive research and
16:59:38 24 stakeholder consultation program to inform the Commission's
16:59:41 25 inquiry into Terms of Reference 3 to 6. This has included
16:59:46 26 requesting and assessing policies and procedures from a
16:59:49 27 range of agencies, including Victoria Police, conducting
16:59:52 28 literature reviews and other desk top research, analysing
16:59:56 29 public submissions, convening focus groups with currently
17:00:00 30 serving Victoria Police officers involved in human source
17:00:04 31 management, conducting a targeted audit of Victoria Police
17:00:07 32 files concerning human sources involving legal obligations
17:00:10 33 of confidentiality or privilege, preparing and distributing
17:00:14 34 a consultation paper on matters relating to Term of
17:00:16 35 Reference 4, and preparing a range of background briefing
17:00:20 36 and research papers. It has also included extensive
17:00:24 37 consultation and engagement with international and
17:00:26 38 interstate law enforcement agencies, prosecuting
17:00:29 39 authorities, oversight agencies, legal professional
17:00:33 40 associations and regulators and other experts, academics
17:00:36 41 and practitioners.
17:00:37 42

17:00:37 43 The Commission has drawn on the experiences and
17:00:40 44 insights of these stakeholders to gain a clear
17:00:43 45 understanding of current practices in Victoria, along with
17:00:46 46 alternative models in other jurisdictions. I sincerely
17:00:50 47 thank those agencies and individuals for their contribution

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

17:00:54 1 and cooperation which has been enormously beneficial to the
17:00:57 2 Commission's inquiry into Terms of Reference 3 to 6.

17:01:00 3
17:01:01 4 To build on this work the Commission next intends to
17:01:04 5 call witnesses to give evidence at public hearings and
17:01:07 6 assist the Commission to identify any legislative, policy
17:01:09 7 procedural or other measures needed to strengthen
17:01:12 8 Victoria's approach.

9
17:01:13 10 Given the High Court's decision which preceded this
17:01:16 11 inquiry and the consequent need to restore public
12 confidence in Victoria's criminal justice system it is
17:01:23 13 imperative that where feasible these hearings are held in
17:01:25 14 public. The coming hearings will consider the adequacy and
17:01:30 15 effectiveness of current Victoria Police policies,
17:01:33 16 procedures and practices, along with potential reforms and
17:01:35 17 national and international best practice for the management
17:01:39 18 of human source with legal obligations of confidentiality
17:01:42 19 or privilege. The obligation of Victoria Police to
17:01:45 20 disclose relevant material and the audit of past statement
17:01:50 21 taking continues. Should critical matters come to the
17:01:53 22 Commission's attention warranting further investigation in
17:01:56 23 hearings, subject to temporal and resources restraints, the
17:02:00 24 Commission will do so. The substantial work already done
17:02:03 25 outside hearings will continue as counsel assisting prepare
17:02:09 26 their written submissions. Time must also be allocated for
17:02:13 27 responses to these submissions and report writing and
17:02:15 28 publication, whilst dealing with Victoria Police's many
17:02:19 29 public interest claims and the extraordinary number of
17:02:22 30 suppression and non-publication orders.

31
17:02:24 32 The Commission anticipates that the future hearings
17:02:28 33 will assist in the recommendation of robust, practical and
17:02:30 34 evidence based reform to strengthen and improve current
17:02:34 35 practices and promote community confidence in Victoria's
17:02:41 36 criminal justice system. I thank all legal teams for their
17:02:43 37 assistance, which I expect will continue, as the work of
17:02:44 38 the Commission continues, and for accommodating the
17:02:46 39 Commission's necessarily long sitting hours.

17:02:50 40
17:02:50 41 Adjourn the Commission's hearings to a date to be
17:02:54 42 fixed.

17:02:55 43
17:02:55 44 ---

45
46
47