

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 Thursday, 5 December 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Mr S. Holt QC Ms K. Argiropoulos
Counsel for State of Victoria	Ms C. McCudden
Counsel for Nicola Gobbo	Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDDP	Mr D. Holding Ms A. Haban-Beer
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for John Higgs	Ms C. Dwyer
Counsel for AFP	Ms I. Minnett
Counsel for Chief Commissioner of Police	Mr A. Coleman

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09:34:43 1 COMMISSIONER: Yes, the appearances are largely as they
09:34:45 2 were yesterday. Yes, Ms Tittensor.
09:34:47 3
09:34:48 4 <RODNEY WILSON, recalled:
09:34:51 5
09:34:52 6 MS TITTENSOR: Mr Wilson, yesterday I asked you a number of
09:34:54 7 questions about some concerns over media leaks in 2007, you
09:34:58 8 recall that?---Yes.
9
09:34:59 10 And those media leaks were part of the strategy engaged in
09:35:08 11 by Task Force Briars?---No.
12
09:35:10 13 Or some media leaks were part of the strategy?---Not the
09:35:14 14 ones that I was raising my concerns about.
15
09:35:16 16 Okay?---They were leaks to a journalist from The Age called
09:35:19 17 Nick McKenzie.
18
09:35:21 19 Yes, that's right. So there was a strategy which involved
09:35:23 20 leaking?---Not that I'm aware of.
21
09:35:26 22 Well certainly through Nicola Gobbo at some point in
09:35:39 23 time?---I'm not sure.
24
09:35:40 25 I took you through it yesterday?---Yeah, sorry.
26
09:35:44 27 That at some point in time we're going to feed through the
09:35:51 28 SDU Nicola Gobbo this information?---Yes.
29
09:35:55 30 So that it gets out so that it inspires a response?---Yes,
09:35:58 31 but not through the media I didn't think.
32
33 No, no, sorry, I've probably confused the issue?---Yeah,
34 sorry
35
09:35:58 36 So there were two issues. There was an issue about the
09:35:59 37 media somehow getting a hold of some
09:36:02 38 information?---Correct.
39
09:36:02 40 And there were concerns about how that might be coming
09:36:05 41 about?---Correct.
42
09:36:06 43 At some stage in 2007?---Yes.
44
09:36:09 45 But as well as that there was a strategy that was being
09:36:11 46 engaged in by Operation Briars?---Yes.
47

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09:36:14 1 Or Task Force Briars which involved essentially leaking
09:36:17 2 out, deliberately, information so that it might inspire a
09:36:21 3 response?---Yes.
4

09:36:23 5 At some point in time there was an OPI investigation into
09:36:28 6 the media leaks?---Yes.
7

09:36:31 8 Were the OPI told that there was some deliberate leaking of
09:36:38 9 information during that process?---As in to Ms Gobbo?
10

09:36:44 11 Well, through Ms Gobbo or through anyone else?---We had
09:36:54 12 some OPI investigators working with us so more than likely,
09:36:58 13 yes.
14

09:37:01 15 There were hearings in relation to those matters, is that
09:37:07 16 right?---Which matters?
17

09:37:10 18 In relation to the media leaks?---Yes.
19

09:37:12 20 Were there statements or affidavits or anything of the like
09:37:15 21 that were signed for those purposes?---For the OPI
09:37:25 22 investigation into the leaking?
23

09:37:26 24 Yes, into the leaking, yes?---Were there affidavits signed
09:37:31 25 by who?
26

09:37:32 27 Affidavits - well, by those that were called as
09:37:40 28 witnesses?---I'm not sure.
29

09:37:41 30 Okay?---Sorry.
31

09:37:43 32 Do you know who conducted that inquiry?---The leaking
09:37:47 33 inquiry?
34

09:37:48 35 Yes?---The OPI.
36

09:37:49 37 Who was the Examiner? Who heard it, do you recall?---Who
09:37:55 38 heard the actual hearings?
39

09:37:57 40 Yes?---I just remember Justice Murray somebody, I can't
09:38:02 41 remember his surname.
42

09:38:04 43 Yes. Do you know if that person was - you say there were
09:38:09 44 some OPI investigators that were involved in Operation
09:38:14 45 Briars or Task Force Briars so they themselves would have
09:38:17 46 known about the - - - ?---So the strategy of tasking
09:38:20 47 Ms Gobbo would have been known by the OPI investigators who

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09:38:23 1 were working on the joint investigation.
2
09:38:25 3 Yes?---The investigation of the leaks to McKenzie was a
09:38:29 4 separate investigation.
5
09:38:30 6 Yes?---I know about it now but I didn't know about it at
09:38:35 7 the time.
8
09:38:35 9 Do you know though if the judicial officer who was hearing
09:38:42 10 the OPI media leak - - - ?---Yes.
11
09:38:48 12 - - - matter was aware that there was some deliberate
09:38:51 13 leaking going on in the course of Task Force Briars?---I
09:38:55 14 wouldn't have thought - I would have thought no.
15
09:38:57 16 Okay. And that was because?---Well it was nothing do with
09:39:01 17 the leaking investigation that OPI are doing around not
09:39:06 18 just McKenzie but leaks to - from within Victoria Police
09:39:11 19 back to certain other elements, like the union, et cetera.
20
09:39:17 21 Yes?---That broader investigation is the one I'm talking
09:39:19 22 about.
23
09:39:21 24 Yes?---The leaking one was being done by the OPI under the
09:39:24 25 name of Operation Diana, but you're talking about the
09:39:29 26 tasking of Gobbo.
27
09:39:29 28 Yes?---They're two entirely different things.
29
09:39:32 30 Was the nature of the information that, the concern over
09:39:37 31 being leaked, was it different in terms of what was given
09:39:40 32 to Ms Gobbo and what was being published?---Yes, correct.
33
09:39:44 34 What was the concerning information that was being
09:39:46 35 published?---The concerning information that was threatened
09:39:52 36 to be published by McKenzie was around the details of our
09:39:56 37 investigation into Briars. So that was one set of matters
09:40:01 38 I raised with Cornelius that we had, there was an issue
09:40:07 39 with some leaking within the Task Force to this journalist.
09:40:12 40 But then there was a broader issue about leaking from the
09:40:16 41 Briars Task Force that was getting back to other sources.
42
09:40:23 43 When you say other sources, sorry, what do you mean by
09:40:26 44 that?---Well, the - back to the union, the Police
09:40:34 45 Association.
46
09:40:34 47 And through there to the suspects?---Yes.

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1
09:40:37 2 And equally you were having some deliberate leaks through
09:40:41 3 Ms Gobbo to the suspects?---Well that's - I don't call them
09:40:46 4 leaks, it's a tasking of her - - -
5
09:40:49 6 A strategy to disseminate information?---- - - to generate
09:40:53 7 potential conversations that we might be able to record.
8
09:40:57 9 Yes, all right. Now I think yesterday I got up to the
09:41:05 10 re-establishment of Briars?---Yes.
11
09:41:08 12 I'd taken you to paragraph 56 of your statement and through
09:41:12 13 the supplementary investigation plan?---Yes.
14
09:41:19 15 And Mr Waddell's email attaching that in which he refers to
09:41:25 16 a conversation with Sandy White?---M'hmm.
17
09:41:37 18 In relation to concern over this leading to, or possibly
09:41:42 19 leading to discovery of Ms Gobbo's historical
09:41:46 20 activities?---Yes.
21
09:41:46 22 So we went through that yesterday?---Yes, we did.
23
09:41:53 24 Following that period of time, that investigation plan
09:41:56 25 indicated "we now want to seek a full statement from
09:42:02 26 Witness D", who was Ms Gobbo?---Yes.
27
09:42:05 28 And from that period of time you understand that Inspector
09:42:08 29 Waddell set about reviewing or getting hold of some SDU
09:42:12 30 material in order to - - - ?---Potentially, yes.
31
09:42:15 32 - - - commence that process?---Yes.
33
09:42:18 34 And he had some meetings with the SDU who were reluctant to
09:42:21 35 provide that information, understandably?---Yes.
36
09:42:24 37 And I think he refers to that in his statement to the
09:42:27 38 Commission?---Yes.
39
09:42:28 40 And then later in April it appears as though he receives a
09:42:33 41 summary document or some Informer Contact Reports in
09:42:37 42 relation to Ms Gobbo's contact with Mr Waters. Did you
09:42:42 43 understand that to be happening at the time or that would
09:42:45 44 have been reported to you at the time?---I'm sure it would
09:42:47 45 have been. I just don't have a recollection of it at the
09:42:50 46 moment but - - -
47

.05/12/19

10494

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09:42:53 1 So that's the situation?---Yep.
2
09:42:54 3 It appears as though through discussions between Mr Waddell
09:42:59 4 and Mr Biggin and Mr White he does get some
09:43:04 5 information?---Okay.
6
09:43:04 7 And it's then determined that he and Mr Iddles are going to
09:43:11 8 travel to Bali to take a statement from Ms Gobbo and you
09:43:14 9 knew that at the time?---Yes.
10
09:43:15 11 And I take it Mr Overland knew that was occurring at the
09:43:18 12 time?---Yes.
13
09:43:19 14 And the board of management would have known that that was
09:43:22 15 occurring at the time?---For sure.
16
09:43:26 17 Would it have been their decision ultimately that that was
09:43:30 18 going to occur, the taking of that statement?---I think I
09:43:34 19 pointed out yesterday it's not necessarily their decision,
09:43:38 20 it's what we're saying we're doing as a strategy. If they
09:43:43 21 were opposed to it they said, "That's not going to happen",
09:43:46 22 they would say so, otherwise they would just be ticking
09:43:50 23 off, they would be agreeing that's an appropriate course of
09:43:53 24 conduct, rather than approving it.
25
09:43:55 26 Rather than approving it. And in some instances it might
09:43:57 27 be that they come up with ideas that investigators haven't
09:44:00 28 thought of and suggest that?---Potentially, because they're
09:44:04 29 across a bigger picture.
30
09:44:05 31 Yes, all right. "So you might want to check down this
09:44:08 32 path"?---Yep.
33
09:44:10 34 So the evidence before the Commission indicates that indeed
09:44:15 35 Mr Waddell and Mr Iddles travelled to Bali in the latter
09:44:20 36 part of May of 2009 in order to get that statement from
09:44:24 37 Ms Gobbo?---Yes.
38
09:44:25 39 Mr Iddles' statement indicates that during the course of
09:44:32 40 his discussions with Ms Gobbo during that period of time
09:44:37 41 she referred to some issues she had with negotiating
09:44:45 42 flexibility in relation to the arrangement she was trying
09:44:48 43 to come to with Victoria Police in relation to her
09:44:52 44 protection?---Yes.
45
09:44:53 46 And you understand that issues like that were ongoing with
09:44:56 47 Ms Gobbo from that period of time?---Yes.

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1
09:44:59 2 When they came to take her statement it became apparent
09:45:03 3 that the only way Ms Gobbo could recall specific dates was
09:45:07 4 by using the material that had been supplied by the
09:45:14 5 SDU?---That's probably right.
6
09:45:15 7 Yes?---I wasn't obviously there and I don't recall that but
09:45:19 8 I mean it's a plausible - yes.
9
09:45:23 10 It became clear to Mr Iddles because of that, and for other
09:45:28 11 reasons no doubt, that it would be inevitable that if she
09:45:34 12 became a witness, if she was to sign that statement and
09:45:37 13 become a witness, because of the way the statement - at the
09:45:41 14 very least because of the way the statement was taken, that
09:45:44 15 her past as a human source would come out?---Okay.
16
09:45:48 17 He indicates in his statement that he and Waddell decided
09:45:51 18 to seek further advice from you while they were in Bali and
09:45:55 19 they telephoned you and waited for a response?---Sorry,
09:45:59 20 they telephoned me and what?
21
09:46:01 22 And waited for a response?---M'hmm.
23
09:46:05 24 And it seems as though when we do have a look at
09:46:09 25 Mr Waddell's diary the day before they came back that there
09:46:13 26 is an entry in there on 28 May that they updated you, so
09:46:19 27 there does seem to be some communication with you whilst
09:46:21 28 they're in Bali?---Yes.
29
09:46:23 30 Do you have any note or recollection of that
09:46:29 31 yourself?---Unless it's in my diary I would have no other
09:46:32 32 note. I can't really - my understanding was that she had
09:46:35 33 originally said to her handlers that Mr Waters had -
09:46:42 34 Mr Lalor had assured him that the address didn't come from
09:46:45 35 the database. That was the piece of, the critical piece of
09:46:49 36 evidence we were trying to capture.
37
09:46:51 38 Yes, and that was back during the investigation?---Back
09:46:53 39 during the investigation but we're now fast-forwarding to
09:46:59 40 can we get Ms Gobbo to make a statement along those lines.
41
09:47:02 42 Yes, but I think upon getting the material from the SDU
09:47:06 43 they might have discovered that she had a whole lot more
09:47:09 44 information - - - ?---Yeah, true. Sure.
45
09:47:09 46 - - - and knowledge and contact with PII [REDACTED]?---Mr
09:47:12 47 Waters.

.05/12/19

10496

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1
09:47:13 2 And Mr Waters that might be of assistance to establishing -
09:47:15 3 - - ?---Yes.
4
09:47:16 5 - - - various matters in relation to the case. So it
09:47:20 6 seems as though, from what Mr Iddles says and at least from
09:47:25 7 Mr Waddell's diary, that there has been some communication
09:47:28 8 back to you whilst they're in Bali in the course of taking
09:47:31 9 that statement?---Yes.
10
09:47:34 11 Mr Iddles indicates that they were telling you, "Look,
09:47:38 12 we're concerned about taking this statement because of what
09:47:41 13 it's going to lead to"?---Yes.
14
09:47:43 15 And the response came back to them to direct them to take
09:47:48 16 the statement and you told them that that direction came
09:47:51 17 from Mr Overland?---Yes.
18
09:47:53 19 Would you dispute that?---No, I wouldn't.
20
09:48:01 21 Mr Iddles says that at some point during the taking of that
09:48:06 22 statement, and it may well have been while Mr Waddell was
09:48:10 23 talking to you, that Ms Gobbo told him about information
09:48:15 24 that she'd provided in the past to Purana in relation to
09:48:20 25 Mr Mokbel and referred to having constantly breached
09:48:26 26 privilege and that she'd been acting in the best interests
09:48:28 27 of Victoria Police rather than her client, and he at that
09:48:33 28 point in time thought this may all blow up and end up in a
09:48:37 29 Royal Commission. And then he and Waddell came back to
09:48:42 30 Australia with a draft statement but unsigned?---Yes,
09:48:47 31 that's right.
32
09:48:52 33 It seems as though if we have a look at the diary entries
09:48:57 34 that they land back in Melbourne on the morning of the 29th
09:49:00 35 of May, and then the first thing they do is come to the VPC
09:49:06 36 and brief you?---Yep.
37
09:49:11 38 Do you have a diary entry of that yourself? Sorry, do you
09:49:18 39 have your diaries with you?---No.
40
09:49:21 41 MS ARGIROPOULOS: The original diaries are available,
09:49:23 42 Commissioner.
43
09:49:23 44 COMMISSIONER: Thanks Ms Argiropoulos.
45
09:49:27 46 WITNESS: Thank you. What was the date again?
09:49:30 47

.05/12/19

10497

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09:49:31 1 MS TITTENSOR: 29 May 2009?---Yes.
2
09:49:34 3 Do you have a record of the communication from Mr Waddell
09:49:39 4 the day before, on the 28th?---No.
5
09:49:55 6 Does your diary indicate the length of the briefing that
09:49:58 7 you received when they came back?---On the 29th?
8
09:50:01 9 Yes?---I've got a diary entry at 09:20 that I spoke to
09:50:06 10 Steve Waddell and Ron Iddles re statement from 3838 at
09:50:12 11 09:20. And at 10:40 I spoke to Assistant Commissioner
09:50:18 12 Cornelius.
13
09:50:21 14 Yes?---So the best I could say was it was in that period of
09:50:25 15 time between 09:20 and 10:40. I don't have an exact length
09:50:31 16 of time though.
17
09:50:32 18 I'll come back to that diary entry of yours in a minute.
09:50:41 19 If I can just bring up Mr Black's diary for 29 May. It's
09:50:49 20 VPL.2000.0001.4676 at p.10.
21
09:51:05 22 COMMISSIONER: That's 2009, is it?
09:51:06 23
09:51:07 24 MS TITTENSOR: Yes. Noting that they've gotten off the
09:51:12 25 plane that morning, they've come to the Victorian Police
09:51:16 26 Centre and Mr Waddell and Mr Iddles have spoken to you
09:51:19 27 about the statement that they've taken?---Yes.
28
09:51:22 29 Do you expect you would have been given a draft copy of the
09:51:25 30 statement at that stage?---I don't recall.
31
09:51:28 32 Would that be likely or you don't know?---Probably
09:51:31 33 unlikely. I would accept a briefing from Ron and Steve
09:51:34 34 about the issues that they're raising.
35
09:51:38 36 I've just taken you through a summary of what Mr Iddles
09:51:41 37 said became concerning to him in the course of taking the
09:51:48 38 statement whilst they were in Bali?---Yes.
39
09:51:50 40 Later that same day, 29 May, Mr Iddles speaks with Officer
09:51:57 41 Black of the SDU, do you know who I'm talking about?---No.
42
09:52:03 43 Perhaps if the witness could be shown - - - ?---I mean
09:52:05 44 there's a name on top of this report, I assume that could
09:52:08 45 be who it is, but - - -
46
09:52:09 47 Yes, you'll see that there?---Yep. I know who that is.

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1
09:52:14 2 Later that day there's a meeting between Officer Black and
09:52:17 3 Mr Iddles in relation to the Briars Task Force, so this is
09:52:21 4 29 May?---Yes.
5
09:52:23 6 And you see there that there's a background - a number of
09:52:28 7 headings, background from the SDU perspective, the
09:52:32 8 circumstances from the Briars perspective and the SDU
09:52:35 9 response. Just taking you to a couple of those
09:52:39 10 points?---Yes.
11
09:52:40 12 It's become apparent to Mr Black that they've become aware
09:52:44 13 that Command are now wanting a statement from
09:52:48 14 Ms Gobbo?---Yes.
15
09:52:50 16 The Command are of the view that essentially because she's
09:52:54 17 a witness for Petra she can now be a witness for
09:52:57 18 Briars?---Yes.
19
09:52:58 20 And the SDU are trying to convey that the circumstances in
09:53:02 21 relation to those two matters are very different, that if
09:53:07 22 it's pursued in relation to Briars, it's inevitable that
09:53:11 23 her role as a human source will be discovered?---Yes.
24
09:53:14 25 And they're recommending back to Command that you shouldn't
09:53:21 26 go down that track?---Yes.
27
09:53:23 28 Then there's some circumstances outlined then from the
09:53:25 29 Briars perspective, is that they're still requesting the
09:53:28 30 statement from Ms Gobbo?---Yes.
31
09:53:30 32 It seems that they do have some concern about disclosure of
09:53:34 33 her?---Yes.
34
09:53:36 35 There's a dual - there's reference there to her having the
09:53:40 36 dual responsibility of giving legal advice to clients and
09:53:43 37 presumably the dual responsibility is being a source on the
09:53:47 38 one hand and also giving legal advice to the clients on the
09:53:49 39 other hand?---Yes.
40
09:53:51 41 And in line with what Mr Iddles says became his concern
09:53:58 42 whilst the statement process was being undertaken in Bali,
09:54:02 43 that disclosure of those matters will initiate a Royal
09:54:06 44 Commission with perceived unsafe verdicts and that current
09:54:10 45 arrests, because you might understand that not everyone had
09:54:15 46 been through the trial process yet?---Right.
47

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09:54:17 1 There were still some outstanding, so current arrests may
09:54:23 2 be subject to review?---Yes.
3
09:54:24 4 And there was also concern about the methodology coming
09:54:27 5 out, PII issues of that sort of nature coming out?---Yes.
6
09:54:34 7 The SDU are advocating, down the bottom there you'll see,
09:54:37 8 that there should be a further risk assessment
09:54:42 9 done?---M'hmm.
10
09:54:43 11 It seems as though Superintendent Biggin is on leave and
09:54:46 12 they want to suspend any decision until he returns?---Yes.
13
09:54:50 14 And again they're saying the strategy for Ms Gobbo to
09:54:54 15 become a witness, as we understand it at the Commission, is
09:55:04 16 her role was separated, or so they said her role was
09:55:11 17 separated, so that when she was tasked to record Mr Dale
09:55:14 18 for Operation Petra that was through Petra rather than
09:55:20 19 through the SDU so that her role was separated?---I see.
20
09:55:24 21 So we may therefore not need to disclose her role with the
09:55:27 22 SDU. So you sort of see that reflected in a number of
09:55:33 23 those points down the bottom, the process adopted severed
09:55:37 24 her role from being a source for that of being a witness,
09:55:41 25 all right?---Yes.
26
09:55:42 27 Given, it seems as though Mr Iddles has had and relayed and
09:55:47 28 discussed those concerns later in the day with Officer
09:55:52 29 Black from the SDU and that he had come back off the plane
09:55:56 30 from Bali and gone straight and had a briefing with
09:56:00 31 yourself and Waddell?---Yes.
32
09:56:03 33 Do you expect that concerns of those types might have been
09:56:07 34 discussed with you earlier in the day?---I would expect so.
35
09:56:14 36 We see following the meeting with you at 10.20 you've then
09:56:19 37 had a meeting with Mr Cornelius and your diary indicates
09:56:24 38 "re safety issues with 3838"?---Yes.
39
09:56:26 40 What type of matters - if those matters had been discussed
09:56:30 41 with you of the nature of Royal Commissions and - - - ?---I
09:56:36 42 don't recall Ron talking about Royal Commissions, let's be
09:56:39 43 honest about that.
44
09:56:40 45 Yes?---But some of the other concerns he raised, and his
09:56:45 46 view was that we ought not use her as a witness, and some
09:56:49 47 of that was around her credibility as a witness.

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1
09:56:52 2 Yes?---Because she hadn't effectively sworn up to her
09:56:58 3 original statement she'd made to Sandy White. There was
09:57:02 4 some - she wasn't - - -
5
09:57:03 6 When you say original statement to Sandy White?---Sorry,
09:57:06 7 the original statement she'd made to the Source Development
09:57:11 8 Unit regarding a conversation she had with Waters.
9
09:57:14 10 Yes?---She was now not - - -
11
09:57:16 12 There were some prior inconsistent statements?---There was
09:57:18 13 an inconsistency, she wasn't swearing up to that any more.
09:57:21 14 So that caused us an issue in relation to - that was some
09:57:26 15 of the issues we were discussing. And the safety issue was
09:57:29 16 around - there was concerns about her being in that
09:57:32 17 country. There were concerns about, that were being raised
09:57:36 18 around how can Victoria Police adequately protect her in a
09:57:41 19 country where they have no jurisdiction or - - -
20
09:57:48 21 That was the safety?---They were just other issues.
22
09:57:54 23 They were in Bali at the time?---Yes.
24
09:57:56 25 So there were those issues. But these are issues that are
09:57:57 26 being raised here that he says, "She's told me back in Bali
09:58:02 27 about her being a source in relation to Mokbel and LPP
09:58:06 28 issues", and those kinds of - - - ?---Yes.
29
09:58:09 30 And there are concerns being raised about unsafe verdicts,
09:58:15 31 cases that are still on foot. Do you expect that those
09:58:19 32 matters would have been raised with you as well?---I would
09:58:22 33 expect that in the time that we had we would have had a
09:58:27 34 very - we would have discussed some of those issues for
09:58:31 35 sure.
36
09:58:31 37 Those are significant issues that would face Victoria
09:58:33 38 Police as an organisation?---Yes. And ultimately Ron's
09:58:38 39 view was, as one of the senior investigators and
09:58:40 40 experienced investigators with Briars, was that it wasn't
09:58:45 41 safe to use her as a witness in this matter. Sorry, not
09:58:51 42 the word safe, it wasn't appropriate.
43
09:58:54 44 There are a number of aspects to that and of course if she
09:58:57 45 is disclosed as a human source, to the extent that she was
09:59:01 46 a human source, the great extent, not simply as against
09:59:04 47 Mr Waters, but as against some significant underworld

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09:59:07 1 figures?---M'mm.
2
09:59:09 3 Some of whom were her clients, then her safety was at real
09:59:13 4 risk?---Yes.
5
09:59:14 6 But equally there were these consequences to the
09:59:18 7 organisation?---M'mm.
8
09:59:19 9 As well, that the SDU were clearly trying to get
09:59:24 10 across?---Yes.
11
09:59:25 12 Is it your recollection that those issues were discussed in
09:59:30 13 the course of this period of time?---I can't actually
09:59:33 14 recall them but I don't deny that we would have had those
09:59:38 15 conversations. I just can't recall, it's so long ago.
16
09:59:43 17 You would say it would be very likely?---Yes.
18
09:59:46 19 Given that these things are being documented at that time,
09:59:48 20 that these things would have been run through the lines to
09:59:51 21 yourself?---Correct.
22
09:59:52 23 And to Mr Overland and the board of management?---I'm not
09:59:55 24 denying that Ron would have, and Steve would have briefed
09:59:58 25 me along those lines, but you're asking me can I actually
10:00:02 26 recall it
27
10:00:02 28 Yes?---I can't recall it. It's just my memory doesn't have
29 - - -
30
10:00:06 31 No. And you having received such information?---Yes.
32
10:00:08 33 Accepting that you did?---Yes.
34
10:00:11 35 It's not something that you wouldn't have reported up the
10:00:14 36 line yourself because they were significant organisational
10:00:17 37 concerns, is that right?---I would say that's right.
38
10:00:21 39 They would have been reported both to the board of
10:00:23 40 management, or at least through Mr Cornelius?---Well I
10:00:26 41 certainly would have briefed Luke about it and I note in my
10:00:30 42 diary that I've had some later conversations with Simon as
10:00:39 43 well.
44
10:00:40 45 Yes?---So there was probably an opportunity to - because
10:00:43 46 they would have been aware that we had gone to see her in
10:00:48 47 Bali.

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1
10:00:48 2 Yes?---As I've said yesterday, they were certainly keeping
10:00:53 3 a watching brief on what was happening in relation to not
10:00:56 4 only her, but the potential of prosecuting people in
10:01:04 5 relation to the Chartres-Abbott matter and the Petra
10:01:09 6 matter.
7
10:01:10 8 As your diary records you have the briefing at 9.20 with
10:01:13 9 Waddell and Iddles?---Yes.
10
10:01:15 11 At 10.40 you speak to Luke Cornelius "re safety issues with
10:01:21 12 3838"?---Yes.
13
10:01:22 14 And at 12.30, the very next entry, you brief the Chief
10:01:27 15 Commissioner of Police?---Sorry, yes.
16
10:01:28 17 So one after the other?---Yes.
18
10:01:43 19 It's apparent that Mr Waddell was still keen on getting
10:01:46 20 some information from the SDU to explore whether the
10:01:51 21 statement ultimately should be taken, do you recall
10:01:52 22 that?---Yeah, I think where Steve was coming from though
10:01:56 23 was that she'd obviously made some statements to the Source
10:02:02 24 Development Unit back in relation to a conversation she had
10:02:05 25 with Waters, and I think he was exploring whether they were
10:02:10 26 recorded or how they were recorded and could we get in to
10:02:14 27 access those. This is about the prior inconsistent
10:02:17 28 statements, because she was now not swearing up to that
10:02:20 29 particular - - -
30
10:02:21 31 What becomes apparent, if we go through some of the
10:02:24 32 material and the various diary entries and file notes
10:02:26 33 following that period of time?---Yes.
34
10:02:28 35 Is that I think he's requesting some of those original
10:02:32 36 recordings as well so that he can compare exactly what's
10:02:36 37 said with the written material and so forth?---Yes.
38
10:02:38 39 But also the SDU had significant holdings in relation to
10:02:42 40 other people of interest to the Briars
10:02:45 41 investigation?---Okay.
42
10:02:45 43 In terms of Ms Gobbo's reporting of information about those
10:02:49 44 people or contact with those people?---Yep.
45
10:02:52 46 So it's apparent that there was a request?---Okay.
47

.05/12/19

10503

WILSON XXN

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10:02:57 1 For the SDU to provide that information?---Right.
2
10:02:59 3 And then that became a source of significant, some
10:03:03 4 significant concern from the SDU's point of view?---Yes.
5
10:03:08 6 Those would have been matters that you would have been
10:03:11 7 aware of through that period of time?---More than likely,
10:03:14 8 yes. As I said before, I just don't recall that now.
9
10:03:22 10 We sort of track through - I think initially Mr Sandy White
10:03:26 11 might be on leave and Officer Black is in charge at that
10:03:31 12 period of time, so we sort of see a flurry of concern being
10:03:35 13 raised in his diary when he - - - ?---Yes, as per that
10:03:39 14 document, yes.
15
10:03:39 16 Yes. That officer whose diary you've just seen?---Yes.
17
10:03:43 18 So we see a concern?---Yes.
19
10:03:44 20 Being raised in relation to his becoming aware that they're
10:03:48 21 seeking all this additional information?---Yes.
22
10:03:50 23 And Command not appreciating what the consequences and
10:03:54 24 implications might be, so there are various meetings and
10:03:57 25 things that are occurring throughout that period to try and
10:04:00 26 get the message through?---Yes.
27
10:04:01 28 And across to Command so that they understand?---Yes.
29
10:04:06 30 They're going to put her in extreme danger, they're going
10:04:09 31 to put the organisation at - - - ?---Risk.
32
10:04:12 33 - - - serious risk because of the issues that you've seen
10:04:14 34 outlined in Mr Iddles' conversation with Officer
10:04:18 35 Black?---Yes.
36
10:04:18 37 Now I think you've just said those matters would have been
10:04:21 38 elevated?---I think also you need - what would also have
10:04:27 39 been happening is that through the Source Development Unit
10:04:31 40 line of - chain of command through Biggin and the like up
10:04:34 41 through to Neil Paterson, at that level the same issues
10:04:38 42 would have been flagged that way, as well as this way, and
10:04:42 43 obviously at the meeting point all these concerns would
10:04:47 44 naturally be aired.
45
10:04:50 46 We see on 1 July in Mr Black's diaries eventually he briefs
10:04:56 47 Superintendent Porter?---Yes.

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1
10:04:59 2 Sorry, on 1 June I should say. He's giving an overview and
10:05:04 3 PII may not be successful in relation to all of
10:05:08 4 this?---Sure.
5
10:05:08 6 And Command may cause a Royal Commission and it's dangerous
10:05:15 7 for convictions?---Yes.
8
10:05:16 9 And then again he's briefing Mr White later that night,
10:05:19 10 who's on leave?---Okay.
11
10:05:20 12 To say, "We need to get on top of this" essentially "when
10:05:24 13 you get back"?---Right.
14
10:05:26 15 Then the following day we get a request for assistance from
10:05:29 16 Mr Waddell, and that's what I was just referring to before,
10:05:33 17 with a list of, more extensive list of names?---Right.
18
10:05:36 19 And that goes to the HSMU?---Yes.
20
10:05:39 21 That request, but apparently it's sort of done without
10:05:43 22 SDU's knowledge at that stage?---They're two different
10:05:46 23 bodies though.
24
10:05:47 25 Yes?---One's a management database and the other's
10:05:50 26 management of high risk.
27
10:05:52 28 Yes. I might just bring up Mr Black's diary of 3 June.
10:06:21 29 It's the 9.20 entry. This is an entry where Officer Black
10:07:02 30 is briefing his Inspector?---M'hmm.
31
10:07:05 32 In relation to what's going on and he's requesting his
10:07:10 33 Inspector to schedule a meeting with Command and at least
10:07:14 34 at that stage with Superintendent Porter and to include the
10:07:19 35 SDU to discuss the issues with Inspector Waddell?---Yes.
36
10:07:24 37 And he goes through the issues again with Inspector Glow,
10:07:34 38 noting concerns that the human source, Ms Gobbo, appears to
10:07:40 39 be using the ICRs as notes to refresh her memory while
10:07:43 40 making the statement to Briars. It was never meant to be
10:07:48 41 evidentiary. There's undeclared material in the ICRs in
10:07:53 42 relation to her mental state. There's further instances of
10:07:58 43 Ms Gobbo lying to the SDU about issues regarding Petra Task
10:08:02 44 Force and I think you say you recall that there were issues
10:08:06 45 being raised about her credibility?---Yes.
46
10:08:10 47 Then you see there significant concern, disclosure of

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10:08:16 1 Ms Gobbo's assistance to Victoria Police, one, as a tasked
10:08:21 2 source; two, who is an active barrister; three, who's
10:08:25 3 visiting clients; four, clients who think they have
10:08:28 4 privilege; five, clients who believe they're speaking with
10:08:31 5 their legal representative; six, that very person who then
10:08:34 6 passes the information to police; 7, the human source then
10:08:39 7 continues to act for that client; and eight, furthermore,
10:08:42 8 the human source then convinces the client to plead guilty.
10:08:47 9 So you can understand why they are concerned that this
10:08:51 10 might come out, that it might lead to - there might be
10:08:57 11 perceived, at the very least, unsafe verdicts?---Yes.
12
10:09:00 13 And concern about a Royal Commission?---Yes.
14
10:09:02 15 And they're going on to say, you know, talking about issues
10:09:07 16 of PII and whether that might be successful and so forth.
10:09:14 17 So later in the day following from that, if we go up to
10:09:19 18 15:00, it starts - sorry, that meeting that I've just
10:09:26 19 referred to, there's now a meeting with Superintendent
10:09:29 20 Porter with Iddles, Waddell and so forth, where they're
10:09:36 21 again discussing the various issues?---Yes.
22
10:09:41 23 They need to - she can't be allowed to sign the draft
10:09:44 24 statement without all these things being fully
10:09:46 25 considered?---Yep.
26
10:09:47 27 There's reference to - you see the second line up - to a
10:09:53 28 particular person we know as [REDACTED] and the arrest and
10:09:59 29 deployment in relation to that person; that she was
10:10:03 30 deployed against Dale as a witness. If we can move up.
10:10:11 31 But she's been - this is to contrast with what they say the
10:10:15 32 issue is with Briars, is she's been deployed against
10:10:20 33 Mr Waters as a source?---Yes.
34
10:10:21 35 They raise concerns there that she's been used for
10:10:26 36 intelligence and as a tool to arrest the Mokbel family,
10:10:29 37 she's been involved in the arrest of [REDACTED] and then
10:10:34 38 deployed in relation to him, and that it ends with these
10:10:40 39 matters to be revisited and it seems elevated to Assistant
10:10:45 40 Commissioner Moloney?---Yes.
41
10:10:46 42 To ensure that they understand all the issues?---Yes.
43
10:10:50 44 Before they go down this path?---Yep.
45
10:10:52 46 All right. Now do you expect that these kinds of issues
10:10:56 47 being raised with Iddles and Waddell would have been

.05/12/19

10506

WILSON XXN

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10:11:04 1 discussed with you at the time as well?---I don't recall
10:11:07 2 any of this being discussed with me, no.
3
10:11:12 4 Do you expect that it would have been?---Well I think I'd
10:11:17 5 transitioned to a new role and whilst I was keeping a
10:11:21 6 watching brief on the - or an oversight of the Briars
10:11:26 7 investigation, I don't recall this level of detail ever
10:11:30 8 being relayed to me, but I'm not saying - like it's
10:11:34 9 obviously been raised with Dannye Moloney and I think these
10:11:38 10 things would have gone to a higher level but I don't recall
10:11:41 11 them being raised with me.
12
10:11:42 13 All right. Certainly - - - ?---Because these are
10:11:44 14 significant issues for the organisation.
15
10:11:46 16 Yes. And there's no way that these issues would just be
10:11:49 17 left at this level without going up?---No, correct.
18
10:12:01 19 I think we understand from Mr Porter's evidence, whose
10:12:05 20 given evidence before you, that at a subsequent meeting
10:12:09 21 it's determined that it's now going to get elevated to
10:12:12 22 Mr Cornelius at some level and presumably at least to the
10:12:16 23 board of management. Do you think issues of that level of
10:12:21 24 importance would have been discussed with Mr Overland?---I
10:12:26 25 would think so.
26
10:12:33 27 Do you know what level of communication there was between
10:12:36 28 Mr Cornelius and Mr Overland through this period of
10:12:40 29 time?---No.
30
10:12:44 31 Would this material have been discussed within the board of
10:12:47 32 management - - - ?---Not to my knowledge and I wouldn't
10:12:50 33 have thought so.
34
10:12:51 35 Not within the board of management?---No, I don't believe
10:12:54 36 so.
37
10:12:54 38 Why would it not be within the board of
10:12:56 39 management?---Because I think these are matters that are
10:12:58 40 outside - well, the Briars board of management would never
10:13:02 41 discuss all these issues.
42
10:13:04 43 What would they be discussing?---You know, the plans that
10:13:10 44 Steve had put up for re-establishing the Task Force. But
10:13:15 45 these are all broader matters, broader issue matters that
10:13:19 46 wouldn't effect the day-to-day running of Briars. Like the
10:13:23 47 ultimate decision of whether or not Ms Gobbo would make a

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10:13:26 1 statement in relation to Briars would be told to us, but I
 10:13:28 2 don't think this level of detail and discussion would be -
 10:13:30 3 you know, this is very sensitive, high level discussions.
 10:13:36 4 It wouldn't be - well, it wouldn't be in my presence. I
 10:13:41 5 mean maybe the board of management itself when it - - -
 6
 10:13:44 7 The board of management - - - ?---May have discussed it
 10:13:47 8 individually among themselves, but I'm not privy to it.
 9
 10:13:51 10 If all of a sudden a decision is taken, "We don't know
 10:13:54 11 whether or not to take a statement from Ms Gobbo", the
 10:13:57 12 Command who are instructing or indicating that "we should
 10:14:01 13 be taking this statement from Ms Gobbo", if it's taken off
 10:14:04 14 the table, wouldn't they want to know why?---Yeah, but I
 10:14:09 15 don't think they - I think the question you're asking, was
 10:14:13 16 it being discussed at the board of management, and I don't
 10:14:17 17 think so. It may have been held a high level meetings
 10:14:20 18 because all this information that you've just, that I've
 10:14:21 19 read would have filtered up through Danye Moloney through
 10:14:25 20 to a higher level of discussion in relation to the risks
 10:14:28 21 that are being outlined here. And any decision whether she
 10:14:32 22 made a statement or not would be relayed back to the - to
 10:14:34 23 Waddell, for example. But my understanding was from when
 10:14:37 24 Ron and Steve came back from Bali, that they didn't think
 10:14:42 25 it - well, certainly Ron's view was it wasn't appropriate
 10:14:50 26 to take a statement from her and there were prior
 27 inconsistencies in relation to what we really wanted and
 10:14:52 28 that didn't appear to be of value.
 29
 10:14:52 30 That seems to have been his view but it seems to have been
 10:14:55 31 Mr Waddell's, at least, desire to continue to examine the
 10:15:05 32 material to see if there was anything of that value
 10:15:08 33 there?---Yes.
 34
 10:15:12 35 And he, it seems, there's messages coming through at least
 10:15:15 36 from Cornelius to instruct that the SDU provide that
 10:15:18 37 material so it can undertake that task?---I think I would
 10:15:20 38 describe Steve Waddell as dogged as an investigator. He
 10:15:24 39 would certainly want to pursue every opportunity there was
 10:15:28 40 to get a result in this investigation. He's invested in
 10:15:34 41 it. So he would look at what other information the SDU
 10:15:36 42 would have.
 43
 10:15:37 44 Yes?---So - - -
 45
 10:15:42 46 I'm just trying to understand where these significant
 10:15:47 47 concerns go. I mean we've got evidence or material before

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10:15:50 1 the Commission that indicates that human source management
10:15:54 2 was one of the most significant organisational risks for
10:15:57 3 Victoria Police?---Yes.
4

10:15:59 5 This itself, you've got discussions about the potential for
10:16:05 6 a Royal Commission?---Yes.
7

10:16:06 8 And you can understand when you see the facts that are
10:16:10 9 being outlined by those involved?---Sure.
10

10:16:12 11 Why they might think that way?---Yes.
12

10:16:14 13 These are being discussed, they're being elevated up the
10:16:19 14 line and I just want to know where that would go
10:16:22 15 to?---Okay. Well, I'm not privy to where it went to but I
10:16:27 16 would say in my opinion it would go to the highest level.
10:16:32 17 When I say the highest level, it would certainly go to
10:16:35 18 Simon because he had significant personal investment in
10:16:38 19 relation to high level corruption that we were
10:16:40 20 investigating, so I'm sure that the information that went
10:16:43 21 to Assistant Commissioner Moloney would have gone further
10:16:47 22 to the Deputy Commissioner and possibly even the Chief
10:16:50 23 Commissioner level, because they are significant issues.
10:16:52 24 But that is my opinion. I don't know that for a fact.
25

10:16:56 26 Do you know who the relevant Deputy Commissioner was at the
10:17:00 27 time?---I think it was Ken Jones at the time of this. In
10:17:06 28 2009? 2009 Simon was Chief and I think Ken had come on
10:17:14 29 board as the Deputy Commissioner from memory.
30

10:17:20 31 We don't see Mr Jones' name in any of the diary entries
10:17:27 32 here?---Maybe - - -
33

10:17:28 34 I'm not saying that didn't occur. We see Mr Moloney,
10:17:32 35 Mr Cornelius, Mr Overland being mentioned?---Yes. Okay.
36

10:17:35 37 Would he have been involved in - - - ?---Who?
38

10:17:38 39 Mr Jones, would he have been involved - - - ?---If he was
10:17:40 40 here I'm sure he - - -
10:17:41 41
10:17:41 42 - - - in Briars at that stage?---I don't think so, not
10:17:44 43 Briars. I'd stand corrected, I'd need to know when he
10:17:49 44 actually came to Victoria Police.
45

10:17:50 46 Yes?---Because he came at the same time that Simon became
10:17:54 47 Chief, around that same time. So at some stage he would

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10:17:58 1 have been briefed in relation to these matters. Whether it
10:18:00 2 was at this particular point in time, I'm not sure.
3
10:18:03 4 There's a Deputy Commissioner sitting over crime, the Crime
10:18:06 5 Department?---Yes.
6
10:18:07 7 And that's Mr Jones, was it?---If the timing's right.
8
10:18:11 9 Yes?---That position anyway.
10
10:18:14 11 All right?---Sitting over that and Intel and Covert
10:18:19 12 Support.
13
10:18:19 14 Yes, that's what I wanted to understand. Is there a Deputy
10:18:25 15 Commissioner that sits over it?---No. So Neil Patterson
16 was I think then the Assistant Commissioner Intelligence
10:18:27 17 and Covert Support Command and then Crime Command was -
10:18:33 18 those Commands anyway reported to the Deputy Commissioner.
19
10:18:53 20 All right. There's a number of other diary entries that
10:18:55 21 indicate that various meetings are occurring and that
10:18:58 22 matters are going to be elevated and discussed with
10:19:02 23 Mr Cornelius or the board of management or so forth but I
10:19:06 24 won't take you to those, I think you've exhausted your
10:19:09 25 memory I think around about this time?---Yes.
26
10:19:13 27 Also during this time though there was a subpoena issued in
10:19:17 28 relation to - by Mr Mokbel and his legal representatives in
10:19:24 29 relation to his trial for the murder of [REDACTED] Do
10:19:29 30 you recall that issue at all?---No.
31
10:19:33 32 There was some concern occurring at the time because the
10:19:37 33 major witness against Mr Mokbel in that trial was
10:19:42 34 PII [REDACTED]?---Yes.
35
10:19:43 36 And obviously defence were subpoenaing material which might
10:19:48 37 impact upon PII [REDACTED]'s credit?---Yes.
38
10:19:52 39 And there was some concern within Briars that Ms Gobbo's, a
10:19:59 40 draft statement or statement might be caught by that
10:20:02 41 subpoena?---Okay.
42
10:20:03 43 Do you know anything about that?---No.
44
10:20:15 45 Mr Waddell ultimately started or ultimately obtained some
10:20:21 46 of the information that he wants out of the SDU?---M'mm.
47

.05/12/19

10510

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10:20:25 1 The direction comes down still from Command that "give him
10:20:30 2 the material, let him make the assessment"?---Yes.
3
10:20:32 4 Once he starts listening to the material his concerns grow
10:20:39 5 I think in relation to her credibility, but he also has
10:20:44 6 some concerns upon listening to the material that there's
10:20:47 7 some prospect that she might have been acting as Mr Waters'
10:20:52 8 lawyer during the period of time and there's some desire to
10:20:56 9 obtain legal advice and Mr Waddell goes to Mr Cornelius and
10:21:00 10 seeks permission for Mr Maguire to be briefed?---Yes.
11
10:21:04 12 He's also been briefed in relation to - this is the PII
10:21:08 13 issues - in relation to the Mokbel subpoena?---Yes.
14
10:21:11 15 Did you know anything about that or would you have at the
10:21:14 16 time?---I can recall that. I didn't think, as I said
10:21:17 17 yesterday, that Ms Gobbo acted for Mr Waters but I have a
10:21:23 18 recollection of seeking some advice from Mr Maguire, who
10:21:30 19 was engaged by Victoria Police on a number of occasions.
20
10:21:34 21 Do you know whether there were written instructions to
10:21:37 22 Mr Maguire in relation to the advice being sought and who
10:21:41 23 would - - - ?---No, I don't.
24
10:21:45 25 - - - have written those instructions?---No, I don't. I
10:21:48 26 would have thought it would be a verbal briefing to Mr
27 Maguire but there may well have been written instructions.
28
10:21:53 29 There's an emailed request from Mr Waddell to
10:21:57 30 Mr Cornelius?---Right.
31
10:22:01 32 Seeking permission to have him briefed - - - ?---Engaged.
33
10:22:04 34 Engaged to advise for various reasons?---Yes.
35
10:22:05 36 And I think that email is sent on to Mr McRae with an
10:22:12 37 instruction to do that. I just wondered if there would be
10:22:16 38 any input from investigators as to what the written
10:22:18 39 instructions might be that are given to Mr Maguire?---Well
10:22:22 40 if there was written or verbal there would have been input
10:22:25 41 into, from Steve, because Steve the one, Steve's the lead
10:22:30 42 investigator and he's asking for an opinion in relation to
10:22:32 43 certain issues, obviously around PII and legal professional
10:22:36 44 privilege as you've pointed out. So whether he gave them
10:22:40 45 verbally or in writing he would have had input.
46
10:22:45 47 Was there any particular mechanism when legal advice was

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10:22:53 1 sought, did you generally go through VicPol's legal
10:22:56 2 department, through Mr McRae, or did you go elsewhere
10:22:59 3 yourself from time to time?---I don't - I think we always
10:23:02 4 went through Legal Services, through Finn's area, to get
10:23:09 5 advice because obviously there's a significant cost to the
10:23:12 6 organisation. So no one would do it without going through
10:23:16 7 the proper channels and/or seeking the most appropriate
10:23:26 8 person to provide the advice, which would be done through
10:23:28 9 Legal Services.
10
10:23:30 11 Yes. If I can just - I'll quickly take you to the email,
10:23:35 12 Mr Waddell's email to Mr Cornelius. VPL.0013.0001.0087.
10:23:55 13 Do you see the email down the bottom there, he's seeking
10:24:00 14 authority to further engage Mr Maguire, because he's been
10:24:04 15 engaged in relation to those Mokbel subpoena issues, to
10:24:07 16 provide advice on the admissibility or otherwise of aspects
10:24:10 17 of Ms Gobbo's statement. There are a number of issues
10:24:12 18 affecting the admissibility of some parts of the statement,
10:24:15 19 including potential legal professional privilege, opinion
10:24:18 20 and probative versus prejudicial value?---Yes.
21
10:24:21 22 And on it goes?---Yes.
23
10:24:24 24 That's on 15 July. If you go to your diary on 17 July. At
10:24:37 25 9 o'clock you're attending a meeting at VPC; is that
10:24:45 26 right?---Yes.
27
10:24:46 28 In relation to Petra Task Force - attend a meeting with
10:24:53 29 Petra Task Force personnel and board of management?---Yes.
30
10:24:57 31 To discuss Witness F, who's Ms Gobbo?---Yes.
32
10:25:00 33 And there's a note there that the return date on the
10:25:03 34 subpoena is - - - ?---28 August.
35
10:25:08 36 28 August. Presumably that might relate to the Mokbel
10:25:12 37 subpoena issue?---Yep.
38
10:25:14 39 Being discussed?---Yes.
40
10:25:16 41 Following that meeting Mr Cornelius, if we go back to that
10:25:27 42 email, instructs Mr McRae to brief Mr Maguire in the terms
10:25:34 43 suggested by Steve Waddell. Would it be likely, given that
10:25:37 44 you've been discussing the Witness F issues and the Mokbel
10:25:40 45 subpoena issues and that there'd been another email about
10:25:43 46 Witness F and the need for further legal advice, that those
10:25:46 47 matters would have been discussed at that meeting that

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10:25:50 1 morning?---I would say so.
2
10:25:52 3 Can you recall or could you say who was present at that
10:25:56 4 meeting?---I haven't noted - I know it says the board of
10:25:59 5 management but unless there's minutes I can't recall -
10:26:07 6 given that Simon was now the Chief, I don't think he was
10:26:10 7 sitting on the board of management any more, but I just
10:26:12 8 can't recall whether it was Dannye, Dannye Moloney I'm
10:26:17 9 referring to, or who - I'm not sure.
10
10:26:19 11 I think we understand that perhaps the board of management
10:26:22 12 became Mr Moloney, Mr Cornelius and Mr Ashton?---Yeah,
10:26:30 13 okay.
14
10:26:30 15 If there was anyone absent would you note that?---I don't
10:26:35 16 recall anyone being absent.
17
10:26:36 18 No. And given that you - - - ?---I don't recall others
10:26:41 19 stepping in.
20
10:26:41 21 Yes?---Because it was too sensitive to have too many
10:26:47 22 rotating, you know, if someone's not present someone else
23 jumps in. It wasn't like that.
24
10:26:50 25 The issues being discussed were far too sensitive?---Yes.
26
10:26:53 27 Given that you were Mr Overland's chief of staff would you
10:26:56 28 be reporting back to him on issues such as this, also given
10:26:59 29 that he had a particular interest in these matters?---Yes,
10:27:04 30 potentially I could have.
31
10:27:06 32 When you say potentially, is it more likely or - - -
10:27:09 33 ?---More likely that I would have.
34
10:27:11 35 Yes. I tender that email, Commissioner.
10:27:19 36
10:27:20 37 #EXHIBIT RC833A - (Confidential) Email chain between
10:27:23 38 Cornelius, McRae and Waddell 17/7/09.
10:27:31 39
10:27:32 40 #EXHIBIT RC833B - (Redacted version.)
10:27:34 41
10:27:34 42 If I can take to you a Briars Task Force update,
10:27:47 43 VPL.0100.0048.1646. This is an update of 27 July 2009.
10:28:01 44 Amongst other matters it notes that the Mokbel subpoena
10:28:05 45 issue is being finalised?---Yes.
46
10:28:08 47 There'd been limited Briars material released in relation

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10:28:11 1 to that?---M'hmm.
2
10:28:14 3 So that the potential compromise of Witness F was no longer
10:28:16 4 an issue?---Yes.
5
10:28:21 6 We see under the heading of Witness F that there's been
10:28:25 7 examination of notes and recordings revealed no
10:28:29 8 inconsistency with the draft statement, with the exception
10:28:33 9 of the issue in respect of the Perry admission and nil
10:28:41 10 issue re OPI hearing. Do you know what that's
10:28:44 11 about?---Which bit?
12
10:28:45 13 I expect that the exception of the issue in relation to the
10:28:48 14 Perry admission related to a difference between what she'd
10:28:51 15 told investigators when they interviewed her back in
10:28:55 16 January 2008 and what she says in the statement; is that
10:28:57 17 right?---I can't remember that, sorry.
18
10:28:59 19 Do you know what the OPI hearing issue - - - ?---Well I
10:29:02 20 assume that's when we were going to subpoena her to an OPI
10:29:05 21 hearing for Briars, so there's nil issue re the OPI
10:29:10 22 hearing.
23
10:29:10 24 Yes?---That's all I can take that to mean.
25
10:29:13 26 Then we have Mr Maguire's examining the statements still in
10:29:18 27 relation to admissibility and probative issues?---Yes.
28
10:29:22 29 Those are the issues that - - - ?---That Steve raised,
10:29:26 30 yes.
10:29:26 31
10:29:26 32 That Mr Waddell had raised. He's also going to provide
10:29:30 33 advice in relation to the prospect of the statement being
10:29:33 34 protected during the discovery process of the Petra and
10:29:36 35 Briars prosecutions should they not rely on the
10:29:40 36 statement?---Yep.
37
10:29:41 38 That's a situation in which police - often defence request
10:29:47 39 draft or incomplete statements during discovery proceedings
10:29:52 40 or processes; is that right?---Yes.
41
10:29:53 42 And he was going to advise on "whether or not we'd be
10:29:57 43 obliged to hand over this draft statement"?---Yes.
44
10:30:01 45 In such a case. Do you know what happened in relation to
10:30:03 46 that?---No, I don't.
47

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10:30:09 1 You understand that the draft statement was never handed
10:30:12 2 over in any subsequent proceedings?---No, I understand that
10:30:15 3 but I'm just not 100 per cent. Even though I was having
10:30:22 4 this oversight role, I was in a new position, as I've
10:30:27 5 outlined.
6
10:30:27 7 Yes?---So I mean I think Steve was the one driving most of
10:30:32 8 the investigation here.
9
10:30:33 10 Yes. You understand ultimately, from a practical sense,
10:30:41 11 there were subsequent proceedings in relation to Operation
12 Briars?---Yes.
13
10:30:45 14 Not against Mr Waters or Mr Lalor?---Correct, against
10:30:49 15 Mr Perry and others, yes.
16
10:30:50 17 And Ms Gobbo's draft statement was never disclosed during
10:30:53 18 that proceeding, is that your understanding?---I'm not
10:30:55 19 aware of that but I don't dispute it.
20
10:31:10 21 Do you know that those proceedings in relation to Mr Perry
10:31:18 22 and others were conducted on the basis of - the case was
10:31:24 23 put on the basis of Mr Waters' involvement and Mr Lalor's
10:31:29 24 involvement in the crime itself, although they weren't
10:31:34 25 charged?---Am I aware of that?
26
10:31:37 27 Yes?---No.
28
10:31:44 29 Around about, or through this same period of time you
10:31:48 30 became involved in some negotiations in relation to
10:31:52 31 protection arrangements for Ms Gobbo; is that right?---Yes.
32
10:31:56 33 And relationships had become strained with others that
10:31:59 34 she'd been dealing with?---Yes.
35
10:32:01 36 And she had been insisting that Commissioner Overland
10:32:06 37 attend?---Yes.
38
10:32:07 39 And you were his chief of staff, I take it, and reporting
10:32:10 40 back to him about what was going on?---Yes.
41
10:32:13 42 Through those negotiation processes?---Yes.
43
10:32:17 44 Essentially attending instead of him, or to appease
10:32:22 45 her?---Basically I told her that Mr Overland couldn't come,
10:32:28 46 however I would be fully briefing him in relation to the
10:32:32 47 discussions we were having. So I was, I assume, like a bit

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10:32:37 1 of a proxy.
2
10:32:39 3 And you were someone who had a knowledge of Ms Gobbo's past
10:32:42 4 dealings with the police?---Yes.
5
10:32:46 6 By that stage you would have known a lot more about her
10:32:52 7 past dealings with the police?---No, I didn't. As I said
10:32:56 8 yesterday, to this day I have no idea what information she
10:33:01 9 provided other than generally, as you discussed with me,
10:33:05 10 that she was representing those particular clients and so I
10:33:09 11 knew it was something around that. I didn't know exactly
10:33:13 12 what the information was.
13
10:33:18 14 You attended one meeting with Mr McRae; is that
10:33:24 15 right?---Yes.
16
10:33:25 17 And that was on 2 June 2009?---Yes.
18
10:33:29 19 According to your diary. Did you understand that Mr McRae
10:33:36 20 also had some understanding of her past history with the
10:33:39 21 police?---Yes.
22
10:33:41 23 In terms of her previously being a human source?---I would
10:33:45 24 assume so.
25
10:33:47 26 Do you know that?---I don't know that, no.
27
10:33:49 28 Is there anything that might lead you to believe that he
10:33:51 29 didn't know that?---I would assume that he did.
30
10:33:56 31 Why would you assume that he did?---Because he would have
10:34:00 32 been privy to the negotiations about the settlements, et
10:34:03 33 cetera, et cetera, that had been going on and I just
10:34:09 34 assumed that he would have known the extent of her
10:34:13 35 involvement with Victoria Police because of the risks that
10:34:15 36 were involved and for him to adequately to, you know, come
10:34:20 37 to some settlements, you know, it would be handy for him to
10:34:23 38 know that, I would have thought.
39
10:34:25 40 Just to put it in context though this is?---Yes.
41
10:34:28 42 She'd signed the statement in January 2009?---Yes.
43
10:34:31 44 Mr Dale had been charged in about February of 2009?---Yes.
45
10:34:34 46 The proceedings were reasonably new at this stage?---Yes.
47

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10:34:40 1 The committal proceeding wasn't listed until March of the
10:34:45 2 following year, 2010?---Yes.
3
10:34:48 4 It was at that stage adjourned for disclosure issues. The
10:34:53 5 following month Mr Williams was killed in gaol and Ms Gobbo
10:34:58 6 commenced the civil litigation?---Right.
7
10:35:01 8 So this was well prior to the civil litigation?---Yes.
9
10:35:04 10 Just to put it in some form of context?---Yeah, okay.
11
10:35:09 12 With those facts in mind, could you say one way or the
10:35:15 13 other whether you would have expected that Mr McRae knew
10:35:18 14 about Ms Gobbo's history as a human source?---I think it's
10:35:21 15 safe to say that I didn't know and if I - and if I'm
10:35:27 16 assuming it wrongly, well, I apologise, but it's just my
10:35:31 17 view. I don't know that we ever actually discussed her
10:35:35 18 past because, as I said to you before, I kept it absolutely
10:35:38 19 as tight as possible, so whether he knew or didn't know is
10:35:42 20 not in my knowledge. He was there as part of a settlement,
10:35:48 21 I understand, that we were negotiating and I was there
10:35:51 22 trying to negotiate the other aspect, that we're not - - -
23
10:36:00 24 And part of the significant matters I guess that needed to
10:36:04 25 be borne in mind as part of the settlement she wanted to be
10:36:08 26 compensated for what she'd lost?---Yes.
27
10:36:10 28 Is that right, and that was understood?---Not what - not
10:36:14 29 what she'd lost but not what she potentially - wouldn't
10:36:18 30 have had in the future.
31
10:36:19 32 Yes. There were significant concerns in relation to her
10:36:25 33 safety?---Yes.
34
10:36:27 35 Which were being discussed?---Yes.
36
10:36:29 37 And tied up in all of that was who she needed to be
10:36:34 38 protected from I guess?---Yes.
39
10:36:37 40 With those things in mind do you say you would have
10:36:41 41 understood that he needed to have a bit of a knowledge as
10:36:43 42 to what she needed to be protected from?---It makes sense
10:36:47 43 to me but I just can't remember whether he knew or he
10:36:49 44 didn't know, but as I said before, I would assume so.
45
10:36:55 46 You attended a number of other meetings following that; is
10:37:03 47 that right?---I think I met her on three occasions during

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10:37:07 1 this process.
2
10:37:11 3 Whilst the other meetings might not have been with
10:37:15 4 Mr McRae, there were some discussions you with Mr McRae
10:37:19 5 about those things I take it?---There were certainly
10:37:21 6 discussions around some of the issues that were - I mean
10:37:25 7 I'm not sure whether we're raising the context of what we
10:37:29 8 were discussing about the protection, but there were
10:37:32 9 certainly issues around that that were being discussed with
10:37:35 10 various lawyers.
11
10:37:39 12 Were you briefing Mr Cornelius, Mr Overland, the board of
10:37:44 13 management about those issues?---I would have been briefing
10:37:47 14 Mr Overland. This is not really matters for the board of
10:37:51 15 management per se any more, I would have thought. I don't
10:37:56 16 recall ever going to a board of management discussing these
10:37:59 17 issues. These issues were an exit strategy for Ms Gobbo.
18
10:38:06 19 Do you recall there being any concern about the fact that
10:38:10 20 you're negotiating potentially compensation for Ms Gobbo as
10:38:15 21 part of this and that that might impact upon her
10:38:18 22 credibility through the court processes?---No, I wasn't
10:38:22 23 negotiating her financial side of things. Let's be clear.
10:38:27 24 That was Mr McRae in relation to her settlement in relation
10:38:35 25 to loss of potential income, et cetera, et cetera.
26
10:38:37 27 Yes?---I wasn't negotiating that. But I knew that he was.
28
10:38:41 29 Yes. What was your role specifically then?---Should
10:38:48 30 I - - -
31
10:38:49 32 Your role with her was to provide some reassurance that the
10:38:52 33 Chief Commissioner knew what was going on?---Correct, in
10:38:56 34 relation to her safety.
35
10:38:57 36 In relation to her safety, all right. Thanks Commissioner.
37
10:39:02 38 COMMISSIONER: Thank you.
10:39:05 39
10:39:05 40 MR NATHWANI: I have a little cross-examination.
10:39:09 41
42 <CROSS-EXAMINED BY MR NATHWANI:
43
10:39:10 44 Mr Wilson, just briefly to complete the picture in relation
10:39:15 45 to Operation Khadi in relation to Peter Brown and
10:39:19 46 Mr Shields?---Yes.
47

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10:39:20 1 Because you gave some answer in relation to - I'll try and
10:39:24 2 rattle through this fairly quickly. The chronology is
10:39:28 3 November 2004 Azzam Ahmed is arrested for a second
10:39:33 4 case?---Yes.
5
10:39:34 6 In which Mr Brown is PII [REDACTED]?---Yes.
7
10:39:37 8 What then follows, around that time is Ms Gobbo makes the
10:39:39 9 complaint about Brown stealing money from Ahmed?---Yes.
10
10:39:42 11 Also - - - ?---Makes that complaint to Jack Vandersteen,
10:39:47 12 yes.
13
10:39:47 14 Absolutely. And in the same sort of context around that
10:39:50 15 time Ms Gobbo in front of Vandersteen, I think it's Sam
10:39:54 16 Jennings, a police officer?---Yes.
17
10:39:56 18 And also Peter Brown provides the horse racing
10:39:59 19 tickets?---Yes.
20
10:40:02 21 A complaint's made. What then follows is in 2006, as
10:40:06 22 you've said, Shields is provided a dismissal notice?---Yes.
23
10:40:10 24 Literally one of the, almost a footnote to that dismissal
10:40:14 25 was the allegation of him improperly receiving tickets from
10:40:18 26 Ms Gobbo?---It was part of the broader documentation, yes.
27
10:40:21 28 And following the process through, I think 2007 Shields is
10:40:25 29 dismissed?---Yes, because I think he appealed to a higher
10:40:29 30 court in relation to the dismissal.
31
10:40:31 32 And just to deal with that, because I've got the judgment
10:40:34 33 from there, in 2008 he appeals. The police are represented
10:40:39 34 at that time by Kerry Judd Senior Counsel, now the Director
10:40:44 35 of Public Prosecutions, and what happens is the appeal is
10:40:47 36 successful?---Yes.
37
10:40:48 38 And I'll just read out what is said in relation to Shields
10:40:52 39 and Ms Gobbo. "It is not suggested Shields broke any laws
10:40:58 40 by accepting the race tickets". Ms Judd made various
10:41:03 41 criticisms of him. The ruling says, "While the
10:41:06 42 Magistrates' Court at this particular time might not have
10:41:07 43 been an appropriate place to hand over the race tickets,
10:41:09 44 bear in mind the close relationship between the applicant
10:41:13 45 with the defence barrister Gobbo and the token value of the
10:41:16 46 tickets, it could not be said he'd done anything wrong. I
10:41:21 47 also know", this is the Chief of the VCAT proceedings,

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10:41:25 1 "this matter did not concern the Chief Commissioner of
10:41:29 2 Police in the dismissal proceedings". So pausing there.
10:41:32 3 As part of Mr Shields' dismissal this was irrelevant?---I
10:41:36 4 did say yesterday. I said it was the low-level of - it
10:41:39 5 wasn't really the reason that Mr Shields was dismissed.
6
10:41:42 7 We then obviously, the relevance here is in relation to
10:41:44 8 what happens at the OPI and you've given evidence in
10:41:48 9 relation to that. Are you aware that in 2007 Sol Solomon
10:41:53 10 and Cameron Davey, members of the police, met with Azzam
11 Ahmed and there was a discussion, I'll put it as neutrally
10:42:01 12 as that, in relation to stolen money and investigations
10:42:05 13 continued as a result?---No, I didn't know that, no.
14
10:42:07 15 To the broader topic, please, of the involvement of those
10:42:12 16 senior members of the Police Force in relation to the use
10:42:15 17 of Ms Gobbo, obviously a particular focus on Mr Overland
10:42:19 18 and some of the management members you've set out. I'm
10:42:28 19 going to use your statement to go through this please. If
10:42:32 20 we could start at paragraph 20?---Yes.
21
10:42:46 22 At this stage obviously you'd been made aware that
10:42:48 23 Ms Gobbo's a source, to put you back into context.
10:42:51 24 Ms Gobbo's met with Mr Swindells and DI Attrill and the
10:42:56 25 issue of coercive hearings is obviously discussed. You say
10:43:00 26 there, your diary records she was distressed and raised
10:43:04 27 some issues. You don't recall what those issues were. I'm
10:43:08 28 going to try and tease that out. We then know that on 25
10:43:12 29 July, so this is paragraph 21 - sorry, let me just go back
10:43:15 30 slightly. As a result of whatever she said to you, you
10:43:18 31 contacted Sandy White?---Yes.
32
10:43:21 33 Her handler?---Yes.
34
10:43:22 35 And I would suggest to you the only reason you did that,
10:43:25 36 because she was expressing a concern that if she was to be
10:43:30 37 produced before a coercive hearing it would reveal her role
10:43:34 38 as a human source?---Yes.
39
10:43:35 40 And that seems to follow through. By the 25th you then are
10:43:39 41 briefing Mr Cornelius?---Yes.
42
10:43:40 43 And again that must be in relation to her use or discussion
10:43:43 44 of her use as a human source?---Yes.
45
10:43:45 46 And it could be revealed. That's what the security
10:43:49 47 concerns are about?---Yes.

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1
10:43:50 2 And as we see at paragraph 22, it makes sense then that you
10:43:56 3 meet Tony Biggin, Sandy White and Peter Smith, because they
10:44:01 4 are all related to the SDU and her use as a
10:44:04 5 source?---Correct.
6
10:44:05 7 If I was to say to you, just to see what was going on, it's
10:44:08 8 pretty evident the concerns she's raising are in relation
10:44:14 9 to the revelation that she's a human source?---Potentially,
10:44:16 10 yes.
11
10:44:18 12 Cornelius is discussing the matter with you. Then the last
10:44:20 13 line at paragraph 22, "The ESD were happy to withdraw her".
10:44:23 14 In other words, "We don't do this, we won't use her, we
10:44:31 15 won't reveal the fact she's a source", some might say bury
10:44:34 16 it, and not use her in the investigation, and then you
10:44:34 17 brief Overland?---Yeah, we were happy enough, looking at
10:44:36 18 the bigger picture, we were happy enough, given the
10:44:41 19 circumstances, as explained to us by the Source Development
10:44:45 20 Unit and their managers, to not proceed with the coercive
10:44:51 21 hearings.
22
10:44:51 23 If I could then just work through further contact.
10:44:56 24 Notwithstanding that we see paragraph 25, those
10:45:02 25 senior?---Yes.
26
10:45:03 27 Who obviously would have been made aware of the concerns
10:45:06 28 raised by the SDU, and I use it broadly and obviously
10:45:09 29 include Mr Biggin in relation to that, is then coming back
10:45:13 30 to you saying, "Actually, we still want to use" - "Or
10:45:16 31 notwithstanding what we've been told we want to see her at
10:45:21 32 a coercive hearing in relation to Petra"?---Yes.
33
10:45:25 34 I just want to follow this through. Obviously then the
10:45:29 35 Task Force you discuss is Briars, so if we go to paragraph
10:45:34 36 28 you set out who is involved in Briars Task Force board
10:45:39 37 of management. We know it's Overland, Cornelius and
10:45:43 38 Ashton?---Yes
39
10:45:44 40 Ashton obviously is involved at the OPI, one of the
10:45:47 41 coercive hearings or venues that can be used?---Yes.
42
10:45:51 43 Paragraph 29, Overland briefs you that Ms Gobbo was to be
10:45:54 44 subpoenaed to be examined by the OPI?---Yes.
45
10:45:57 46 Again, was any discussion made in relation to what had been
10:46:00 47 said some months earlier by the SDU about the concerns

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10:46:04 1 about revealing her as a source and the safety issues that
10:46:09 2 it would cause her?---I assume that they would have been
10:46:13 3 aware of those issues because they were the board of
10:46:16 4 management, so they were across all the issues in relation
10:46:19 5 to her.
6
10:46:20 7 Going on to paragraph 30, we then see at the last line
10:46:27 8 Ms Gobbo was then tasked to obtain further information from
10:46:30 9 Waters, okay?---Yes.
10
10:46:32 11 Just following this through to help you. At paragraph 32
10:46:35 12 you say, "I prepared an update for the Briars Task Force
10:46:39 13 board of management for 10 September which referred to
10:46:41 14 tasking her"?---Yes.
10:46:42 15
10:46:44 16 "As part of an ongoing investigation. The copy I've been
10:46:48 17 shown is handwritten notes which I'm informed were written
10:46:50 18 by Cornelius"?---Yes.
19
10:46:53 20 "I've also been shown paragraph 70 of the witness statement
10:46:53 21 prepared by him", et cetera. Pausing there. The tasking
10:46:56 22 of Ms Gobbo?---Yes.
23
10:46:58 24 Was that, in effect, a direction that had come from that
10:47:04 25 board of management?---No, I think that was something we
10:47:07 26 were putting up, because you've got to understand making a
10:47:11 27 statement and giving evidence is one thing, tasking to
10:47:14 28 gather information or intelligence, let's call it that, is
10:47:19 29 another thing because we can get that information if we
10:47:22 30 task Ms Gobbo, but we don't necessarily have to have a
10:47:26 31 statement taken or any disclosure in relation to that
10:47:30 32 necessarily, because if, depending on what the information
10:47:32 33 is, as I said yesterday, we might be able to get it from
10:47:35 34 another angle.
35
10:47:36 36 I understand. Intelligence in effect. Paragraph 32,
10:47:41 37 though, so looking at this, when you've gone to board of
10:47:44 38 management, has anyone there raised any concerns about
10:47:47 39 using Ms Gobbo in that way?---In a tasking manner?
40
10:47:52 41 Yes?---Not to my recollection, no.
42
10:47:56 43 Just to reiterate, obviously the people involved were
10:47:59 44 Overland, Ashton and Cornelius?---Yes.
45
10:48:07 46 We then see obviously that she's tasked again, paragraph
10:48:12 47 35. You say, "I believe this tasking would have followed

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10:48:15 1 the discussion at the board of management meeting two days
10:48:18 2 earlier"?---Yes.
3
10:48:20 4 Again, the reason I ask you these questions is because we
10:48:23 5 have statements from other people?---Sure
6
10:48:24 7 Which seem to suggest a particular view about the use of
10:48:27 8 Ms Gobbo or their intention in using her, which I'll come
10:48:31 9 to. But again, paragraph 35, you say it's followed from
10:48:35 10 discussion at the board of management meeting two days
10:48:38 11 earlier?---Yes.
12
10:48:40 13 To the best of your knowledge and recollection did any of
10:48:42 14 the people on that board of management say anything
10:48:45 15 contrary to the use of Ms Gobbo in that way, the
10:48:48 16 tasking?---No.
17
10:48:49 18 Paragraph 39, and by this time, just in context, I'm
10:48:59 19 jumping quite quickly through it, but by paragraph 37 you
10:49:03 20 have information that Waters has got the address from the
10:49:06 21 LEAP records and so then what follows - - - ?---No, no, no.
10:49:10 22 He assures that it didn't come from the LEAP database.
23
10:49:14 24 Yes, sorry. So in paragraph 39 you then have a discussion
10:49:16 25 with Cornelius?---Yes.
26
10:49:19 27 And this is after having a discussion with Ms Gobbo's
10:49:23 28 handler in relation to the meeting with Waters?---Yes.
29
10:49:27 30 And as a result Cornelius reiterates he will speak to
10:49:32 31 Mr Overland to speak to Ms Gobbo's handler to see what
10:49:36 32 could be done to assist Briars?---Yes.
33
10:49:37 34 Pausing there. The reason it's going to Overland, I think
10:49:41 35 you said earlier, he had a personal interest, you said, in
10:49:45 36 corruption?---Well, we all do.
37
10:49:47 38 No, I understand?---But he more so because obviously he'd
10:49:51 39 been in, come across from the Australian Federal Police,
10:49:54 40 worked all through Purana, established Purana, and I think,
10:49:59 41 you know, he was particularly determined to weed out, as
10:50:04 42 was Christine, the corrupt police officers in Victoria
10:50:07 43 Police.
44
10:50:08 45 So to say that he took either a backwards step or wasn't
10:50:11 46 involved in the forensic decision-making investigating
10:50:15 47 process or even "not guiding investigators", what would you

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10:50:23 1 say about that?---Are you saying that I said that?
2
10:50:26 3 No, no, not you?---Oh.
4
10:50:28 5 If I was to say that Mr Overland was not involved in
10:50:32 6 guiding investigators or involved in the forensic
10:50:35 7 decision-making process in Purana, Briars or Petra, what
10:50:41 8 would you say, and we'll go through more examples?---I
10:50:42 9 think he was.
10
10:50:43 11 Yeah, I don't disagree. Paragraph 41, you say that having
10:50:53 12 come back you speak to Waddell. Your diary records there
10:50:57 13 was a need to discuss the matter with DC Overland, and
10:51:02 14 again that's because he took an active involved interest in
10:51:06 15 this investigation?---Yes.
16
10:51:07 17 Ditto Cornelius?---Yes.
18
10:51:11 19 And as a result you were wanting to speak to Ms Gobbo in
10:51:16 20 relation to a potential coercive hearing. Again at that
10:51:20 21 stage were either of those two you spoke to saying anything
10:51:23 22 to the contrary about her attending a coercive
10:51:27 23 hearing?---No.
24
10:51:31 25 Jump, please, to paragraph 47. You've changed role and
10:51:34 26 you've told us you're just overseeing. 17 July 2008, you
10:51:43 27 discuss the Briars Task Force with Mr Overland, including
10:51:45 28 the potential use of Ms Gobbo. Again, you don't recall
10:51:48 29 what was discussed?---Yep.
30
10:51:55 31 Best of your knowledge and recollection, was he ever
10:51:58 32 expressing any concern about the use of Ms Gobbo to assist
10:52:04 33 that investigation?---To Briars?
34
10:52:06 35 Yes?---Yeah, I think he - I think there was a push back in
10:52:10 36 relation to exposing her to Briars, and obviously Waddell
10:52:17 37 and co. pushing the other way.
38
10:52:23 39 What were his concerns in the use of her in Briars at that
10:52:26 40 stage?---I'm speculating here because as I've said I don't
10:52:29 41 recall the conversation but I would assume that any
10:52:31 42 exposure of her as a source and any exposure of her as a
10:52:37 43 potential witness would be of concern to him.
44
10:52:40 45 Of concern to him. But was that because of what it would
10:52:43 46 mean to her health or more because it would reveal issues
10:52:49 47 with convictions obtained up to that point?---I'd be

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10:52:52 1 speculating, I'm sorry. It would be unsafe for me to
10:52:55 2 answer that.
3
10:52:57 4 Fair enough. Paragraphs 48 and 49. You were shown some of
10:53:00 5 the letters or the threats Ms Gobbo received or people
10:53:07 6 talking about Ms Gobbo, including Johnson. Now, as a
10:53:12 7 result we see what you then do the next day is you brief
10:53:17 8 Mr Overland?---Yes.
9
10:53:19 10 Again, you don't recall what was discussed but it's
10:53:23 11 possible Waddell wanted to use Gobbo in the Briars
10:53:25 12 investigation and that letters had prompted him to having
10:53:29 13 asked Overland to consider using Ms Gobbo?---Yes.
14
10:53:32 15 Again, you don't have any recollection but what we see then
10:53:36 16 follows is a meeting, and this is paragraph 51, with Jeremy
10:53:41 17 Rapke, who is Director at the time?---Yes.
18
10:53:45 19 Geoff Horgan, who we know is involved in many of the
10:53:48 20 prosecutions, and Andrew Tinney again?---Yes.
21
10:53:51 22 From the OPP, again with Overland, Waddell, Iddles. Was
10:53:59 23 the fact that Ms Gobbo was a human source discussed at that
10:54:02 24 meeting?---No.
25
10:54:04 26 If I could just ask you to look at - if we can go to the
10:54:09 27 source management log for 2958, the date 1 July 2009. I
10:54:14 28 know it's seven months later but I just want to ask you a
10:54:18 29 couple of bits about this.
10:54:44 30
10:54:44 31 MS O'GORMAN: Commissioner, can I ask that that be put on
10:54:46 32 the back screen?
33
10:54:47 34 COMMISSIONER: Yes. I presume there's no difficulty with
10:54:49 35 that. If there is a difficulty we'll need you to come
10:54:52 36 forward.
10:54:54 37
10:54:54 38 MS O'GORMAN: Yes.
10:54:59 39
10:55:10 40 MR NATHWANI: The 1st. There's an entry there. I just
10:55:16 41 want to put this in context. This is after Ms Gobbo is
10:55:32 42 de-registered, signed the statement, Petra, and there's
10:55:33 43 moves afoot by Waddell to consider using her for
44 Briars?---Yes.
45
10:55:37 46 Ms Tittensor certainly discussed parts of this but you can
10:55:40 47 see there there's a meeting between the handlers. It says,

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10:55:44 1 "Informed by Waddell that Rapke aware human source is a
10:55:48 2 witness", do you see that? There's then a discussion about
10:55:54 3 the subpoenas in relation to the Mokbel murder trial and we
10:56:00 4 see there Briars are attempting to fight that request which
10:56:03 5 could encompass SDU documents and have lodged a
10:56:09 6 confidential affidavit before the judge, and it was a judge
10:56:12 7 obviously who would not entertain the same, insisting he
10:56:16 8 runs a transparent court and no secrets will be kept from
10:56:16 9 officers of the court. That obviously means he would want
10:56:19 10 to disclose that material, whatever it is?---Yes.
11
10:56:22 12 What we then see is obviously the Director of Public
10:56:24 13 Prosecutions back then, 1 July 2009, advises that the
10:56:26 14 matter may have to go appeal or be withdrawn, okay? That's
10:56:38 15 evidently in relation to the confidential affidavits
10:56:40 16 supplied to the judge. And if we follow what else is said,
10:56:45 17 "Waddell to meet with Cornelius today re these issues.
10:56:49 18 Advised Waddell human source is not yet a witness and
10:56:52 19 material from SDU should be subject to privilege claim".
10:56:55 20 So it's clearly a discussion there about trying to hide the
10:56:59 21 fact she's a human source from Mokbel and it's not declared
10:57:06 22 on the subpoenas?---Yes.
23
10:57:09 24 And it appears to be saying that Rapke is advising the
10:57:10 25 matter may have to go to appeal or be withdrawn, in other
10:57:14 26 words, rather than disclose the information, drop the
10:57:17 27 murder trial?---Yes.
28
10:57:18 29 Looking at that, obviously you weren't present for that but
10:57:20 30 was there a time that you became aware that Mr Rapke knew
10:57:25 31 that Ms Gobbo was a source?---Well obviously he is aware
10:57:29 32 here.
33
10:57:30 34 Undoubtedly it reads that way. But looking back at the
10:57:34 35 meeting you seem to have - - - ?---No, but that meeting
10:57:37 36 that I had with Mr Rapke involved others and to the best of
10:57:41 37 my recollection we never discussed the fact that she was a
10:57:43 38 human source in October 08.
39
10:57:46 40 Okay?---We were basically asking experienced Crown
10:57:52 41 prosecutors whether at this point in time was there
10:57:57 42 sufficient evidence to charge in relation to the murder and
10:58:01 43 death of Chartres-Abbott.
44
10:58:03 45 Do you know, it's probably a matter of record and I'm just
10:58:06 46 asking just in case you know, the actual trial in relation
10:58:10 47 to the Mokbel murder, the Lewis Moran murder, who

.05/12/19

10526

WILSON XXN

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10:58:14 1 prosecuted it?---No.
2
10:58:23 3 If we could go to paragraph 56 of your statement, please,
10:58:27 4 and just continue. Paragraph 56 reads on 25 March 2009 you
10:58:37 5 received an email from Waddell attaching a supplementary
10:58:43 6 investigation plan for the Briars Task Force investigation,
10:58:46 7 we looked at it yesterday?---Yes.
8
10:58:48 9 It sets out a conversation he had with Sandy White about a
10:58:51 10 witness, which you believed to be Ms Gobbo. And you see
10:58:54 11 what it then sets out. That document by that point, the
10:59:03 12 concern, you agree, was trying to protect or hide the fact
10:59:08 13 she'd been a human source as opposed to anything about her
10:59:10 14 safety?---Sorry, just say that again please.
15
10:59:23 16 We saw the email yesterday and the reference to the
10:59:26 17 historical activities?---Yes.
18
10:59:27 19 Do you agree that email, it was only because you received
10:59:31 20 it - - - ?---Sorry, in reference to historical activities.
21
10:59:36 22 Yes. I think the tone of the email was to protect the fact
10:59:40 23 she was a human source?---Yes.
24
10:59:41 25 And hide all of that, as opposed to anything about her
10:59:43 26 personal safety?---In reference to historical matters, yes.
27
10:59:46 28 And as we see what follows through is at paragraph 60 you
10:59:55 29 then are briefed and it's a chain, you then brief Cornelius
10:59:59 30 about safety issues to Ms Gobbo which I recall related to
11:00:03 31 concerns about being overseas. You also told Cornelius
11:00:06 32 about Ms Gobbo's information being of value to the Briars
11:00:09 33 investigation?---Yes.
34
11:00:11 35 You don't just stop there, you then briefed Mr Overland in
11:00:14 36 relation to it?---Yes.
37
11:00:16 38 Just going through just your statement, it's evident, do
11:00:19 39 you agree, that Cornelius, Overland and sometimes Ashton
11:00:24 40 when he's on the BoM were kept abreast of everything in
11:00:27 41 relation to the use of Ms Gobbo?---Yeah, I would have
11:00:30 42 thought so, yes.
43
11:00:32 44 And at times taking an active involvement?---Yes.
45
11:00:35 46 In particular Mr Overland. He never said not to use
11:00:38 47 Ms Gobbo at all?---No.

.05/12/19

10527

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1
11:00:39 2 He never expressed to you concerns about her use in any
11:00:43 3 way?---Sorry, he never said to - no, he did have concerns
11:00:47 4 at some stage in relation to the use of Ms Gobbo in the
11:00:51 5 Briars investigation, yes.
6
11:00:52 7 But as we discussed earlier, that was potentially because
11:00:56 8 of the revelation that she was a human source and it may
11:00:59 9 prejudice earlier convictions or proceedings?---Yes, but he
11:01:02 10 still had concerns about using her. What the motives were
11:01:06 11 are irrelevant. He was concerned that she shouldn't be
11:01:09 12 used for Briars at some stage.
13
11:01:12 14 Did he ever express any concern about her personal
11:01:16 15 safety?---Mr Overland?
16
11:01:17 17 Yes?---Of course he did.
18
11:01:19 19 How did that balance with his desire to ensure prosecutions
11:01:26 20 in relation to Petra and Briars? That was a poorly asked
11:01:33 21 question. Do you agree his attitude was getting
11:01:36 22 convictions for Briars and Petra in particular trumped her
11:01:41 23 safety?---No.
24
11:01:47 25 Okay. You accept, as you have, that he was involved in the
11:01:53 26 investigations and made forensic decisions as far as they
11:01:56 27 were concerned?---I agree that he was actively involved in
11:02:02 28 the investigations, yes.
29
11:02:03 30 Thanks very much.
31
11:02:05 32 COMMISSIONER: Thanks Mr Nathwani. Mr Chettle.
11:02:07 33
34 <CROSS-EXAMINED BY MR CHETTLE:
35
11:02:08 36 Yes, thank you, Commissioner. Mr Wilson, you were taken to
11:02:14 37 an entry in a diary of Mr Black where he had a discussion
11:02:19 38 with Mr Iddles?---Yes.
39
11:02:21 40 Can I take you back to that diary of 3 February 09 of
11:02:28 41 Mr Black. You had it up just a moment ago. I believe it's
11:02:35 42 the 3rd.
43
11:02:47 44 COMMISSIONER: 3rd of June it is.
11:02:49 45
11:02:49 46 MR CHETTLE: 3rd of June, thank you.
47

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11:02:56 1 COMMISSIONER: Ms Tittensor was asking questions about it
11:02:59 2 earlier this morning.
11:03:00 3
11:03:00 4 MR CHETTLE: Yes. Sorry, I've written down the wrong date.
5
11:03:04 6 COMMISSIONER: I'm just trying to help the technological
11:03:07 7 people.
11:03:14 8
11:03:16 9 MR CHETTLE: Here we go. At the time of 14:30 on that
11:03:20 10 day - it must be the next page. Keep going. It's
11:03:28 11 obviously not 3 June either.
12
11:03:34 13 COMMISSIONER: That's what I thought she crossed on.
11:03:37 14
11:03:37 15 MR CHETTLE: Mine is p.9 of 26 on the bottom. You have to
11:03:41 16 go right back, I'm sorry. You see there's 20 of 26 there.
11:03:44 17 The one I'm looking at has 9 of 26 on the bottom.
18
11:03:48 19 COMMISSIONER: This is 29 May. That was also
11:03:51 20 cross-examined on?
11:03:52 21
11:03:53 22 MR CHETTLE: That's it, thank you. 14:30 on that day, 29
11:03:56 23 May.
24
11:03:57 25 COMMISSIONER: 29 May, right.
11:03:58 26
11:03:59 27 MR CHETTLE: A call by Detective Sergeant Iddles who
11:04:01 28 requested a meeting re Operation Briars, do you see that
11:04:06 29 one?---Yes.
30
11:04:06 31 As I understand what you're now saying, that's the day that
11:04:09 32 Iddles came back from Bali, or very shortly after, and he
11:04:15 33 then calls Black, down to the next page, and we come to the
11:04:20 34 entry you were shown before where at 17:30 hours he meets
11:04:24 35 with Mr Iddles?---Yes.
36
11:04:26 37 And as you read this document, what happens is there's a
11:04:29 38 discussion, background issues which Ms Tittensor took you
11:04:32 39 through, and then Mr Black records what it is that Briars
11:04:36 40 are saying about it and then puts the response of SDU to
11:04:40 41 what Mr Iddles is raising. Do you follow the way that
11:04:45 42 works?---Yes.
43
11:04:46 44 See, the statements that - they still want a statement from
11:04:52 45 her and that the disclosure will initiate a Royal
11:04:55 46 Commission with perceived unsafe verdicts is what you
11:04:58 47 understand Mr Iddles had previously said to you, or said -

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11:05:02 1 he'd found out in Bali and he's conveying that to
11:05:07 2 Mr Black?---Yes.
3
11:05:08 4 Right. Now, in summary do you understand that SDU resisted
11:05:13 5 the idea that Ms Gobbo - the material they held in relation
11:05:19 6 to Ms Gobbo should be provided to the Briars Task
11:05:22 7 Force?---Yes.
8
11:05:25 9 There is a difference between the gathering of intelligence
11:05:27 10 and the gathering - and being a witness, isn't
11:05:31 11 there?---Yes.
12
11:05:31 13 And in fact you spelt it out before. Traditionally it's a
11:05:36 14 bad idea to try and turn intelligence into evidence, isn't
11:05:40 15 it?---From a source?
16
11:05:42 17 Yes?---Yes.
18
11:05:43 19 As far as practical common sense and experience it usually
11:05:51 20 leads to disaster?---It's a bad idea.
21
11:05:54 22 That's what the proposal was in relation to Briars, they
11:05:56 23 were taking material that had been obtained from an
11:05:59 24 intelligence basis?---Yes.
25
11:06:00 26 And turned into evidence or tried to?---That's right.
27
11:06:06 28 Briars sought to get from the SDU records and materials and
11:06:12 29 tape recordings that would help with them putting together
11:06:14 30 something with Ms Gobbo?---Yes.
31
11:06:18 32 And SDU didn't want that to happen, but it ultimately did
11:06:23 33 happen when Command ordered it to happen, didn't it?---Yes.
34
11:06:27 35 In that entry that you were taken to just a moment ago on 1
11:06:30 36 July 2009, underneath that there's another entry, if we can
11:06:35 37 go back to the last entry that Ms Tittensor pulled up this
11:06:40 38 morning - sorry, not Ms Tittensor, Mr Nathwani. He brought
11:06:44 39 up the ICR for 1 July - - -
40
11:06:46 41 COMMISSIONER: The SML I think.
11:06:51 42
11:06:52 43 MR CHETTLE: The source management log for 1 July 09.
44
11:06:55 45 COMMISSIONER: I take it you've got a copy of this,
11:06:57 46 Ms O'Gorman? You've got a copy of this, have you?
11:07:00 47

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11:07:01 1 MS O'GORMAN: I don't think we do.
2
11:07:02 3 COMMISSIONER: You don't have a copy of the SMLs.
11:07:05 4
11:07:07 5 MS O'GORMAN: We have no electronic copy, not of the entire
11:07:09 6 SMLs.
7
11:07:10 8 COMMISSIONER: But of this one?
11:07:11 9
11:07:11 10 MS O'GORMAN: Of 1 July 2009 only.
11
11:07:13 12 COMMISSIONER: You do have that one?
11:07:14 13
11:07:15 14 MS O'GORMAN: Just that SML.
11:07:16 15
11:07:17 16 MR CHETTLE: I'm not actually going to the one of 1 July
11:07:21 17 which you have in fact already asked questions about and
11:07:23 18 Mr Rapke. Do you see the entry underneath it, on 3 July 09
11:07:27 19 Mr Waddell obtained - - -
20
11:07:29 21 COMMISSIONER: Could someone just make some room for
11:07:32 22 Ms O'Gorman at the Bar table, please. Is there any problem
11:07:35 23 with having this up on the screen?
11:07:37 24
11:07:38 25 MR CHETTLE: Can you move it up so it only shows the 3rd of
11:07:42 26 July entry and then they won't have any problem with it
11:07:46 27 going on the screen.
28
11:07:47 29 COMMISSIONER: I wouldn't have thought so.
11:07:48 30
11:07:49 31 MR CHETTLE: On 3 July the SDU provide Mr Waddell with a
11:07:52 32 number of tape recordings. Do you see they're all listed
11:07:54 33 there?---Yes.
34
11:07:55 35 From various dates in the past. That's from September 05
11:07:58 36 through to April 06?---Yes.
37
11:08:00 38 Again, as you understand it, as a result of direction from
11:08:04 39 Command the materials were provided, including the very
11:08:07 40 tapes we see there?---Yes.
41
11:08:14 42 One of the issues - you mentioned before the significance
11:08:25 43 of the suggestion that the address for Chartres-Abbott
11:08:29 44 didn't come from a database, remember, a LEAP
11:08:32 45 database?---That's what Ms Gobbo was told by Waters.
46
11:08:34 47 That's what Ms Gobbo says she was told?---Said she was told

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11:08:38 1 by Waters.
2
11:08:39 3 There's a couple of problems with that. I mean you seem to
11:08:42 4 think it's a significant piece of evidence. One, Ms Gobbo
11:08:45 5 would have to be telling the truth. But more importantly,
11:08:50 6 Mr Waters my not be telling the truth?---Correct.
7
11:08:54 8 So it's pretty meaningless bit of information, isn't
9 it?---No.
10
11:08:54 11 It's important from an investigator's point of view?---It
11:08:56 12 was one of the key pieces of information that our
11:09:00 13 investigation had sought to uncover, how did they know the
11:09:04 14 address of the victim in this case, and to suggest that it
11:09:09 15 didn't - we knew it didn't come from LEAP.
16
11:09:14 17 Okay?---But to suggest that Waters is saying to her that
11:09:18 18 Lalor assures her it didn't come from LEAP.
19
11:09:23 20 Means he knows where it came from and it wasn't
11:09:25 21 LEAP?---Well, that's by inference.
22
23 Yes, I follow. I see what you mean. But the other
11:09:33 24 significant piece of material I should - apart from the
11:09:33 25 tapes SDU prepared a summary document of all the ICRs that
11:09:37 26 related to her providing evidence - her providing
11:09:41 27 information, I should say, not evidence, information about
11:09:45 28 Waters?---Yes.
29
11:09:46 30 There was a document produced and tendered through Sandy
11:09:49 31 White, Mr Winneke showed it to him, asked him if he
11:09:52 32 recognised it and it was given an exhibit number,
11:09:56 33 Commissioner. I haven't got its exhibit number. It's
11:09:58 34 probably referred to as summary document provided to Briars
11:10:03 35 Task Force. It's about - - -
36
11:10:06 37 COMMISSIONER: It rings a bell.
11:10:07 38
11:10:07 39 MR CHETTLE: It's quite a lengthy document.
40
11:10:09 41 COMMISSIONER: We'll try and find it.
11:10:10 42
11:10:11 43 MR CHETTLE: Anyway, I can probably live without it. Do
11:10:17 44 you understand that there was such a document provided?---I
11:10:18 45 don't dispute it. Mr Waddell was looking for that
11:10:22 46 particular evidence.
47

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11:10:23 1 So from a logistical point of view they're not going to
11:10:28 2 give you all the ICRs that related to it?--No.
3
11:10:30 4 So they cut out the bits that relate to Waters and Lalor
11:10:34 5 and give you those?--Yes.
6
11:10:36 7 Did you ever address the issue that in a draft statement -
11:10:40 8 firstly, in the draft statement that Mr Iddles and
11:10:44 9 Mr Waddell obtained from her in Bali?--M'mm.
10
11:10:51 11 Were you aware that it contained an alleged confession to
11:10:55 12 her by Mr Perry in relation to - - - ?--Well I've read it
11:10:58 13 today but I couldn't recall that at the time, no.
14
11:11:02 15 Certainly it's something pretty important, isn't it?--Yes.
16
11:11:06 17 And you didn't read it or check it to see whether or not
11:11:09 18 that was in the statement when they came back?--No.
19
11:11:13 20 And no one told you that in fact, "Hey, beauty, we've got
11:11:19 21 primary evidence of a confession to murder. Gobbo says
11:11:22 22 that Perry confessed to her"?--No.
23
11:11:25 24 That would be not marginal, not irrelevant, it would be
11:11:30 25 central to your investigations, wouldn't it?--Yes.
26
11:11:33 27 And in your notes in relation to the statement I think you
11:11:35 28 describe the statement of Gobbo as useful but not central
11:11:41 29 or not magnificent, or something to that effect. I think
11:11:45 30 I've read a description of Gobbo's statement as that. It
11:11:47 31 might be Mr Waddell?--No, I recall speaking to Steve and
11:11:54 32 Ron when they came back.
33
11:11:56 34 Yes?--And my general recollection is the statement was of
11:11:59 35 no value for the prosecution.
36
11:12:02 37 So it follows you have no recollection of either of them
11:12:05 38 saying, "Guess what? Perry confessed to it", that didn't -
11:12:11 39 - - ?--Yes, but I assumed, sorry, that when they said it
11:12:14 40 was of no value they didn't add much weight to
11:12:21 41 that confession is what I would assume.
42
43 All right. In the material that - - -
44
11:12:23 45 COMMISSIONER: Mr Chettle, we think the exhibit you were
11:12:24 46 looking for may be 524. It's extracts from ICRs relating
11:12:28 47 to Operation Briars.

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These claims are not yet resolved.

11:12:29 1
11:12:29 2 MR CHETTLE: That's it, Commissioner.
3
11:12:31 4 COMMISSIONER: From 16 September 09 to 30 December 09.
11:12:35 5
11:12:36 6 MR CHETTLE: You're very, very efficient.
7
11:12:39 8 COMMISSIONER: It's my associate. I'll take some credit
11:12:42 9 for my notes too, but I'd never have found it without her.
11:12:45 10
11 11 MR CHETTLE: Can you see that in front of you?---Yes.
12
11:12:46 13 Have you ever seen that before?---No.
14
11:12:48 15 Or did you see the document that Briars managed to get out
11:12:50 16 of the SDU?---No.
17
11:12:51 18 Okay, thank you. My instructions are that the handlers
11:12:54 19 prepared that in the way in which I've put to you
11:12:59 20 before?---Yes.
21
11:13:01 22 In that material there's an ICR, an extract from an ICR
11:13:07 23 where Ms Gobbo says that she tells her handlers that
11:13:10 24 Mr Perry killed Chartres-Abbott and - that he arranged for
11:13:16 25 PII [REDACTED] to kill Chartres-Abbott, I should say, do you
11:13:20 26 follow what I'm talking about?---Sorry, can you just - - -
27
11:13:22 28 No, I'm not going to find it. Can I summarise what I'm
11:13:26 29 trying to - - - ?---Okay.
30
11:13:28 31 She tells her handlers, and I'll find it if need be, that
11:13:31 32 PII [REDACTED] killed Chartres-Abbott at the request of
11:13:37 33 Mr Perry, do you follow?---Yes.
34
11:13:38 35 And she said the reason she knows this is because Mr Valos
11:13:41 36 told her that?---Right.
37
11:13:45 38 That's what's in the ICRs. If you accept that for a
11:13:48 39 moment, there's a significant difference from what she
11:13:50 40 tells in the ICRs to what's in the draft statement that was
11:13:53 41 produced and you saw?---Yes.
42
11:13:57 43 Okay. Now, can I take you to another matter, please. Can
11:14:05 44 I have Exhibit 401 put up, please. You were shown this,
11:14:10 45 it's an entry for Mr White's diary for 6 June 06 going back
11:14:14 46 in time. It was shown yesterday by Ms Tittensor.
47

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11:14:55 1 COMMISSIONER: Sandy White's diary entry, 6 June 06. Page
11:14:58 2 206 of his diary. Have you got the VPL number there,
11:15:28 3 Ms Tittensor?
11:15:29 4
11:15:29 5 MS TITTENSOR: I've got Exhibit 392 in my notes,
11:15:32 6 Commissioner.
11:15:32 7
11:15:33 8 MR CHETTLE: Okay.
11:15:49 9
11:15:49 10 MS TITTENSOR: It's p.142 of that exhibit.
11:15:51 11
11:15:51 12 MR CHETTLE: Thank you.
13
11:15:54 14 COMMISSIONER: That's 19 April 06, 392.
11:15:58 15
11:15:59 16 MR CHETTLE: Yes, it's the one - I thought it was 401, to
11:16:03 17 be frank, on 6 June.
18
11:16:05 19 COMMISSIONER: 6 June is 401. That's p.206.
11:16:22 20
11:16:24 21 MR CHETTLE: The entry reads - Exhibit 401 it is. "Advised
11:16:30 22 by Super Wilson of ESD that he is aware of the source ID.
11:16:37 23 Informed by AC Overland after being referred to same by
11:16:42 24 Superintendent Biggin when inquiries were made re putting a
11:16:47 25 TI on the source phone". Do you remember from - you went
11:16:51 26 through this yesterday?---Yes.
27
11:16:54 28 ESD are working on Shields and Brown, do you see that, at
11:16:54 29 Brighton. "He's intending to subpoena her to OPI hearings
11:16:57 30 and compel her to answer questions to see what occurs on
11:17:00 31 the TI". Again, that's an example of stirring the rabbits
11:17:05 32 and see what comes on the line, isn't it?---Yes.
11:17:08 33
11:17:08 34 "Advised by Overland to contact SDU re same. Advised
11:17:14 35 Wilson will consider appropriate course and action and meet
11:17:18 36 with same" - - -
11:17:18 37
11:17:19 38 MS TITTENSOR: I think Mr Chettle, you're reading the
11:17:21 39 source management log and not the diary entry that's on the
11:17:23 40 screen.
41
11:17:24 42 COMMISSIONER: That might explain - - -
11:17:26 43
11:17:26 44 MR CHETTLE: That's why I have the wrong number.
45
11:17:28 46 COMMISSIONER: The source management log we want for 6
11:17:30 47 June, is that right?

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11:17:31 1
11:17:32 2 MR CHETTLE: No, it's not Commissioner. I am reading the
11:17:34 3 start of it but yesterday there was - I had a typed version
11:17:41 4 of this and this is what's got me confused. That again,
11:17:45 5 Commissioner, is easily done. I apologise.
11:17:54 6
11:17:55 7 MS TITTENSOR: The 6 June entry that I took the witness to,
11:17:58 8 as well as the SML, is this entry that's on the current
11:18:02 9 page at 1745.
11:18:04 10
11:18:05 11 MR CHETTLE: Thank you. I can't find it, it's not the
11:18:07 12 right one.
13
11:18:09 14 COMMISSIONER: Do you want me to take the mid-morning break
11:18:11 15 now?
11:18:12 16
11:18:12 17 MR CHETTLE: That's probably a good idea, Commissioner,
11:18:15 18 thank you.
11:18:15 19
11:18:47 20 COMMISSIONER: All right, we'll take the break.
21
22 (Short adjournment.)
23
24
11:43:55 25 COMMISSIONER: Yes Mr Chettle.
11:43:56 26
11:43:56 27 MR CHETTLE: Thank you Commissioner. I still haven't found
11:43:59 28 the entry I want, Mr Wilson. But you remember there was a
11:44:02 29 conversation you had with Mr White where he had a
11:44:06 30 discussion with you about the number of people or he's
11:44:08 31 concerned about the number of people who knew of her
11:44:10 32 identity?---Yes.
11:44:11 33
11:44:11 34 You were taken to an entry about that yesterday but I can't
11:44:15 35 find it, all right?---Yes.
11:44:17 36
11:44:17 37 When you dealt with him, it was quite - it was quite
11:44:23 38 obvious to you, was it not, that he was doing everything he
11:44:27 39 could to protect the identity of the source that he was
11:44:31 40 managing?---Yes.
11:44:32 41
11:44:33 42 Indeed, up until the High Court decision that brings us
11:44:37 43 here now, the Victoria Police attitude was that protecting
11:44:40 44 the identity of the source was paramount, primarily for
11:44:44 45 safety reasons to the source?---Yes.
11:44:47 46
11:44:51 47 And certainly in 2005 through to 2009 that was the policy

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11:44:56 1 as was understood?---Yes.
11:44:58 2
11:45:00 3 When you - you were taken to an entry that you weren't able
11:45:06 4 to perhaps fully explain, that was the one that mentioned
11:45:10 5 privilege. Do you remember there was a reference to legal
11:45:14 6 privilege in your diary?---Yes.
11:45:15 7
11:45:15 8 That Ms Tittensor took you to. That occurred around about
11:45:19 9 the time that you were receiving information from,
11:45:22 10 effectively SDU, via - Ms Gobbo via SDU about Officer Brown
11:45:28 11 down in Brighton?---Yes.
11:45:30 12
11:45:32 13 Now, can I suggest to you the circumstances in relation to
11:45:36 14 that are these: it was clear to Mr White, and he had been
11:45:43 15 told by Ms Gobbo, that the conversations he had, she had
11:45:47 16 with her client about Mr Brown stealing money from him were
11:45:53 17 privileged, legally professionally privileged?---They were.
11:45:56 18
11:45:56 19 But it was at the - there was a no corruption tolerance
11:46:01 20 policy at Victoria Police, wasn't there? Put it this way,
11:46:06 21 Mr Biggin directed the information be passed along, even if
11:46:09 22 it was legally professionally privileged?---Yes.
11:46:15 23
11:46:16 24 And because this related to policemen allegedly stealing
11:46:22 25 money it was a matter that regardless of being LPP ended up
11:46:26 26 in your hands. Did you know that, by the way, that it was
11:46:29 27 legally professionally privileged?---I wasn't 100 per cent
11:46:32 28 sure because I wasn't sure how Ms Gobbo came by that
11:46:36 29 information that she passed to Mr Vandersteen, et cetera,
11:46:40 30 et cetera. I could assume it only came from Mr Ahmed.
11:46:45 31
11:46:45 32 It makes sense, doesn't it?---It makes sense but it doesn't
11:46:48 33 mean it had to have.
11:46:49 34
11:46:50 35 That entry about legal professional privilege in your
11:46:53 36 diary?---Yes.
11:46:53 37
11:46:53 38 Is consistent with what I've effectively run past you that
11:46:57 39 Mr White explained to you, "Look it's privileged", that's
11:47:00 40 why he said, "You can't use it, it's privileged"?---Yes.
11:47:02 41
11:47:02 42 "But it's information or intelligence that can be used for
11:47:05 43 background"?---Yes.
11:47:06 44
11:47:10 45 All right. Now, in the conversations you had with Mr White
11:47:17 46 he clearly understood that you knew Ms Gobbo was a human
11:47:23 47 source?---Yes.

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11:47:24 1
11:47:26 2 He knew that the Assistant Commissioner Cornelius knew that
11:47:34 3 she was a human source?---Yes.
11:47:40 4
11:47:40 5 And he knew that Mr Overland knew she was a human
11:47:43 6 source?---Yes.
11:47:44 7
11:47:44 8 He certainly knew that, had been told that Mr Ashton knew
11:47:50 9 she was a human source because of his involvement with the
11:47:52 10 OPI and the dealings with whether or not she'd be
11:47:56 11 compulsorily examined?---If Mr White says that then I
11:48:01 12 accept it.
11:48:02 13
11:48:02 14 You knew him for some time?---Yes.
11:48:04 15
11:48:05 16 Had you worked with him?---Yes.
11:48:08 17
11:48:09 18 Whereabouts, not at the Armed Robbery Squad?---No, he was,
11:48:13 19 when I was at Homicide Squad he was a junior Detective at
11:48:18 20 Homicide Squad.
11:48:19 21
11:48:20 22 You'd known him over those years and since?---Yes.
11:48:24 23
11:48:25 24 He took his job earnestly and seriously?---I would have
11:48:32 25 said he was a very professional, competent police officer.
11:48:38 26
11:48:39 27 And as far as - in his dealings with you?---H'mm.
11:48:43 28
11:48:43 29 He made no attempt to hide Ms Gobbo's involvement, what he
11:48:49 30 was doing with Ms Gobbo with you, he was frank and honest
11:48:53 31 with you as far as you can ascertain?---Well we never
11:48:56 32 discussed her involvement, I mean he's too professional for
11:49:00 33 that, he wouldn't discuss what she was doing other than the
11:49:03 34 fact where it could assist us.
11:49:06 35
11:49:08 36 His focus, as I think I started with you before, was to try
11:49:11 37 and keep her identity secret and he was trying to limit the
11:49:16 38 people who knew professionally?---Yes.
11:49:18 39
11:49:18 40 When you do know, he deals with you openly and honestly
11:49:21 41 with what he's doing as far as it relates to?---As far as
11:49:28 42 it relates to what we want, yes.
11:49:29 43
11:49:29 44 Can you look at it from his point of view - and you never
11:49:29 45 said to him, "Look, Mr White, what's going on here? She's
11:49:34 46 a lawyer, she's acting, she's a defence lawyer, how can you
11:49:37 47 be getting information from a defence lawyer", nothing like

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11:49:40 1 that ever took place?---No.
11:49:42 2
11:49:42 3 Nobody from Command, the people that you knew who knew,
11:49:47 4 neither Cornelius or Overland ever expressed to you
11:49:51 5 concerns about the fact that how on earth are they using a
11:49:54 6 lawyer, things to that extent?---They didn't raise it with
11:49:57 7 me, no.
11:49:57 8
11:49:58 9 Their concerns, any concerns that Overland had, was about
11:50:02 10 the need to protect her and her welfare as distinct from
11:50:06 11 balancing the evidentiary value she might be?---I think I
11:50:12 12 said before that he would have been concerned about keeping
11:50:16 13 her identity as a human source secret, of course.
11:50:21 14
11:50:22 15 With the policy that existed?---And the whole purpose of
11:50:26 16 keeping her secret is to ensure that no harm comes to her.
11:50:29 17
11:50:29 18 But not once did you ever hear anybody say - nobody said to
11:50:33 19 you, "What's going on with using a lawyer"?---No.
11:50:36 20
11:50:36 21 And no one ever communicated that to Mr White?---Well I
11:50:41 22 didn't.
11:50:41 23
11:50:41 24 No. So you know from looking at it from his point of view,
11:50:46 25 there he is running the source, he knows that not only do
11:50:52 26 you know, and you're a senior officer in ESD?---Yes.
27
11:50:54 28 Ethical Standards. Luke Cornelius is head of Ethical
29 Standards?---Yes
30
11:50:58 31 And Overland is the AC?---Yes.
11:51:00 32
11:51:04 33 As far as the OPI is concerned, their job is to look at
11:51:11 34 whether police are acting, part of their job is to look at
11:51:16 35 whether police are acting in a corrupt or improper
11:51:19 36 way?---Yes.
11:51:19 37
11:51:19 38 They have the power, if they want to, to institute their
11:51:22 39 own inquiries and their own investigations?---Absolutely.
11:51:25 40
11:51:25 41 And if Mr Ashton had had any concerns about the use of
11:51:29 42 Ms Gobbo as a source, it was open to him to run his own
11:51:33 43 investigation at OPI to inquire into that?---Yes, it is.
11:51:36 44
11:51:36 45 Thank you. Nothing further, Commissioner.
11:51:38 46
11:51:38 47 COMMISSIONER: Thank you. Yes, Ms Argiropoulos?

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11:51:42 1
11:51:42 2 MS ARGIROPOULOS: No questions, Commissioner.
11:51:44 3
4 COMMISSIONER: Any re-examination?
11:51:44 5
6 <RE-EXAMINED BY MS TITTENSOR:
7
11:51:48 8 Mr Wilson, do you know whether Mr White was reporting to
11:51:51 9 any of his superiors that Ms Gobbo was breaching legal
11:51:56 10 professional privilege?---I don't know, no.
11:51:59 11
11:51:59 12 You don't know what he was reporting to his
11:52:03 13 superiors?---No, I don't.
11:52:04 14
11:52:06 15 One last matter, Commissioner. I didn't tender document
11:52:10 16 Briars Task Force update 27 July 2009.
11:52:14 17
11:52:15 18 COMMISSIONER: Briars Task Force update, what date was
11:52:16 19 that?
11:52:17 20
11:52:17 21 MS TITTENSOR: 27 July 2009, VPL.0100.0048.1646.
11:52:25 22
11:52:26 23 #EXHIBIT RC834A - (Confidential) Briars Task Force update
11:52:29 24 27/7/09.
11:52:29 25
11:52:30 26 #EXHIBIT RC834B- (Redacted version.)
11:52:32 27
11:52:33 28 MS TITTENSOR: That's it, Commissioner.
11:52:36 29
30 MR COLEMAN: Sorry, Commissioner, can I just ask a matter
31 arising from what Mr Chettle said?
32
33 COMMISSIONER: Yes, all right then.
34
35 <CROSS-EXAMINED BY MR COLEMAN:
36
11:52:37 37 Sir, Mr Chettle just asked you a question about Mr Ashton
11:52:40 38 of the OPI and whether he could have launched an
11:52:44 39 investigation of his own motion if he had any concerns that
11:52:48 40 Mr Chettle raised, do you remember that question?---Yes.
11:52:50 41
11:52:51 42 I should say I act for Mr Ashton?---Yes.
43
11:52:53 44 You're aware that Mr Ashton at the relevant time was the
11:52:57 45 Deputy Director of the OPI?---Yes.
11:52:59 46
11:52:59 47 He reported to the Director of the OPI?---Correct.

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11:53:01 1
11:53:01 2 It was the Director's decision as to whether or not any
11:53:05 3 investigation would be launched of the OPI's own
11:53:06 4 motion?---Yes, probably to clarify that, I meant the OPI
11:53:14 5 could launch its own investigation, not necessarily
11:53:16 6 Mr Ashton himself, but the OPI as a body.
7
11:53:19 8 Yes, thank you.
11:53:19 9
11:53:19 10 COMMISSIONER: Who was the Director of the OPI at that
11:53:22 11 time?---I can't recall.
11:53:29 12
11:53:29 13 MR COLEMAN: I think it was Mr Brouwer?---I do recall
11:53:35 14 Mr Brouwer being there but I wasn't exactly sure at that
11:53:36 15 time.
11:53:36 16
11:53:36 17 Thank you very much, you have been very helpful. Could I
11:53:39 18 just ask you is there anything else that hasn't been
11:53:42 19 covered in evidence that you would like to tell the Royal
11:53:45 20 Commission that might be relevant to the Terms of
11:53:52 21 Reference?---Not immediately coming to mind.
11:53:54 22
11:53:54 23 No, all right then. Thanks very much, you're excused and
11:53:59 24 free to go.
11:54:01 25
26 (Witness excused.)
27
11:54:01 28 <(THE WITNESS WITHDREW)
11:54:01 29
11:54:01 30 COMMISSIONER: The next witness is?
11:54:06 31
11:54:07 32 MR WOODS: The next witness is Paul Sheridan, Commissioner.
11:54:10 33
11:54:11 34 COMMISSIONER: Yes.
11:54:14 35
11:54:14 36 MR HOLT: I appear for the witness Mr Sheridan,
11:54:17 37 Commissioner.
11:54:17 38
11:54:18 39 COMMISSIONER: Thanks very much, Mr Holt.
11:54:27 40
11:54:28 41 MR HOLT: And Mr Sheridan will take the oath, Commissioner.
11:54:31 42
11:54:31 43 COMMISSIONER: Thank you. If you could take the Bible in
11:54:33 44 your right hand and the oath will be administered, thank
11:54:37 45 you.
46
47

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11:54:37 1 <PAUL ANTHONY SHERIDAN, sworn and examined:
11:54:48 2
11:54:49 3 MR HOLT: Your full name is Paul Anthony Sheridan?---Yes,
11:54:53 4 it is.
11:54:53 5
11:54:53 6 And you are presently a Detective Superintendent of
11:54:59 7 Victoria Police?---I am, yes.
11:55:00 8
11:55:00 9 For the purposes of this Royal Commission, Mr Sheridan,
11:55:03 10 have you prepared a statement a copy of which ought be in
11:55:06 11 front of you, if you go to the final page dated 12 November
11:55:08 12 2019?---I have, yes.
11:55:14 13
11:55:14 14 Is the content of that statement true and correct to the
11:55:16 15 best of your knowledge and belief?---It is, yes.
11:55:19 16
11:55:19 17 I tender that statement, may it please the Commission.
11:55:22 18
11:55:23 19 #EXHIBIT RC835A - (Confidential) Statement of Paul Sheridan
11:55:24 20 12/11/19.
11:55:24 21
11:55:25 22 #EXHIBIT RC835B - (Redacted version.)
11:55:26 23
11:55:27 24 MR HOLT: That's the evidence-in-chief, may it please the
25 Commissioner.
26
11:55:30 27 COMMISSIONER: Thanks Mr Holt. Yes Mr Woods.
11:55:30 28
29 <CROSS-EXAMINED BY MR WOODS:
30
11:55:31 31 Mr Sheridan, you joined Victoria Police in 1974?---Yes, I
11:55:34 32 did.
11:55:34 33
11:55:35 34 You were the Detective Superintendent in charge of Covert
11:55:42 35 Services Division from February 2010 until February
11:55:45 36 2015?---That's correct, yes.
11:55:46 37
11:55:48 38 That division comprised three units being - at the time the
11:55:55 39 SDU until its disbanding in February 2013?---Yes.
11:55:59 40
11:56:00 41 The Undercover Unit and the SPU?---Yes, the Special
11:56:04 42 Projects Unit, yes.
11:56:06 43
11:56:06 44 Your role, just to explain where your role fits in, you
11:56:15 45 essentially took over from Tony Biggin, is that right?---I
11:56:19 46 did, yes.
11:56:19 47

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11:56:19 1 Mr Biggin has given evidence before the Commission
11:56:23 2 previously in relation to his role and his functions in
11:56:28 3 relation to the SDU. He gave some evidence about
11:56:35 4 conducting the audits that he conducted in relation to the
11:56:40 5 SDU current sources at the time and that sort of thing. Is
11:56:44 6 that the sort of task that you were involved in too from
11:56:47 7 taking the role until the disbanding of the SDU in
11:56:54 8 2013?---I didn't actually see or read that evidence, but
11:56:57 9 yes, it sounds consistent with what I would do, yes.
11:57:00 10
11:57:01 11 Albeit, I should say for the record as well, you come in
11:57:04 12 after Ms Gobbo's deregistered and deal with some matters to
11:57:08 13 deal with her or have contact to do with matters regarding
11:57:14 14 her civil proceeding and some other issues that come after
11:57:17 15 that, so we're not talking about the actual period of
11:57:22 16 registration in your evidence, that's correct, isn't
11:57:24 17 it?---Yes, yes it is.
11:57:25 18
11:57:25 19 Your superior during that entire time, indeed I think the
11:57:30 20 person who appointed you to the role was Jeff Pope?---It
11:57:32 21 was, yes.
11:57:33 22
11:57:34 23 At the same time or within a few months of you assuming the
11:57:40 24 role, I think you were put into your role first and May of
11:57:44 25 2010 Mr O'Connor came across as the Inspector for the
11:57:47 26 SDU?---Yes, I think that's right.
11:57:48 27
11:57:48 28 You understand Mr O'Connor has recently given evidence
11:57:51 29 before the Commission?---Yes, I do.
11:57:53 30
11:57:54 31 He stayed in his role until the disbanding of the SDU and
11:57:57 32 then went off to other things, is that right?---Yes.
11:58:00 33
11:58:01 34 And what about you, because you had other parts, other
11:58:07 35 divisions under your authority, did you finish at the same
11:58:11 36 time or did you carry on in that managerial role for SPU
11:58:16 37 and undercover?---No, I remained in charge of what's called
11:58:20 38 the Covert Services Division, I remained there until early
11:58:25 39 2015.
11:58:26 40
11:58:26 41 All right. It was in the role that you took on, the role
11:58:32 42 we've just been talking about, that you came to know that
11:58:36 43 some time previously Ms Gobbo had been a registered human
11:58:41 44 source managed by the Source Development Unit?---Yes.
11:58:45 45
11:58:45 46 And that was revealed to you in the context of firstly some
11:58:51 47 arrangements that you were asked to make in relation to a

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11:58:56 1 civil proceeding that she had brought in about April
11:58:59 2 2010?---Yes.
11:59:00 3
11:59:00 4 And a chronology and some other information that needed to
11:59:04 5 be provided for that?---Yes, that's right.
11:59:05 6
11:59:06 7 And also some involvement that you had in relation to the
11:59:09 8 proposal of or the possibility of Ms Gobbo being a witness
11:59:14 9 in relation to charges that might have come out of the
11:59:19 10 Driver Task Force?---Yes.
11:59:21 11
11:59:22 12 I'm going to take you through some documents relevant to
11:59:27 13 Ms Gobbo's civil proceeding but before I do, I want to
11:59:31 14 bring up your diary of 24 April 2010. So this is, I think
11:59:40 15 this is only a few days before Ms Gobbo's civil proceeding
11:59:44 16 commences. Of course you wouldn't have been hands-on with
11:59:47 17 any management of the civil proceeding, your role was only
11:59:50 18 in relation to information that was requested and to be
11:59:53 19 provided to assist others with that, is that
11:59:57 20 correct?---Yes, that's correct.
11:59:57 21
11:59:58 22 Now, there is an entry here at 8.50 am, a phone call with
12:00:07 23 DI Wilson, information from Homicide. Now is that, what I
12:00:12 24 want to understand, is this information as you understand
12:00:15 25 it that's come from Gobbo or do you know where that
12:00:20 26 information's come from? It's about the murder of Carl
12:00:24 27 Williams and in fact being a hit and that there will be two
12:00:27 28 more murders within the joint and it says that they have
12:00:30 29 information, sorry, the gaol, my misreading there. They
12:00:35 30 have information from a source, Petra question mark, to
12:00:38 31 that effect. Do you know where that information came
12:00:41 32 from?---No, I don't.
12:00:42 33
12:00:42 34 Doing the best you can, do you think that might have been
12:00:45 35 information from Gobbo?---I can't take that any further. I
12:00:50 36 have no recollection of it.
12:00:51 37
12:00:51 38 You know that around this period, and in fact moving
12:00:56 39 forward past this period Ms Gobbo was in contact with
12:01:00 40 Mr O'Connor as her point of contact following the civil
12:01:04 41 proceeding being settled. That's correct, you understand
12:01:07 42 that was a role he had?---Yes, yes, I do.
12:01:09 43
12:01:10 44 Do you understand in that role Ms Gobbo was wanting to
12:01:14 45 provide him with various bits of information, just
12:01:17 46 generally, rather than specific information, that's
12:01:20 47 something she was still attempting to do post settlement of

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12:01:26 1 the civil proceeding?---Of sorts, yes.
12:01:29 2
12:01:29 3 Do you understand some of that was in relation to
12:01:31 4 Mr Williams or you simply don't know?---I don't recall
12:01:35 5 specifically, no.
12:01:35 6
12:01:38 7 The civil proceeding - that can be taken down from the
12:01:41 8 screen. The civil proceeding starts a few days after that
12:01:45 9 and - now, I want to go to another page of your diary which
12:01:54 10 is in May 2010. Now, this appears to be once - it's after
12:02:02 11 the civil proceeding's commenced and this is - in fact I
12:02:07 12 should say I tender the diaries as a whole and in the usual
12:02:11 13 course would seek to go through the ones that I refer to.
12:02:18 14
12:02:19 15 #EXHIBIT RC836A - (Confidential) Diary of Paul Sheridan.
12:02:20 16
12:02:21 17 #EXHIBIT RC836B - (Redacted version) Relevant PIIed
12:02:26 18 extracts.
12:02:26 19
12:02:28 20 There's a communication between yourself and Mr Pope, is
12:02:33 21 that right?---Yes.
12:02:34 22
12:02:35 23 And there's information that's come from Mr Biggin,
12:02:42 24 correct?---Yes.
12:02:42 25
12:02:43 26 And that Gobbo may be referred back to the SDU. This is in
12:02:48 27 May 2010. And there was an advice that Gobbo, can you read
12:02:55 28 that next word after Gobbo, "does not", is it?---Yes,
12:02:59 29 "Advised AC that Gobbo does not" - - -
12:03:03 30
12:03:03 31 "Fit the criteria to be managed as a CHIS"?---Yes.
12:03:09 32
12:03:09 33 "High risk, health issues, physical and mental, status as a
12:03:14 34 witness, not a source." Is that something you've explained
12:03:17 35 to Mr Pope in relation to the proposal from Mr Biggin that
12:03:20 36 she might be referred back to the SDU as a source?---That's
12:03:23 37 the inference I take from my notes, yes.
12:03:26 38
12:03:27 39 Now, in relation to the civil claim, I've mentioned, and
12:03:35 40 you've confirmed, that there was a request for some
12:03:39 41 information regarding her contact and the history with the
12:03:43 42 SDU to be provided to others inside Victoria Police so they
12:03:47 43 could understand the relationship, is that right?---Yes, it
12:03:50 44 is.
12:03:50 45
12:03:51 46 So that is - you understood at the time that the claim that
12:03:55 47 Ms Gobbo had brought against Victoria Police was based on

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12:04:01 1 the fact that she had been turned into a witness and that
12:04:04 2 had had an adverse effect on her career?---I think that's
12:04:11 3 the case. I didn't know a great deal about the claim but
12:04:14 4 yes, I think that's the case.
12:04:16 5
12:04:16 6 Now, in that context it appears from records available to
12:04:21 7 the Commission that Mr Overland asked Mr Pope for the SDU
12:04:26 8 to compile a chronology, and I want to bring up an email
12:04:32 9 chain, this is VPL.0005.0013.1200. This has already been
12:04:40 10 tendered I think through Mr O'Connor. So the first, the
12:04:44 11 bottom one first, is the request from Pope to you, copying
12:04:53 12 Biggin, and he confirms that he's had the request from
12:04:57 13 Simon - that's Simon Overland, do you agree?---Yes.
12:05:00 14
12:05:01 15 "Can you please have the SDU compile a chronology detailing
12:05:04 16 all of our dealings with F that finishes with our handover
12:05:08 17 to Petra", and the rationale being what's claimed in the
12:05:15 18 statement of claim and the writer, Mr Pope, says that, "Her
12:05:20 19 statement of claim conveniently neglects all of the
12:05:24 20 dealings she had with us prior to that date, so the
12:05:27 21 chronology that's being asked for will assist in informing
12:05:31 22 our response - tactics to her claim". There's then an
12:05:38 23 email from you to Mr O'Connor and then Mr O'Connor is
12:05:43 24 reporting back to you simply to say he's spoken to two
12:05:48 25 gentlemen we're calling Sandy White and Mr Richards, do you
12:05:51 26 understand who those people are?---Yes, I do.
12:05:53 27
12:05:53 28 Sandy White says he's quite concerned about the
12:05:56 29 consequences of the chronology making its way to legal
12:06:00 30 solicitor's hands within the organisation and outside and
12:06:02 31 the risk it may or will propose to the unit, as well as the
12:06:07 32 witness - human source. Now it's clear from other records
12:06:12 33 the Commission has that there was, there was concern
12:06:17 34 expressed and an initial unwillingness to provide that
12:06:22 35 chronology to anyone outside the Source Development Unit,
12:06:26 36 you agree that's the substance of what was conveyed to
12:06:30 37 you?---Yes.
12:06:30 38
12:06:31 39 The risk that Sandy White is talking about there is
12:06:33 40 two-fold. Firstly, there'll be a risk to the unit, you
12:06:37 41 agree?---Yes.
12:06:37 42
12:06:37 43 And the second is the risk to Ms Gobbo and that is
12:06:41 44 obviously should her identity as a human source be
12:06:45 45 exposed?---Yes.
12:06:45 46
12:06:48 47 Did you have discussions with Mr O'Connor at the time about

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12:06:54 1 these risks, I'm focusing on a risk to the unit at the
12:06:58 2 time, do you understand what those concerns were?--No, I
12:07:05 3 don't. I can only speculate that they were concerned about
12:07:08 4 exposure of aspects around methodology, which was a common
12:07:13 5 concern that they did have.
12:07:15 6
12:07:15 7 Might it be another reading of it is that they were deeply
12:07:19 8 concerned about their reputation should it be exposed that
12:07:22 9 they had engaged a criminal barrister as a human source, is
12:07:25 10 that something that was explained to you at any stage by
12:07:30 11 Mr O'Connor or by members of the SDU?--No, I don't think
12:07:35 12 so.
12:07:35 13
12:07:36 14 All right. Now, the chronology it's said in the next
12:07:40 15 paragraph there, that he's told Sandy White and Richards,
12:07:46 16 that he, being O'Connor will read the chronology, then
12:07:51 17 he'll talk to you about it?--Yes.
12:07:52 18
12:07:53 19 As I understand it the chronology was in fact the source
12:07:58 20 management log, is that your understanding?--Yes, I think
12:08:01 21 it was, yes.
12:08:02 22
12:08:02 23 All right. There's a 27 May - - -
12:08:10 24
12:08:11 25 COMMISSIONER: That was Exhibit 599 for the record.
12:08:14 26
12:08:14 27 MR WOODS: Was that 99, Commissioner?
12:08:18 28
12:08:18 29 COMMISSIONER: Yes, 599.
12:08:21 30
12:08:21 31 MR WOODS: So that's on 4 May that reluctance is explained
12:08:26 32 through Mr O'Connor to you. Then it appears that the
12:08:29 33 chronology itself is provided to Victoria Police's lawyers
12:08:32 34 on 27 May 2010. I'm just going to bring up a document
12:08:37 35 which is VPL.0005.0013.1182, again this has been tendered
12:08:46 36 previously. This is a 27 May 2010 email from Mr O'Connor
12:08:53 37 to Finn McRae, Peter Lardner and you. And Mr O'Connor is
12:08:59 38 saying that he's offering the assistance of him and his
12:09:04 39 management team in relation to the above mentioned
12:09:08 40 document. He's talking there, it seems, about the source
12:09:11 41 management log, the chronology of F dealing with the Source
12:09:16 42 Development Unit is comprehensive and gives real insight
12:09:19 43 into the use of F as a human source. Now, two paragraphs
12:09:23 44 down you see that he says the following, "This document
12:09:26 45 contains significant details of how several high profile
12:09:30 46 criminal networks were brought to justice over a three to
12:09:33 47 four year period utilising the intelligence provided by F

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12:09:37 1 before she became a witness". You see those words?---Yes,
12:09:41 2 I do.
12:09:41 3
12:09:42 4 And so this was a pretty clear indication to those who
12:09:47 5 received the email that in fact there was very significant
12:09:53 6 intelligence that had been gleaned from Ms Gobbo over her
12:09:56 7 period as a human source, do you agree with that?---Yes, I
12:09:59 8 do.
12:10:00 9
12:10:00 10 You don't have a recollection today of reading that and
12:10:03 11 that can be forgiven given it's 2010, but you accept that
12:10:07 12 you received it at the time?---Yes, I accept that.
12:10:09 13
12:10:11 14 Now, you say in your statement that the chronology, being
12:10:15 15 the SML, was provided to Victoria Police lawyers being
12:10:21 16 McRae and Lardner, that's correct?---Yes.
12:10:24 17
12:10:25 18 All right. Now, moving forward, in August 2000 - - -
12:10:32 19
12:10:32 20 COMMISSIONER: That was part of Exhibit 354, that document.
12:10:35 21
12:10:36 22 MR WOODS: Thank you, Commissioner. Now, Mr Bona
12:10:43 23 explained, told you that Ms Gobbo's civil claim had settled
12:10:47 24 in August 2010, is that correct?---Yes, I believe so.
12:10:52 25
12:10:53 26 Now, one of the things that I'll take you through at a
12:10:58 27 fairly high level, one of the things that you were involved
12:11:01 28 in with Mr O'Connor was formulating a standard operating
12:11:07 29 procedure essentially regulating how communications between
12:11:11 30 Victoria Police and Nicola Gobbo would occur moving forward
12:11:15 31 after the civil settlement, is that right?---Yes, that's
12:11:17 32 correct, yes.
12:11:18 33
12:11:19 34 And the reason that that needed to be - well can you
12:11:24 35 explain to the Commissioner why it was there needed to be a
12:11:27 36 standard operating procedure to regulate that
12:11:31 37 contact?---Well it was based on the fact that the legal
12:11:34 38 services area had relayed to the Intel and Covert Support
12:11:41 39 Command Assistant Commissioner and then subsequently down
12:11:43 40 the line to me effectively, and then from Bona directly to
12:11:47 41 me, that there was a need to ensure that future source
12:11:50 42 relationships did not develop post the agreement with
12:11:54 43 Nicola Gobbo.
12:11:55 44
12:11:55 45 So in particular she shouldn't be a source. Do you mean in
12:12:00 46 the sense of being a registered source or information
12:12:02 47 shouldn't be gleaned from her any more, which was it that

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12:12:07 1 Bona explained to you?---Essentially it's both except that
12:12:12 2 there's a caveat on the second. But in the first instance
12:12:14 3 she shouldn't be a registered source, she shouldn't be
12:12:20 4 tasked or deployed as sources often are, in the second
12:12:22 5 category, which is essentially someone who supplies
12:12:24 6 information, whether they're registered or not, can by
12:12:26 7 virtue of the fact they have supplied information with an
12:12:31 8 expectation of confidentiality, et cetera, be a source. In
12:12:36 9 that situation we couldn't un-hear anything we were told by
12:12:41 10 anybody, particularly in this situation, and therefore that
12:12:44 11 had to be very carefully managed as to how that information
12:12:47 12 was managed, how it was used, how it was transmitted, if it
12:12:51 13 was transmitted.

12:12:52 14
12:12:52 15 There was an expectation that it might be the case that
12:12:54 16 Ms Gobbo would continue to provide information off her own
12:12:59 17 bat from time to time, that might occur?---Based on prior
12:13:05 18 behaviour that was a concern, yes, that expectation could
12:13:08 19 come true, yes.

12:13:09 20
12:13:09 21 And she wasn't to be registered and wasn't to be
12:13:12 22 tasked?---Yes, and certainly no relationship that gave any
12:13:15 23 indication that information was being sought was to be
12:13:18 24 created. So that was part of the Standard Operating
12:13:20 25 Procedures, to ensure that that contact, if you like, was
12:13:24 26 as regulated as it could be to comply with those points.

12:13:27 27
12:13:27 28 And that contact that had prior to that date been fairly
12:13:31 29 intense contact over a number of years with Sandy White,
12:13:34 30 Richards and then members of their team, was to, going
12:13:39 31 forward, be through the Inspector who sat above them only,
12:13:42 32 and only through a particular mobile phone where she would
12:13:46 33 leave a message if she needed to talk to someone?---Yes,
12:13:49 34 that's right.

12:13:50 35
12:13:50 36 Okay. You understood - I might bring up - just a moment.
12:14:01 37 I might not bring up the document, but do you understand
12:14:04 38 that - was it your understanding that the settlement terms
12:14:09 39 contained a clause saying that, to the effect that Ms Gobbo
12:14:13 40 would not give evidence in any proceedings going forward,
12:14:18 41 is that a recollection you have?---No, I don't think I
12:14:20 42 actually knew any of the actual terms but that would be an
12:14:24 43 understanding I would have had, but it's not based on
12:14:28 44 having the knowledge of the actual agreement. I know,
12:14:32 45 because there were times, more than one occasion we sought,
12:14:35 46 we as in the covert services management team, myself and
12:14:39 47 O'Connor in particular, sought to gain access to that

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12:14:43 1 agreement and we never got it.
12:14:44 2
12:14:45 3 I see, okay. There was another element of it that you may
12:14:48 4 or may not know about, that Mr Overland was himself or by
12:14:53 5 an authorised officer required to direct members of the
12:14:56 6 Petra Task Force not to contact her any more. Do you
12:14:59 7 remember that there was, I mean it might be rolled up in
12:15:02 8 the fact that O'Connor was to be the one point of contact,
12:15:06 9 but do you remember any particular sensitivity about Petra
12:15:10 10 not being in contact with her anymore post settlement?---I
12:15:15 11 don't remember that but I wouldn't dispute it. But I don't
12:15:16 12 have a recollection of it.
12:15:18 13
12:15:18 14 There was another clause that required Overland removing
12:15:21 15 the current prohibition on the head of the SDU or his
12:15:25 16 delegate communicating with Gobbo. Do you understand that
12:15:29 17 prior to this there had been some restriction on any
12:15:33 18 contact with Nicola Gobbo?---Prior to the agreement?
12:15:36 19
12:15:36 20 Prior to the agreement, yeah?---No, I don't think I did,
12:15:40 21 no.
12:15:41 22
12:15:44 23 Finally, Ms Gobbo released Victoria Police from all causes
12:15:50 24 of action that arose between, in any way related with her
12:15:56 25 dealings with Victoria Police. Did you understand that -
12:16:01 26 were there any conversations with you about the terms of
12:16:05 27 the release or was that something that was just left to the
12:16:08 28 lawyers?---No, I didn't have that.
12:16:09 29
12:16:09 30 Okay. All right. So it appears then as a result of those
12:16:15 31 terms of settlement the Standard Operating Procedures were
12:16:19 32 to be prepared and you in fact asked O'Connor to make a
12:16:25 33 draft of those, is that how it occurred?---Yes, I expect we
12:16:31 34 would have discussed it and I would have tasked him with
12:16:33 35 drafting them.
12:16:34 36
12:16:34 37 He's given evidence to the Commission to the effect that,
12:16:38 38 one of the requirements, whether it was explained to him or
12:16:41 39 whether he picked it up by osmosis, was that he had to
12:16:47 40 really try and keep Ms Gobbo at arm's length and be a bit
12:16:52 41 aloof and not to engage with her. He spoke about some of
12:16:55 42 the reasons for that in his evidence and one can see from
12:16:58 43 the transcripts of his conversations with her that that
12:17:01 44 seems to be the case. He often says he doesn't know much
12:17:04 45 about what she's talking about but it all sounded
12:17:08 46 interesting, essentially. Was that a directive that was
12:17:11 47 given to him, don't engage and just try and keep your

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12:17:14 1 distance from Gobbo?---Yes, it was.
12:17:16 2
12:17:16 3 Was he chosen because he seemed like a pretty good person
12:17:20 4 to take that part on, he had the right temperament?---Yes,
12:17:25 5 it was, well he was of course the head of the Source
12:17:30 6 Development Unit so it's probably the most appropriate
12:17:32 7 position at that time, initially anyway. But yes, he did
12:17:36 8 have the, in my view he had the skill set in that it
12:17:40 9 required a bit of self discipline and professionalism. It
12:17:47 10 was a very fine balance.
12:17:48 11
12:17:49 12 Your diary on 13 August 2010, I'm working through
12:17:53 13 essentially chronologically, so we might duck in and out of
12:17:57 14 a few different issues, 13 August 2010 for the record, this
12:18:01 15 is VPL.0100.0001.5804 and it's at p.5869. You had a
12:18:14 16 conversation there with Sandy White about Ms Gobbo and
12:18:19 17 source development management, is that right?---Yes.
12:18:21 18
12:18:22 19 It might be more efficient for you to read that rather than
12:18:26 20 me bumble through it. What does it say?---Do you want me
12:18:28 21 to read it aloud?
12:18:30 22
12:18:30 23 If you could, yes?---"Confer ██████████ White re F and SDU
12:18:40 24 management. Discussed personal aspects including potential
12:18:45 25 promotion to ██████████ and change of environment for SDU."
12:18:51 26
12:18:51 27 "White"?---"White defensive and manipulated conversation at
12:18:55 28 times to suit his argument. Reiterated", meaning I
12:19:01 29 reiterated, "Reiterated, one, valued his role at SDU. Two,
12:19:07 30 Force needed officers skilled in criminal investigations
12:19:10 31 and encouraged him to consider. Three, SDU would not
12:19:16 32 remain the same with new management, would change - he
12:19:22 33 needed to accept this."
12:19:24 34
12:19:25 35 Okay. Now, do you have an independent recollection of this
12:19:28 36 particular conversation?---I recall having the
12:19:31 37 conversation, yes. I wouldn't say I have a vivid
12:19:33 38 recollection but yes, I do recall it.
12:19:35 39
12:19:36 40 It appears that, well you use the phrases defensive and
12:19:41 41 manipulative there in relation to Sandy White. He was
12:19:46 42 reluctant in relation to changes that were at this stage
12:19:51 43 already occurring within the SDU, you agree with
12:19:54 44 that?---Yes, I do.
12:19:55 45
12:19:55 46 Mr O'Connor's given evidence that he in particular,
12:19:59 47 Mr O'Connor, was very unpopular with the members of the

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12:20:02 1 SDU. That's something he has discussed with you from time
12:20:06 2 to time apparently, is that correct?---Yes, yes.
12:20:07 3
12:20:07 4 Did you feel that lack of popularity also persisted in
12:20:11 5 relation to you? How did they feel about you?---No, I
12:20:15 6 didn't actually, I didn't - perhaps I'm not that
12:20:20 7 perceptive, but no, at the time I certainly didn't feel
12:20:23 8 that there was a - not that it's a popularity contest but I
12:20:26 9 didn't feel that there was a lot of angst. I felt that I
12:20:29 10 could have frank discussions like this with Mr White and
12:20:31 11 others and it was at a professional level.
12:20:34 12
12:20:34 13 As you say there, there's real value that the Force has in
12:20:38 14 his experience in criminal investigations,
12:20:41 15 et cetera?---Very much so, yes.
12:20:42 16
12:20:42 17 That has been the tenor of a lot of witnesses before the
12:20:47 18 Commission, that he was a very experienced officer?---Yes.
12:20:49 19
12:20:50 20 When you're saying the SDU would not remain the same with
12:20:53 21 new management, I take it what you're referring to there is
12:20:56 22 yourself and O'Connor being put into position or are there
12:20:59 23 other changes afoot?---It's possibly some of that, but it's
12:21:03 24 also trying to deal with the fact that in my view there was
12:21:06 25 a concern held that, "Look, what I've created is going to
12:21:09 26 change", as in in his mind the unit that he'd created would
12:21:15 27 change and would not be exactly the way he would like it to
12:21:20 28 run. It was sort of a case of me trying to get,
12:21:23 29 communicate that there is a need to let go and let it
12:21:27 30 develop and evolve over time, and whoever ran it in the
12:21:35 31 future, no matter at which level, was something he needed
12:21:38 32 to come to terms with.
12:21:38 33
12:21:38 34 One of the themes that can be picked up from the evidence,
12:21:43 35 well it might be said that under Mr Biggin's guidance there
12:21:47 36 was a lot less hands-on management with the SDU and they
12:21:53 37 were largely allowed to run their own ship with Mr Biggin,
12:21:57 38 and then when yourself and Mr O'Connor came in there was a
12:22:00 39 lot more management and a lot more oversight. Is that
12:22:02 40 something, I mean you weren't there with Mr Biggin at the
12:22:05 41 time but is that something you perceived coming in as the
12:22:09 42 new person in Mr Biggin's role?---Yes, to a degree. Not
12:22:12 43 being critical at all of previous management, but yes to a
12:22:15 44 degree because the span of control that Biggin had was
12:22:19 45 twice the size of the span of control that essentially I
12:22:23 46 had when I inherited that division. Of course our degree
12:22:23 47 of focus was probably more intense, particularly from the

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12:22:27 1 underlings point of view they probably felt it more
12:22:32 2 intense. I'm not so sure about the intensity to be honest
12:22:32 3 but it was certainly more intense than what they were used
12:22:33 4 to.
12:22:33 5
12:22:34 6 And because it was more intense I take it that one of the
12:22:36 7 things that you were picking up from them was that they
12:22:39 8 wanted a bit more freedom as they had previously had to be
12:22:42 9 able to do things the way that they wanted to do
12:22:45 10 them?---Yes, I sense that's true, yes.
12:22:47 11
12:22:48 12 Mr Biggin's given evidence about the many roles that he had
12:22:51 13 at the time and he had an awful lot to do obviously during
12:22:56 14 his period in that role. Do you recall, was it described
12:23:00 15 to you when you took over the role and a role now with less
12:23:05 16 responsibility because things had been divided up amongst
12:23:07 17 other individuals, that there was a need for more
12:23:11 18 management specifically or closer management in relation to
12:23:14 19 the SDU in particular?---Well yes, because prior to, prior
12:23:23 20 to O'Connor coming one Inspector managed both the SDU and
12:23:29 21 the Undercover Unit and so they, again to come back to the
12:23:34 22 span of control point, that Inspector had two units to
12:23:38 23 manage rather than one.
12:23:39 24
12:23:40 25 Just to move through it chronologically. I just want to go
12:23:45 26 back to the issue about Standard Operating Procedures very
12:23:49 27 briefly. Your diary, this is at p.5871 of the diary that
12:23:55 28 we have on the screen, I think it's the same file, this
12:23:59 29 appears to be a page of notes you've taken just as an early
12:24:04 30 iteration or early thoughts of what are to be put into the
12:24:08 31 Standard Operating Procedures, is that right?---Yes, I
12:24:11 32 think it is, yes.
12:24:12 33
12:24:13 34 Now, there's an entry at - firstly, she's, "Not to be
12:24:21 35 contacted by Petra, Briars investigators", that's at
12:24:27 36 one?---Right.
12:24:27 37
12:24:28 38 "Two, wanted direct access to Sandy White", that was a
12:24:32 39 request of hers as we understand it, is that your
12:24:35 40 memory?---Someone's obviously relayed some of these points
12:24:38 41 to me, yeah, that's right.
12:24:38 42
12:24:39 43 She wanted to continue that relationship. Next, "Any issue
12:24:42 44 around her safety she had to contact", is that the
12:24:47 45 OC?---OC, SDU or delegate, yes.
12:24:50 46
12:24:50 47 And then under that, "or any", what's that word?---Sorry,

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12:24:57 1 where are we exactly looking?
12:24:59 2
12:25:00 3 The second line of dot point 3?---I'm sorry, "Or any
12:25:05 4 information".
12:25:05 5
12:25:05 6 "Or any information", okay. "Four, accept the call", is it
12:25:09 7 translate?---"Translate contents into".
12:25:14 8
12:25:15 9 "IR, and then IR to investigate", is that right?---Yes,
12:25:19 10 that's certainly in there.
12:25:20 11
12:25:21 12 The idea at least at this stage was that there were two
12:25:25 13 real focuses of it, well three I suppose, one being who the
12:25:30 14 point of contact would be, and she wanted that to be Sandy
12:25:33 15 White, secondly, that issues regarding her safety would be
12:25:36 16 managed in a particular way and, thirdly, if she gave
12:25:39 17 information at this early draft it was to be put into an
12:25:42 18 information report and given to investigators, is that what
12:25:45 19 was explained to you or what you had come up with?---Yes,
12:25:49 20 that's right.
12:25:49 21
12:25:49 22 Do you know where this came from, is this instructions to
12:25:55 23 you or is this your own notes, notes that you came up with
12:25:58 24 yourself?---I'm not entirely certain what the genesis of
12:26:01 25 this is. I figure that at least some of it I was perhaps,
12:26:06 26 some of it I received perhaps in conversations with say
12:26:09 27 Assistant Commissioner Pope or perhaps Andrew Bona, but a
12:26:13 28 lot of it, parts of it look like I've just written them as
12:26:17 29 in my thoughts too, but I can't be totally sure, I'm sorry.
12:26:20 30
12:26:21 31 And then you'll see Andrew Bona's name down there?---Yes.
12:26:25 32
12:26:25 33 Specific wording, it's going to go to him for either
12:26:28 34 drafting or settling, is that right?---Yes.
12:26:31 35
12:26:31 36 And then right down the bottom, "The HSMU can never be
12:26:36 37 reactivated", so the intention was it should never be
12:26:40 38 reactivated as a registered human source?---That's correct.
12:26:43 39
12:26:44 40 13 to 16 August 2010, I just want to go to your diaries of
12:26:47 41 those dates. That's VPL.0005.0010.2013. There's an email
12:26:57 42 at 1.10 pm is the first one I'm interested in and this is
12:27:02 43 from Bona to you and he's talking about what this future
12:27:09 44 contact or how this future contact with Ms Gobbo might
12:27:14 45 progress and it might be that, as you look at that email,
12:27:20 46 it has a fair bit of resemblance to the notes that I just
12:27:25 47 took you through, so it might be around this time it was in

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12:27:29 1 fact Bona who was saying to you, "This is what has come out
12:27:32 2 of the mediation and the settlement of the claim"?---Yes.
12:27:34 3
12:27:35 4 And he says in the third paragraph, "We are seeking to
12:27:38 5 establish a protocol for that to occur that will expose the
12:27:41 6 least amount of risk to VicPol. We'll then have a formal
12:27:46 7 letter drafted through VGSO to F's legal representatives to
12:27:51 8 advise them of that process". What he's talking about, I
12:27:54 9 should have gone to the paragraph above first, is that
12:27:58 10 she's seeking continuing communication with Sandy White.
12:28:03 11 When that was fleshed out it was indicated she wanted to be
12:28:06 12 able to communicate with the SDU in the future if she
12:28:10 13 required and thus was seeking lifting the prohibition and
12:28:15 14 there's a mention about, "It was further indicated that the
12:28:19 15 reason for this request was to enable F to be in a position
12:28:22 16 to speak with the SDU in future if any threats were
12:28:26 17 received by F or if F wished to discuss information F
12:28:31 18 received". Again at this stage it's still expected that if
12:28:34 19 she's to provide information she's freely able to share
12:28:37 20 that with Victoria Police, if she receives information she
12:28:44 21 can share that with Victoria Police, do you agree?---Yes.
12:28:47 22
12:28:48 23 All right. Then you comment on the draft protocol and you
12:28:56 24 say to Mr Pope, "Jeff, this draft has the actual contact
12:29:00 25 number and this is the phone that then O'Connor was to be
12:29:03 26 given", is that right?---Yes.
12:29:04 27
12:29:05 28 And the email below you'll see the draft has been provided
12:29:13 29 and it seems to be attached to that email, correct?---I
12:29:16 30 believe so, yes.
12:29:17 31
12:29:17 32 All right. There's an email of 27 August 2010 and this is
12:29:30 33 - sorry, I tender that last - it's already tendered I
12:29:34 34 think, yes, it is.
12:29:35 35
12:29:36 36 COMMISSIONER: Exhibit 805.
12:29:37 37
12:29:38 38 MR WOODS: 805, thank you. 27 August 2010, there's an
12:29:41 39 email that's up on the screen at the moment ending in 1961,
12:29:47 40 you'll see Pope there is writing to Moloney, Lardner,
12:29:51 41 yourself and Ken Jones with high importance. What appears
12:29:58 42 to occur there is that, well, what Pope is saying is that,
12:30:03 43 "While we wait for Peter to clarify the latest scenario
12:30:06 44 about contact, F to facilitate contact to a witness, I also
12:30:13 45 have the following directions from the Chief Commissioner
12:30:15 46 to execute and would be grateful if you could please ensure
12:30:19 47 that your senior managers in Crime, particularly Purana,

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12:30:22 1 are aware and comply". So this is a directive from Pope
12:30:28 2 that's to go throughout the Crime Department, and in
12:30:33 3 particular with focus to Purana, do you agree?---Yes, I do.
12:30:35 4
12:30:36 5 It confirms that she's not to be called as a witness.
12:30:39 6 There's no contact with her and she's only to contact
12:30:45 7 O'Connor. You agree?---I do, yes.
12:30:49 8
12:30:49 9 All statements, draft statements, information reports,
12:30:52 10 recordings, et cetera, that relate to her are essentially
12:30:56 11 to be packaged up and provided to your office, is that what
12:30:59 12 Pope's saying there?---Yes, it is.
12:31:01 13
12:31:01 14 And then he says, "If you're inclined to destroy material
12:31:05 15 that does not need to be stored, then that should be fine,
12:31:09 16 provided there is evidence of it being destroyed. Grateful
12:31:12 17 if this could be achieved by Friday 10 September". What
12:31:19 18 I'd like to understand, in relation to the destruction of
12:31:22 19 material, it's obvious there's very, very significant
12:31:27 20 material that's been kept and put in the Loricated database
12:31:31 21 and obviously provided to the Commission. What's the
12:31:35 22 practice with destruction of material and do you know if
12:31:38 23 there was any material destroyed as part of this
12:31:44 24 process?---The second part first if I could. No, I don't
12:31:47 25 know if anything was destroyed. I know that under my
12:31:51 26 control nothing was destroyed to my knowledge. The
12:31:53 27 practice in terms of the destruction, not entirely sure
12:31:57 28 what it was in 2010, but my understanding is there's
12:32:01 29 requirements for us to retain material and if it's relevant
12:32:04 30 to a court proceeding, of course we can't destroy it
12:32:08 31 anyway. I don't think I can take it a lot further. I
12:32:11 32 don't recall the destruction line there had a great bearing
12:32:15 33 on what I had to do because it wasn't anything we were
12:32:18 34 going to be involved with. It would probably be for the
12:32:21 35 others to determine I expect.
12:32:22 36
12:32:23 37 Certainly under your watch there was no, to your memory
12:32:27 38 nothing was destroyed as a result?---I don't believe there
12:32:30 39 was anything destroyed within the Covert Services Division
12:32:33 40 in relation to this at all.
12:32:34 41
12:32:35 42 You signed the standard operating procedure once it was
12:32:40 43 drafted and settled. Do you agree?---I think so, yes.
12:32:44 44
12:32:45 45 I'm not sure if that one has been tendered. No, it hasn't
12:32:48 46 been tendered. I tender that 27 August 2010 email.
12:32:51 47

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12:32:52 1 #EXHIBIT RC837A - (Confidential) Email dated 27/8/10.
12:32:53 2
12:32:53 3 #EXHIBIT RC837B - (Redacted version.)
12:32:54 4
12:32:55 5 Then a couple of days after that email it seems that the
12:32:58 6 Standard Operating Procedures are signed and you'll see at
12:33:05 7 the bottom there, "Under no circumstances is F to be
12:33:08 8 registered, under no circumstances is she to be tasked with
12:33:12 9 gathering information". And then finally, "At the
12:33:14 10 discretion of the SDU Detective Inspector, the information
12:33:17 11 may be transmitted to the appropriate investigative
12:33:21 12 intelligence body for action". I simply bring that to your
12:33:24 13 attention to confirm that there was still a method by which
12:33:30 14 Ms Gobbo could, firstly, provide information to Victoria
12:33:32 15 Police, you agree with that, through the OIC?--Yes.
12:33:36 16
12:33:36 17 And secondly, there was a system of disseminating the
12:33:41 18 information as is recorded there, it can be transmitted to
12:33:44 19 the appropriate investigative intelligence body for
12:33:47 20 action?--Yes, if that was the determination that it was
12:33:51 21 going to be, yes.
12:33:51 22
12:33:52 23 Depending on what the OIC determined to do with that
12:33:56 24 information?--Well depending on what I determined to do
12:34:00 25 with that information in consultation with him more likely,
12:34:03 26 but yes.
12:34:04 27
12:34:04 28 So was there an expectation that the information wouldn't,
12:34:08 29 so for example, O'Connor has the phone, Gobbo rings, she
12:34:12 30 talks about a number of things, including some information
12:34:14 31 that might be of use, that that was to be shared via
12:34:19 32 O'Connor with you before it was disclosed? I don't see
12:34:23 33 that in the operating procedure but that was your
12:34:27 34 expectation?--There's an understanding between myself and
12:34:31 35 O'Connor in relation to this particular subject we would
12:34:33 36 discuss things, so I would say that that would carry over
12:34:37 37 to this, but obviously depending on the information. If
12:34:41 38 we're just talking of rumour or something that's not
12:34:45 39 particularly concrete it may not even have been transmitted
12:34:48 40 anyway.
12:34:49 41
12:34:49 42 Do you recall there being any concern expressed by those
12:34:52 43 above you that following the resolution of the civil
12:34:57 44 proceeding that there was still a methodology in place
12:35:02 45 whereby Ms Gobbo could essentially inform? Was that a
12:35:07 46 cause of concern to anyone that they expressed to you?--I
12:35:11 47 think Pope was conscious of that. And bear in mind the

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12:35:16 1 whole SOPs and the whole process here was designed not to
12:35:23 2 receive information, but as I indicated earlier if we were
12:35:26 3 to be a contact point for her should there be a security
12:35:29 4 issue or some concern that she needed to discuss with law
12:35:33 5 enforcement, in particular Victoria Police, the person who
12:35:36 6 answered that phone, which in this case was Detective
12:35:39 7 Inspector O'Connor, could not un-hear whatever it was that
12:35:42 8 she said from the other end, so we were in a no win
12:35:46 9 situation in that regard.
12:35:47 10
12:35:47 11 And the reason I ask the question, it's of interest to the
12:35:51 12 Commission because, as you say, the process was designed to
12:35:56 13 not receive information but what the point of my question
12:36:01 14 is, despite that being your understanding the documents
12:36:04 15 themselves appear to confirm the fact that information,
12:36:07 16 when it was provided by Gobbo, would be handed over to the
12:36:12 17 appropriate part of Victoria Police and it doesn't in
12:36:15 18 itself say, "We're not to use her as a source of
12:36:19 19 information any more", in fact it says quite the
12:36:21 20 opposite?---I probably don't agree with that but I see what
12:36:25 21 you're saying.
12:36:25 22
12:36:25 23 What I'm suggesting to you that first premise, being, "We
12:36:29 24 are not to receive information from this person any more"
12:36:33 25 doesn't appear in the standard operating
12:36:35 26 procedure?---Probably because it's totally impractical to
12:36:39 27 put that in. Because as I said, we can't un-hear. If
12:36:41 28 we're going to be, as I indicated in my answer earlier, if
12:36:42 29 we're going to a contact point for the person to speak to
12:36:45 30 us in relation to say security concerns or seeking advice
12:36:48 31 from law enforcement, in this case Victoria Police, if we
12:36:51 32 are that contact point, whoever answers the phone, in this
12:36:56 33 case it is John O'Connor's role, cannot un-hear what is
12:37:00 34 being said from the other end. Therefore it's totally
12:37:04 35 impractical to think that one could put a standard
12:37:06 36 operating procedure out to say, "We're a contact point but
12:37:10 37 by the way don't answer the phone or hear any messages she
12:37:14 38 leaves".
12:37:14 39
12:37:16 40 You can understand why there's interest in it, the reason
12:37:19 41 being the fact of this Royal Commission and its genesis is
12:37:23 42 in the fact that there was a practising criminal barrister
12:37:26 43 who was a registered informant and the problems that has
12:37:29 44 created with the legal process. This is after she's
12:37:34 45 deregistered, after she's sued, after that proceeding has
12:37:39 46 settled there's a document that confirms that there is
12:37:42 47 still to be information, well when there is information

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12:37:45 1 provided by her, it can be disseminated, and I'm suggesting
12:37:48 2 to you that that's problematic given all the water under
12:37:52 3 the bridge that happened before this document, do you agree
12:37:55 4 with that?---I'm not sure - I understand what you're saying
12:38:01 5 and I agree in parts, with part of what you said, but I
12:38:05 6 don't think it's quite that simplistic in this instance.

12:38:09 7
12:38:09 8 It might not be that simplistic if it said they're to
12:38:13 9 listen to the information and not record it. What I'm
12:38:15 10 saying is this is they're to listen to the information and
12:38:18 11 it may be transmitted to the appropriate investigative
12:38:21 12 intelligence body for action, which on one view is no
12:38:25 13 different to what was happening between 2005 and 2009,
12:38:30 14 albeit a much smaller version, being one individual to
12:38:33 15 receive the information, do you accept that
12:38:36 16 suggestion?---Not necessarily, no.

12:38:38 17
12:38:38 18 All right. Now, there's a - you go back to Lardner, as I
12:38:48 19 understand it, so it's after this document in September.
12:38:53 20 If an email can be brought up, VPL.0005.0013.1038. I want
12:39:03 21 to start at the bottom of that. There's an email from you
12:39:09 22 to Lardner, Pope and O'Connor. It confirms there that
12:39:14 23 O'Connor's had a conversation with Nicola Gobbo the day
12:39:18 24 before. She's considering entering into that arrangement
12:39:25 25 in question 1. Sorry, point 1. Point 2 she says she also
12:39:30 26 wishes to retain the PII [REDACTED] provided to her. She's
12:39:36 27 understanding that that might cut out and then next she
12:39:40 28 says, "She wants to provide information concerning the
12:39:44 29 Driver investigation (Detective Superintendent Doug
12:39:47 30 Fryer)". The Driver investigation was an investigation
12:39:50 31 into the murder of Carl Williams, do you agree?---Yes.

12:39:54 32
12:39:54 33 And she had explained to O'Connor that that's something,
12:39:57 34 and I think we took Mr O'Connor to the transcript of the
12:40:02 35 conversation with Ms Gobbo about this last week, and what
12:40:06 36 you were asking, what you were pointing out is these are
12:40:11 37 the things that she's indicated and you're reporting this
12:40:16 38 to Mr Lardner, is that right, who is legal?---Yes.

12:40:19 39
12:40:20 40 Just scroll up. And then you'll see Lardner responds,
12:40:27 41 "There's nothing to prevent her retaining the PII [REDACTED] but I
12:40:31 42 do have some concerns with it being done now" and then he
12:40:35 43 really only focuses on the PII [REDACTED] part of it. Then the
12:40:38 44 next email above is you back to him. And then there's more
12:40:43 45 discussion about the PII [REDACTED]. "The other issue
12:40:48 46 perhaps pertains to point 3 and the issues associated with
12:40:52 47 receiving information for a priority criminal

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12:40:54 1 investigation. Hopefully we can discuss in due course" and
12:40:58 2 then you can scroll up. And then Lardner writes back, "Re
12:41:06 3 receiving information for a priority criminal
12:41:08 4 investigation. If she rings and makes a statement that Joe
12:41:11 5 Blogs did this or is about to do that, then we write it
12:41:14 6 down and say thanks, goodbye. She should not be tasked to
12:41:18 7 make any inquiry or follow up any piece of information.
12:41:24 8 The accountability for her management", et cetera,
12:41:26 9 et cetera. Were you asking or do I understand what you
12:41:31 10 were in fact asking is what can be done with the particular
12:41:35 11 bit of information if she provides it, you were asking the
12:41:38 12 legal people what should we do if she does provide us with
12:41:42 13 information?---I think I'm checking that with him, yes.
12:41:44 14
12:41:44 15 There's an email above that I think. No, that's not it,
12:41:52 16 sorry. The next email I want to take you to is an email of
12:42:01 17 14 October 2010. It's the following month. I don't think
12:42:09 18 I tendered that document, I will tender the one before,
12:42:12 19 Commissioner, which is email chain of September - - -
12:42:14 20
12:42:15 21 COMMISSIONER: 7 September 2010.
12:42:17 22
12:42:17 23 MR WOODS: Yes.
12:42:19 24
12:42:21 25 COMMISSIONER: Paul Sheridan to Lardner, Pope and others.
12:42:24 26
12:42:24 27 MR WOODS: Pope and others, yes.
12:42:24 28
12:42:24 29 COMMISSIONER: And continuing.
12:42:26 30
12:42:28 31 #EXHIBIT RC838A - (Confidential) Email chain of 7/9/10 Paul
12:42:21 32 Sheridan to Lardner, Pope and others.
12:42:29 33
12:42:29 34 #EXHIBIT RC838B - (Redacted version.)
12:42:31 35
12:42:34 36 MR WOODS: I just want to, before I take you to this
12:42:36 37 document, the reason that information reports are important
12:42:42 38 in policing is to understand, firstly, what the information
12:42:48 39 is, I suppose that goes without saying and you've got to
12:42:51 40 record it somewhere?---Yes.
12:42:53 41
12:42:54 42 Where the information came from and who the information was
12:42:57 43 provided to, you agree?---Yes.
12:42:59 44
12:43:00 45 Now, one of the issues with the arrangements that were put
12:43:04 46 in place with Ms Gobbo post the settlement of her civil
12:43:08 47 case appear to be, and I'll ask you to comment on this,

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12:43:12 1 that if she was to give information regarding matters as
12:43:16 2 she had in the past, there wouldn't be information reports
12:43:20 3 that would be recording those sorts of things, there was
12:43:24 4 only an informal arrangement whereby the information should
12:43:28 5 be passed on. Now, I might be right, I might be wrong
12:43:31 6 about that. Do you understand that there were to be IRs
12:43:34 7 generated if she was to pass on information?---Well I would
12:43:40 8 have expected there would be some form of IRs, yes, but I
12:43:42 9 think it is as you've indicated that it would be more
12:43:48 10 informally rather than attributing the information to her
12:43:49 11 as a human source.

12:43:50 12
12:43:50 13 If that's the case and if it was to play out that way, you
12:43:54 14 accept that might cause problems of its own with the
12:43:57 15 criminal justice system going forward because it might be
12:43:59 16 difficult to work out in fact where particular bits of
12:44:03 17 information came from if it's only done informally, do you
12:44:06 18 agree with that?---Yes, I do.

12:44:08 19
12:44:08 20 The email, yes, this is 14 October 2010, it's from Pope to
12:44:13 21 Fryer and copy to yourself and Lardner. It talks about
12:44:20 22 there being a likely prosecution commencing in the near
12:44:24 23 future regarding Dale. And it relates to - so this is the
12:44:29 24 prosecution that eventually did occur, Commonwealth charges
12:44:32 25 relating to his appearance before the ACC, you would know
12:44:36 26 that now I assume?---Yes, that's right.

12:44:37 27
12:44:39 28 "Witness F, Gobbo, is on the brief and a required witness
12:44:46 29 and what are Witness F's commitments and availability",
12:44:52 30 asks Pope. He then says, "I believe that the settlement
12:44:55 31 with F precludes us calling her as a witness for this
12:44:59 32 matter" and that there was to be some advice sought but he
12:45:02 33 doesn't recall there being an outcome of that advice. Now,
12:45:07 34 do you recall there being any concerns with Ms Gobbo being
12:45:10 35 used as a witness against Mr Dale post the civil
12:45:17 36 settlement?---Yes.

12:45:18 37
12:45:19 38 And do you know what the outcome of those - were those
12:45:22 39 concerns raised with you, that Mr O'Connor, your Inspector
12:45:30 40 being the person who is the point of contact with her, do
12:45:33 41 you recall it being discussed with O'Connor and/or Gobbo
12:45:37 42 that she wasn't to be a witness in the Driver, sorry, in
12:45:41 43 these ACC matters because of the civil settlement?---No, I
12:45:51 44 don't. Not in those terms, no, I don't. I do recall
12:45:55 45 though and I think it comes out in my statement I think or
12:45:58 46 it's in the materials that I've supplied in the Notice to
12:46:02 47 Produce, so I expect you've got it there somewhere, that I

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12:46:06 1 engaged in discussions with Victoria Police legal and I
12:46:13 2 think other legal practitioners about my concern of her
12:46:18 3 exposure if she were to be called, because it was apparent
12:46:21 4 that she was a reluctant witness. So in essence calling
12:46:26 5 her was probably not going to yield what the investigators
12:46:29 6 were looking for in the first place.

12:46:30 7
12:46:30 8 I won't take you to the documents but one of the
12:46:33 9 conversations that Mr O'Connor had with her around this
12:46:38 10 period, maybe within about a year of this period, is she
12:46:41 11 was saying she was very keen to give evidence against
12:46:45 12 Mr Dale. Was that ever reported to you? There just seems
12:46:47 13 to be some incongruity in her approach, on one hand you
12:46:53 14 understand that she was a reluctant witness, but on the
12:46:56 15 other hand there's transcripts of conversations with
12:46:58 16 O'Connor where she appears to want to be a witness?---I
12:47:01 17 think - my recollection is that I think the individual
12:47:05 18 concerned fluctuated, you know, from positivity to
12:47:13 19 negativity in terms of whether to give evidence or not to
12:47:16 20 give evidence or to enter the program or not to enter a
12:47:19 21 program, that type of stuff. Inconsistency was a
12:47:22 22 consistent behaviour.

12:47:23 23
12:47:23 24 I see?---So therefore, yeah, I think it's probably a bit of
12:47:28 25 both there.

12:47:28 26
12:47:29 27 Yes, okay. All right. I won't take you to the entry but
12:47:35 28 there's an entry - just for the record it's at 5804 of the
12:47:40 29 diary and it's - it's a diary entry ending in 5804 and I'm
12:47:47 30 after pp.5876 and 5877. The summary of it being
12:47:54 31 essentially that Frewen came to you and asked you if she
12:47:57 32 could be a witness in the ACC matter, is that a
12:48:00 33 recollection you have?---Yes, yes.

12:48:02 34
12:48:03 35 All right. And then you have a conversation or an email
12:48:08 36 with Mr Buick on 7 January 2011 and this is
12:48:18 37 VPL.6078.0016.8891 where Mr Buick firstly says to - sorry,
12:48:28 38 he's writing to O'Connor, CC you, "John, as per your
12:48:33 39 conversation a short time ago with that PII [REDACTED],
12:48:35 40 can we please be provided with Witness F's current phone
12:48:40 41 numbers? It is not for the purpose of contacting F, rather
12:48:43 42 it's required for the purpose of profile and application
12:48:46 43 updates". Can you explain what profile and application
12:48:50 44 updates are?---Not, not with a strong degree of accuracy.
12:49:09 45 I'd only be trying to assume what - profile could mean in
12:49:14 46 terms of creating the intelligence profile on the subject
12:49:18 47 person and therefore, you know, wanting to perhaps just

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12:49:21 1 check phone numbers are accurate with what they've got on
12:49:24 2 the profile.
12:49:25 3
12:49:25 4 The application updates, again - - - ?---That's a challenge
12:49:29 5 for me, I'm not sure what that means.
12:49:32 6
12:49:32 7 What he says in the next paragraph is, "To this end we're
8 invariably requesting past, current and future telephone
12:49:37 9 and other forms of contact between our principal target and
12:49:39 10 associates such as F". So it just, it might be read as
12:49:43 11 referring to intercepts?---Well, yeah, or more likely I
12:49:48 12 would think in that context call charge record details to
12:49:53 13 see who's contacting who perhaps.
12:49:56 14
12:49:56 15 Okay. So then you respond to Buick and say that you're
12:50:00 16 fine with that, to let him know if you can assist and
12:50:05 17 Segrave might be the person to get to you through?---Yes.
12:50:09 18
12:50:11 19 So you're confident that it's not referring to TIs or
12:50:15 20 you're just not sure?---I'm not confident at all. As I
12:50:18 21 said earlier in my answer this is what I'm assuming from
12:50:21 22 looking at it but I have no understanding or no memory of
12:50:25 23 any TI involvement with this, so I'm thinking it's more
12:50:29 24 likely call charge records and particularly if you go to
12:50:32 25 the intelligence profile aspect, which is generally, and
12:50:36 26 I'm probably getting into methodology, but generally the
12:50:40 27 background of somebody and who they contact, et cetera,
12:50:43 28 that could account for - the application could be an
12:50:46 29 application for call charge records historically perhaps.
12:50:49 30
12:50:49 31 I see. There's a couple of possibilities, all right. Now,
12:50:53 32 there's an email that you refer to - - -
12:50:55 33
12:50:56 34 COMMISSIONER: Do you want to tender some of these?
12:50:57 35
12:50:58 36 MR WOODS: Yes, I do.
12:50:58 37
12:51:00 38 COMMISSIONER: First of all there's the one of 14 October
12:51:03 39 2010, Pope to Fryer, CC to Sheridan, do you want to tender
12:51:08 40 that one?
12:51:09 41
12:51:10 42 MR WOODS: Yes please.
12:51:10 43
12:51:10 44 #EXHIBIT RC839A - (Confidential) Email 14/10/10, Pope to
12:51:05 45 Fryer, CC to Sheridan.
12:51:13 46
12:51:14 47 #EXHIBIT RC839B - (Redacted version.)

.05/12/19

10563

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12:51:15 1
12:51:15 2 MR WOODS: The next one was a diary so the one after that I
12:51:19 3 think is just the 7 January 2011 exchange.
12:51:21 4
12:51:21 5 #EXHIBIT RC840A - (Confidential) Email chain 7/1/11, Buick
12:51:23 6 to O'Connor, CC Sheridan.
12:51:23 7
12:51:23 8 #EXHIBIT RC840B - (Redacted version.)
12:51:27 9
12:51:27 10 Thank you Commissioner. There's a 4 February 2011 document
12:51:32 11 you refer to at paragraph 19C I think it is of your
12:51:39 12 statement that I don't think the Commission's been
12:51:42 13 provided, or if it has I'm not able to find it on the
12:51:45 14 system. So I'll just go to the paragraph. So 4 February
12:51:54 15 2011 Frewen emails you about contacting Gobbo for
12:51:58 16 proceedings against Dale and other inquiries. "My diary
12:52:01 17 records that I discussed this with O'Connor. I do not
12:52:04 18 recall the discussion beyond what is in it". That email -
12:52:13 19 I might not need to show it to you but that email is being
12:52:16 20 located, I'm grateful for that. It seems as a result of
12:52:22 21 that there's a diary entry of yours, so there's this
12:52:27 22 contact with Frewen on 4 February 2011 and then on 8
12:52:34 23 February 2011 your diary indicates that you tell Fryer that
12:52:39 24 you don't want the SDU managing Ms Gobbo. Do you have a
12:52:44 25 recollection of that?---Yes, yeah, in general terms, yes.
12:52:48 26
12:52:48 27 If that could come up on the screens, this is 1389 of the
12:52:53 28 diary ending in 1371.
12:53:00 29
12:53:00 30 MR HOLDING: Is it possible for us to have that on the big
12:53:04 31 screen? It seems to concern the Commonwealth.
12:53:06 32
12:53:06 33 COMMISSIONER: Yes. Is there any difficulty with that?
12:53:08 34
12:53:08 35 MR WOODS: I don't see why not.
12:53:09 36
12:53:10 37 COMMISSIONER: It's a bit hard to follow otherwise.
12:53:12 38
12:53:12 39 MR WOODS: In fact if the focus could be brought by the
12:53:14 40 operator onto that middle section.
12:53:16 41
12:53:17 42 MR HOLT: There's no problem with the middle section,
12:53:19 43 Commissioner.
12:53:19 44
12:53:20 45 COMMISSIONER: Okay, there we go.
12:53:22 46
12:53:22 47 MR WOODS: You confer with Fryer, Crime Department re F.

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12:53:29 1 Inquired re managing her in upcoming Dale matter. Is this
12:53:32 2 simply to look after her through that process as a witness,
12:53:37 3 is that the situation, when it says managing, I'm
12:53:43 4 interested in the - - - ?---Well yes, in terms of - this is
12:53:50 5 to proceed, she's to be a witness and the SDU are not there
12:53:55 6 to manage witnesses. That's the first aspect in terms of,
12:54:00 7 in response to your question. And then the other point, as
12:54:04 8 I've said, the legal agreement has to be, you know,
12:54:08 9 carefully looked at in terms of whether that's been
12:54:10 10 breached, and as I said I didn't have the legal agreement.
12:54:12 11 I only had a fundamental - - -

12:54:12 12
12:54:12 13 But you knew there was one and you knew its general
12:54:15 14 terms?---Yeah, I was about to say I only had a fundamental
12:54:17 15 understanding of it. The SDU integrity, the SDU as I said
12:54:21 16 earlier, is meant to be handling human sources and not
12:54:24 17 witnesses and there's a distinction between them, so yeah.

12:54:27 18
12:54:27 19 And then there's Force policy, et cetera,
12:54:31 20 et cetera?---That's to follow the second point. The Force
12:54:34 21 policy is the SDU are not meant to be managing witnesses as
12:54:38 22 such and witnesses and human sources are two separate.

12:54:43 23
12:54:43 24 They're very different things and it would be a bad thing
12:54:47 25 for the SDU to be managing witnesses because it's a million
12:54:52 26 miles away from what they do?---Yes, in particularly this
12:54:56 27 witness.

28
12:54:56 29 Yes, yes, I understand?---Given we're trying to distance
12:54:58 30 the SDU from a relationship with this potential witness.

12:55:00 31
12:55:00 32 I don't need to bring the next diary entry up. But at 16
12:55:05 33 February 2011 you tell Pope that you don't want John
12:55:09 34 O'Connor to be managing her as a witness. Is that
12:55:11 35 consistent with your recollection?---It is, yes.

12:55:13 36
12:55:14 37 COMMISSIONER: What date was that, please?

12:55:16 38
12:55:17 39 MR WOODS: That's on 16 February 2011. And then there's a
12:55:23 40 couple of steering committee minutes that come after this
12:55:27 41 in relation to the Driver Task Force. So the Task Force
12:55:31 42 sitting behind this prosecution?---Yes.

12:55:33 43
12:55:35 44 Now, that's - the document I'd like to bring up is the 18
12:55:40 45 February 2011 meeting. Now as I understand from your
12:55:44 46 statement the minutes can't be located but you have a diary
12:55:49 47 entry of that date and that's at document ending in 1371

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12:55:57 1 and it's at p.1391 and it's the bottom of part of that
12:56:01 2 entry. If that can be focused on. There's a steering
12:56:06 3 committee. She is required as a witness. Now, I don't
12:56:11 4 understand the 16.2, given that I think this is the 18th of
12:56:15 5 the 2nd. Do you know what that means?---I presume it
12:56:29 6 relates to my conversation of the 16th.
12:56:31 7
12:56:32 8 Okay, sure?---As just linking it, that's all.
12:56:38 9
12:56:39 10 The next words are, "Manipulation towards source. JOC to
12:56:44 11 maintain, contact pending further discussion via
12:56:48 12 SDU"?---Yes.
12:56:48 13
12:56:49 14 What do the words "manipulation towards source" mean, do
12:56:55 15 you know? It's indicating that someone is manipulating
12:57:00 16 Gobbo, is that correct?---Yeah. Yes, it is correct. And I
12:57:06 17 can only infer from my own notes that what I'm getting at
12:57:10 18 there is the steering committee is manipulating the
12:57:13 19 situation towards using this, well I've got source. So
12:57:18 20 it's just a summary, it's a one line summary for my own
12:57:23 21 benefit just how I saw things were going.
12:57:25 22
12:57:26 23 I understand. The next meeting that discusses it on 25
12:57:30 24 February 2011, those minutes do exist but I don't think
12:57:36 25 I've given the operator a number of them unfortunately.
12:57:40 26 What occurs on that date, so it's Ken Jones, Moloney, Pope,
12:57:44 27 I think you've got a diary entry of it on the 25th of the
12:57:48 28 2nd 2011. Emmett Dunne, Doug Fryer, Paul Sheridan, Ian
12:57:55 29 Campbell, Chris Gawn, Glow and Officer4 and the focus of that
12:58:03 30 meeting is on the management of Witness F for that
12:58:08 31 proceeding. Unfortunately I don't know the number of the
12:58:12 32 document. If you've got your diary or the diary can be
12:58:15 33 brought up on the screen perhaps. You'll see there that's
12:58:20 34 your diary entry of it. Once I get the number for the Task
12:58:25 35 Force minutes I'll tender those but I might do that over
12:58:28 36 lunch, Commissioner. You see there Driver steering
12:58:31 37 committee and it's got those attendees that I read before.
12:58:34 38 "Discussion re offers of protection, representation of F by
12:58:37 39 someone close to her." Is that the DC?---It is.
12:58:44 40
12:58:45 41 "Directed to resolve representation of her", or whether -
12:58:49 42 you deal with that person or deal with Nicola Gobbo
12:58:52 43 directly?---Yes.
12:58:53 44
12:58:53 45 "And after that we can proceed re hearing", et cetera. At
12:58:56 46 this stage there was a negotiation to - well there was
12:59:01 47 consideration of how it would be that she would be managed

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12:59:04 1 as a witness in this proceeding that was coming up?---I
12:59:11 2 infer that that's the result, yes.
12:59:13 3
12:59:14 4 Do you know who made the decision, the ultimate decision
12:59:17 5 that she in fact would be or was going to be a witness in
12:59:20 6 that proceeding?---I expect it was the Deputy Commissioner.
12:59:26 7 That's what I indicate in the note, "Deputy Commissioner
12:59:30 8 directed". I'm only there as an advisor at this meeting so
12:59:35 9 that's my understanding.
12:59:36 10
12:59:37 11 That's because of this standard operating procedure whereby
12:59:41 12 her contact really comes through someone within your
12:59:44 13 department, is that right?---Yes.
12:59:45 14
12:59:47 15 18 April 2011 and this is a diary of yours ending in 1371,
12:59:56 16 it's p.1395. I tender the Task Force minutes,
13:00:04 17 Commissioner, for the record it's VPL.0005.0066.0274.
13:00:13 18
13:00:16 19 #EXHIBIT RC841A - (Confidential) Task Force minutes.
13:00:17 20 25/2/11.
13:00:22 21
13:00:23 22 #EXHIBIT RC841B - (Redacted version.)
13:00:25 23
13:00:25 24 The next, I'm not sure this needs to go up on everyone's
13:00:32 25 screen but there's a diary entry of yours on 18 April 2011.
13:00:41 26 It can be brought up on mine and the Commissioner's and the
13:00:45 27 witness's screen, this is at 1395. Essentially Mr O'Connor
13:00:50 28 gave some evidence last week about what was an interstate
13:00:56 29 operation concerning the SDU, or that the SDU were involved
13:01:01 30 in that essentially appears to have gone horribly wrong, do
13:01:05 31 you know what I'm talking about there?---Yes, yes.
13:01:07 32
13:01:09 33 So as I say I won't go through each of the elements of it,
13:01:13 34 but if the document, in fact this document can be brought
13:01:19 35 up on your screen VPL.0100.0169.0001. And this is a
13:01:31 36 conversation about that interstate operation and the fall
13:01:37 37 out from it. Can you see the document's up on your
13:01:42 38 screen?---Yes, thank you.
13:01:43 39
13:01:51 40 It does matter, sorry, it does. I think there's names of
13:01:56 41 other people in there that is problematic.
13:01:59 42
13:02:00 43 COMMISSIONER: It's not up on the big screen.
13:02:02 44
13:02:03 45 MR WOODS: If you could scroll down, please. Now, it
13:02:09 46 appears that as a result of this, the fall out of this, it
13:02:17 47 names each of the members who are involved, do you see that

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13:02:20 1 on the screen?---Yes, I do.
13:02:22 2
13:02:22 3 And then you can scroll down a little bit further, that the
13:02:25 4 OPI is regularly briefed by Cornelius on the status of
13:02:31 5 various operations?---Which - - -
13:02:36 6
13:02:36 7 Paragraph 6?---Yes.
13:02:37 8
13:02:38 9 Then you'll see at point 7, it's the opinion of the
13:02:41 10 interstate Police Force that there's insufficient evidence
13:02:44 11 to prosecute Victoria Police members for alleged breaches
13:02:48 12 based on a number of evidentiary criteria and they say,
13:02:53 13 they go through each of those elements there. There's
13:02:56 14 inadmissibility of the recordings they took, there's public
13:03:00 15 interest immunity, there's various other issues. Now if
13:03:04 16 you can scroll down a bit further. There's recommendations
13:03:09 17 there from the interstate Police Force that the OPI should
13:03:14 18 review, do you agree with that, should conduct a
13:03:20 19 review?---Yes, I agree that that's on the screen, yes.
13:03:23 20
13:03:23 21 Now, is it the case, and it's indicated - that can come off
13:03:29 22 the screen now. Is it the case from a number of the
13:03:33 23 documents that we've seen, and I can take you to them, but
13:03:36 24 do you have a recollection of the interstate authority
13:03:41 25 saying that there was prima facie criminality but it wasn't
13:03:46 26 in the public interest to proceed?---Yes, I do think
13:03:50 27 that's, that's my recollection, yes.
13:03:53 28
13:03:54 29 Was there disciplinary action taken against any of the
13:03:57 30 officers as a result?---I don't believe there was.
13:04:02 31
13:04:04 32 All right.
13:04:06 33
13:04:06 34 COMMISSIONER: I think that's probably already been
13:04:08 35 tendered that document, has it?
13:04:10 36
13:04:11 37 MR WOODS: That one has last week through O'Connor.
13:04:15 38
13:04:15 39 COMMISSIONER: It was shown to John O'Connor but not
13:04:18 40 tendered, so you might want to tender it now.
13:04:21 41
13:04:22 42 MR WOODS: That was my cunning plan last week, to tender it
13:04:25 43 through this witness. Yes, if I could tender it now.
13:04:27 44 Thank you Commissioner.
13:04:27 45
13:04:27 46 COMMISSIONER: What's the description of it? I have the
13:04:29 47 date is 16 July 2010, what's the description of the

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13:04:32 1 document, please?
13:04:33 2
13:04:33 3 MR WOODS: I might bring the title back up. We don't need
13:04:38 4 to use the operation name. It could be 16 July 2010 letter
13:04:44 5 from - well, to Mr Sheridan and it's from Mr O'Connor
13:04:56 6 regarding interstate operation.
13:04:58 7
13:05:00 8 #EXHIBIT RC842A - (Confidential) Letter 16/7/10 to
13:05:01 9 Mr Sheridan from Mr O'Connor.
13:05:01 10
13:05:02 11 #EXHIBIT RC842B - (Redacted version.)
13:05:07 12
13:05:08 13 Thank you, Commissioner. Now, I want to take you to a
13:05:15 14 slightly different issue but chronologically in order in
13:05:20 15 any event. We go to on 8 September 2011, and this is an
13:05:24 16 email trail VPL.0005.0013.1273. If we can start at the
13:05:33 17 bottom of that, please. That's an email from Boris Buick
13:05:38 18 to Officers Solomon, O'Connell and Sandy White and he says,
13:05:46 19 "Sol, I remembered now what I was going to ask you. Shane,
13:05:51 20 I'll ask you too and Sandy. I wouldn't mind your input too
13:05:55 21 if possible. In response to the attached ICS I have a
13:06:00 22 meeting with Gerard Maguire next Tuesday. So I'm informed
23 and armed can you tell me what if any documents were
13:06:04 24 sought, provided and/or argued over any form of",
13:06:08 25 et cetera, those four things, "Witsec, SDU, Mr Overland,
13:06:13 26 anyone else, as to the engagement and management of F as a
13:06:17 27 source long before you took your statement from her".
13:06:20 28 That's Sol Solomon's statement from Ms Gobbo. "Also, how
13:06:24 29 did or would you have explained how she came to be a
13:06:27 30 witness for you in light of what evidentially transpired
13:06:31 31 between SDU and others and F historically. If I'm not
13:06:35 32 making sense I'll come down for a chat". You see there
13:06:38 33 that what he's asking for, part of what he's asking for is
13:06:43 34 how did they, how did that officer or would that officer
13:06:47 35 explain how it was that Ms Gobbo became a witness against
13:06:51 36 Mr Dale, do you agree that's something he's asking?---Yes,
13:06:54 37 it appears so, yes.
13:06:55 38
13:06:55 39 You can scroll up from there. And then what happens is
13:07:01 40 that Sandy White says back to Mr Buick, "I think we should
13:07:06 41 all meet in regards to query so there's no confusion about
13:07:10 42 what occurred and what can be said". Buick says, "Very
13:07:13 43 good. How are people placed on Monday morning?" Then
13:07:18 44 there's a detailed discussion there about subpoenas from
13:07:23 45 the accused's defence in that proceeding, do you see that
13:07:26 46 at the top?---Yes, I do.
13:07:28 47

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13:07:29 1 And he says, Mr Solomon says to Buick, Sandy White and
13:07:34 2 O'Connell, "In fact we received multiple subpoenas. Their
13:07:42 3 thirst for information was unquenchable. We fought a
13:07:45 4 battle for six weeks at the Committal regarding public
13:07:45 5 interest immunity which in the end resulted in the
13:07:47 6 committal being adjourned. It took us over three months to
13:07:50 7 get all the subpoenaed material together", et cetera,
13:07:54 8 et cetera. Now you can scroll - sorry, at the bottom there
13:07:58 9 he says, "I can tell you how Cam Davey and I became
13:08:02 10 involved with F during the investigation and how she went
13:08:05 11 from a source of intel to a witness. Let me know what
13:08:07 12 information you want with regard to that topic, Sol". Then
13:08:11 13 go to the top. "Gents, please" - so this is from, or
13:08:17 14 between two members of the SDU and Mr O'Connor, and then go
13:08:22 15 up to the top. That's then forwarded to you from O'Connor.
13:08:29 16 "I've just turned on my computer and read this. Tomorrow
13:08:32 17 morning I intend to remind Boris that anything to do with
13:08:35 18 the SDU is to come through me." That's an email trail that
13:08:39 19 you received on 8 September 2011?---Yes.

13:08:41 20
13:08:43 21 All right. Now, paragraphs 22 to 24 of your statement are
13:08:49 22 essentially dealing with the Maguire advice that was
13:08:56 23 received in September 2011, is that right?---Yes.

13:09:00 24
13:09:01 25 And as a result of that you met with Maguire, Frewen, VGSO
13:09:09 26 lawyers and Buick?---Yes.

13:09:11 27
13:09:12 28 And in your diary of that day, the document ending 1371 at
13:09:20 29 p.1402, this is in the context of - do you recall the
13:09:26 30 context, the charges it arose in relation to, was it the
13:09:30 31 ACC charges?---That's my recollection, yes.

13:09:33 32
13:09:34 33 Okay. And then in the diary that will come up in a moment,
13:09:41 34 there's to be a brief to both Pope and Ashton.

13:09:47 35
13:09:47 36 COMMISSIONER: Has that email chain been tendered?

13:09:52 37
13:09:52 38 MR WOODS: The Buick one? I think it might have been
13:09:55 39 tendered through Mr Buick.

13:09:57 40
13:09:58 41 COMMISSIONER: We'll see. We can't find it.

13:10:02 42
13:10:03 43 MR WOODS: Okay, I'll tender it now, that's 8 September
13:10:05 44 2011.

13:10:07 45
13:10:08 46 #EXHIBIT RC843A - (Confidential) Email chain commencing
13:10:09 47 with Buick to others on 8/9/11.

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1
13:10:15 2 #EXHIBIT RC843B - (Redacted version.)
13:10:19 3
13:10:20 4 So the fourth is that middle section there and the bit that
13:10:25 5 I'm after is down - - -
13:10:27 6
13:10:27 7 MR HOLDING: Commissioner, is there a problem with us
13:10:29 8 seeing this as well?
13:10:31 9
13:10:31 10 MR WOODS: I don't think there is if the focus is brought
13:10:35 11 up on that middle section with the red underline. Is that
13:10:38 12 "advises office"? Yes, underneath that. Yep, just there.
13:10:46 13 "Attend", that's it, and keep going down. There's just a
13:10:53 14 bit more you need to pick up. Down to there, that's it. I
13:10:56 15 think that's safe. All right. So here we have, "At legal
13:11:08 16 advisor's office", do you know if that's Mr Maguire's
13:11:11 17 office or whether that's VicPol legal advisor's office?---I
13:11:16 18 think that's the VicPol office.
13:11:18 19
13:11:19 20 So Maguire's there, Le Grande's there, Elms, Jarrett,
13:11:26 21 Frewen, Buick and yourself?---Yes.
13:11:28 22
13:11:28 23 "Discussion re Witness F acting for Paul Dale?" So there
13:11:33 24 was a question about whether or not she'd actually been
13:11:36 25 acting for Dale?---Yes.
13:11:37 26
13:11:38 27 And that was discussed there, yes. Then there's to be
13:11:46 28 background and supportive material collected, do you
13:11:52 29 agree?---Yes.
13:11:52 30
13:11:53 31 "Concern Frewen and Buick", what's that next one, is that
13:11:57 32 AC?---AC Pope and Ashton.
13:12:00 33
13:12:00 34 "To be informed prior to Commonwealth DPP" and then
13:12:06 35 something briefed - - - ?---"Return to office", RT0, return
13:12:10 36 to office, "Briefed AC Pope re above".
13:12:15 37
13:12:15 38 He agreed that the ACC prosecution should not be a
13:12:19 39 priority. Do you have a recollection of that conversation
13:12:21 40 with Mr Pope?---In general terms, yes.
13:12:23 41
13:12:23 42 And what's that?---That the, the issues to be considered
13:12:30 43 and weighed in terms of the potential risk of trying to
13:12:34 44 essentially call a reluctant witness is going to expose
13:12:41 45 that person as a source and they weren't going to yield the
13:12:44 46 evidence as a witness anyway. So there was a massive sort
13:12:47 47 of fall out from that point.

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10571

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13:12:49 1
13:12:49 2 Do you recall there being a discussion with Mr Pope about
13:12:51 3 the effect that it might have on, or with any of these
13:12:55 4 gentlemen I should say or Mr Pope, the effect that it might
13:12:59 5 have on previous and upcoming legal proceedings, the fact
13:13:03 6 that Ms Gobbo was a human source?---No, I don't think it
13:13:07 7 was discussed.
13:13:08 8
13:13:08 9 So this was a focus on what, what was the reason why, that
13:13:14 10 she wouldn't be used? Is it simply revealing her as a
13:13:18 11 source?---Yes, on the basis that also she was a reluctant
13:13:21 12 witness, so she wasn't going to give the evidence. So once
13:13:24 13 they attempted to call her as a witness, they obviously had
13:13:27 14 to serve statements, et cetera, and disclosure material,
13:13:30 15 she would be identified as a human source but yet she
13:13:34 16 wouldn't be a witness anyway, so it was a sort of a double
13:13:37 17 loss.
13:13:38 18
13:13:38 19 I just want to divert from this chronologically working
13:13:42 20 through it briefly. Well something that actually fits
13:13:46 21 within the chronology but it's a slightly different issue.
13:13:50 22 On 21 October 2011 Gobbo told Buick that she'd a sexual
13:13:58 23 relationship with Mr Pope and that was recorded, audio
13:14:02 24 recorded and then transcribed and then filtered its way
13:14:06 25 through to Mr Pope. Do you have a recollection of that
13:14:09 26 being revealed at some stage in 2011?---I do have a
13:14:13 27 recollection of it being revealed at some point but I'm not
13:14:16 28 entirely sure exactly when that was.
13:14:18 29
13:14:19 30 On 2 November 2011 Pope signed an affidavit saying that he
13:14:26 31 hadn't had sexual relations with Ms Gobbo. I assume you
13:14:33 32 wouldn't have seen the affidavit but you know that that
13:14:35 33 allegation from Ms Gobbo was denied by Mr Pope?---I do,
13:14:38 34 yes.
13:14:38 35
13:14:39 36 And then the Driver Task Force meeting on 3 November 2011,
13:14:48 37 there was some discussion about this and I might get that
13:14:54 38 brought up. That's VPL.0002.0002.0065. So the focus of
13:15:03 39 the meeting again appears to be on Nicola Gobbo because the
13:15:09 40 committal is due to start on the Monday and to proceed
13:15:14 41 without F's evidence subject to final DPP decision and that
13:15:19 42 meant that several charges would need to be withdrawn if
13:15:21 43 Gobbo wasn't giving evidence, that was part of the
13:15:24 44 discussion?---Yes.
13:15:25 45
13:15:26 46 Maguire's advice is, of 4th of the 11th is discussed. I
13:15:34 47 should ask is this your note or is this someone else's

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13:15:39 1 note?---I don't think it's my note.
13:15:43 2
13:15:43 3 Now - - - ?---Is this a minute from that meeting though?
13:15:47 4
13:15:47 5 Yes, it appears to be?---So it should be at the beginning
13:15:50 6 of the document I would think.
13:15:51 7
13:15:51 8 It's a stand alone document I think and its, it says that
13:15:56 9 it's compiled from handwritten notes?---No, it doesn't
13:16:01 10 appear to be mine.
13:16:02 11
13:16:02 12 Yes, okay. Maguire's legal advice is discussed and the OPP
13:16:09 13 prosecutor has received the advice as well. And you'll see
13:16:14 14 there that it raises issues of governance of human sources.
13:16:20 15
13:16:20 16 MS O'GORMAN: I can't see that document, can I inquire
13:16:23 17 whether it says OPP or CDPP?
13:16:26 18
13:16:26 19 MR WOODS: It says OPP.
13:16:28 20
13:16:28 21 MR HOLT: This is a document relevant to those at the rear
13:16:32 22 Bar table, there's no problem with it being on the screen.
13:16:35 23
13:16:36 24 COMMISSIONER: There is a claim for legal professional
13:16:38 25 privilege.
13:16:38 26
13:16:38 27 MR HOLT: No, there's not Commissioner.
28
29 COMMISSIONER: That's not claimed any more.
30
13:16:39 31 MR HOLT: That is not claimed any more. It's plainly not
13:16:42 32 privileged so I don't make the claim.
13:16:43 33
13:16:44 34 COMMISSIONER: It's just because there was yellow
13:16:47 35 highlighting I was concerned.
13:16:48 36
13:16:48 37 MR WOODS: I'm going to spend a little bit of time on this
13:16:52 38 document, Commissioner.
13:16:52 39
13:16:52 40 COMMISSIONER: We might have the lunch break then. Do you
13:16:55 41 want to tender it?
13:16:58 42
13:16:58 43 MR WOODS: Yes please.
13:16:59 44
13:16:59 45 COMMISSIONER: It will be Exhibit 844A and B.
13:17:02 46
13:17:03 47 #EXHIBIT RC844A - (Confidential) Document

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13:14:55 1 VPL.0002.0002.0065.
13:17:04 2
13:17:05 3 #EXHIBIT RC844B - (Redacted version.)
13:17:06 4
13:17:06 5 COMMISSIONER: We'll resume at 2 o'clock.
13:17:07 6
13:17:08 7 MR HOLT: Can we stand down Mr Glow now? I would be very
13:17:11 8 grateful.
13:17:12 9
13:17:12 10 MR WOODS: I don't think I've got more than about half to
13:17:18 11 three-quarters of an hour but I think there is some
12 cross-examination.
13
14 COMMISSIONER: You'll be taking all afternoon?
15
13:17:20 16 MR CHETTLE: Until 4 o'clock, yes.
13:17:27 17
13:17:27 18 COMMISSIONER: We'll try and finish the witness at 4.
13:17:31 19
13:17:32 20 MR HOLT: If matters became urgent we will bring him here
13:17:35 21 of course.
13:17:35 22
13:17:36 23 COMMISSIONER: If looks as though we won't be using Mr Glow
13:18:15 24 today.
25
26 MR HOLT: I'm grateful, thank you.
27
28 COMMISSIONER: Thank you.
29
13:18:15 30 <(THE WITNESS WITHDREW)
13:18:18 31
13:18:18 32 LUNCHEON ADJOURNMENT
13:18:18 33
34
35
36
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13:59:31 1 UPON RESUMING AT 2.00 PM:
2
14:04:08 3 COMMISSIONER: Yes Mr Coleman.
14:04:09 4
14:04:10 5 MR COLEMAN: Commissioner, before the questioning of the
14:04:12 6 witness resumes can I raise a matter I've raised with
14:04:14 7 Mr Winneke and it regards access to statements which have
14:04:20 8 been served on the Commission. We had understood that for
14:04:24 9 some time the position was that for those parties with
14:04:28 10 standing leave once statements had been served on the
14:04:32 11 Commission, and subject to PII claims, those statements
14:04:35 12 would be provided to parties with standing leave. That's
14:04:38 13 been happening.
14
14:04:39 15 COMMISSIONER: I think that might be a misapprehension.
14:04:42 16 Each case is dealt with it on a case by case basis. This
14:04:45 17 is an Inquiry and we're not - this is a Royal Commission.
14:04:50 18
14:04:50 19 MR COLEMAN: I understand that.
20
14:04:51 21 COMMISSIONER: Yes.
14:04:52 22
14:04:53 23 MR COLEMAN: I'm just putting to what I understood what was
14:04:55 24 the position that had been maintained for some little while
14:05:01 25 now.
26
14:05:02 27 COMMISSIONER: No, I don't understand that be to correct.
14:05:03 28 Particularly in respect of witnesses who haven't yet given
14:05:07 29 evidence.
14:05:07 30
14:05:08 31 MR COLEMAN: We have been receiving some statements from
14:05:10 32 time to time from the counsel assisting. We have written
14:05:13 33 to counsel assisting asking for the provision of certain
14:05:15 34 statements, and I can identify those if you wish.
35
14:05:21 36 COMMISSIONER: It's a matter for you, Mr Coleman.
14:05:25 37
14:05:26 38 MR COLEMAN: Counsel assisting, as we now understand it,
14:05:28 39 say that they don't want to provide us with statements
14:05:31 40 where there may be different factual questions or
14:05:34 41 recollections raised in those statements, compared to
14:05:37 42 those, for example, of my client Mr Ashton. But if there
14:05:40 43 are allegations made by people which affect Mr Ashton we're
14:05:45 44 entitled, of course, to be made aware of those allegations.
45
14:05:48 46 COMMISSIONER: Of course you have to have the opportunity
14:05:50 47 to respond to them, that's right.

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14:05:52 1
14:05:52 2 MR COLEMAN: Quite.
3
14:05:52 4 COMMISSIONER: Yes.
14:05:53 5
14:05:53 6 MR COLEMAN: And we say that in accordance with the
14:05:55 7 principles of procedural fairness that would entail us also
14:05:58 8 being made aware and having the chance to take instructions
14:06:01 9 to meet matters of different factual recollections, for
14:06:04 10 example.
11
14:06:04 12 COMMISSIONER: I think it's a matter for the Commission
14:06:08 13 when the statements are provided to you, as long as you
14:06:10 14 have an opportunity at some point to respond to any
14:06:13 15 allegations against your interest.
14:06:15 16
14:06:15 17 MR COLEMAN: Yes, I accept that, but we say as a matter of
14:06:18 18 fairness that should happen now. It's really not
14:06:21 19 appropriate, in our submission, for counsel assisting to
14:06:24 20 pick and choose which statements they provide to us if they
14:06:28 21 are matters which would affect my client's interest,
14:06:31 22 including his reputation, and that he is entitled to see
14:06:34 23 them, rather than being ambushed with those matters when he
14:06:37 24 gets into the witness box.
25
14:06:38 26 COMMISSIONER: It's a Royal Commission, Mr Coleman.
14:06:40 27
14:06:40 28 MR COLEMAN: I understand that, Commissioner. But we would
14:06:43 29 submit to you that as a matter of procedural fairness the
14:06:46 30 position that I've suggested or submitted to you ought to
14:06:49 31 be the one that's adopted and that you ought to direct that
14:06:53 32 counsel assisting provide the statements that we have
14:06:56 33 requested. It can't be right, with respect, that - see,
14:07:04 34 for example, Mr Ashton has put on a statement and he's
14:07:07 35 said, "This is my position and my recollection". That
14:07:10 36 statement was made with access to very little documents,
14:07:12 37 particularly from when he was at the OPI. It seems a
14:07:17 38 little odd that now we've received some statements, we've
14:07:22 39 received Mr Wilson's and Mr Sheridan's, before my client
14:07:26 40 has given evidence, and before they gave evidence. Indeed,
14:07:29 41 part of the obligations of procedural fairness is that we
14:07:32 42 can meet and test other witness's evidence.
43
14:07:35 44 COMMISSIONER: You'll certainly be given that opportunity.
14:07:37 45
14:07:37 46 MR COLEMAN: Yes. And we need to take instructions on
14:07:39 47 those matters as well. As I've submitted, it is our

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14:07:42 1 position that we should be able to have those statements,
14:07:45 2 even if they do contain matters of factual difference
14:07:48 3 between Mr Ashton's recollection and the other witness's
14:07:52 4 recollection. Indeed, we understand that some of the
14:07:55 5 statements we've requested have been provided to other
14:07:58 6 parties with standing leave and it should make no
14:08:03 7 difference whether the party seeking to have provision of
14:08:06 8 those statements has given evidence yet or not. That's our
14:08:09 9 position. We respectfully request the direction we seek.

10
14:08:12 11 COMMISSIONER: Thank you. Yes, did you want to say
14:08:15 12 something, Mr Winneke?

13
14:08:16 14 MR WINNEKE: Briefly, Commissioner. This is a public
14:08:18 15 inquiry and the Commission has determined to hold the
14:08:22 16 evidence in public insofar as it can. To that extent
14:08:26 17 witnesses who give evidence have the great benefit of
14:08:29 18 hearing and seeing the evidence that's gone before,
14:08:31 19 particularly if they have standing leave, and Mr Ashton's
14:08:34 20 had that benefit. The Commission is entitled to choose the
14:08:38 21 order in which it calls witnesses and is entitled to say to
14:08:42 22 witnesses who have not given evidence that those statements
14:08:48 23 will be provided after the witness has given evidence, if
14:08:51 24 that witness is ahead of, for example, Mr Ashton.
14:08:57 25 Mr Ashton has been provided with witness statements of
14:08:59 26 people such as the current witness because he's got to
14:09:04 27 cross-examine them. But it doesn't mean he's entitled to
14:09:08 28 be given not just all of the statements of people who are
14:09:12 29 coming before him, but those coming after him.

30
14:09:17 31 Commissioner, we do not propose to provide witnesses,
14:09:20 32 and we haven't as far, as I understand it, been providing
14:09:22 33 witnesses with the statements of witnesses who are coming
14:09:25 34 after them. They'll have an opportunity in due course to
14:09:29 35 cross-examine them, but at the moment we choose the order
14:09:32 36 in which we call witnesses and that's the way in which we
14:09:36 37 propose to do it. I don't see that procedural fairness
14:09:41 38 requires Mr Ashton to have the benefit of seeing and
14:09:43 39 hearing those who come before him but, in addition, seeing
14:09:46 40 and hearing the evidence or anticipating the evidence
14:09:48 41 that's going to come after him. This is a Royal Commission
14:09:50 42 and we're entitled to choose to call the witnesses in the
14:09:53 43 order in which we want.

44
14:09:54 45 COMMISSIONER: Yes. Mr Coleman, you can be assured that
14:09:57 46 the Commission will be astute to ensure that your client,
14:10:02 47 and everyone who appears before the Royal Commission or is

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14:10:07 1 affected in any way by the Royal Commission, will have an
14:10:10 2 opportunity to be afforded procedural fairness. But I can
14:10:15 3 see no reason why your application should be granted and
14:10:18 4 it's refused.
14:10:20 5
14:10:22 6 MR COLEMAN: May it please the Commissioner.
14:10:22 7
14:10:22 8 MS O'GORMAN: Commissioner, can I make the specific
14:10:23 9 application which is that the DPP be provided with a copy
14:10:26 10 of Mr Finn McRae's statement before Mr Ashton's called to
14:10:29 11 gives evidence. It's a similar application. It's made of
12 the basis that Mr Ashton's statement - - -
13
14:10:30 14 COMMISSIONER: Just a minute. Can you hear what
14:10:32 15 Ms O'Gorman is saying? It might be better if you come
14:10:35 16 forward to a microphone, please, Ms O'Gorman. You don't
14:10:38 17 have to repeat what you've said already.
14:10:40 18
14:10:41 19 MS O'GORMAN: Thank you, Commissioner. It's made on the
14:10:43 20 basis that Mr Ashton's statement does go in to some
14:10:46 21 evidence in respect of what is alleged told to the DPP via
14:10:49 22 or in respect of Mr Finn McRae. At this stage we have no
14:10:52 23 notice of what Mr Finn McRae says is his account of that.
14:10:53 24 In any event, in order to make any assessment as to whether
14:10:56 25 or not Mr Ashton needs to be cross-examined, in my
14:10:58 26 respectful submission it's necessary that the DPP get
14:11:00 27 notice of Mr McRae's evidence before Monday.
28
14:11:05 29 COMMISSIONER: Okay. I think we weren't expecting this
14:11:11 30 application, but anyway.
31
14:11:13 32 MR WINNEKE: Commissioner, I'll give consideration to that
14:11:15 33 request.
34
14:11:15 35 COMMISSIONER: Yes.
14:11:18 36
14:11:19 37 MR HOLDING: We're in a similar position, Commissioner.
38
14:11:22 39 COMMISSIONER: You better come forward too if you're
14:11:24 40 wanting to be heard.
14:11:26 41
14:11:27 42 MR HOLDING: It's the same submission - - - .
43
14:11:29 44 COMMISSIONER: This is Mr Holding?
14:11:31 45
14:11:32 46 MR HOLDING: Yes, thank you, Commissioner.
47

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14:11:33 1 COMMISSIONER: For the Commonwealth DPP.
14:11:36 2
14:11:36 3 MR HOLDING: Yes.
4
14:11:37 5 COMMISSIONER: So you're wanting a copy of Finn McRae's
14:11:40 6 statement?
14:11:40 7
14:11:41 8 MR HOLDING: Prior to Monday, Commissioner.
9
14:11:46 10 COMMISSIONER: On the same basis as Ms O'Gorman set out?
14:11:50 11
14:11:50 12 MR HOLDING: Yes, Commissioner.
13
14:11:51 14 COMMISSIONER: All right, we'll give consideration - - -
15
14:11:53 16 MR WINNEKE: Commissioner, can I say that the response that
14:11:54 17 I make is similar to that which I've made to Mr Ashton's
14:11:58 18 request. Consideration will be given to it but the
14:12:00 19 principles are the same.
20
14:12:01 21 COMMISSIONER: The principles are the same.
22
14:12:03 23 MR WINNEKE: If there's a particular reason to do so it can
14:12:05 24 be provided but, as I say, that request has just been made,
14:12:09 25 we'll give consideration to it.
26
14:12:11 27 COMMISSIONER: All right. So you should, each of you
14:12:13 28 should articulate any particular reasons why you should
14:12:16 29 have the statement ahead of time, other than what
14:12:19 30 Ms O'Gorman - if there are any other than what Ms O'Gorman
14:12:24 31 has already said, to counsel assisting and it will be given
14:12:26 32 consideration.
14:12:27 33
14:12:27 34 MS O'GORMAN: Thank you, Commissioner.
14:12:31 35
14:12:32 36 MR NATHWANI: Commissioner, whilst we're dealing with
14:12:33 37 directions, I'm sorry, up until yesterday the indications
14:12:36 38 were the evidence would be concluded by the 20th of
14:12:39 39 December. In discussions with other members of the Bar at
14:12:44 40 the table obviously we all have other commitments next
14:12:48 41 year. We need to manage diaries with the Christmas break
14:12:48 42 approaching. Obviously we don't request an answer right
14:12:50 43 now but it would assist us enormously - - -
44
14:12:53 45 COMMISSIONER: We'll be recommencing sitting on 21 January.
14:12:57 46
14:12:58 47 MR NATHWANI: Thank you. Is there any indication as to how

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14:13:01 1 long we anticipate that will be, because that's the - - -
2
14:13:03 3 COMMISSIONER: We anticipate we'll finish, complete
14:13:08 4 hearings in three weeks after 21 January.
14:13:11 5
14:13:11 6 MR NATHWANI: Thank you.
7
14:13:12 8 COMMISSIONER: But as we know, these deadlines have been
14:13:16 9 known to not be met.
14:13:19 10
14:13:19 11 MR NATHWANI: I'm grateful, thank you.
12
14:13:21 13 COMMISSIONER: Thank you. Yes.
14:13:25 14
14:13:25 15 <PAUL ANTHONY SHERIDAN, recalled:
14:13:37 16
14:13:39 17 MR WOODS: Just before the break, Mr Sheridan, I was asking
14:13:42 18 you about some issues regarding Mr Pope and the allegation
14:13:48 19 that was made about him by Ms Gobbo and then his recusal
14:13:57 20 from the Driver steering committee. There was a minute of
14:14:02 21 that - there were some meeting notes that are there in
14:14:06 22 front of you now. I just want to check, in your diary,
14:14:10 23 were you present at the 3rd of November 2011 Driver Task
14:14:17 24 Force meeting, do you know?---I don't believe so.
25
14:14:20 26 We might have a look at that in due course. I just want to
14:14:25 27 get your understanding of whether you recall any of these
14:14:29 28 issues. Firstly, you'll see there "GA", I take it that's
14:14:36 29 Graham Ashton, "concerns around Inca". Do you see that
14:14:41 30 around the middle of the page there?---Yes, I do.
31
14:14:43 32 There's a comment there that, "F was the originating human
14:14:47 33 source". You're aware that Inca was to do with a large
14:14:56 34 importation of drugs from Italy?---Yes.
35
14:15:01 36 There's a concern - in the context of discussing Witness F,
14:15:07 37 Nicola Gobbo, that Ashton has concerns about it on 3
14:15:12 38 November 2011. "It's known that she was the originating
14:15:19 39 human source. The AFP, although aware of the importance of
14:15:23 40 human source (i.e. Nicola Gobbo) are not aware that it was
14:15:29 41 Nicola Gobbo. Some concern that F (Nicola Gobbo) was
14:15:33 42 acting as legal advisor to one of the accused at the time,
14:15:38 43 consequently a requirement to disclose or at the least make
14:15:42 44 the prosecution aware of Nicola Gobbo's involvement and the
14:15:46 45 potential that she was a legal advisor". You may or may
14:15:51 46 not be aware, do you know whether or not it was disclosed
14:15:54 47 to the relevant individuals Nicola Gobbo's role in

.05/12/19

10580

SHERIDAN XXN

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14:16:01 1 Operation Inca?---No, I don't. I don't know a great deal
14:16:07 2 about Inca at all.
3
14:16:09 4 Then you'll see that Mr McRae is to be the person who
14:16:12 5 considers the disclosure requirements, you accept that's
14:16:15 6 what the note says?---I see that on the note, yes.
7
14:16:17 8 And then underneath, "Comments by F around relationship
14:16:23 9 with JP", that's Jeff Pope?---Yes.
10
14:16:26 11 "Finn to consider legal advice around 'reason to believe'
14:16:32 12 and he is to remain recused from the steering committee
14:16:35 13 until further determination around the need for
14:16:37 14 investigation or until any investigation is
14:16:41 15 completed"?---Yes.
16
14:16:41 17 Is it your recollection that he did recuse him from the
14:16:45 18 Driver steering committee following this?---I don't know, I
14:16:48 19 wasn't a member of the Driver steering committee so I
14:16:53 20 don't know.
21
14:16:53 22 Did you attend from time to time?---I think I attended
14:16:56 23 twice at request.
24
14:16:56 25 Okay, all right. Just back to our chronology, and I
14:17:07 26 shouldn't be too much longer with this. I should tender
14:17:10 27 that Driver meeting minute, 3rd of the 11th 2011.
28
14:17:18 29 COMMISSIONER: I thought we tendered it before the break,
14:17:21 30 844.
14:17:22 31
14:17:22 32 MR WOODS: One thing I didn't tender before the break
14:17:24 33 though was a document that I couldn't locate. Mr Holt has
14:17:27 34 been helpful in providing me the number. This is a
14:17:31 35 4/11/2011 email from Mr Frewen to Mr Sheridan. It's
14:17:37 36 VPL.6078.0017.4741.
14:17:43 37
14:17:43 38 #EXHIBIT RC845A - (Confidential) Email from Mr Frewen to
14:17:35 39 Mr Sheridan 4/11/11.
14:17:46 40
14:17:46 41 #EXHIBIT RC845B - (Redacted version.)
42
14:17:52 43 Your diary on 5 October 2011, and this is at p.1403 of the
14:18:02 44 diary ending in 1371, it appears that - that's a couple of
14:18:13 45 days after that meeting, Pope tells you that Ashton has
14:18:20 46 said that there will be a meeting with the DPP and the
14:18:23 47 charges will not proceed, do you see that entry?---Yes.

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1
14:18:29 2 Is it correct that as it was explained to you, or as you
14:18:34 3 understood it, the decision was taken that it was better
14:18:37 4 not to proceed with the charges than to disclose the
14:18:44 5 relationship that had occurred between Victoria Police and
14:18:49 6 Nicola Gobbo, is that the reason why, to your
14:18:52 7 understanding, that the charges wouldn't proceed?---Yes,
14:18:55 8 and I think coupled with the fact that she was reluctant as
14:18:59 9 a witness anyway to do this.
10
14:19:05 11 That was apparently Mr Ashton's decision, you agree with
14:19:09 12 that?---Yes.
13
14:19:14 14 In November of that same year, 2011, the Driver Task Force
14:19:22 15 sought access to the source management log, do you have a
14:19:24 16 recollection of that?---Yes, I do.
17
14:19:27 18 And your immediate reaction was you weren't in favour of
14:19:30 19 that occurring?---Yes, that's correct.
20
14:19:32 21 One of the reasons was the maintaining of a sterile
14:19:39 22 corridor?---Yes.
23
14:19:42 24 And you understood though that it was in fact the
14:19:46 25 prosecutorial authority and not just other police officers
14:19:49 26 who wanted to understand the contents of the SML, or did
14:19:53 27 you think it was just other police officers?---I think in
14:19:56 28 relation to that particular request it was just the
14:20:01 29 investigators wanted access from memory.
30
14:20:04 31 You understand the reason for my question is that the
14:20:07 32 sterile corridor is something peculiar to internal Victoria
14:20:13 33 Police issues and there are other reasons?---No legal
14:20:16 34 standing, yes, I appreciate that.
35
14:20:19 36 There are other reasons why - yes, it's to protect
14:20:23 37 information from separate parts of within Victoria
14:20:27 38 Police?---Yes.
39
14:20:30 40 Whether or not those things will be protected from people
14:20:33 41 outside Victoria Police, they're different principles, it's
14:20:35 42 not the sterile corridor?---Yes.
43
14:20:41 44 In relation to that request, Mr Pope told you that in any
14:20:49 45 event a summary of the dealings between Gobbo and the SDU
14:20:52 46 should be prepared?---Yes, that's right.
47

.05/12/19

10582

SHERIDAN XXN

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14:20:54 1 You passed on that request to Mr O'Connor?---I did, yes.
2
14:20:59 3 Mr O'Connor's given evidence previously about the
14:21:03 4 preparation of that being on a Sunday 6 November 2011 by
14:21:08 5 members of the SDU?---Yes, I'm aware of that.
6
14:21:11 7 There's a cover note that is provided and once that's
14:21:16 8 provided to you and then sent up the chain, this is
14:21:21 9 VPL.0100.0001.3633, you'll see that has Mr Ashton's
14:21:27 10 handwriting at the bottom saying, "I've encouraged the AC
14:21:33 11 Intel and Covert to conduct a review of the HSMU", is
14:21:39 12 it?---I think it is, yes.
14:21:40 13
14:21:40 14 "Of Witness F"?---Yes.
15
14:21:43 16 You'll see there that in your letter that covers the
14:21:51 17 summary, the cover note of the summary, it says, "Exposure
14:21:54 18 of Witness F activities with Victoria Police as contained
14:21:58 19 within this summary will have significant impact upon
14:22:01 20 Victoria Police operations past and present. The material
14:22:04 21 contained within the summary may rely on public interest
14:22:07 22 immunity claims should further dissemination be
14:22:12 23 considered". Now they're your words?---Yes.
24
14:22:15 25 Now there was a concern that you had about the contents of
14:22:20 26 the summary as prepared that it might affect prosecutions
14:22:25 27 that had already taken place?---I don't know if I had that
14:22:33 28 sort of detail at that stage.
29
14:22:35 30 The reason I ask is that it says the exposure of
14:22:42 31 essentially the relationship, Witness F's activities with
14:22:45 32 VicPol, will have significant impact on Victoria Police
14:22:50 33 operations past and present. What I'm suggesting to you is
14:22:53 34 that that's an identification of prosecutions and
14:22:56 35 investigations, both prosecutions and investigations that
14:22:59 36 had happened previously and were to continue into the
14:23:02 37 future, and I'm inviting you to accept that that was a
14:23:07 38 concern, that it might impact on the validity of past
14:23:12 39 convictions and future convictions?---I wouldn't strongly
14:23:16 40 dispute it. I just don't have a recollection that I was
14:23:19 41 privy of the detail of the sort of information that had
14:23:25 42 come from the source.
43
14:23:26 44 Okay?---In detail.
45
14:23:28 46 That goes to Ashton. Ashton obviously writes his note on
14:23:31 47 it that he then encourages there to be a review and I've

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14:23:36 1 taken you to that?---Yes.
2
14:23:38 3 Then in relation to the phrase "material contained within
14:23:48 4 the summary may rely on PII claims", it's your
14:23:52 5 understanding that the issue of public interest immunity is
14:23:56 6 one to be determined by a court?---Yes.
7
14:24:00 8 Rather than internally within the police?---Yes.
9
14:24:06 10 There's then a meeting that is chaired - - -
11
14:24:08 12 COMMISSIONER: Do you want to tender that?
14:24:09 13
14:24:10 14 MR WOODS: Yes, I'd like to tender that.
14:24:12 15
14:24:13 16 #EXHIBIT RC846A - (Confidential) Memo from Sheridan to
14:24:23 17 Ashton and the cover note 7/11/11, the
14:24:30 18 note written on it by Ashton 29/211/19.
14:24:38 19
14:24:38 20 #EXHIBIT RC 846B - (Redacted version.)
14:24:41 21
14:24:41 22 That's on 7 November. I think the Sunday when that summary
14:24:45 23 was prepared by the SDU members was the 6th, this must be
14:24:49 24 the Monday, and then on the Tuesday there's a meeting
14:24:51 25 chaired by Ashton and you have a note of this in your diary
14:24:54 26 at p.1407 of the same diary we were looking at before.
14:25:05 27 You'll see there, "Confer AC Ashton re document. He stated
14:25:12 28 that he could not have document disseminated due to
14:25:16 29 concerns PII", et cetera, "advised him that Commonwealth
14:25:20 30 DPP would need to be advised and there was a mention today.
14:25:27 31 AC Ashton undertook to contact the DPP", I take it that's
14:25:32 32 the CDPP?---Yes, it should be.
33
14:25:35 34 All right. Then I'd like you to go - the desire that was
14:25:45 35 expressed essentially was that these issues about the
14:25:51 36 ongoing relationship that had been occurring with Gobbo and
14:25:55 37 Victoria Police were to be kept in-house at this stage and
14:26:00 38 not disclosed to anyone else? You told him that they'd
14:26:11 39 need to be advised; is that right?---Yes.
40
14:26:14 41 That "there was a mention today". Sorry, I probably
14:26:17 42 misspoke before. And that he said he would contact the
14:26:22 43 CDPP himself?---Yes.
44
14:26:24 45 Yeah, okay. All right. You then say - and I just want to
14:26:31 46 go back to your statement at the moment, paragraph 40, on a
14:26:36 47 slightly different question that you were asked by the

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14:26:38 1 Commission in requesting a statement from you. You go
14:26:42 2 through the other people, the awareness, as you understood
14:26:45 3 it, of other people of Ms Gobbo's role as a human source.
14:26:49 4 You say that the members of Driver Task Force, the Driver
14:26:54 5 Task Force steering committee were individuals with
14:26:57 6 knowledge of her role and that, I assume, would be for the
14:27:00 7 reasons that we've gone through earlier about the
14:27:02 8 machinations that there were about her becoming a
14:27:06 9 witness?---Yes, that's right.
10
14:27:08 11 The decisions are involved and they include Deputy
14:27:13 12 Commissioner Ken Jones, Superintendent Fryer, Pope,
14:27:16 13 Moloney, Dunne, Ashton and then the members of that
14:27:19 14 particular unit that you talk about there?---Yes, that's
14:27:25 15 correct.
16
14:27:26 17 Around this time there was a legal proceeding, quite a
14:27:30 18 separate legal proceeding taking place, the Marijancevic
14:27:35 19 matter. Do you know about that? It was about police
14:27:38 20 swearing of affidavits and whether or not they were being
14:27:41 21 validly sworn?---Yes, I do recall it, yes.
22
14:27:44 23 The reason it's of interest is that at the same time that
14:27:47 24 these machinations are going on about the disclosure or
14:27:54 25 non-disclosure of Ms Gobbo's role and apparently the effect
14:27:57 26 that that might have twofold, one of her as an individual,
14:28:00 27 the other on propriety of convictions, it seems that this
14:28:04 28 proceeding was happening at the same time. In fact the
14:28:06 29 decision was handed down where the Supreme Court judge had
14:28:11 30 excluded the evidence because the - sorry, the County Court
14:28:16 31 judge had excluded the evidence, and the Court of Appeal
14:28:20 32 didn't disturb this finding, on the basis that the
14:28:24 33 affidavits weren't properly sworn. Do you have a
14:28:27 34 recollection of that at the time?---I do recall that
14:28:30 35 period, yes.
36
14:28:31 37 Do you recall there being conversations about - the
14:28:38 38 similarity and logic that there might well be between the
14:28:40 39 problems that had happened in this case, i.e. the police
14:28:44 40 weren't swearing the affidavits properly and that affecting
14:28:46 41 the proper legal process being followed in relation to
14:28:50 42 those individuals, on one hand, and on the other hand what
14:28:54 43 had happened with the individuals that were potentially
14:28:56 44 affected by Nicola Gobbo's involvement with Victoria
14:28:59 45 Police? Do you remember anyone joining the dots between
14:29:01 46 those two things, because they were contemporaneous issues
14:29:05 47 as they were coming up through the police?---No, not

.05/12/19

10585

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14:29:08 1 specifically.
2
14:29:10 3 Both of them, as you can appreciate, are relating to the
14:29:13 4 admissibility of evidence in criminal legal proceedings,
14:29:16 5 but you don't recall there being any discussion about those
14:29:19 6 things?---No, but I don't know where you're asking me to
14:29:26 7 recall that from, but no, I don't. Which meeting or - - -
8
14:29:31 9 No, no, not a particular meeting. The reason I'm asking is
14:29:33 10 that we're focusing on this period of time in November
14:29:35 11 2011, the questions I've been asking you, and it's just of
14:29:38 12 interest that around the same time this serious question
14:29:41 13 about admissibility of evidence for other reasons was very
14:29:45 14 well known and was something that was affecting Victoria
14:29:49 15 Police's presentation of evidence in cases. We can see
14:29:53 16 from the minutes that we've gone through that there was at
14:29:56 17 least some level of concern about the propriety of
14:29:58 18 convictions that have happened as a result - you can see,
14:30:02 19 for example, we were looking at the Inca ones a moment ago
14:30:06 20 and Mr Ashton made the comment about the problems that
14:30:09 21 might be caused there as a result of Ms Gobbo potentially
14:30:13 22 acting as a lawyer for one of them?---Yes.
23
14:30:18 24 And I was just interested to see that in a temporal sense
14:30:23 25 whether there was some connection made about admissibility
14:30:23 26 issues that there might be arising out of Ms Gobbo and her
14:30:27 27 involvement at that time?---Not that I specifically recall.
14:30:30 28 But in a temporal sense, I guess, the admissibility issues
14:30:34 29 or, more importantly, inadmissibility is a fairly regular
14:30:35 30 topic of conversation amongst investigators, but no, I
14:30:38 31 don't specifically recall.
32
14:30:39 33 And what happened at around the time is that Mr Mokbel - so
14:30:46 34 this is for the Marjancevic reasons rather than what
14:30:51 35 occurred with Ms Gobbo - was seeking to change a plea that
14:30:53 36 he'd entered previously as a result of the issues about
14:30:58 37 swearing affidavits and that got some media attention at
14:31:04 38 the time. Do you recall that occurring?---No.
39
14:31:09 40 Again, the reason I'm asking is because Mr Mokbel was also
14:31:14 41 a person potentially affected by this relationship between
14:31:18 42 Nicola Gobbo and Victoria Police. You have no recollection
14:31:22 43 of there being a discussion about that?---No, as I said
14:31:25 44 earlier, I was not fully aware of the detail of the
14:31:30 45 source's involvement with some of these people, so no.
46
14:31:33 47 You talk in your statement about your knowledge of

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14:31:37 1 disclosure obligations. Now a number of police members
14:31:43 2 who've given evidence, past and present police members,
14:31:47 3 have talked about the requirement to disclose certain
14:31:50 4 things to accused people arising, or things that might
14:31:55 5 assist their defence, sorry, arising only when there is a
14:31:58 6 specific request made by the accused person?---Yes, I have
14:32:03 7 seen that, yes.
8
14:32:04 9 What's your understanding of the disclosure obligation that
14:32:09 10 the prosecutorial authority has in relation to an accused
14:32:12 11 person?---Well my understanding is that it's far more open
14:32:17 12 than what you've just described, that there's an obligation
14:32:21 13 on sharing all relevant material.
14
14:32:25 15 Yes. You yourself are legally qualified, do you have a
14:32:30 16 current practising certificate?---No, I don't.
17
14:32:34 18 You were qualified in about 2012; is that correct?---Yes.
19
14:32:40 20 Because of the studies that you'd undertaken presumably in
14:32:44 21 relation to evidence and ethics and those sorts of things,
14:32:49 22 do you recall a moment where those things that you'd
14:32:52 23 learnt, which were clearly over and above what the normal
14:32:55 24 police officer would learn, caused you particular concerns
14:32:58 25 in relation to the SDU and Gobbo's relationship and
14:33:02 26 disclosure obligations?---I don't recall a specific moment
14:33:06 27 but it was clear to me when it became - when it was
14:33:11 28 apparent that some of the material that appeared to have
14:33:14 29 been disclosed in a source relationship was intersecting
14:33:19 30 with the client relationship. I knew that that wasn't
14:33:22 31 good.
32
14:33:24 33 Do you recall when that realisation came to you?---No, I
14:33:27 34 just said I don't recall the specific moment but I do
14:33:29 35 recall that, you know, I was aware at a point. But what I
14:33:35 36 said earlier I think a couple of answers is the same. I
14:33:39 37 was not fully aware of the substance of the information
14:33:42 38 that was supplied by this source to investigators.
39
14:33:49 40 But the concern - you were alerted enough to be concerned
14:33:54 41 about it at some stage?---Yes.
42
14:33:59 43 Did you pass on those concerns to other people above you in
14:34:02 44 Victoria Police?---Yes, I believe I did.
45
14:34:04 46 Do you know who you spoke to about those concerns?---I
14:34:05 47 think it's in my statement, that conversations I had, yes.

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14:34:07 1 What conversations were they?---Would you like me to read
14:34:08 2 through my statement to find it?
3
14:34:10 4 You can identify the ones that you had, yes, that would be
14:34:14 5 good?---Sure.
6
14:34:37 7 It might be easiest for me to say were they post-Comrie
14:34:41 8 review or were they pre-Comrie review?---No, pre-Comrie
14:34:47 9 review, in terms of a general - you're asking me when I
14:34:52 10 felt there were concerns about it.
11
14:34:54 12 Yes, and passed on those concerns?---At paragraph 22 I
14:35:00 13 conferred with Gerard Maguire about the Dale matter. I
14:35:06 14 think in that conversation he drew to my attention that in
14:35:11 15 his view there were some issues around the client privilege
14:35:21 16 issue being breached. As I indicated in the last sentence
14:35:25 17 my diary records I spoke to AC Pope later that day about
14:35:29 18 the same matter.
19
14:35:30 20 Were they about the legal issues that Maguire had raised
14:35:34 21 with you about the legal propriety of this relationship
14:35:39 22 between Gobbo and the SDU?---Yes, in essence, yes.
23
14:35:44 24 The concerns that Maguire expressed, I mean we have a
14:35:48 25 written advice from him, but can you remember when he was
14:35:53 26 expressing in conference to you, did he demonstrate that he
14:35:56 27 was deeply concerned about these issues or that it was just
14:36:00 28 a potential issue on the horizon?---I didn't take notes of
14:36:06 29 that conversation. I just - I think it was a concern. I
14:36:09 30 don't know if I could really put a descriptor on the
14:36:13 31 concern. But it was certainly a concern enough and
14:36:16 32 communicated to me enough for me to pass it onwards and
14:36:25 33 upwards.
34
14:36:27 35 So then there were some legal proceedings involving
14:36:31 36 Ms Gobbo as a witness that were discontinued or charges
14:36:37 37 discontinued, but no disclosure, it appears, of that
14:36:44 38 relationship to anyone prior to Comrie, in fact post-Comrie
14:36:49 39 through Kellam, Kellam through to Ginnane?---I'm not
14:36:55 40 totally sure on that. As I said, I'm not privy to all
14:37:00 41 those aspects. But I understood that there was material
14:37:04 42 disclosed to the Commonwealth, but I'm not too sure what
14:37:06 43 that actual material ultimately was.
44
14:37:07 45 In the processes that we talked about a little bit
14:37:09 46 earlier?---Yes.
47

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14:37:09 1 Yes, sure. Then you talk about - I won't go through them
14:37:11 2 in detail, but you talk about your contact, the requests
14:37:15 3 that were coming from, directly from the Commonwealth to
14:37:21 4 Mr O'Connor and I think I led some evidence from him about
14:37:23 5 that, Ms Breckweg asking for particular details?---Yes,
14:37:25 6 that's right.
14:37:25 7
14:37:27 8 Mr O'Connor gave evidence last week. He was asked the
14:37:34 9 following, "On 20 April 2012 you were informed that
14:37:39 10 Sheridan and Pope had directed those changes to take place.
14:37:43 11 On 23 April you then tell the SDU about those changes and
14:37:49 12 you recall them being upset and angry about the changes.
14:37:53 13 Is it the case that the [REDACTED] policy, they
14:37:57 14 essentially started doing half shifts from home as a
14:38:00 15 protest in relation to that". He says, "In effect, yes".
14:38:05 16 The reason I'm explaining this to you is he gave some
14:38:08 17 evidence that he had some real difficulty managing some of
14:38:11 18 the individuals at the SDU when he came in to the position
14:38:15 19 and you would recall him, and his diaries indicate that he
14:38:21 20 was expressing or explaining those things to you on a
14:38:24 21 fairly regular basis?---Yes.
22
14:38:29 23 I suggested to Mr O'Connor that they were being
14:38:33 24 deliberately uncooperative in relation to these travel
14:38:37 25 arrangements and he said yes. Do you remember them being
14:38:41 26 deliberately uncooperative with him from time to
14:38:44 27 time?---Yes, I would say resistance, yes.
28
14:38:47 29 It was put to him, "It was so bad in relation to those
14:38:49 30 issues that we've just been talking about that Mr Sheridan
14:38:54 31 had to step and try and assist, is that right?" He said,
14:38:59 32 "He did, he attended a meeting at some stage in 2012 to
14:39:05 33 talk to them". He was then asked, "Did they show him that
34 they would be more cooperative with him than they had been
14:39:07 35 with you?" Mr O'Connor's answer was, "No". Does that
14:39:10 36 accord with your recollection of your dealings with the SDU
14:39:13 37 in 2012, in relation to these particular issues about, for
14:39:17 38 example, well, the particular issue about changes to travel
14:39:20 39 policy?---I think in relation to the travel policy it's
14:39:24 40 probably correct that they were still resistant, even
14:39:27 41 though I'd discussed it with them, but in general terms I
14:39:31 42 found them more cooperative.
43
14:39:35 44 Than Mr O'Connor, who was reporting to you?---I think so,
14:39:36 45 yes. From what I can gather over the journey, and we've
14:39:38 46 talked about it quite a bit. He obviously was living with
14:39:41 47 them on a day-to-day basis and I was seeing them far more

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14:39:47 1 irregularly than that. So, yeah, I didn't find them quite
14:39:51 2 as difficult.
3
14:39:52 4 All right. So did you think that perhaps Mr O'Connor was
14:39:55 5 overstating things in his reports to you about it or did
14:40:00 6 you take at face value what he said?---No, I didn't think
14:40:03 7 he was overstating it and I accepted that, you know, human
14:40:07 8 behaviour being what it was, I accepted on face value what
14:40:09 9 he was saying on was generally accurate. As with most sort
14:40:14 10 of workplace conflicts or disagreements, there's always,
14:40:17 11 you know, two sides to the story, of course.
12
14:40:19 13 Yes, I'm sure that's right. One of the concerns he
14:40:23 14 expressed was that some of the - we have to be cautious
14:40:28 15 about PII [REDACTED] the courses we're told, so one of
14:40:32 16 the PII [REDACTED] - the PII [REDACTED] courses in human
14:40:37 17 source management, was it your understanding that those
14:40:41 18 courses were essentially prepared by Mr White?---In the
14:40:51 19 main, yes. He was certainly a driving force. He had the,
14:40:55 20 I guess he had the most of the knowledge around it. Whilst
14:41:01 21 all of them were well trained and similarly trained, he was
14:41:05 22 probably the better, if you like, and, yes, he had the
14:41:07 23 input to those courses, yes.
24
14:41:09 25 One of Mr O'Connor's concerns was that some of the elements
14:41:12 26 of the PII [REDACTED] courses he thought were just downright
14:41:17 27 dangerous and that he expressed those concerns. Is that
14:41:19 28 something that he expressed to you about the courses that
14:41:21 29 the individuals were undertaking and awarding each
14:41:24 30 other?---Yeah, I do recall that we did discuss things along
14:41:29 31 those lines, yes.
32
14:41:30 33 And as a result of those and perhaps some of the other
14:41:34 34 issues we've talked about, it's the case that eventually
14:41:38 35 there were discussions between yourself and Mr Pope about
14:41:44 36 disbanding the SDU?---Yes, but not specifically related to
14:41:49 37 the training aspects, but yes.
38
14:41:52 39 Well, no, but that might assist. In fact I'll bring up a
14:41:55 40 document that might assist. There's a 24 June 2012 email
14:42:01 41 that's already been tendered, it's VPL.0005.0013.1125.
14:42:09 42 Before I get to this, you understand obviously that the
14:42:13 43 Comrie review was conducted and published on 30 July 2012.
14:42:24 44 When I say published, it was circulated on 30 July
14:42:28 45 2012?---I don't recall it but I don't dispute that, yes.
46
47 Round about that time?---Yes.

.05/12/19

10590

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1
14:42:30 2 So this a bit before that?---Yes.
3
14:42:32 4 This is an email that you sent to Mr Pope, and I don't need
14:42:35 5 to go through it in a lot of detail, but you say - you talk
14:42:41 6 about a phrase that's been trawled over a bit before the
14:42:45 7 Commission about the individuals having lost their way and
14:42:49 8 that was your considered view about things as they stood in
14:42:53 9 June 2012?---Yes.
10
14:42:57 11 There were then some - a little bit further down, so this
14:43:04 12 is about - this is some plans that were already on foot
14:43:08 13 essentially to wind down, well close the SDU; is that
14:43:14 14 correct?---Yes.
15
14:43:16 16 There was some discussion about what to do with the CHIS
14:43:21 17 currently who are on the lists and where they should go,
14:43:24 18 you see that in the bottom paragraph?---I do, yes.
19
14:43:28 20 And that the plan was that a couple of individuals might be
14:43:33 21 kept on and the others might be dispersed into other parts
14:43:37 22 of the Force. That may not be in this document but it
14:43:40 23 appears in a number of documents at the time?---It was a
14:43:44 24 point of discussion, yes.
25
14:43:46 26 There seems to have been some real discontent when the SDU
14:43:52 27 was eventually closed down. Obviously it had been a group
14:43:58 28 that had been together for a long time at this stage. Was
14:44:02 29 that discontent - firstly, just in relation to the phrase
14:44:06 30 there, was there an acceptance at this time or in the
14:44:11 31 process of actually closing down the SDU, an acceptance
14:44:15 32 from those individuals that they had lost their way in
14:44:17 33 relation to the relationship between themselves and Nicola
14:44:23 34 Gobbo? Was that something that you understood them to have
14:44:26 35 accepted at the time?---These comments are not solely as a
14:44:31 36 result of the relationship with - - -
37
14:44:33 38 No, it's a handling of Witness F as well?---This is as a
14:44:40 39 result of the total, by the time I'd written this, this was
14:44:44 40 taking into account everything that had occurred.
41
14:44:46 42 True. The reason I ask it though is that the paragraph
14:44:52 43 that you've italicised there is that, "What really tips the
14:44:53 44 scales for me is that the handling of Witness F has been
14:44:55 45 undertaken and managed by the best trained human source
14:44:59 46 personnel", so what I'm saying is this is peculiar to the
14:45:03 47 actual management of her as a source?---That paragraph is

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14:45:05 1 peculiar to the actual management of her as a source and
14:45:08 2 the point leading into it, saying what really tips the
14:45:12 3 scales, what I'm getting at, there are other things on the
14:45:14 4 scales, this just happens to be the item that takes it that
14:45:17 5 little bit further across. But in answer to your earlier
14:45:20 6 question, I think, no, I don't think I'd ever raised
14:45:24 7 Witness F with the human source unit.

8
14:45:28 9 Despite the phrase "Witness F" being used there, that first
14:45:32 10 sentence of the paragraph is talking about Nicola Gobbo as
14:45:35 11 a registered human source from 2005 to 2009 though, isn't
14:45:40 12 it, because of the context in which it's written?---Not
14:45:44 13 exactly. Yes, in a sense, but the true answer to your
14:45:47 14 question is that that sentence is about what I had learnt
14:45:50 15 the Comrie review had found.

16
14:45:53 17 Yes. Well at this stage I don't think Comrie had been
14:45:55 18 handed down. I think that was about - you'd seen bits of
14:46:04 19 it at that stage; is that right?---Yes.

20
14:46:06 21 I think the final published version came about a month
14:46:10 22 after this, but in any event it was being reported to you
14:46:13 23 or you were reading what some of the outcomes of those
14:46:19 24 investigations had been; is that right?---Pope had exposed
14:46:22 25 me to some of the points that the Comrie review had
14:46:24 26 uncovered. I hadn't actually read it but he told me and
14:46:28 27 that's what I said. That's what really tips the scale.

28
14:46:32 29 COMMISSIONER: So the expression "lost their way", was that
14:46:35 30 your term?---Yes.

31
14:46:36 32 Yes, thank you.

14:46:39 33
14:46:39 34 MR WOODS: When you say tips the scales, so there's a
14:46:42 35 number of ingredients in your consideration here. At this
14:46:46 36 stage the Maguire advice, you'd met with Mr Maguire and
14:46:50 37 you'd read his advice before this?---Yes.

38
14:46:59 39 So when you say - sorry, there was an answer you gave a
14:47:04 40 moment ago, I'm not sure I caught it, but was it the case
14:47:08 41 that you didn't have a conversation with them directly
14:47:10 42 about whether or not they'd lost their way or that line of
14:47:14 43 thought?---Not in relation to Witness F as stated here but
14:47:20 44 in the course of my management of the division over the
14:47:23 45 years up until the time I wrote this I would have had
14:47:27 46 several conversations, particularly with White, possibly
14:47:33 47 with others, and maybe one or two general conversations

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14:47:35 1 about changes and modifications to the practice in terms of
14:47:39 2 managing high risk human sources, and there was, as I
14:47:45 3 indicated in some of my earlier answers, there was some
14:47:48 4 resistance to managerial intervention, there was some, at
14:47:53 5 times, strong resistance to what's termed, and I presume
14:47:58 6 it's come up before, intrusive supervision, which I found
14:48:01 7 to be ironic given that White in particular was the main
14:48:07 8 author of the intrusive supervision policy as it was to be
14:48:11 9 applied.
10
14:48:16 11 Just so there's no doubt about it, you are talking there,
14:48:20 12 despite the phrase "Witness F", because you're talking
14:48:23 13 about the best trained human source personnel and the
14:48:27 14 management of Nicola Gobbo, in that first sentence you're
14:48:30 15 actually talking about her role as a source managed by the
14:48:33 16 SDU?---Yes, that's correct.
17
14:48:38 18 There's just a couple more documents I want to take you to.
14:48:40 19 The first of them is GLA.0003.0006.0119. This is a 12
14:48:50 20 August 2012 email.
21
14:48:54 22 COMMISSIONER: I'll just say that last exhibit was Exhibit
14:48:58 23 444.
14:49:03 24
14:49:04 25 MR WOODS: If we can go to the bottom of that train just to
14:49:08 26 put it in context?---12 August?
27
14:49:12 28 Yes, sorry, this is 29 August 2012. You'll see there it's
14:49:17 29 JP, so it's from Mr Pope?---Yes.
30
14:49:20 31 If we can just scroll up a bit. Keep going. Keep going.
14:49:29 32 Keep going. Okay. You'll see there that that's an email
14:49:35 33 from Pope to Ken Lay who at that stage was the Chief
14:49:40 34 Commissioner?---Yes.
35
14:49:44 36 And to Graham Ashton?---Yes.
37
14:49:47 38 You'll see that it's saying, "Ken, grateful if you could
14:49:51 39 please convey the following regarding the SDU to Greg
14:49:58 40 Davies in your meeting tomorrow. The objective is to close
14:50:02 41 down the SDU by mid-September with minimal fuss, risk and
14:50:06 42 impact on the members, organisation and the community". I
14:50:09 43 want to scroll down a little bit further. "Both John and
14:50:13 44 Paul", that's yourself and Mr O'Connor, is it?---Yes.
14:50:15 45
14:50:15 46 "Have been grappling with significant cultural issues in
14:50:19 47 the SDU since they arrived", and that was your

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14:50:22 1 experience?---I don't know if I'd word it quite that way,
14:50:26 2 but, yes, there were certainly significant managerial
14:50:30 3 changes in terms of, as I indicated in my previous answer,
14:50:33 4 with modifications and what I would think would be
14:50:36 5 appropriate managerial intervention.
6
14:50:38 7 And O'Connor, who was stationed at the same premises of the
14:50:42 8 SDU was, it's clear from his diaries, the conversations he
14:50:46 9 was having with the individuals and things that he was
14:50:48 10 reporting to you, that he was reporting what he observed to
14:50:52 11 be significant cultural issues?---Yes, that's his view and
14:50:56 12 I don't disagree with it, but I didn't see that part.
13
14:50:59 14 He said that, "Many of the handlers are [REDACTED]
14:51:05 15 [REDACTED] and don't like being
14:51:08 16 managed. There are significant egos working in the SDU and
14:51:12 17 they actively resist management. There are a number of
18 examples where they have worked their around management to
14:51:19 19 orchestrate the outcome that they're seeking to derive".
14:51:20 20 You're aware that on at least one occasion they wouldn't
14:51:25 21 accept the decision that was conveyed to them by
14:51:30 22 Mr O'Connor and tried to go around and go to the Chief
14:51:33 23 Commissioner, you're aware of that happening?---That's
14:51:37 24 about the vehicles, is it?
25
14:51:38 26 Yes?---Yes.
27
14:51:41 28 If you scroll above - you're aware of them approaching -
14:51:49 29 sorry, Mr O'Connor reporting to you that in relation to
14:51:52 30 decisions that he had explained to the gentleman that had
14:51:57 31 been made, that on at least one occasion they tried to
14:52:00 32 approach the Commissioner, whether it was about the
14:52:02 33 vehicles or something else, that they tried to work around
14:52:05 34 that management decision that had been given to
14:52:08 35 them?---Yeah, I believe so, yes.
36
14:52:13 37 There were a number of instances of poor judgment, wanting
14:52:18 38 to register the wrong people, retaining close associations
14:52:23 39 with a particular ex-member whose integrity was highly
14:52:27 40 questionable, there's an identification there about the
14:52:31 41 move back to police headquarters which was met with
14:52:36 42 resistance. Each of these things was reported to you at
14:52:39 43 the time they occurred by Mr O'Connor?---Yes.
44
14:52:41 45 And he says that there's a high degree of risk in having
14:52:45 46 people in this environment for lengthy periods and it's the
14:52:47 47 case that in a similar way to what had been discovered

.05/12/19

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14:52:51 1 about [REDACTED] about, or recommended about
14:52:54 2 [REDACTED] about ten years before, that there
14:52:57 3 was a particular time in position that should be given to
14:53:01 4 individuals in the SDU rather than being allowed to remain
14:53:05 5 there for a very long period of time?---Yes.
6
14:53:07 7 That was one of the issues that was identified?---Yes.
8
14:53:12 9 Then there's a disincentive, it says at the bottom of the
14:53:16 10 second-last paragraph there, for them to leave essentially
14:53:20 11 because there's essentially good pay and good overtime and
14:53:26 12 those sorts of things and that doesn't, that encourages
14:53:30 13 people to stay for too long?---Yes, yes. That's his words,
14:53:34 14 not mine of course.
15
14:53:37 16 I understand?---Yes.
17
14:53:38 18 If you can scroll to the top of that document now.
19
14:53:42 20 COMMISSIONER: But you're not disagreeing with any of
14:53:45 21 this?---Look, I don't agree with every single element and
14:53:49 22 chapter and verse, but I don't disagree with the overall
14:53:55 23 thrust.
24
14:53:57 25 Perhaps you should highlight what you don't agree with.
14:54:00 26
27 MR WOODS: Yes. If you go to the second page of that. I
14:54:01 28 think we've dealt with the first one, the significant egos
14:54:05 29 at the SDU?---Well with the first one, if I could. I'm not
14:54:05 30 - about [REDACTED]
14:54:09 31 I'm not entirely sure, as I said, Jeff Pope wrote this
14:54:13 32 document, and I'm not entirely sure that's accurate. I'm
14:54:17 33 sure there were members who had been perhaps in those
14:54:20 34 squads but I didn't, my own recollection is the squad
14:54:23 35 wasn't overly stacked, the Unit was not overly stacked with
14:54:28 36 members from one particular squad. So that's one point I
14:54:31 37 would just say on the first one.
38
14:54:33 39 Yes, I see. You've said that significant cultural issues
14:54:37 40 were reported to you by O'Connor?---Yes, and I didn't -
14:54:43 41 cultural is probably his word, not mine. I would use, as I
42 said earlier - - -
43
14:54:46 44 More about individuals?---No, more about resistance to
14:54:49 45 management. Perhaps more - yeah, personal behavioural
14:54:54 46 aspects in terms of not accepting direction easily.
47

.05/12/19

10595

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14:54:58 1 I might have spoken over you then. I think you might have
14:55:02 2 accepted at the commencement of your evidence that it was
14:55:04 3 apparently the case that there had been less intrusive
14:55:07 4 management?---Yes.
5
14:55:08 6 Under Mr Biggin, partly, you said, because of all of his
14:55:11 7 other roles?---Yes.
8
14:55:14 9 The significant egos were certainly something that
14:55:19 10 Mr O'Connor reported to you according to - well, perhaps
14:55:23 11 not those words, but is that something Mr O'Connor observed
14:55:26 12 and then reported to you?---Yes. Again, but probably not -
14:55:30 13 it's not - I wouldn't say it's totally across the board
14:55:35 14 but, you know, as with a lot of specialist areas, you know,
14:55:38 15 significant egos goes with the territory. So I don't
14:55:43 16 necessarily always see that as overly negative, but I'm not
14:55:47 17 disagreeing with what O'Connor's perception was, because as
14:55:51 18 I indicated earlier, he was living with these people on a
14:55:52 19 day-to-day basis. I was dealing with them less so. But I
14:55:55 20 don't disagree with it, it's just, as I said, it's not
14:55:58 21 necessarily the terms I would write.
22
14:56:00 23 Yes, I understand. Significant egos obviously in all sorts
14:56:06 24 of professions?---Yes, of course.
25
14:56:08 26 The high degree of risk of having people in the environment
14:56:12 27 for lengthy periods of time, that was something that I take
14:56:18 28 it you observed?---I did observe it. There was a - AC Pope
14:56:24 29 had a strong view about maximum time in position, which
14:56:28 30 initially I didn't agree with, but my observations over
14:56:32 31 time convinced me that there was some merit in having a
14:56:43 32 maximum time in position because of, you know, a
14:56:46 33 complacency culture and other things arising. So in
14:56:48 34 essence I agree with it again, but it's not exactly the way
14:56:52 35 I would have worded it, that's all.
14:56:54 36
14:56:54 37 But essentially it's a good idea in particular high risk
14:56:57 38 environments to have a high turn-over of people?---Yes , I
14:57:00 39 agree with that, yes.
14:57:00 40
14:57:00 41 But there's a tension against that of you need to have
14:57:02 42 people with experience as well?---That's right, yes.
14:57:04 43
14:57:04 44 Then the disincentive to leave, essentially being that the
14:57:11 45 pay and the other terms being pretty good?---Yes.
46
14:57:15 47 That was a problem that perhaps caused the last problem we

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14:57:20 1 were talking about?---Yes, that's right. I'd agree with
14:57:22 2 that too. The pay scale for a PII [REDACTED] and the
14:57:27 3 work conditions with the lack of management of subordinate
14:57:31 4 staff and essentially just running their own day-to-day job
14:57:34 5 in terms of dealing with human sources, while be it very
14:57:39 6 challenging, yes, the money was very good and probably it
14:57:42 7 was a disincentive to move on and perhaps go out and
14:57:46 8 supervise, you know, teams of police officers at stations
14:57:49 9 or squads or something.

10
14:57:50 11 You wouldn't criticise the individuals for that, it's just
14:57:53 12 - - - ?---No, no, I dont - I make not criticism of it,
14:57:53 13 they're entitled to that. But from a management point of
14:57:57 14 view, again, as you indicated earlier, turn-over is
14:58:00 15 healthy.

16
14:58:01 17 If we could scroll up, further up on that page. Sorry, the
14:58:06 18 other way. Keep going. That's something that is then -
14:58:14 19 Mr Ashton responds to Mr Pope about that. I don't need to
14:58:20 20 take you through it because it's something that was said to
14:58:23 21 you. And then keep going?---M'hmm.

22
14:58:25 23 And then Pope responds to Ashton and then - I won't take
14:58:31 24 you through the individuals, I just want to make sure that
14:58:34 25 the document is tendered. If you could just - I might
14:58:38 26 tender that, Commissioner. It starts - it finishes on 30
14:58:41 27 August 2012.

28
29
14:58:58 30 COMMISSIONER: It had an attachment, did it?

14:59:00 31
14:59:01 32 MR WOODS: It was all part of the same.

33
14:59:07 34 COMMISSIONER: It was. Exhibit 847A and B.

14:59:10 35
14:59:11 36 #EXHIBIT RC847A - (Confidential) Email chain between Pope,
14:58:53 37 Lay, Ashton and others 29/08/12 to
14:59:12 38 30/08/12.

14:59:12 39
14:59:12 40 #EXHIBIT RC847B - (Redacted version.)

14:59:14 41
14:59:14 42 MR WOODS: As you see at the top of that there's to be a
14:59:16 43 discussion about, that the Force was acting within the
14:59:21 44 industrial relations laws in the process it was going to
14:59:24 45 pursue to shut down the Unit?---Yes.

46
14:59:26 47 Then the final document I want to take you to is

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14:59:28 1 VPL.6027.0037.9269. This follows the internal review of
14:59:42 2 the ICSC Covert Services Division, and that's something
14:59:45 3 different to Mr Comrie's review?---Yes, it is.
4
14:59:52 5 Do you want me to read that again? Sorry, it's right
14:59:56 6 there. I want to go to the bottom of that. It should be
15:00:02 7 12 February. So this is following that Covert Services
15:00:10 8 Division internal review and there's recommendations that
15:00:16 9 have been made to the Chief Commissioner Mr Lay, the Deputy
15:00:22 10 Commissioner Mr Ashton, the Police Association have been
15:00:25 11 briefed on it, and it's essentially setting out the closure
15:00:29 12 of the SDU, that's correct?---Amongst other things, yes.
13
15:00:33 14 And essentially what would flow from that, and it addresses
15:00:40 15 that issue of maximum time in position and some of the
15:00:42 16 other recommendations that come out of the internal
15:00:45 17 review?---Yes.
18
15:00:46 19 Scroll a bit further up. You'll see there to Marita - is
15:00:54 20 that a media person, do you know?---Yes, that's the Media
15:00:58 21 Director for the Force.
22
15:01:00 23 The Commission says, "It might be worth getting something
15:01:02 24 in the can for this. It does have the potential to become
15:01:05 25 a public issue. Could you speak to Jeff just to reiterate
15:01:08 26 this decision was based on some very strong and compelling
15:01:11 27 evidence that required quick action", says the Chief
15:01:16 28 Commissioner?---Yes.
29
15:01:17 30 Do you see that?---Yes, I do.
31
15:01:19 32 Then scroll up. Then Pope to the media person, "We've been
15:01:24 33 working", et cetera, et cetera, and there's something that
15:01:29 34 can be used for a media statement if they need to for that
15:01:33 35 reason. Then the rest of it I don't think I need to take
15:01:38 36 you to in particular but I do seek to tender it,
15:01:42 37 Commissioner, and that's commencing on - finishing on 18
15:01:45 38 February 2013.
39
15:01:47 40 COMMISSIONER: Commencing on the 12th, is that right?
15:01:51 41
15:01:51 42 MR WOODS: I think it is. Yes, 12 February 2013.
15:01:54 43
15:01:55 44 #EXHIBIT RC848A - (Confidential) Email chain involving Ken
15:02:04 45 Lay, Pope and others 12/2/13 to 18/2/13.
15:02:08 46
15:02:10 47 #EXHIBIT RC848B - (Redacted version.)

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15:02:11 1
15:02:12 2 I will mention one thing about the document. What Mr Pope
15:02:14 3 says in the initial larger body down the bottom of that, I
15:02:19 4 think it's the 12 February one, he talks about wanting to
15:02:23 5 take human source management to the next level in relation
15:02:26 6 to governance, risk management, training, support and
15:02:31 7 mentorship. Are they things that you, from your
15:02:36 8 observations when you came into the role in 2010 and up
15:02:39 9 until this date, thought needed to have a significant
15:02:45 10 change at the SDU? So firstly, governance, did it need to
15:02:49 11 be better governed?---Yes, I felt they all needed -
15:02:53 12 modification would be my term, rather than significant
15:02:57 13 change, but they all needed some degree of modification.
15:02:59 14 The framework itself was actually quite good but it all
15:03:02 15 needed modification.
16
15:03:03 17 Despite the framework being good you accept that - you
15:03:07 18 understand what the High Court said about the relationship
15:03:09 19 that persisted?---Yes, I'm talking about the general
15:03:12 20 framework for the SDU.
21
15:03:13 22 I understand. The general framework, that's right. But in
15:03:15 23 relation to that particular relationship, that was a
15:03:16 24 significant problem that arose under that framework at the
15:03:20 25 time?---Yes, I do, yes.
26
15:03:22 27 Thank you, they're the questions, Commissioner.
28
15:03:24 29 COMMISSIONER: Yes, thank you Mr Nathwani.
15:03:26 30
31 <CROSS-EXAMINED BY MR NATHWANI:
32
15:03:31 33 Mr Sheridan, I just want to ask you some questions to begin
15:03:33 34 with about Mr Pope, and the reason as we can see from your
15:03:39 35 statement, Mr Pope, just as an example from 2010, through
36 2011, 2012 was involved in decision making process as far
37 as Ms Gobbo was concerned? Various issues, for example
15:03:58 38 2010 settlement, ongoing contact with her which you detail
15:03:59 39 in your statement, and as we go forward the use of her in
15:04:03 40 the Commonwealth prosecutions for Paul Dale?---Yes.
15:04:05 41
15:04:05 42 Then later partially in relation to the shutdown of the
15:04:10 43 SDU. At any time did Mr Pope make you aware that he had
15:04:14 44 previously registered Nicola Gobbo as a human source?---No.
15:04:17 45 Actually, when I say that, I would have, I knew that he
15:04:23 46 knew her as a junior detective but I don't know if he ever
15:04:30 47 mentioned the registered as a human source part.

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15:04:33 1
15:04:33 2 Where did that come from, did he tell you that?---Yes, I
15:04:36 3 believe he did, yep.
15:04:37 4
15:04:37 5 Can you help from the best of your memory and recollection
15:04:40 6 as to what he told you?---I think it was in a, I think it
15:04:43 7 was in a general committee meeting with the other
15:04:47 8 Superintendents, only two others, Biggin and Paterson, and
15:04:50 9 I just think at some point when this was discussed he
15:04:55 10 mentioned when he was in, I think it was the fraud group or
15:04:59 11 assets group or something like that, that he had dealt with
15:05:02 12 her in the past, that was it.
15:05:03 13
15:05:03 14 Are you able to time when he told you that?---No, I'm not
15:05:07 15 really, no. At the time it seemed inconsequential.
15:05:10 16
15:05:11 17 Did he mention, for example, because it's in his affidavit
15:05:14 18 which we'll come to, I just want to go through some of the
15:05:15 19 documents, did he mention at the time that on his
15:05:19 20 allegation she had in effect propositioned him to come away
15:05:23 21 on holiday with him?---No, not to me.
15:05:26 22
15:05:26 23 Can we just go through some documents. You were asked
15:05:29 24 briefly by Mr Woods about the allegation made by Ms Gobbo
15:05:33 25 in October 2011, that she had had a sexual relationship
15:05:38 26 with Mr Pope back during that period I was asking you
15:05:41 27 about?---Yes.
15:05:42 28
15:05:42 29 I want to briefly go through some of the documents. We
15:05:45 30 know allegation made October 2011. If I could ask
15:05:50 31 VPL.0002.0002.0071 be brought up, please. These are the
15:05:59 32 documents relating to the investigation into that and I
15:06:01 33 just want to go through them and then put into context some
15:06:04 34 further questions. You'll see there it's by Graham
15:06:06 35 Ashton?---Yes.
15:06:07 36
15:06:07 37 The date, top left corner, is 26 October, although there is
15:06:11 38 some notation there that may indicate 2 November?---Yes.
15:06:15 39
15:06:15 40 Okay?---Yes.
15:06:16 41
15:06:17 42 If we all read that briefly, it obviously shows that
15:06:21 43 Mr Ashton has been contacted by Acting Deputy Commissioner
15:06:25 44 Cartwright, okay?---Yes.
15:06:27 45
15:06:27 46 And it in effect says Ms Gobbo made the allegation during
15:06:33 47 her recorded transcript on 21 October. The penultimate

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15:06:38 1 paragraph shows that she repeated it in an unrecorded
15:06:42 2 conversation with Mr Buick. Do you see that?---Yes, I do,
15:06:45 3 yes.
15:06:45 4
15:06:45 5 It appears because she indicated she would be complaining
15:06:48 6 about it to Mr Lay, that this investigation is undertaken.
15:06:54 7 Mr Ashton concludes the matter will be subject of a
15:06:57 8 notation and discussion at the next Task Force Driver
15:07:01 9 steering committee meeting, okay. I better tender doing
15:07:05 10 this as we go along, because I'm terrible at doing it, if I
15:07:06 11 may.
15:07:07 12
15:07:07 13 COMMISSIONER: Of course.
15:07:07 14
15:07:09 15 #EXHIBIT RC849A - (Confidential) Memo 26/10/11 Ashton to
15:07:12 16 Cartwright re Nicola Gobbo and Pope.
15:07:18 17
15:07:19 18 #EXHIBIT RC849B - (Redacted version.)
15:07:21 19
15:07:21 20 The next one - Mr Skim, I'm really sorry I haven't given
15:07:23 21 you the reference - but it's the same VPL but 0066. This
15:07:38 22 one is coming up and it's some handwritten notes. These
15:08:10 23 are notes from one of the meetings, I haven't confirmed who
15:08:15 24 has drafted these notes but I'll find out. We see at the
15:08:18 25 top the reference to Paul Jetkovic, who I'm reliably
15:08:26 26 informed is the Deputy Director for the OPI?---Yes.
15:08:29 27
15:08:29 28 Below that we see it says, "Advised that on 21 October, F",
15:08:33 29 Ms Gobbo, "Alleged an affair with Mr Pope in the late 90s.
15:08:38 30 No viewing of transcript yet. Will make a time on
15:08:40 31 Wednesday to meet". Then it says GA, that's Mr Ashton,
15:08:44 32 "Confirm Pope has been stood aside from Driver" and that's
15:08:48 33 obviously a reference to the committee, "Had hard
15:08:53 34 transcript. F now making suggestion of interest in a
15:08:57 35 particular form of security. To pursue the same. Beale
15:09:05 36 DPP advice re charges remaining in F's absence". Federal,
15:09:12 37 sorry, Federal DPP so the Commonwealth DPP, "Advice re
15:09:15 38 charges remaining in F's absence". Next bullet point,
15:09:20 39 "Mr Pope", something's to him, "Advising him of intent to
15:09:24 40 meet with OPI on Wednesday". So it looks like whoever's
15:09:29 41 drafted this has the potential for raising this issue with
15:09:33 42 the OPI. The next entry says 31 October, 11.18, "Rang
15:09:39 43 Paul", which looks to be a reference to Mr Jetkovic at the
15:09:41 44 OPI. "I discussed Pope proposal to view allegation
15:09:45 45 Wednesday and provide responding affidavit. Also likely
15:09:50 46 manner of handling any allegation is OPI or Victoria
15:09:55 47 Police", something, "To discuss further Wednesday", and

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15:10:01 1 then the bottom entry, "Rang Pope. Regardless he will
15:10:06 2 prepare a", something, "Affidavit without viewing
15:10:11 3 allegations", okay. What we take from that certainly is he
15:10:15 4 has been stood aside at that stage from Driver, we see the
15:10:19 5 reference that Mr Ashton has confirmed that, do you see
15:10:23 6 that's one of the main points there?---Yes, I see that.
15:10:24 7
15:10:24 8 We'll quickly go through this. If I can tender that one
15:10:25 9 too please, Commissioner.
15:10:26 10
15:10:26 11 COMMISSIONER: What date is that?
15:10:28 12
15:10:28 13 MR NATHWANI: This looks like a handwritten diary note. It
15:10:31 14 looks like 30 October at the beginning and then at the
15:10:35 15 bottom 31st.
15:10:35 16
15:10:36 17 COMMISSIONER: Which year?
15:10:37 18
15:10:37 19 MR NATHWANI: This is 2011, this was a bundle served at the
15:10:39 20 very beginning of proceedings in relation to - - -
15:10:41 21
15:10:41 22 COMMISSIONER: Do we know whose notes they are?
15:10:46 23
15:10:46 24 MR HOLT: I'm good at some people's handwriting. I don't
15:10:46 25 know who this is immediately. I'm just having inquiries
15:10:49 26 made, Commissioner, I don't want to guess.
15:10:51 27
15:10:51 28 COMMISSIONER: All right then.
15:11:03 29
15:11:03 30 #EXHIBIT RC850A - (Confidential) Handwritten notes of 30
15:10:57 31 31/10/11.
15:11:04 32
15:11:05 33 #EXHIBIT RC850B - (Redacted version.)
15:11:06 34
15:11:06 35 MR NATHWANI: If we could now go to RC61 which is Mr Pope's
15:11:15 36 affidavit. No need necessarily to go through the detail,
15:11:18 37 that's for other witnesses. But if we go right down to the
15:11:20 38 bottom, please. Sorry, last page. We see it's signed on 2
15:11:27 39 November 2011. Can we have a look as to who countersigned
15:11:32 40 it and witnessed it? Tim Cartwright, do you see
15:11:35 41 that?---Yes, I do.
15:11:36 42
15:11:36 43 If we can then carry on, please. Just as an aside, and
15:11:42 44 going back to your statement and the evidence of
15:11:44 45 Mr O'Connor, the next day we have and we see that Mr Pope
15:11:51 46 is involved in allowing Krista Breckweg and the prosecutor,
15:11:58 47 Mr Beale, into the police station to view the SMLs. Does

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15:12:04 1 that ring any memories?---I believe that occurred, yes.
15:12:07 2
15:12:07 3 We'll bring up the next document which Mr Woods took you to
15:12:11 4 in the sequence. The next day, 844. Thank you. I just
15:12:18 5 want to go through this. So this is the Driver meeting
15:12:21 6 where we know Mr Pope has been recused at this stage. We
15:12:26 7 see there's discussion at the top in relation to proceeding
15:12:32 8 with the Dale prosecution for the ACC charges absent
15:12:35 9 Ms Gobbo. We see, and this is the fourth line down,
15:12:40 10 "Discuss Maguire's legal advice", which obviously relates
15:12:44 11 to Ms Gobbo. It says there the OPP prosecutors received
15:12:48 12 the advice as well, do you see that?---Yes.
15:12:50 13
15:12:50 14 I'll come on to some questions later in relation to that.
15:12:53 15 Then in yellow, "Maguire's advice raised the issue of
15:12:58 16 governance of human source when the human source is a legal
15:13:01 17 practitioner". And this, "TC" - which I suggest is
15:13:03 18 Mr Cartwright - "to discuss with Mr Pope as to how we can
15:13:06 19 ensure appropriate governance", do you see that?---Yes.
15:13:09 20
15:13:09 21 "Obviously we have seen that he was not to have any
15:13:13 22 involvement with the Driver committee, but it certainly
15:13:16 23 appears there he has some involvement with Witness
15:13:20 24 F?---Yes.
15:13:20 25
15:13:21 26 Notwithstanding what's going on as far as the allegations
15:13:24 27 are concerned. Mr Woods has asked questions about the
15:13:26 28 issues in relation to Inca, that Mr Ashton raises concerns
15:13:30 29 about Inca, evidently because Witness F was the source
15:13:35 30 there and it could jeopardise that prosecution. If we
15:13:41 31 scroll down then to the bottom, comments by F about a
15:13:45 32 relationship with JP. "Finn", which is obviously
15:13:48 33 Mr McCrae, "To consider legal advice around reason to
15:13:52 34 believe", do you see that?---I do.
15:13:53 35
15:13:53 36 And, "JP to remain recused", so it reaffirms that Mr Pope
15:13:57 37 is recused from the steering committee until further
15:14:00 38 determination?---Yes.
15:14:00 39
15:14:01 40 As we know, as we've said, later that day, about three
15:14:04 41 hours later, he's involved in allowing both Krista Breckweg
15:14:07 42 and Mr Beale in to consider material relating to Witness F
15:14:13 43 or Ms Gobbo. The next document, please, is
15:14:22 44 VPL.0002.0002.0063. We've just said there's to be
15:14:28 45 consideration of the Finn McCrae to look at legal advice.
15:14:31 46 We're now on 11 November. That's to Tim Cartwright and we
15:14:38 47 will soon see it's Mr Cartwright who signed the affidavit

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15:14:41 1 and witnessed it of Mr Pope who ultimately makes the
15:14:44 2 decision as to whether anything has occurred.
15:14:46 3
15:14:47 4 COMMISSIONER: If I could just ask if there is legal
15:14:50 5 professional privilege to be claimed?
15:14:51 6
15:14:52 7 MR HOLT: There is, Commissioner, on that but I don't think
15:14:53 8 it's anything that Mr Nathwani wants to go to.
15:14:55 9
15:14:56 10 COMMISSIONER: Not that part, all right then.
15:14:56 11
15:14:57 12 MR NATHWANI: If we go to the bottom of it, please, because
15:14:58 13 it is the bottom I'm interested in. I'm sorry, it's taking
15:15:02 14 a moment. "The fact that the source said that the sexual
15:15:06 15 relationship has occurred does create a potential or
15:15:09 16 perceived conflict of interest for the member", that's
15:15:10 17 Pope's involvement in decision making about the source.
15:15:14 18 "This is so whether or not a personal relationship existed
15:15:17 19 between them and is made more acute by the disagreement
15:15:22 20 between them about the nature of their relationship". We
15:15:25 21 can read the next paragraph, it discusses issues of
15:15:29 22 conflict and resentment. But then this, "In the
15:15:31 23 circumstances we recommend that the issue of potential or
15:15:35 24 possible conflict be managed. To that end it would be
15:15:39 25 sufficient if member C", Pope, "Has no further role in the
15:15:42 26 steering committee and any other decision making involving
15:15:45 27 the source. It seems that has already occurred". I'm
15:15:49 28 particularly interested in "and any other decision making
15:15:54 29 involving the source". "In addition it would be also worth
15:15:57 30 discussing the matter with member Pope to advise that the
15:16:00 31 fact of the allegation is sufficient to justify his removal
15:16:03 32 from decision making roles concerning Nicola Gobbo to avoid
15:16:07 33 the potential for any perceived conflict of interest
15:16:10 34 interfering in the proper management of the source". If I
15:16:13 35 could tender that document too please, Commissioner.
15:16:16 36
15:16:17 37 COMMISSIONER: It's dated the 11th of 11th, 2011.
15:16:23 38
15:16:23 39 MR NATHWANI: It is. It is legal advice from Finn McRae
15:16:27 40 and Shaun Le Grand.
15:16:30 41
15:16:30 42 COMMISSIONER: Email from Le Grand to McRae.
15:16:34 43
15:16:34 44 #EXHIBIT RC851A - (Confidential) Email from Le Grand to
15:16:35 45 McRae 11/11/2011.
15:16:35 46
15:16:36 47 #EXHIBIT RC851B - (Redacted version.)

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15:16:38 1
15:16:39 2 MR NATHWANI: The final document I'd just like to take you
15:16:43 3 to to put everything into context is the finding, which is
15:16:47 4 VPL.0002.0002.0059. I might as well tender this at this
15:16:59 5 stage. This is the finding of Mr Cartwright.
15:17:07 6
15:17:09 7 #EXHIBIT RC852A - (Confidential) File note decision that
8 comments by Nicola Gobbo do not provide
9 me a reason to believe that Assistant
10 Commissioner is guilty of serious
15:17:26 11 misconduct 27/11/11.
15:17:26 12
15:17:27 13 #EXHIBIT RC852B - (Redacted version.)
15:17:30 14
15:17:31 15 All I wish to take you to, because we can read it
15:17:34 16 ourselves, it details the allegation. If you go to the
15:17:36 17 last page, or the second page please. Third page, sorry,
15:17:43 18 my fault. It goes through and it in effect says that it
15:17:47 19 doesn't find anything has occurred, but the bottom comment,
15:17:50 20 "Ms Gobbo has apparently expressed an intention to write to
15:17:53 21 the Chief Commissioner to complain. She is a well-educated
15:17:57 22 woman", et cetera. "Assistant Commissioner Pope's
15:18:01 23 involvement in the Driver steering committee has been dealt
15:18:04 24 with as a separate matter and under separate
15:18:06 25 correspondence". I suggest this was the email chain from
15:18:10 26 Mr Le Grand. We see it's signed by Mr Cartwright on 27
15:18:15 27 November 2011. Putting that into context and the
15:18:19 28 observations by the legal team that he shouldn't be
15:18:23 29 involved in any decision making as far as Ms Gobbo is
15:18:26 30 concerned. If we could have a look at his involvement with
15:18:29 31 Ms Gobbo after or around that period in 2011. If we go to
15:18:34 32 your statement, please, paragraph 22. This is just before
15:18:48 33 the allegations are made. We see Mr Pope is involved there
15:18:52 34 in relation to the legal advice obtained from
15:18:56 35 Mr Maguire?---Yes.
15:18:57 36
15:18:59 37 You say, "Over the coming weeks I had further meetings",
15:19:02 38 this is paragraph 23, "About the issues to do with the Dale
15:19:06 39 prosecution". Then, "On 28 September 2011 I attended a
15:19:10 40 meeting with Mr Maguire, lawyers from VGS0, DI Frewen and
15:19:19 41 Buick". Paragraph 24, so we're now in October, you read
15:19:22 42 the advice and you've been taken to it by Mr Woods about
15:19:25 43 paragraph 21, the suggestion that Ms Gobbo may have acted
15:19:28 44 for Mr Dale. You write, "I believe I read this advice
15:19:31 45 around the time of this meeting. My diary records that
15:19:34 46 Mr Pope and Mr Ashton were to be informed of this advice
15:19:34 47 prior to the Commonwealth Director". You also then brief

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15:19:39 1 Mr Pope about the advice. 5 October, this is paragraph 25,
15:19:45 2 he had spoken with Ashton and there would be a meeting with
15:19:48 3 the Commonwealth to discuss the Dale charges not
15:19:51 4 proceeding. Pausing there, was it your understanding by
15:19:54 5 the conversations you had with Mr Pope and the briefing and
15:19:56 6 the like that he wanted the Commonwealth not to pursue the
15:20:00 7 prosecution as it would reveal all of Ms Gobbo's work as a
15:20:04 8 source?---Yes.

15:20:05 9
15:20:06 10 Including the Commonwealth prosecution, for example, of
15:20:09 11 Tony Mokbel, for which he was sentenced in his
15:20:14 12 absence?---Well we didn't discuss it specifically but I
15:20:17 13 expect it would include that.

15:20:21 14
15:20:21 15 We can see then going through your statement that, if we go
15:20:25 16 to paragraph 28, matters now in full flow as far as Mr Pope
15:20:32 17 is concerned. He's been recused certainly from the
15:20:39 18 steering committee and there's legal advice either then or
15:20:41 19 very shortly after about not being involved with her but
15:20:44 20 it's correct that even then you're speaking to Mr Pope
15:20:47 21 about requests in relation to Ms Gobbo, do you agree with
15:20:52 22 that?---Yes, I do.

15:20:53 23
15:20:55 24 As we've discussed, the day after he signs his affidavit,
15:20:58 25 so paragraph 30, you met with Krista Breckweg and we know
15:21:04 26 from Mr O'Connor also Mr Beale, and we know they were shown
15:21:11 27 over three hours the SMLs, and again Mr Pope was involved
15:21:14 28 in that process?---I don't know if he was actually
15:21:17 29 physically there but I believe he was aware of the process,
15:21:20 30 yes.

15:21:20 31
15:21:20 32 If it helps, Mr O'Connor's evidence was it was authorised
15:21:24 33 by Mr Pope?---I would expect that's the case, yes.

15:21:26 34
15:21:26 35 Paragraph 31, 4 November, Ms Breckweg again asked to see
15:21:33 36 the documents. Were instructed again by Mr Pope to prepare
15:21:36 37 documents relating to contact with Gobbo, the human
15:21:42 38 source?---Yes.

15:21:42 39
15:21:44 40 Paragraph 33, Mr Ashton obviously aware of the allegation
15:21:49 41 made by Ms Gobbo, as we've seen from the letters, he's
15:21:53 42 involved, as we see there, in relation to the issues in
15:21:57 43 relation to Witness F and use in the Commonwealth
15:22:02 44 prosecution?---Yes.

15:22:03 45
15:22:06 46 Paragraph 36, 14 November, we see materials moved, so Pope
15:22:14 47 asking for materials relating to Ms Gobbo being transferred

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15:22:18 1 to Mr Paterson, which is probably consistent with having
15:22:21 2 little to do with her, agree with that?---Sorry, what was
15:22:25 3 the last - - -
15:22:27 4
15:22:28 5 If you look at paragraph 36, you're saying that the
15:22:29 6 documents relating to Ms Gobbo were to be transferred from
15:22:32 7 Mr Pope to Mr Paterson?---I just missed the "probably
15:22:36 8 consistent with" part.
15:22:37 9
15:22:37 10 With the direction he shouldn't be involved with matters
15:22:40 11 relating to Witness F?---Yes.
15:22:41 12
15:22:43 13 We then see, as we go on, paragraph 45, Mr Pope is
15:22:59 14 directing you that the Comrie review is to occur into the
15 15 management of Ms Gobbo, that's how you've worded it. It's
15:23:06 16 not in relation to just general behaviour, it's into
15:23:08 17 Ms Gobbo?---Yes.
15:23:08 18
15:23:09 19 This is after the finding and the legal advice, he's still
15:23:13 20 involved as far as Ms Gobbo is concerned and that
15:23:15 21 perpetuates to paragraph 46, do you agree with that?---Yes.
15:23:19 22
15:23:21 23 And then as we see, as we can follow on, paragraph 47, June
15:23:26 24 2012, still involved re the management of Ms Gobbo?---Yes.
15:23:33 25
15:23:36 26 Paragraph 49, the disbanding and if you look at the
15:23:42 27 proposal and the chain as far as your statement is
15:23:45 28 concerned, it certainly appears as though the Comrie review
15:23:49 29 based on Ms Gobbo, its findings lead to the email on 30
15:23:53 30 August 2012 of Pope forwards you a chain saying the SDU
15:23:57 31 should be disbanded?---Yes.
15:24:01 32
15:24:02 33 So again, involved in the decision-making process as far as
15:24:06 34 Ms Gobbo is concerned?---Yes.
15:24:08 35
15:24:10 36 Again, paragraph 50, I don't need to labour the point much
15:24:15 37 more, we can all read your statement, but he's involved in
15:24:18 38 meetings then thereafter which ultimately result in the SDU
15:24:22 39 being closed, and on any view part of the reason, looking
15:24:26 40 through the Comrie review and the like, was in relation to
15:24:29 41 Nicola Gobbo?---It was part of the reasoning, yes.
15:24:31 42
15:24:33 43 The only other question I'd seek to ask you about was
15:24:36 44 paragraph 54. We've heard a bit of evidence about this
15:24:42 45 and it's relating to an email chain forwarded to you by
15:24:51 46 John O'Connor on 12 April as a result of what's said during
15:24:55 47 the trial of Mr Cvetanovski that we've heard evidence

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15:24:57 1 about. And during that trial what was said on behalf of
15:25:04 2 Mr Cvetanovski's lawyers was they would be alleging
15:25:09 3 Ms Gobbo, the police and the main witness in that case had
15:25:15 4 involved in a conspiracy to bring down a number of people,
15:25:20 5 including Mr Mokbel, for example?---I don't have a specific
15:25:26 6 recollection of that particular case.

15:25:27 7
15:25:28 8 Bring up the email, it's VPL.0005.0013.1295. I think it
15:25:37 9 will have to be limited screens because I've seen, I was
15:25:44 10 shown one by Mr Holt and I know there's - if it's just on
15:25:45 11 your screen and the Commissioner's because I've seen it.
15:26:06 12 I'm told it's actually 1295, so it's VPL.0005.0013.1295.
15:26:48 13 It doesn't need to be on - if it can be only on the
15:27:04 14 Commissioner's screen, the witness's screen and just this
15:27:07 15 one here. If you just get familiar with that and read it
15:27:10 16 to yourself. I just want to ask you some questions in
15:27:14 17 relation to it. The only questions I have to ask you about
15:28:36 18 that are this, obviously your statement says you don't
15:28:41 19 recall doing anything as a result of that email. We know
15:28:44 20 there was a meeting I think the next day with Mr Flynn in
15:28:48 21 attendance and also Mr Hayes.

15:28:50 22
15:28:50 23 COMMISSIONER: When you say the next day, there are a
15:28:52 24 couple of dates in that email chain, which day?

15:28:56 25
15:28:57 26 MR NATHWANI: I think it's 13 April the evidence was, I
15:28:58 27 stand to be corrected. There was a meeting at
15:29:01 28 Mr Champion's chambers with Mr Hayes and Mr Flynn. Do you
15:29:04 29 know if you were, and I think Sandy White as well, I could
15:29:07 30 be wrong. Were you aware of that meeting?---I don't
15:29:16 31 believe so.

15:29:16 32
15:29:19 33 Were you aware at this stage or to your knowledge was
15:29:22 34 Mr Champion aware that Ms Gobbo was in fact or had been a
15:29:26 35 human source?---I don't know.

15:29:30 36
15:29:30 37 Because if you see the conclusion is Mr Champion decided
15:29:35 38 not to call Gobbo, but the defence can still subpoena
15:29:38 39 her?---Yes.

15:29:39 40
15:29:39 41 Do you have any information as to what informed his view in
15:29:44 42 not calling Ms Gobbo?---No, I don't. I have no
15:29:47 43 recollection about this matter at all.

15:29:48 44
15:29:53 45 I think I should tender that document.

15:29:55 46
15:29:55 47 COMMISSIONER: It hasn't been tendered?

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15:29:58 1
15:29:59 2 MR NATHWANI: No.
15:29:59 3
15:30:00 4 #EXHIBIT RC853A - (Confidential) Email chain from 12 to
15:30:03 5 17/4/2011, O'Connor, Officer Pearce,
15:30:14 6 subject Witness F.
15:30:18 7
15:30:18 8 #EXHIBIT RC853B - (Redacted version.)
15:30:21 9
15:30:22 10 MR NATHWANI: Thank you Mr Sheridan.
15:30:23 11
15:30:24 12 COMMISSIONER: Yes, thank you.
15:30:25 13
15:30:26 14 MR HOLT: Commissioner, can I just indicate that on my
15:30:28 15 instructions the handwritten note which was
15:30:32 16 VPL.0002.0002.0066, on my instructions the handwriting is
15:30:36 17 Mr Cartwright's.
15:30:37 18
15:30:37 19 COMMISSIONER: Mr Cartwright's, thank you. That's Exhibit
15:30:39 20 850, so we now know that's Mr Cartwright's note. Thank you
15:30:44 21 very much. Yes Mr Chettle.
15:30:46 22
23 <CROSS-EXAMINED BY MR CHETTLE:
24
15:30:46 25 Mr Sheridan, could you be handed the pseudonym list by some
15:30:52 26 chance, please.
15:30:53 27
15:30:53 28 COMMISSIONER: Yes.
15:30:53 29
15:30:54 30 MR CHETTLE: I appear for a number of ex-handlers and I'll
15:30:57 31 just let you know who I do appear for so you know who I'm
15:31:03 32 talking about. Looking at that list I appear for Mr Wolf,
15:31:06 33 Sandy White, Peter Smith, Officer Green, Officer Fox and
15:31:11 34 for some reason no.9, Officer Black, do you see those
15:31:16 35 numbers, or members?---Yes.
15:31:17 36
15:31:17 37 They're all people you know who I'm talking about?---Yes.
15:31:21 38
15:31:21 39 So far as formality is concerned, officer number 1, do you
15:31:26 40 know him or did you know him?---Yes, I did, yes.
15:31:28 41
15:31:28 42 He unfortunately is deceased?---Yes, he is.
15:31:31 43
15:31:33 44 At the time the SDU was closed down there were only two of
15:31:38 45 my clients, I suggest, still stationed at the SDU, those
15:31:43 46 being Smith and Green. Wolf had transferred out. Sandy
15:31:51 47 White had gone to PII. Green, I think - he was there.

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15:31:58 1 Fox had moved quite some time ago, he'd gone before you got
15:32:02 2 there, hadn't he?---I believe that's right, yes.
15:32:04 3
15:32:05 4 And same with Black, he'd gone earlier, he'd left as
15:32:10 5 well?---Black was definitely gone. I think Wolf might have
15:32:15 6 been temporarily out rather than transferred out and White
15:32:19 7 was definitely only temporarily out not transferred out.
15:32:23 8
9 He was still notionally on the books?---Yes.
10
15:32:23 11 He had gone off to be the PII [REDACTED] of PII [REDACTED], hadn't
15:32:29 12 he?---No, another matter but, yeah, he was still on the
15:32:32 13 books.
15:32:33 14
15:32:35 15 That's who we're talking about. There were, there's a lot
15:32:41 16 of people moved in and out of the SDU over the period of
15:32:45 17 2009 to 2013, weren't there?---I wasn't there in 2009. In
15:32:54 18 the period that I was there between 10 and 13, I don't
15:33:00 19 think I would say there would be a lot that had moved, but
15:33:03 20 yes, I wouldn't dispute some moved.
15:33:05 21
15:33:05 22 There's a document that's been prepared that sets, it was
15:33:09 23 tendered, it sets out the time, who the people were who
15:33:16 24 were there and the amount of time that they had been there
15:33:19 25 and I tendered it as an exhibit the other day.
15:33:26 26
15:33:26 27 COMMISSIONER: We can take that as - - -
15:33:29 28
15:33:29 29 MR CHETTLE: Look, I'll try and get to the point.
15:33:35 30 Mr Sheridan, do you agree that the decision made to close
15:33:39 31 down the SDU was made by Mr Pope?---Ultimately the decision
15:33:47 32 was made by the Chief but yes, on the advice of Mr Pope,
15:33:50 33 yes.
15:33:50 34
15:33:52 35 He engaged your assistance to help him achieve that
15:33:58 36 result?---I don't know if I'd quite word it that way.
15:34:02 37 Loosely that's true, yes.
15:34:04 38
15:34:07 39 Did he ask you to find material to justify closing the
15:34:11 40 SDU?---No.
15:34:13 41
15:34:16 42 Did you at any stage recommend to him that the unit not be
15:34:20 43 closed down?---Yes.
15:34:22 44
15:34:23 45 And he rejected that advice?---Yes.
15:34:27 46
15:34:29 47 You've already said he didn't tell you about his prior

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15:34:33 1 involvement with Ms Gobbo as a source?---Yes, that's my
15:34:36 2 recollection, yes.
15:34:37 3
15:34:41 4 Can I suggest to you that it's clear that a decision to
15:34:45 5 close the unit had been made prior to the Comrie report
15:34:49 6 being handed down and well before the Covert Services
15:34:53 7 Review was completed?---No, I wouldn't, I wouldn't accept
15:34:57 8 that.
15:34:57 9
15:34:57 10 All right. Let's have a look at some documents if we can.
15:35:01 11 We'll start with a letter you've already been shown. Could
15:35:13 12 you be taken to Exhibit 444, please. This is your letter
15:35:30 13 of 24 June 2012. You were taken to this by Mr Woods
15:35:41 14 before?---Yes, yes.
15:35:43 15
15:35:44 16 Do you have - obviously from the contents of this document
15:35:47 17 you have had a discussion with Mr Pope prior to you writing
15:35:51 18 your email about what he's going to do, "Because I've been
15:35:56 19 thinking over the weekend about your pending discussion",
15:35:58 20 do you see that?---Yes, that's right, yes.
15:36:00 21
15:36:00 22 So is there an entry in your diary or any documentation
15:36:04 23 about the previous correspondence or conversations or
15:36:08 24 matters you'd raised with him?---If there is it's - you've
15:36:13 25 already got it.
15:36:13 26
15:36:14 27 I don't have it that's for sure?---Well all my, in response
15:36:18 28 to the Notice to Produce I've given all my diary entries
15:36:22 29 over and if there was such a discussion as you've asked,
15:36:26 30 yes, it will be in there.
15:36:28 31
15:36:29 32 There clearly has been some prior communication?---Yes,
15:36:31 33 definitely, yes.
15:36:32 34
15:36:32 35 Are your diaries at the Commission?---I believe all the
15:36:35 36 copies are here, yes.
15:36:36 37
15:36:37 38 Can they be - I call for his diaries.
15:36:41 39
15:36:41 40 COMMISSIONER: Round about 24 June and earlier?
15:36:44 41
15:36:44 42 MR CHETTLE: The period prior to 24 June 2012.
15:36:51 43
15:36:51 44 MR HOLT: No is the short answer, Commissioner, from our
15:36:53 45 perspective.
15:36:54 46
15:36:55 47 MR CHETTLE: I don't want to see them.

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1
15:36:56 2 COMMISSIONER: Can I just finish?
15:36:56 3
15:36:57 4 MR HOLT: The diaries are here, if there are particular
15:36:59 5 issues that this witness needs to review, there's no
15:37:02 6 difficulty with him doing that, we can identify a topic and
15:37:04 7 come back, but the handing over of these witness's diaries
15:37:08 8 with a lot of utterly irrelevant highly sensitive
15:37:11 9 information - - -
15:37:11 10
15:37:12 11 COMMISSIONER: I think what he's asking is that the witness
15:37:16 12 be shown the diary so that he can find the spot.
13
14 MR CHETTLE: Correct.
15
16 COMMISSIONER: In his earlier correspondence, earlier
15:37:19 17 discussions.
15:37:19 18
15:37:20 19 MR HOLT: I've got no difficulty with that. It was the
15:37:20 20 call for it which has a particular - - -
21
22 MR CHETTLE: I asked for them to be produced.
23
24 COMMISSIONER: It was the language, yes, you're quite
25 right.
26
15:37:25 27 MR HOLT: He called for it.
15:37:27 28
15:37:27 29 COMMISSIONER: If the witness could be shown the diaries
15:37:30 30 preceding 24 June 2012 and to look for an - - - ?---So
15:37:32 31 you're asking me to read through my diaries prior to this
15:37:38 32 discussion?
15:37:39 33
15:37:39 34 MR CHETTLE: I won't do it now. I'll try and make use of
35 the 20 minutes or so we've got left. Commissioner, is it
15:37:44 36 presumptuous to say he'll be coming back? Can I ask him to
15:37:46 37 look at it in the meantime?
15:37:46 38
15:37:46 39 COMMISSIONER: I was hoping you might finish.
15:37:50 40
15:37:51 41 MR CHETTLE: Commissioner, I have hours, I promise you. I
15:37:53 42 don't know how many times we've had this conversation, at
15:37:57 43 the end of a long day, when we're all pressed for time, I
15:38:02 44 find myself about to start what is a significant
15:38:03 45 cross-examination for my clients.
15:38:04 46
15:38:04 47 COMMISSIONER: All right then, we're not going to finish

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15:38:07 1 the witness today and he won't be coming back on Monday
15:38:12 2 because we've got another witness listed Monday. You'd
15:38:15 3 like the witness to find all discussions with Pope about
15:38:23 4 closure of the SDU prior to 24 June 2012 as related in his
15:38:27 5 diaries?
15:38:27 6
15:38:28 7 MR CHETTLE: Thank you Commissioner.
15:38:28 8
15:38:29 9 COMMISSIONER: If you could prepare an addendum statement
15:38:32 10 about that material, thank you.
15:38:33 11
15:38:33 12 MR HOLT: Can my solicitors have permission to deal with
15:38:37 13 Mr Sheridan just for those purposes?
15:38:38 14
15:38:39 15 COMMISSIONER: Yes, of course.
15:38:40 16
15:38:42 17 MR CHETTLE: At this stage you say you, "Remain in favour
15:38:44 18 of winding-up the unit, it gives us an opportunity to
15:38:48 19 design a brand new and improved work group"?---That's -
15:38:53 20 yes.
15:38:53 21
15:38:54 22 "I believe that with the Comrie review and your own
15:38:58 23 observations over the past two years we have a sound
15:39:01 24 understanding of the issues that need to be addressed to go
15:39:05 25 forward the best way", right?---Yes.
15:39:06 26
15:39:08 27 Help me with this, you must have seen extracts of the
15:39:13 28 Comrie report, or been told about what the Comrie report
15:39:16 29 was going to say before it was published?---Yes, as I
15:39:21 30 indicated earlier in my answer, Mr Pope either showed me or
15:39:28 31 read to me excerpts from the Comrie review.
15:39:34 32
15:39:35 33 Again, would you have diarised that?---No, well it's in my
15:39:39 34 - I think I did diarise the meeting but I didn't actually
15:39:43 35 diarise the recommendations. I just recall that there was
15:39:47 36 an intersection with the term "pervert the course of
15:39:50 37 justice".
15:39:51 38
15:39:51 39 What is it you say you read or you were told? You were
15:39:55 40 told there was a - - - ?---That there, I recall that Pope
15:39:59 41 had indicated to me that Comrie had found that it may be
15:40:03 42 that the SDU, this is going back in relation to Witness F,
15:40:08 43 the then SDU members had possibly perverted the course of
15:40:12 44 justice.
15:40:13 45
15:40:17 46 A criminal offence?---Yes.
15:40:18 47

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15:40:19 1 They were the words that Mr Pope told you. This is in
15:40:21 2 relation again to Witness F, the person he's not supposed
15:40:25 3 to have anything to do with?---Yes.

15:40:26 4
15:40:28 5 All right. You told him, "There are some parallels with
15:40:36 6 the handling of the old [REDACTED] [REDACTED]. The current
15:40:39 7 unit labours under the misapprehension that they are doing
15:40:43 8 the right thing for the right reasons, regrettably the
15:40:48 9 handling of F shows in their current form they represent as
15:40:52 10 more of a liability than an asset for the professional
15:40:56 11 representation of the organisation"?---Yes.

15:40:57 12
15:41:00 13 You actually refer to the old [REDACTED] [REDACTED] there, do
15:41:04 14 you see that?---Yes, I do.

15:41:05 15
15:41:06 16 Mr Pope picks up that in an email that he subsequently
15:41:09 17 writes where he describes them as being a collection of old
15:41:14 18 [REDACTED] members, do you remember that
15:41:16 19 reference?---Yes, I remember that part, yes.

15:41:17 20
15:41:18 21 That's probably where he gets that reference to the [REDACTED]
15:41:22 22 [REDACTED] from, isn't it?---You'd have to ask him, but
15:41:25 23 yes, it's a fair theory.

15:41:26 24
15:41:27 25 It's a bit like saying, "You're a Federal policeman", it's
15:41:31 26 a generic term which says if you've been in the [REDACTED]
15:41:35 27 [REDACTED] there's something wrong with you?---Well,
15:41:37 28 that's not what it's intended - - -

15:41:37 29
15:41:38 30 COMMISSIONER: It is a double-barrelled question,
15:41:40 31 Mr Chettle, it's probably a bit rough. Could you just
15:41:43 32 refine it. Was it a term, a derogatory term?---It's not
15:41:50 33 written by me in terms of, as meant to be a derogatory
15:41:55 34 term. I'm drawing the attention of Mr Pope to what had
15:41:59 35 recently occurred, recently as in at that period with the
15:42:04 36 [REDACTED] [REDACTED] because one could ask which [REDACTED]
15:42:09 37 [REDACTED] you're talking about, but this was to do with
15:42:11 38 early in that 2011, 2012 period had been the IBAC inquiry
15:42:16 39 into the [REDACTED] where there had been
15:42:18 40 allegations that there had been impropriety, yet the
15:42:24 41 members had the view that they were probably doing the
15:42:26 42 right thing.

15:42:27 43
15:42:27 44 MR CHETTLE: You were looking at a historical similar
15:42:30 45 situation?---Yeah, this was meant to be actually a private
15:42:34 46 email between myself and my boss just telling him my
15:42:37 47 thoughts.

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1
15:42:38 2 Yes?---Never meant for here.
15:42:39 3
15:42:40 4 I'm sure you didn't think you'd be here when you wrote
15:42:44 5 that. Clearly, and I'll come to it later, but the email
15:42:45 6 that Mr Pope wrote, using the [REDACTED] example
15:42:49 7 was meant to be derogatory, wasn't it, in the one you were
15:42:54 8 taken to that he wrote in August?---I read it that way,
15:42:57 9 yes.
15:42:57 10
15:43:00 11 The Commissioner can take it that some time prior to 24
15:43:06 12 June Mr Pope has made his mind up that he's going to
15:43:11 13 recommend to the Chief Commissioner that the unit be
15:43:15 14 shut?---No, well I'd say more likely that he's seriously
15:43:21 15 considering and moving towards that end, yes. I don't know
15:43:23 16 about making his mind up because I think in actual fact
15:43:26 17 he's asking for my considered opinion over the weekend
15:43:31 18 about the issues that were apparent.
15:43:35 19
15:43:36 20 Right. So let's flick to the next document I want to take
15:43:40 21 you to, it's VPL.0005.0013.1345. This may have been
15:43:59 22 tendered. I have no recollection.
15:44:05 23
15:44:06 24 COMMISSIONER: Have you got a date for it?
15:44:07 25
15:44:08 26 MR CHETTLE: I have, 4 July 2012. It's a letter to Mr Pope
15:44:15 27 from Mr Sheridan?---Yes.
15:44:26 28
15:44:26 29 You've seen this document?---Yes, I have.
15:44:29 30
15:44:30 31 What you were then doing - so to put this in chronological
15:44:34 32 terms, ten days after you've spoken to Mr Pope with your
15:44:39 33 thoughts about what you think, you are providing him with
15:44:46 34 examples of matters that you find or you've been told by
15:44:55 35 O'Connor are of concern with the way they'd been behaving
15:45:00 36 themselves?---Yes, that's right.
15:45:01 37
15:45:02 38 So clearly he's asked you to come up with that
15:45:06 39 document?---Yes.
15:45:07 40
15:45:09 41 Did that then, when he asked you to do that, you would have
15:45:13 42 gone to John O'Connor and asked to him to list for you the
15:45:18 43 examples of things that indicate what he saw as bad
15:45:22 44 behaviour by the unit?---Yes.
15:45:24 45
15:45:24 46 And he provided you with a written list, did he?---I
15:45:27 47 believe we had a series of examples. We generally both of

.05/12/19

10615

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15:45:30 1 us discussed these things often as they occurred and of
15:45:35 2 course he generally was the one that kept the record of it.
15:45:38 3 So yes, he would have gone back to that and just drawn up
15:45:41 4 the list from the examples we discussed.
15:45:48 5
15:45:49 6 He gave it to you and you talked about it?---Yes.
15:45:51 7
15:45:51 8 You make some comments first about the AOR issue that you
15:45:55 9 see set out at the top of the paragraph there?---Yes.
15:45:58 10
15:45:58 11 At the time the unit that Ms Gobbo was handled, there was
15:46:06 12 different policy in place to the unit you'd inherited,
15:46:10 13 wouldn't there be?---I think that's right, yes. I'm not
15:46:12 14 entirely sure but I think that's correct.
15:46:14 15
15:46:14 16 In fact the evidence before this Commission is there'd been
15:46:22 17 a number of changes of policy. I'll put it simply: there
15:46:26 18 was no requirement to administer or have a handwritten AOR
15:46:32 19 signed at the time Ms Gobbo was recruited?---I honestly
15:46:36 20 don't, I wasn't there at the time and I don't, I couldn't
15:46:39 21 answer it, I don't know.
15:46:40 22
15:46:46 23 There were issues in relation to whether you could locate
15:46:51 24 AORs in relation to a number of sources. This isn't in
15:46:55 25 relation specifically just to her, is it, it looks like?
15:46:59 26 The third paragraph talks about an audit you
15:47:05 27 conducted?---Yes, that's right.
15:47:05 28
15:47:06 29 And that a practice of verbal delivering of the AOR has
15:47:10 30 developed within the SDU?---Yes.
15:47:11 31
15:47:15 32 Officer Black, who you know reasonably well?---Yes.
15:47:19 33
15:47:20 34 He had worked with you in the past?---Yes.
15:47:24 35
15:47:26 36 He records in his diary, his terms, reinforcing the AOR
15:47:33 37 with Witness F. Did you go looking for any of these
15:47:35 38 entries, for example?---I had, I didn't do it personally
15:47:39 39 but I had cause to look for them, yes.
15:47:41 40
15:47:41 41 Did somebody ever draw to your attention that he actually
15:47:45 42 recorded that he had reinforced the AOR with her?---If
15:47:50 43 you're referring to his diary entry, no, I don't believe
15:47:52 44 so.
15:47:53 45
15:47:54 46 He's a sort of pretty meticulous fellow if you know
15:48:00 47 him?---He's pretty meticulous, yes. The diary entries

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15:48:04 1 aren't a recording of the AOR, that's the only issue.
15:48:07 2
15:48:07 3 It evidences it was done, doesn't it?---It's a diary entry
15:48:10 4 that says it was done, yes. There's evidence of that, yes.
15:48:14 5
15:48:16 6 If he wrote it down that he did it, you would have no
15:48:19 7 reason to doubt that he did, would you?---I'd like to find
15:48:26 8 evidence of these things, particularly in relation to human
15:48:30 9 sources, et cetera. There's a reason for wanting it
15:48:32 10 recorded.
15:48:32 11
15:48:33 12 To make sure it's happened?---Yes, yes.
15:48:35 13
15:48:35 14 Did someone report to you the various tapes they listened
15:48:38 15 to, there were obviously fragments of AORs from here to
15:48:42 16 there but they could never find a fully written one?---Yes.
15:48:45 17
15:48:47 18 So as at 2005 the AOR was a very, very basic document that
15:48:55 19 effectively said, "You're not an employee of Victoria
15:48:57 20 Police and you can't commit crimes", isn't that effectively
15:49:00 21 what it said?---Yes, that's a basic summary, yes.
15:49:03 22
15:49:04 23 What occurred over time is the policy in relation to all
15:49:08 24 SDU policy changed and developed, I'm not going to go into
15:49:13 25 detail?---Yes, developed.
15:49:14 26
15:49:14 27 The AOR that existed in 2010 was a more complicated
15:49:18 28 document than that that existed in 2005?---Yes, I would
15:49:23 29 agree with that.
15:49:24 30
15:49:28 31 Then we go over the page to, flip over to these examples.
15:49:38 32 Do you know any of the, can you provide details in relation
15:49:47 33 to any of the six points you set out in that document, as
15:49:53 34 it were, the case studies behind those documents?
15:50:01 35
15:50:01 36 MR HOLT: That would require giving material that would
37 plainly identify human sources other than Ms Gobbo.
38
39 MR CHETTLE: I understand that.
40
15:50:07 41 MR HOLT: It just can't be asked in that way or done - if
42 there's another question that could be asked that wouldn't
43 necessitate that answer that's fine, otherwise we need to
15:50:13 44 go into a very different part of the hearing to deal with
15:50:16 45 that issue.
15:50:16 46
15:50:17 47 MR CHETTLE: Commissioner, Mr Holt as usual is premature.

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15:50:17 1 That's not the question I asked. I simply asked whether he
15:50:22 2 knows the details behind. If the answer is no I won't have
15:50:26 3 to go near any of it.
15:50:26 4
15:50:26 5 COMMISSIONER: It's a yes, no answer, thanks?---Yes.
15:50:29 6
15:50:30 7 MR CHETTLE: You do?---Yes, there's details behind those.
15:50:34 8
15:50:34 9 Each of them?---Yes.
15:50:35 10
15:50:38 11 We'll have to do that - have you been shown a response to
15:50:43 12 that document prepared by Sandy White?
15:50:46 13
15:50:47 14 COMMISSIONER: Will we tender that document, it hasn't been
15:50:49 15 tendered yet.
15:50:50 16
15:50:50 17 MR CHETTLE: It hasn't, Commissioner?
15:50:53 18
15:50:53 19 COMMISSIONER: I don't think so.
15:50:55 20
15:50:55 21 MR CHETTLE: I suspect it has, Exhibit 443 is Mr White's
15:50:59 22 response to it that's why I thought it had been tendered.
15:51:02 23
15:51:02 24 COMMISSIONER: It could be.
15:51:03 25
15:51:04 26 MR CHETTLE: However I'll tender it again.
15:51:06 27
15:51:06 28 COMMISSIONER: I've got that 443 as the response to
15:51:09 29 Sheridan's criticism to the SDU. 442 is something else.
15:51:17 30
15:51:18 31 MR CHETTLE: Maybe it hasn't been tendered, Commissioner.
15:51:20 32
15:51:20 33 COMMISSIONER: Yes.
15:51:21 34
15:51:21 35 #EXHIBIT RC854A - (Confidential) Letter to Jeff Pope from
15:51:23 36 Paul Sheridan dated 4/7/12.
15:51:23 37
15:51:23 38 #EXHIBIT RC854B - (Redacted version.)
15:51:32 39
15:51:33 40 MR CHETTLE: Thank you. I just want to, a couple of loose
15:51:39 41 things. Have you got that list of names there?---I do,
15:51:46 42 yes.
15:51:46 43
15:51:47 44 Although he's not my client I wanted to ask you a question
15:51:50 45 about, if you look at - the man we're calling Mr Richards.
15:51:58 46 I have to try and find him on the list?---38.
15:52:02 47

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15:52:02 1 Yes, number 38. Do you know who I'm talking about?---Yes.
15:52:05 2
15:52:06 3 Had he transferred, was he still at the SDU when it was
15:52:11 4 shutdown or had he transferred out?---I think he was still
15:52:21 5 there.
15:52:23 6
15:52:25 7 You were responsible for in fact appointing him or
15:52:29 8 selecting him to the SDU, weren't you, or you were on the
15:52:33 9 panel?---I was on the selection panel, yes.
15:52:35 10
15:52:35 11 And you knew him. You knew his background?---Yes, I knew
15:52:39 12 his background, yes.
15:52:41 13
15:52:41 14 He had performed very short duty at the Armed Offenders
15:52:47 15 Squad but had never been a member of the Armed Robbery
15:52:49 16 Squad, does that accord with your recollection?---Yes, I
15:52:52 17 think that's right, yes.
15:52:53 18
15:52:55 19 Mr Black you got back to work at the HSMU in 2014, did you
15:53:04 20 not?---I don't know if I'd describe it that I got him back.
15:53:10 21 I certainly had discussions with him and he came back, yes.
15:53:13 22
15:53:13 23 You supported his re-appointment to the HSMU in 14?---Yes,
15:53:18 24 yes.
15:53:18 25
15:53:18 26 And he then became involved in dealing with high risk
15:53:24 27 sources and their oversight?---Under the then HSMU, yes, I
15:53:32 28 think that to some extent that is probably accurate.
15:53:38 29
15:53:39 30 Indeed, you asked him to rewrite or assist with the
15:53:41 31 rewriting of the human source management policy for the
15:53:45 32 unit, did you not?---I think he was one of a number that
15:53:48 33 was involved.
15:53:48 34
15:53:48 35 He was one of the people you asked to perform that
15:53:51 36 function?---Yes.
15:53:51 37
15:53:52 38 Despite the fact that he had been a controller and a
15:53:55 39 handler of Ms Gobbo during the course of the time that she
15:54:00 40 was managed by the SDU?---Yes.
15:54:03 41
15:54:07 42 I'll push on with this chronology. What I want to focus on
15:54:15 43 are documents that relate to the shutting down of the SDU,
15:54:19 44 do you follow? I'll go first to that Exhibit 847 that
15:54:36 45 Mr Woods took you to.
15:54:39 46
15:54:39 47 COMMISSIONER: That's the email chain, 29 to 30 August.

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15:54:44 1
15:54:44 2 MR CHETTLE: Yes. If we go to the bottom of that chain.
15:54:49 3 The very bottom. Is there another page behind that?
15:55:01 4 There's not. VPL.0100.0132.0123. The copy that was served
15:55:18 5 on the net has a handwritten note written on it. In any
15:55:23 6 event I'll move on if it's not on this version. Could I
15:55:27 7 take you now through the document in some detail. Mr Pope,
15:55:37 8 starting with where he - go to the heading. Mr Pope writes
15:55:50 9 to the Chief Commissioner asking him to, "Convey the
15:55:55 10 following regarding the Source Development Unit to Greg
15:55:58 11 Davies in your meeting tomorrow", do you see that?---Yes, I
15:56:01 12 do.
15:56:01 13
15:56:01 14 You were aware obviously that Greg Davies was of the Police
15:56:05 15 Association?---Yes.
15:56:05 16
15:56:06 17 And there had been discussion about dealing with the
15:56:10 18 Association about the possible fall out in relation to
15:56:15 19 closing the unit?---Yes, there had been discussion at
15:56:20 20 Commissioner level, yes.
15:56:21 21
15:56:23 22 There's a process that the union maintain had to be
15:56:28 23 followed with proper industrial relations when you're
15:56:31 24 making decisions that effect the employment of police
15:56:34 25 officers?---That's correct.
15:56:34 26
15:56:35 27 And the police department had an expert in that regard
15:56:40 28 whose job it was to help the Chief Commissioner with work
15:56:44 29 issues that might arise?---Yes.
15:56:47 30
15:56:47 31 Liz Cheligoy?---Yes.
15:56:50 32
15:56:51 33 And you in the course of this exercise had dealings with
15:56:54 34 her from time to time?---I did, yes.
15:56:55 35
15:57:02 36 The objective by this stage was to close it by
15:57:05 37 mid-September with minimal fuss?---Yes.
15:57:08 38
15:57:08 39 Do you know why it didn't get closed by mid-September if
15:57:12 40 that's what the objective was?---I'd say it was the minimal
15:57:17 41 fuss part. There was too much to be done to get it done in
15:57:20 42 such a quick rush. This email is dated 29 August, it would
15:57:25 43 be impossible to do that in two weeks I would think.
15:57:28 44
15:57:28 45 There needed to be a proper basis demonstrated in order to
15:57:32 46 justify doing so?---That certainly would be part of it,
15:57:36 47 yes.

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15:57:36 1
15:57:41 2 He sets out the strength. Now, we've already touched on
15:57:48 3 this, and you disagree, don't you, with what Mr Pope says
15:57:53 4 is the composition of the unit at that time, that is many
15:57:56 5 of the handlers are [REDACTED], [REDACTED]
15:58:01 6 [REDACTED] and don't like being managed?---I disagree with the
15:58:06 7 concept that they were all ex, or most of them were ex
15:58:10 8 [REDACTED] or [REDACTED]. The don't like
15:58:15 9 being managed I don't take exception to. As I said before
15:58:18 10 I'm not sure about their squad backgrounds.
15:58:20 11
15:58:21 12 What I want to suggest to you is that they - do you
15:58:24 13 understand that there had been a culture of discussion and
15:58:28 14 inclusion at the SDU where Sandy White would encourage
15:58:32 15 [REDACTED] and [REDACTED] to have their say about what
15:58:35 16 they thought should occur?---Yes, yes, I do.
15:58:38 17
15:58:40 18 He saw that as a way of anti corruption strategy, really,
15:58:45 19 designed to ensure that everybody knew what everybody was
15:58:48 20 doing?---Yes, I'm aware that's what he said, yes.
15:58:52 21
15:58:53 22 You don't necessarily agree with that style of management,
15:58:55 23 is that the way - have I got that right?---No, I don't
15:58:59 24 think you have.
15:58:59 25
15:59:00 26 You do agree with that?---I don't have an issue at that
15:59:02 27 level with full and frank discussions amongst the office,
15:59:08 28 no.
15:59:08 29
15:59:08 30 If an officer disagrees with something, a Sergeant who has
15:59:13 31 been doing the job for say five years, knows what he's
15:59:17 32 talking about, would be entitled to say, "Hey, you sure you
15:59:21 33 know what you're doing, boss? This is not a good
15:59:24 34 idea"?---To Sandy White do you mean?
15:59:25 35
15:59:26 36 No, to Sandy White to the [REDACTED], for example?---Yeah, I
15:59:29 37 think that sort of full and frank discussion is okay. The
15:59:35 38 hard part is the officer coming to terms with having a say
15:59:40 39 is not necessarily having your way. You can express your
15:59:44 40 view but you don't necessarily get to enforce your view.
15:59:47 41 That's the challenge.
15:59:48 42
15:59:48 43 I understand that. Indeed, once the decision is made, on
15:59:51 44 every occasion they were told what to do they did it. They
15:59:58 45 might have argued about it, they might have questioned it
16:00:00 46 but they carried out what they were told to do?---There was
16:00:04 47 resistance, but in general terms, yes, they did. They

.05/12/19

10621

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16:00:06 1 carried out - with most of the tasks I would say that they
16:00:09 2 did generally carry out the majority of things without sort
16:00:14 3 of disgruntled resistance, but there was resistance.

4
16:00:17 5 Mr Pope made the decision to PII the unit from a PII
16:00:21 6 PII PII to PII, didn't he?---Yes, he
16:00:24 7 did, yes.

16:00:24 8
16:00:24 9 And that was from a covert methodology controversial, can I
16:00:31 10 put it that way?---It was to the staff, yes, but it
16:00:35 11 probably wasn't. In their minds it was probably more
16:00:40 12 controversial than the reality of it, because they weren't
16:00:44 13 actually, despite the pseudonym aspect here, they weren't
16:00:46 14 really undercovers, they were still police officers that
16:00:50 15 presented as police officers. They didn't need fake
16:00:53 16 identities in terms of their relationship with the sources,
16:00:56 17 unlike what they're using here. But what I'm saying it was
16:00:57 18 controversial in their minds because they were going from a
16:01:01 19 culture of being in an PII to PII
16:01:04 20 to working in a PII.

21
16:01:05 22 There were methodology reasons, Mr White would say, for
16:01:08 23 example, and he discussed with Mr O'Connor the Irish
16:01:11 24 example where sources had been killed because the bad guys
16:01:17 25 back to PII, thereby
16:01:21 26 exposing who they were?---Yeah, that's true. But it's a
16:01:24 27 selective process in terms of whose argument of course
16:01:27 28 because the same, Mr White and others espouse, I'm getting
16:01:30 29 into methodology to a degree here, but techniques where
16:01:35 30 people weren't followed, so therefore it's conceivable that
16:01:39 31 a source handler could PII and with a
16:01:42 32 that they undertook, not all that
16:01:45 33 difficult, could ensure that the likelihood of being
16:01:47 34

16:01:49 35
16:01:49 36 Indeed that's what they did do when they went PII,
16:01:52 37 they took steps to try and avoid issues like that
16:01:57 38 arising?---Yeah, the reality was they're supposed to do
16:02:02 39 that from PII of course, but yes.

16:02:02 40
16:02:03 41 It's easier when you're operating from a PII - -
16:02:04 42 -?---It is easier, definitely easier, for sure, yes.

16:02:08 43
16:02:08 44 Commissioner, is that a convenient time?

16:02:11 45
46 COMMISSIONER: Yes, I guess so.

47

.05/12/19

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

16:02:11 1 MR CHETTLE: I'm happy to keep going.
16:02:14 2
16:02:14 3 COMMISSIONER: No, I'm sure everyone is ready for a break
16:02:19 4 after two hours anyway. If you could try and refine your
16:02:21 5 cross-examination.
6
7 MR CHETTLE: I will.
8
9 COMMISSIONER: And let us know how much longer you're going
16:02:22 10 to need. And then, Mr Sheridan, we'll try and fit you in
16:02:25 11 to finish off your evidence at a time convenient to you and
16:02:28 12 to the Commission?---Thanks Commissioner.
16:02:30 13
16:02:30 14 We'll adjourn until 9.30 on Monday and we'll then
16:02:36 15 thankfully be returning to our more comfortable premises,
16:02:40 16 we'll have a little bit more room and a little bit more air
16:02:43 17 circulating so it should be a little more pleasant.
16:03:29 18
16:03:30 19 <(THE WITNESS WITHDREW)
16:03:32 20
16:03:37 21 ADJOURNED UNTIL MONDAY 9 DECEMBER 2019
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