

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

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Friday, 11 October 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Mr S. Holt QC Ms K. Argiropoulos
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDPP	Ms C. Fitzgerald
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for Pasquale Barbaro	Mr C. Wareham
Counsel for AFP	Ms I. Minnett
Counsel for Chief Commissioner of Police	Mr A. Coleman SC Mr P. Silver
Counsel for the ACIC and Department of Home Affairs	Ms S. Martin
Counsel for Hodson family	Mr J. Petras
Counsel for Officer Richards	Mr A. Purcell

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09:43:29 1 COMMISSIONER: Yes, I understand appearances are largely as
09:43:32 2 they were yesterday, save that we have an appearance, an
09:43:36 3 application for leave to appear from Mr Petras on behalf of
09:43:40 4 the Hodson family.
09:43:44 5
09:43:45 6 MR WOODS: That's not opposed by counsel assisting.
09:43:47 7
09:43:47 8 COMMISSIONER: I take it no one else wants to be heard on
09:43:50 9 this? Obviously some interest in this witness. I'll give
09:43:54 10 you leave to appear, Mr Petras.
11
09:43:57 12 Before we resume with the witness, Mr Holt, there's
09:44:02 13 one matter I could raise with you. In trying to get
09:44:08 14 statements that have been tendered, including the original
09:44:12 15 statement of Mr Paterson tendered, Victoria Police
09:44:17 16 indicated that in terms of attachment 75 to that statement,
09:44:25 17 which was a memorandum of advice in Buick and Dale from
09:44:29 18 Gerard Maguire which has featured from time to time
19
20 MR HOLT: Yes.
21
09:44:33 22 COMMISSIONER: The Victoria Police have said that it's
09:44:36 23 subject to a legal professional privilege claim for the
09:44:39 24 entirety of the document.
09:44:41 25
09:44:42 26 MR HOLT: Commissioner, subsequent to that point we
09:44:43 27 communicated with the Commission we waive legal
09:44:46 28 professional privilege in respect of that document, and to
09:44:49 29 the extent that I need to I confirm that now.
09:44:52 30
09:44:52 31 COMMISSIONER: Thank you. I don't know that that was ever
09:44:54 32 communicated to the lawyers and they spent some time on
09:44:58 33 this last night actually. Anyway, the main thing is that
09:45:00 34 you have waived that now.
09:45:02 35
09:45:02 36 MR HOLT: Absolutely. I should say I had understood that
09:45:04 37 that was communicated a month or so ago, but a lot is
09:45:08 38 communicated.
09:45:08 39
09:45:08 40 COMMISSIONER: A lot is communicated, yes. It's easy for
09:45:09 41 these things to get missed.
09:45:11 42
09:45:11 43 MR HOLT: I can absolutely confirm that Victoria Police
09:45:16 44 waive legal professional privilege in respect of that
09:45:18 45 matter.
09:45:20 46
09:45:21 47 COMMISSIONER: Yes, thanks for that. We can now resume

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09:45:21 1 with the witness. Yes Mr Chettle.
09:45:23 2
09:45:23 3 <ANTHONY MICHAEL BIGGIN, recalled:
09:45:25 4
09:45:26 5 MR CHETTLE: At p.7153 of the transcript a couple of days
09:45:30 6 ago, you were asked some questions about an entry in
09:45:32 7 Mr White's diary for 24 May 2006 and if that could be
09:45:36 8 brought up, please?---I see that, yes.
09:45:42 9
09:45:43 10 You'll see, "Request instructions as to what to tell
09:45:46 11 Superintendent Nolan re files of HS IDs"?---Correct.
09:45:52 12
09:45:54 13 "Has been instructed by DC via PW not to tell her. Refer
09:45:59 14 to Commissioner", see that? And there was some issue about
09:46:04 15 who PW was, can I suggest to you it's Peter Wilkins?---That
09:46:08 16 would be correct because Peter Wilkins was the staff
09:46:12 17 officer to Mr Overland.
09:46:13 18
09:46:13 19 He has communicated from Overland the instructions that are
09:46:16 20 set out in that document?---That would appear to be the
09:46:20 21 case, yes.
09:46:21 22
09:46:23 23 The other matter I wanted to touch on before I get back to
09:46:27 24 where I was yesterday, are you aware that ^{PII} Green,
09:46:32 25 and you might need to look up his pseudonym, you'll see
09:46:37 26 he's number 5 on that list?---I do.
09:46:41 27
09:46:41 28 That ^{PII} Green was seconded to the Drug Task Force
09:46:45 29 during the time that you were the super?---That's correct.
09:46:49 30
09:46:51 31 Was there anything suspicious or conspiratorial about that
09:46:56 32 appointment?---Not in my mind, no.
09:46:57 33
09:46:58 34 How did it come that he came to be going to the
09:47:02 35 DTF?---Certainly what happened, and it was done below me
09:47:05 36 but I was briefed about it, is that members attached to
09:47:08 37 covert areas of Victoria Police are actually encouraged
09:47:13 38 from time to time to go back to other more operational
09:47:15 39 areas of Victoria Police in order to further develop
09:47:18 40 themselves.
09:47:18 41
09:47:18 42 Career advancing move?---Career advancing. My
09:47:21 43 understanding that the member involved had expressed some
09:47:24 44 interest in actually promoting himself to the next level
09:47:27 45 and in order to do so wouldn't do it from a specialist
09:47:32 46 area. I made it very clear to people that I wasn't going
09:47:34 47 to promote from within, so arrangements were made for him

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09:47:38 1 to go to a suitable place to go and do some temporary duty.
09:47:43 2 I believe it was Inspector to Inspector conversations
09:47:46 3 occurred between the Source Unit and the Drug Task Force,
09:47:50 4 and there was a - not a vacancy but an opportunity for that
09:47:55 5 person to go across there and do some temporary duty, which
09:47:59 6 he did. I think he initially went across at his
09:47:59 7 substantive level and then he did some upgrading work.
09:48:02 8
09:48:03 9 And then came back, upgraded as a PII [REDACTED] for a
09:48:06 10 period of time and then came back to the SDU?---Correct.
09:48:09 11 Can I just finish on that point?
09:48:11 12
09:48:11 13 Yes, sure?---In a subsequent enterprise bargaining
09:48:15 14 agreement this was actually mandated that everyone attached
09:48:18 15 to a covert area that was receiving a certain allowance,
09:48:22 16 every five years had to actually return to an operational,
09:48:24 17 do an operational posting every five years for a minimum of
09:48:30 18 I think it was either three or six months. So this was
09:48:31 19 probably the precursor to actually further developing our
09:48:36 20 people.
09:48:36 21
09:48:37 22 It is designed to keep them in touch with real policing as
09:48:43 23 distinct from covert policing, if I can use
09:48:43 24 that?---Correct. One of the risks for people in covert
09:48:46 25 policing is that they actually over time build a large
09:48:50 26 amount of expertise in their own particular field, but they
27 lose in their broader skills in relation to general
09:48:55 28 policing or operation policing and begin to lose contact
09:48:57 29 and context with the organisation generally. So it is
09:49:00 30 encouraged for them to actually go back and re-skill
09:49:04 31 themselves. Over time we spend a fortune in actually
09:49:07 32 training these people and developing these people, we don't
09:49:11 33 want to lose the expertise, but we also don't want them in
09:49:13 34 a position where their whole world revolves around their
09:49:20 35 entire area of expertise.
09:49:21 36
09:49:22 37 Another very small matter I want to touch on was yesterday
09:49:22 38 you made some reference to the Ashby, Linnell issue?---I
09:49:26 39 did.
09:49:27 40
09:49:28 41 And the Commissioner asked you whether that had anything to
09:49:30 42 do with Nicola Gobbo. Do you remember that?---I do.
09:49:33 43
09:49:34 44 In essence that was an investigation by OPI and a report
09:49:37 45 was published in relation to it?---Correct.
09:49:39 46
09:49:39 47 Investigating whether or not Ashby and Linnell had leaked

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09:49:43 1 to Mr Mullet, wasn't it?--Mr Mullet was in the chain, yes,
09:49:49 2 that's correct.

09:49:49 3
09:49:50 4 It was to do with the investigation of the Briars' matter,
09:49:54 5 that is the Waters' matter, nothing to do with Ms Gobbo.
09:49:57 6 Does that ring bells with you?--I'm not quite across
09:50:01 7 whether Ms Gobbo was involved. I don't know whether she
09:50:04 8 was or not, I don't know.

09:50:05 9
09:50:05 10 But the answer to that would lie in the report that was
09:50:08 11 published, and there is a published OPI report in relation
09:50:11 12 to that investigation?--Correct.

09:50:13 13
09:50:16 14 Yesterday you were played a portion of a conversation, PII
09:50:21 15 PII 2006, you won't forget it, where the concluding line
09:50:27 16 Mr Woods played to you was Ms Gobbo saying, "The ethics of
09:50:33 17 all this are all fucked"?--I remember that, yes.

09:50:35 18
09:50:35 19 I don't need to play it but could I have the transcript of
09:50:37 20 that particular conversation brought up, please. I think
09:50:42 21 it ends in p.0284. VPL.0005.0097.0083 going to 84. All
09:51:27 22 right. Can you go up the other way a bit, please. The
09:51:35 23 previous page, 83, there you are. Where you concluded the
09:51:41 24 transcript yesterday, the bit you saw and the bit you heard
09:51:45 25 it read, "What about - the general ethics of all of this is
09:51:49 26 fucked", do you see that reference?--I do.

09:51:51 27
09:51:51 28 Immediately after that Mr Smith says, "What about the
09:51:54 29 general legality of it then"?--I see that, yes.

09:51:57 30
09:51:58 31 She says, "It's not illegal, what's unlawful about it?
09:52:01 32 Seriously. What's it, more unlawful? Well we can
09:52:04 33 rationalise", says Smith, "A conversation about drug
09:52:07 34 trafficking with all these people every day, we can
09:52:10 35 rationalise, there's potentially more. The general
09:52:16 36 ethics", says Mr White, "Some people would say the ethics
09:52:18 37 of using anyone to provide information is wrong. Yeah,
09:52:23 38 that's a point of view, isn't it", says White. "Yeah, but
09:52:26 39 look, ethically - there's a difference between ethically
09:52:27 40 wrong, morally wrong and you're assisting the police in
09:52:30 41 whatever capacity therefore you're dead, full stop, because
09:52:34 42 it's wrong. It's not illegal or improper and I don't think
09:52:40 43 it would be unethical. What would be unethical if it was
09:52:43 44 (something) entrapment", do you see all that?--I see that,
09:52:43 45 yes.

09:52:43 46
09:52:43 47 That puts in context the very small portion that you were

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09:52:46 1 played yesterday, does it not?---It does, yes.
09:52:48 2
09:52:49 3 As far as Mr White indicated to the Commissioner in one of
09:52:53 4 the answers to Mr Winneke that he was a policeman not a
09:52:57 5 priest, you follow the distinction?---I think I know what
09:53:01 6 he means by that.
09:53:02 7
09:53:03 8 So far as ethical issues, are they, if they're not illegal
09:53:09 9 are they problems that you saw for the police or for the
09:53:11 10 barrister involved?---It's very hard to actually answer
09:53:14 11 that. I think probably for both.
09:53:17 12
09:53:17 13 For both?---Yes.
09:53:18 14
09:53:18 15 All right, thank you.
09:53:25 16
09:53:25 17 COMMISSIONER: Have you read the High Court judgment,
09:53:30 18 Mr Chettle?
09:53:32 19
09:53:33 20 MR CHETTLE: I have, Commissioner.
09:53:33 21
09:53:33 22 COMMISSIONER: That's all right, I was just checking.
09:53:35 23
09:53:35 24 MR CHETTLE: I understand the Commissioner's view on that,
09:53:39 25 you have raised it a number of times. Our position, and
09:53:42 26 it's important, is that they didn't get all the
09:53:44 27 information. We're not saying the High Court are wrong, we
09:53:47 28 never have, but what we're saying is they weren't given the
09:53:51 29 full picture.
09:53:51 30
09:53:51 31 COMMISSIONER: I understand that.
09:53:52 32
09:53:53 33 MR CHETTLE: Every time I try to say something decent about
09:53:57 34 these clients I get hit with the High Court, I understand
09:54:00 35 that.
09:54:00 36
09:54:01 37 COMMISSIONER: I've been very generous with allowing you to
09:54:04 38 say lots of good things about your clients, Mr Chettle, you
09:54:07 39 must admit.
40
41 MR CHETTLE: Thank you Commissioner.
42
09:54:08 43 COMMISSIONER: And probably there's good reason why you
09:54:11 44 could say good things about your clients.
45
46 MR CHETTLE: Thank you.
47

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09:54:13 1 COMMISSIONER: But nevertheless the High Court's judgment
09:54:17 2 is a very strong statement and I think you should keep it
09:54:20 3 in mind.
09:54:20 4
09:54:21 5 MR CHETTLE: I do, Commissioner, I can assure you. As I
09:54:24 6 think each of my clients have told you. Anyway, on that
09:54:28 7 very topic, Mr Biggin, questions were put to you by
09:54:32 8 Mr Woods to suggest there was something improper in the use
09:54:34 9 of Ms Gobbo. Remember - - - ?---Yes, I do.
09:54:37 10
09:54:38 11 Did you believe there was anything improper in the use of
09:54:43 12 Ms Gobbo at the time?---At the time, no.
09:54:45 13
09:54:47 14 With hindsight you acknowledge the High Court decision?---I
09:54:50 15 do.
09:54:51 16
09:54:51 17 At the time, at no time did you ever indicate to Mr White
09:54:53 18 that there was anything improper in what he was
09:54:57 19 doing?---No.
09:54:57 20
09:55:00 21 As far as - I think I just took us to PII before, did I
09:55:11 22 not? PII. I want to take you to page - perhaps I'll
09:55:21 23 leave that. Excuse me, I'll move on. Yes, PII.
09:55:29 24 Commissioner, I'll try and do this without reference to
09:55:34 25 need to go into closed court. PII, the night
09:55:52 26 that a certain person was arrested?---Correct.
09:55:55 27
09:55:55 28 We're in open court, I'm not going to go into the details
09:55:58 29 of that, but you indicated that you saw at the police
09:56:06 30 station Sandy White and Officer Smith?---I did.
09:56:08 31
09:56:09 32 Can I suggest to you that in fact Sandy White wasn't there
09:56:13 33 on the night of the PII but came in on the morning of the
09:56:18 34 PII. Could you be wrong in who you saw?---I could be
09:56:22 35 wrong, yes.
09:56:22 36
09:56:24 37 Let me suggest to you that there were two officers from the
09:56:26 38 SDU there, Officer Green and Officer Smith?---I can't
09:56:31 39 dispute that.
09:56:32 40
09:56:33 41 And that at 10.45, according to his diary the next morning,
09:56:38 42 Sandy White came in to have a conference with you in
09:56:41 43 relation to tactical matters that were going to flow in the
09:56:44 44 future. If that's in his diary you wouldn't dispute
09:56:49 45 that?---No, I don't dispute that.
09:56:50 46
09:56:57 47 MS ARGIROPOULOS: Commissioner, I'm sorry to interrupt but

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09:56:59 1 we've not been mentioning those specific dates in public
09:57:02 2 hearing because that is a form of bio data that could
09:57:08 3 identify that person.
09:57:09 4
09:57:09 5 COMMISSIONER: We have been avoiding that, yes.
09:57:12 6
09:57:12 7 MS ARGIROPOULOS: Could I please ask for the references to
09:57:15 8 both [REDACTED] and [REDACTED] to be removed from the live
09:57:20 9 stream. The first mention is at line 10, again at line 12,
09:57:28 10 line 20 and 21.
09:57:32 11
09:57:32 12 COMMISSIONER: All right, the mention of the date and month
09:57:37 13 at line 10, line 12, line 21 and again in the discussion
09:57:50 14 with Ms Argiropoulos just had.
09:57:52 15
09:57:53 16 MS ARGIROPOULOS: Yes, and what I've just said.
09:57:54 17
09:57:55 18 COMMISSIONER: Just the dates. It will be removed from the
09:57:59 19 published transcript and from the streaming.
09:58:01 20
09:58:01 21 MS ARGIROPOULOS: Thank you Commissioner.
09:58:02 22
09:58:03 23 MR WOODS: Just on that point - I apologise to Mr Chettle -
09:58:04 24 we're content with that position at the moment but at some
09:58:09 25 stage we'll need to have proper submissions made before you
09:58:12 26 about whether or not information such as that would fall
09:58:17 27 foul of orders that are in place.
09:58:18 28
09:58:19 29 COMMISSIONER: Absolutely.
09:58:20 30
09:58:20 31 MR WOODS: As a matter of convenience we won't take the
09:58:23 32 issue now.
09:58:25 33
09:58:25 34 COMMISSIONER: Yes Mr Chettle.
09:58:26 35
09:58:26 36 MR CHETTLE: Thank you Commissioner. At the date we've
09:58:28 37 just mentioned, that I'm not going to mention again, you
09:58:33 38 had very limited knowledge about Ms Gobbo's
09:58:37 39 role?---Correct.
09:58:37 40
09:58:38 41 In fact, your information had been restricted to one
09:58:42 42 conversation that you'd had with Sandy White, or two
09:58:49 43 perhaps?---I can't - I can't recall it but I don't dispute
09:58:53 44 it.
09:58:53 45
09:58:54 46 You set out in your statement that some time in, you had
09:58:59 47 been told some time in 2005 - - - ?---That time, yes, in

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09:59:05 1 the October of 2005, yes.
09:59:06 2
09:59:07 3 That's what I - you had a conversation with him and you
09:59:10 4 were informed that she was providing
09:59:13 5 information?---Correct. As I've explained to the hearing,
09:59:15 6 it wasn't a formal briefing, it was a by the way
09:59:20 7 conversation.
09:59:21 8
09:59:21 9 Because you and he had a trusting relationship?---That's
09:59:25 10 correct.
09:59:25 11
09:59:27 12 More importantly, there's no need or requirement for him to
09:59:32 13 disclose anything to you about Ms Gobbo, is there?---No,
09:59:36 14 there's not. In fact it would be quite improper.
09:59:39 15
09:59:39 16 Indeed, other than the fact that he had secured her as an
09:59:45 17 informer, the details of what she had said to him were not
09:59:49 18 disclosed to you?---No.
09:59:51 19
09:59:52 20 Indeed, you had no real idea of what she had said to the
09:59:56 21 police until you carried out your audit on the date you
09:59:59 22 did?---Correct.
09:59:59 23
10:00:00 24 And at that stage you became aware of her providing a
10:00:06 25 significant amount of information to the police?---Correct.
10:00:11 26 There had been 147 contacts as I said before.
10:00:14 27
10:00:15 28 Your knowledge in relation to her remained at that level
10:00:18 29 until you took over your position on 1 July?---Correct.
10:00:23 30
10:00:23 31 Thereafter you were regularly kept up to speed generally by
10:00:27 32 Mr White as to what was occurring?---And Inspector Hardy,
10:00:31 33 that's correct.
10:00:31 34
10:00:32 35 Hardy when he was there?---Yes.
10:00:34 36
10:00:36 37 You were also, if Mr White was away you would receive
10:00:40 38 briefings from Mr Black on occasions?---On occasion and
10:00:43 39 occasionally from the handlers.
10:00:45 40
10:00:46 41 I'm not suggesting you were across the detail, but you had
10:00:49 42 a general overview of what was happening with
10:00:52 43 her?---Correct.
10:00:52 44
10:01:01 45 I want to go back then to what I was asking about
10:01:07 46 yesterday, the closure of the SDU and could I bring up,
10:01:11 47 please, the exhibit I had yesterday of 359, the Covert

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10:01:17 1 Services Review. You remember this is the one that you,
10:01:29 2 according to the document itself, were on the steering
10:01:31 3 committee?---That's right, yes.
10:01:32 4
10:01:33 5 Let's go forward then if I can to page - firstly to p.4 of
10:01:41 6 the document, paragraph 5 on that page. "The SDU and the
10:01:59 7 UCU" - that's the Undercover Unit, isn't it?---That's
10:02:02 8 correct.
10:02:02 9
10:02:03 10 "Were independently updated by Detective Superintendent
10:02:05 11 Sheridan on 19 July 2012. A degree of tension amongst
10:02:09 12 staff has been reported by their unit managers and this
10:02:13 13 briefing was intended to continue transparent communication
10:02:16 14 and alleviate any concerns", do you see that?---I see that
10:02:20 15 comment, yes.
10:02:21 16
10:02:21 17 Do you know anything about that?---No.
10:02:23 18
10:02:23 19 No one consulted with you in relation to this review?---No.
10:02:26 20
10:02:27 21 If we go across then to p.7, paragraph 8. "Complacency
10:02:51 22 borne of long-term exposure to covert policing will not
10:02:55 23 always be as evident to the psychology unit as it is to
10:02:58 24 management. Some of the specific cases in which safety of
10:03:00 25 undercover operatives and human sources were at risk to
10:03:02 26 complacency were identified in routine operations separate
10:03:07 27 and isolated from psychological assessments and/or
10:03:10 28 contacts" and then there's some examples given, all
10:03:13 29 right?---Yes.
10:03:14 30
10:03:14 31 Did you when you were managing the Source Development Unit
10:03:19 32 see any evidence of complacency borne to long-term exposure
10:03:25 33 to covert policing?---No, I didn't.
10:03:26 34
10:03:26 35 That was the very thing that you talked about before that
10:03:29 36 can arise if you're too long in the one place?---Correct.
10:03:32 37
10:03:34 38 I go forward then to p.9. Under the heading, "Source
10:03:42 39 Development Unit", the report sets out the history of the
10:03:45 40 unit in paragraph 1?---Correct.
10:03:48 41
10:03:49 42 And paragraph 2, reference is made to the Comrie report,
10:03:58 43 you see the Chief Commissioner commissioned Neil Comrie to
10:04:05 44 conduct a case review of a particular long-term human
10:04:08 45 source?---I see that, yes.
10:04:09 46
10:04:10 47 Your evidence was you hadn't seen the Comrie report until I

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10:04:14 1 showed it to you yesterday?---I've never seen the Comrie
10:04:17 2 report, nor the IBAC report for that matter.
10:04:21 3
4 That's the Kellam report?---Yes.
5
10:04:22 6 I'll perhaps come to that later. This steering committee,
10:04:27 7 this review obviously refers to Comrie?---It does, yes.
10:04:31 8
10:04:31 9 And the recommendations he makes, do you see that?---Yes.
10:04:35 10
10:04:35 11 And reference is made to the highlighting of poor work
10:04:39 12 practices at the SDU. Now I'll come back to that when I
10:04:43 13 get to deal with the Comrie report. Then paragraph 4,
10:04:49 14 "Management identified rigidity of thinking, some militancy
10:04:54 15 and systematic resistance to change within the SDU which
10:04:57 16 raised significant health and safety concerns for all
10:05:00 17 staff". See that?---I see that.
10:05:03 18
10:05:03 19 Did you see any evidence of that during the time that you
10:05:06 20 were over sighting the SDU?---No.
10:05:07 21
10:05:09 22 At the bottom line of the page, "A culture of risk taking
10:05:15 23 has developed based on ego rather than risk versus
10:05:20 24 reward"?---I see that.
10:05:21 25
10:05:21 26 What do you say, does that have any relevance to the SDU
10:05:24 27 that you oversaw?---Not that I saw.
10:05:26 28
10:05:31 29 The review then goes into a number of issues from 2010 to
10:05:37 30 2012, and I'm not - you'd left in 2010, hadn't you?---I had
10:05:43 31 nothing to do with the Source Unit once I left.
10:05:46 32
10:05:46 33 I can't take you to any of that. But on the next page,
10:05:56 34 p.11 - perhaps go back to the bottom of p.10. You'll see
10:06:00 35 the paragraph 8A, there was a move from a certain location
10:06:05 36 to another location mentioned and I'm being coy because
10:06:11 37 we're in open hearing?---I see that.
10:06:13 38
10:06:13 39 When you were over sighting them the unit operated from the
10:06:18 40 [REDACTED] location?---Correct.
10:06:19 41
10:06:20 42 You visited as is apparent from time to time that
10:06:23 43 location?---I did.
10:06:23 44
10:06:25 45 It was still there at the time you left
10:06:30 46 oversight?---Correct. In fact there was a long-term lease
10:06:33 47 in place.

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10:06:34 1
10:06:36 2 The handlers were provided with vehicles so they could go
10:06:40 3 home and be available on late nights and early
10:06:43 4 calls?---Correct.
10:06:43 5
10:06:44 6 And that was still the position when you were in
10:06:46 7 charge?---Correct.
10:06:47 8
10:06:48 9 Then there was, paragraph D refers to the appointment of a
10:06:54 10 highly experienced Inspector, officer-in-charge with a
10:06:58 11 brief to practice significant intrusive management?---I see
10:07:02 12 that.
10:07:02 13
10:07:03 14 See that? Was Jock O'Connor appointed - that's a reference
10:07:07 15 to Jock O'Connor, is it not?---That's John O'Connor, yes.
10:07:11 16
10:07:11 17 Was he there when you were there?---No.
10:07:14 18
10:07:15 19 Do you have any knowledge about whether he would properly
10:07:18 20 be described as a highly experienced Inspector?---I think
10:07:21 21 he has a broad range of experience, we're sort of getting
10:07:26 22 down to - it's very, very hard to actually compare apples
10:07:34 23 to apples.
10:07:34 24
10:07:35 25 Would you describe him as a highly experienced
10:07:38 26 Inspector?---I would describe him as a highly experienced
10:07:40 27 member of the Police Force. My recollection, I may be
10:07:42 28 wrong but my recollection is that he'd come from down
10:07:44 29 Geelong where he was conducting a training role and had
10:07:48 30 only been an Inspector for probably two years maximum, so
10:07:53 31 whilst he may have gathered some significant experience, a
10:07:56 32 highly experienced Inspector is most probably someone with
10:08:01 33 five or six years experience. I'm just hypothesising here
10:08:03 34 really.
10:08:03 35
10:08:03 36 I understand, Mr Biggin. Can I now take you to paragraph
10:08:07 37 11. "The observations of SDU management and the Comrie
10:08:11 38 investigation" - there's a PII. "██████████, the
10:08:17 39 ██████████ and the Comrie investigation all collectively
10:08:22 40 form the view that the SDU needs to be closed as soon as
10:08:25 41 possible. See the recommendations. It's not the opinion
10:08:28 42 of the review that the SDU can be rebuilt to perform a
10:08:33 43 similar function. If this was to happen the review panel
10:08:36 44 believes that the same issues would occur", do you see
10:08:40 45 that?---I see that.
10:08:40 46
10:08:43 47 Paragraph 12, "It's the view of the steering committee that

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10:08:48 1 a decentralised model of management is required", do you
10:08:52 2 see that, "for human sources"?---I see that, yes.
10:08:55 3
10:08:55 4 Do you remember all that?---No.
10:08:58 5
10:08:58 6 But according to this document you were the steering
10:09:01 7 committee that came to this decision?---I don't remember
10:09:04 8 that at all.
10:09:04 9
10:09:05 10 Simply you weren't part of it, were you?---No.
10:09:12 11
10:09:18 12 All right. Perhaps if I can, on that note, take you to
10:09:25 13 Exhibit 361. VPL - thank you very much. I'm not
10:09:42 14 suggesting you've ever seen this but you'll see it is an
10:09:50 15 email I believe from Douglas Fryer. Now perhaps you can
10:09:53 16 tell the Commissioner who was he?---He came to the command
10:09:57 17 as a Commander when Mr Moloney left, he left as a
10:10:03 18 Commander.
10:10:03 19
10:10:03 20 He was Mr Moloney's replacement?---No.
21
10:10:06 22 No?---Extra responsibilities were given to the Command and
10:10:06 23 Mr Pope was appointed as the Assistant Commissioner, so
10:10:10 24 Mr Pope replaced Mr Moloney with extra responsibilities.
10:10:13 25 It was then decided that the extra responsibilities were
10:10:17 26 too broad for one person so they then inserted another
10:10:20 27 rank, a Commander. So you had Assistant Commissioner Pope,
10:10:23 28 Commander Fryer and then the superintendents under those
10:10:25 29 people.
10:10:25 30
10:10:26 31 And this is an email that he writes to Liz Cheligoy?---Yes.
32
10:10:34 33 Do you know Liz Cheligoy?---I did know her, yes.
10:10:36 34
10:10:36 35 She is deceased unfortunately?---She is, yes.
10:10:39 36
10:10:39 37 She had a particular role within Victoria Police?---She
10:10:42 38 did.
10:10:42 39
10:10:43 40 Which was?---Employee relations.
10:10:45 41
10:10:46 42 She was to make sure the enterprise bargaining agreement
10:10:49 43 was complied with or at least appeared to be?---Correct.
10:10:52 44
10:10:52 45 A copy of this email is sent to Paul Sheridan, who replaced
10:10:56 46 you?---CCed to him, yes.
10:10:58 47

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10:10:58 1 And Jeff Pope who you've already referred to---Correct.
10:11:03 2
10:11:03 3 I take it you've never seen this document. It's an
10:11:06 4 organisational review initiative in relation to the
10:11:11 5 SDU?---No, I've never seen it before.
10:11:13 6
10:11:16 7 I want to just go to some parts of it. You'll see
10:11:23 8 Commander Fryer starts off with, "Hi Liz, the below is a
10:11:30 9 cut and paste with comments from your previous emails.
10:11:33 10 Your comments are in the blue". Mine is black and white of
10:11:37 11 course. "We are keen to still progress the closure but for
10:11:40 12 us it's important for all to understand it is not at all
10:11:44 13 linked to the CSD review and to attempt to use the review
10:11:48 14 to close the unit would not be a true reflection of the
10:11:51 15 review, its intent or its outcome". Do you see that?---I
10:11:56 16 see that, yes.
10:11:57 17
10:11:57 18 Again, this is the committee, the steering committee that
10:12:02 19 you're on in relation to that review. As at 22 October
10:12:08 20 2012, to use the CSD review to close the unit would be a
10:12:14 21 misuse of the review, do you follow what's being
10:12:18 22 said?---That's what Mr Fryer's articulating.
10:12:21 23
10:12:21 24 In fact we go forward to January 2013 when the review gets
10:12:26 25 published, they do exactly what he says they can't do, do
10:12:31 26 they not?---They do.
10:12:32 27
10:12:41 28 Commissioner, this document refers to an email that has
10:12:48 29 previously been sent or emails plural, by Liz Cheligoy to
10:12:53 30 Commander Fryer. We haven't been provided with it and
10:12:59 31 insofar as I can, can I formally call for it? It's part of
10:13:02 32 the disclosure process that we're after.
10:13:04 33
10:13:04 34 COMMISSIONER: Yes. Can you take that on board,
10:13:06 35 Ms Argiropoulos?
10:13:06 36
10:13:07 37 MS ARGIROPOULOS: Yes Commissioner.
38
39 COMMISSIONER: Thank you.
40
41 MR CHETTLE: Thank you.
42
10:13:08 43 MS ARGIROPOULOS: May I just approach Mr Chettle briefly.
10:13:29 44
10:13:30 45 MR CHETTLE: Thank you. Can we go then to the second page
10:13:36 46 of that document. Under the heading "Source Development
10:13:43 47 Unit - SDU closure", do you see the heading there?---I do.

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10:13:46 1
10:13:51 2 Also, "Early in June Jeff, Paul, Brig Santucci and I met to
10:14:00 3 discuss the review and the potential for using OHS or MTIP
10:14:07 4 as drivers for closing down the SDU", do you see that?---I
10:14:11 5 do, and that's in blue so I presume this is from
10:14:15 6 Ms Cheligoy.
7
10:14:15 8 Right. Is Jeff a reference you would take it to Pope?---I
10:14:18 9 would be guessing but that's the way he spells his name,
10:14:23 10 Jeff, J-e-f-f.
10:14:23 11
10:14:23 12 And Paul would be Paul Sheridan on the way this document
10:14:26 13 runs?---I would think so.
10:14:29 14
10:14:30 15 Who is Brig Santucci, do you know?---She was from human
10:14:33 16 resources department.
10:14:33 17
10:14:34 18 HR. "And I", that's Liz Cheligoy?---Yes.
19
10:14:35 20 "Met to discuss the review and potential for using OHS or
10:14:37 21 MPT", that's major time in position?---Maximum time in
10:14:41 22 position.
10:14:41 23
24 Maximum time in position?---Yes.
25
10:14:44 26 And that was discussed with TPA, the Police
10:14:51 27 Association?---Correct.
10:14:51 28
10:14:52 29 As at that date, clearly if you accept that as a statement
10:14:55 30 of what had occurred, there'd been a discussion about
10:14:58 31 closing down the unit before the Comrie report was
10:15:02 32 concluded?---As of June by the looks of things.
10:15:04 33
10:15:05 34 Because if you go down to the third paragraph, "A short
10:15:12 35 pre-meeting with Pope, Cheligoy and Sheridan held prior to
10:15:15 36 the Police Association meeting, however this was to brief
10:15:19 37 Cheligoy. At that time the closure of the SDU was not a
10:15:24 38 consideration, the Comrie investigation had not
10:15:27 39 commenced"?---Okay.
10:15:28 40
10:15:29 41 There's a certain contradiction in those lines, isn't
10:15:32 42 there?---I'm getting a little bit confused about the timing
10:15:35 43 of all this. I'm a visual person and it appears to be
10:15:39 44 jumping around a bit.
10:15:40 45
10:15:40 46 Firstly, there's a discussion about using OHS or major time
10:15:49 47 in position to shut the unit down?---Yes.

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10:15:52 1
10:15:53 2 Then they say, "We couldn't do that because Comrie hadn't
10:15:57 3 even started"?---Yes.
10:15:59 4
10:16:00 5 Then if we go over to the top of the next page, I just want
10:16:11 6 to read the bit that's been written in brackets at the end
10:16:15 7 of that paragraph, "Which might lock you into using the SDU
10:16:20 8 staff and that is something I understood you wanted to
10:16:22 9 avoid", do you see that there?---I see that, yes.
10:16:25 10
10:16:26 11 It would appear that what they want to do is get rid of the
10:16:29 12 SDU and not use them in regional areas that the rest of
10:16:33 13 that paragraph talks about?---That would appear to be the
10:16:42 14 case.
10:16:42 15
10:16:43 16 All right. In blue in the centre of the page, "This could
10:16:56 17 form part of your comms strategy"?---Yes.
10:16:58 18
10:16:59 19 "However the lack of evidence, that is proof of direction,
10:17:02 20 discussions agreed between the manager and/or the managed,
10:17:06 21 the interventions, time frames, results is problematic."
10:17:11 22 Do you see what she's saying?---I see that there, yes.
10:17:13 23
10:17:14 24 To which Mr Fryer responds, "There's no lack of evidence if
10:17:17 25 we base the decision on the Comrie inquiry"?---Yes.
10:17:19 26
10:17:20 27 But in fairness that could be argued that that relates to
10:17:22 28 an isolated matter, do you see that?---That's what it says,
10:17:26 29 yes.
10:17:27 30
10:17:33 31 We mentioned PDAs yesterday is the document by which
10:17:38 32 disciplinary, dealing with problems with employees are
10:17:42 33 dealt with in the Police Force?---Correct, and in fact
10:17:45 34 they're required to be updated twice yearly.
10:17:48 35
10:17:50 36 Again, "These have not been issues that could be managed in
10:17:54 37 a PDA, but a symptomatic, a systemic and negative cultural
10:18:00 38 issues where significant and continual management
10:18:03 39 intervention has occurred", do you follow that?---I see
10:18:07 40 that, yes.
10:18:08 41
10:18:08 42 No suggestion of corruption as you were told?---Not as yet.
10:18:12 43
10:18:12 44 No, all right. Can I then take you to what he says in the
10:18:23 45 third-last paragraph, "In my view". Mr Fryer writes, "In
10:18:29 46 my view attempting to use the covert service division
10:18:33 47 review manipulates the intent and the outcome of the review


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10:18:37 1 because in itself it doesn't require the closure of the
10:18:40 2 unit." Do you see that?---I see that.
10:18:42 3
10:18:42 4 Something changed by the time the document got written
10:18:45 5 obviously?---It appears there has been a change in the
10:18:49 6 scope at least.
10:18:49 7
10:18:49 8 I understand you don't know anything about this, Mr Biggin,
10:18:51 9 but you are man who is listed, according to the documents
10:18:54 10 provided by Victoria Police, as one of the people who made
10:18:57 11 these decisions?---I didn't make this decision, no.
10:19:00 12
10:19:08 13 The end of the second-last paragraph, "Unless we have PDA
10:19:11 14 entries or personal file notes we have no real evidence.
10:19:15 15 We cannot use the inquiry recommendations in a public
10:19:19 16 setting"?---Yes.
10:19:20 17
10:19:21 18 That was apparently in blue, was it, on your copy?---It's
10:19:26 19 blue in my copy, yes.
10:19:27 20
10:19:27 21 Ms Cheligoy is pointing out some industrial
10:19:31 22 reality?---Correct.
10:19:32 23
10:19:32 24 To which Mr Fryer says, "That is factually incorrect. The
10:19:36 25 Comrie inquiry identifies a systemic course of behaviour
10:19:40 26 pertaining to risk management that has not been the subject
10:19:44 27 of specific management interventions. It's historical
10:19:49 28 which may detract from using it to close the unit after the
10:19:54 29 fact. Had current management known of the specifics of the
10:19:57 30 deployment of 3838, et cetera, and their lack of support to
10:20:02 31 the Petra Task Force, current management would have taken
10:20:06 32 action". Now, there are a couple of matters in relation to
10:20:10 33 that. Firstly, current management, to your knowledge, were
10:20:16 34 aware of the deployment of Nicola Gobbo, were they
10:20:22 35 not?---Well, are you talking current management, me current
10:20:25 36 management or current management Sheridan?
10:20:28 37
10:20:28 38 You for a start?---Yes, I knew, yes.
10:20:31 39
10:20:31 40 Simon Overland knew?---Yes.
10:20:33 41
10:20:33 42 The steering committee knew?
10:20:35 43
10:20:35 44 COMMISSIONER: What time period are you talking about?
10:20:37 45
10:20:37 46 MR CHETTLE: When she was being managed. At the time she
10:20:40 47 was being managed.

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10:20:41 1
10:20:41 2 COMMISSIONER: Clarify it.
10:20:42 3
10:20:43 4 MR CHETTLE: Contemporaneous with her being managed those
10:20:45 5 in command had an awareness of her involvement, did they
10:20:50 6 not?---They did. I'm not quite sure if he's talking about
10:20:53 7 myself or whether he's talking about O'Connor and Sheridan.
10:20:56 8
10:20:56 9 If he's talking about current management, they had no role
10:21:02 10 in the oversight of Ms Gobbo at the time, did they?---No,
10:21:04 11 she'd been deactivated well before they arrived.
12
10:21:08 13 Right?---Yes. And I don't know what the bit about the lack
10:21:12 14 of support to the Petra Task Force means.
10:21:14 15
10:21:14 16 I was about to come to that?---Yes.
10:21:16 17
10:21:18 18 When Mr Overland said she's to become a witness, SDU did a
10:21:27 19 lot to try and effect that transition, and by that I mean
10:21:31 20 they trained up some special operators to go and
10:21:35 21 assist?---Correct.
10:21:35 22
10:21:36 23 And they were given pseudonyms?---Yes.
10:21:39 24
10:21:39 25 But they were members who were given training and
10:21:42 26 everything they could to try and help them deal with what
10:21:45 27 was a difficult source to manage?---Yes, they were trying
10:21:48 28 to actually make the transition from a source to witness,
10:21:51 29 which was an investigator's responsibility as I said
10:21:54 30 previously, as seamless as possible.
10:21:57 31
10:21:57 32 In fact one of the things you'll see if you read the Comrie
10:22:00 33 report, and that's where this comment about Petra Task
10:22:03 34 Force comes from, is Mr Comrie opines that the Source
10:22:07 35 Management Unit did nothing to help the transition and
10:22:10 36 tried to in fact derail it?---Oh, okay.
37
10:22:14 38 That's just not true, is it?---Not in my mind it's not
10:22:16 39 true.
10:22:16 40
10:22:16 41 You took part in the conversations that effected the
10:22:19 42 transition of the course?---Yes.
10:22:20 43
10:22:24 44 I can't tell whether it's in blue, the third paragraph,
10:22:28 45 "This is a simple legal process available. The real
10:22:32 46 question here is would Victoria Police command structure be
10:22:36 47 satisfied to argue that it closed the SDU on the basis of

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10:22:41 1 ongoing organisational risk, that continuing the duties
10:22:46 2 would expose it to further and greater risk, including in
10:22:49 3 some cases potential criminality. In my view this answer
10:22:53 4 should be yes, unacceptable risk". Do you see that, that's
10:22:58 5 a comment by Mr Fryer?---That's in black so it appears to
10:23:02 6 be a Fryer comment, yes.
10:23:04 7
10:23:06 8 Go to the centre of the page, if I could. "The completed
10:23:14 9 CSD review will at this point make no recommendations for
10:23:17 10 SDU closure"?---It says that.
10:23:19 11
10:23:21 12 "Given the sensitive nature of the Comrie investigation,
10:23:24 13 this is not" - I've got to go back. "The only way this
10:23:29 14 could occur if the review steering committee were asked to
10:23:33 15 consider the Comrie investigation findings and the recent
10:23:36 16 history of managerial and intervention and resistance to
10:23:40 17 intrusive supervision. Given the sensitive nature of the
10:23:43 18 Comrie investigation this is not envisaged as a realistic
10:23:47 19 option." Do you see that?---That's what it says.
20
10:23:49 21 What I took you to before, that's exactly what did happen,
10:23:53 22 they relied on exactly what's said wasn't a realistic
10:23:58 23 option in the review finally published?---Correct.
10:24:01 24
10:24:01 25 Again, this is the review steering committee being asked to
10:24:08 26 do this. You didn't do it, did you?---No.
10:24:11 27
10:24:12 28 Your name, and Mr Paterson I might add says the same as
10:24:16 29 you, that he didn't have anything to do with this either.
10:24:19 30 The addition of your name is something that simply attempts
10:24:24 31 to give legitimacy to something that's a bit shabby, isn't
10:24:29 32 it?---I'm not quite sure whether it's shabby but it's
10:24:32 33 certainly - I can say I had no part in this at all.
10:24:35 34
10:24:35 35 You wouldn't be proud to have your name on this, would
10:24:38 36 you?---No, I'm not, and I'm a little bit upset that there's
10:24:42 37 some issues there that I don't particularly agree with, but
10:24:45 38 anyway.
10:24:47 39
10:24:47 40 In relation to the conduct of the unit?---In relation to
10:24:49 41 the conduct of the unit and in relation to the Petra
10:24:52 42 matters, I think that - - -
10:24:53 43
10:24:54 44 That they tried to derail Petra is just simply wrong, isn't
10:24:57 45 it?---It is wrong, yes.
10:24:58 46
10:25:11 47 

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10:25:17 1 [REDACTED]
10:25:24 2 [REDACTED]
10:25:25 3
10:25:25 4 Who is he?---He worked for Liz. He worked with Liz
10:25:29 5 Cheligoy.
10:25:29 6
10:25:30 7 Another HR person?---He's an expert in a specific field,
10:25:34 8 yes.
10:25:34 9 [REDACTED]
10:25:34 10 [REDACTED]
10:25:38 11 [REDACTED]
10:25:42 12 [REDACTED]
10:25:45 13 [REDACTED]
10:25:50 14 [REDACTED]
10:25:54 15
10:26:02 16 I want to go to the next page under options. One of the
10:26:10 17 options was to close the SDU and rely on the Comrie
10:26:13 18 investigation, see that?---I see that.
10:26:15 19
10:26:15 20 "The evidence basis for this is the internal Comrie
10:26:20 21 investigation which has identified a code of practice which
10:26:21 22 is in breach of policy, in some cases the law", do you see
10:26:25 23 that?---I see that.
10:26:26 24
10:26:26 25 "If Command do not wish to rely upon the Comrie inquiry
10:26:30 26 then I'd recommend that the closure not be pursued through
10:26:34 27 other means. To do so would compromise the integrity of
10:26:37 28 the Covert Services Review"?---I see that.
10:26:40 29
10:26:40 30 "To elicit managerial examples of poor work practices is
10:26:45 31 self defeating", and that's in fact what they did, as you
10:26:48 32 might have seen, they took a number of what were so-called
10:26:51 33 poor work practices and illustrated them in the
10:26:54 34 report?---Okay.
10:26:55 35
10:26:57 36 "It would be open to management for criticism of not
10:27:00 37 documenting appropriately within the PDA process"?---I see
10:27:05 38 that, yes.
10:27:06 39
10:27:06 40 Again, what you said yesterday, if there was any basis to
10:27:09 41 any of these allegations you'd expect to see them in their
10:27:12 42 professional reports?---Correct.
10:27:14 43
10:27:24 44 Then can I go to close the SDU again, the next point. "CSD
10:27:31 45 review recommended" - this is the second option, to rely
10:27:34 46 upon the Covert Service Review, which he has pointed out
10:27:38 47 you shouldn't, but if we go to option 2?---Yes.

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10:27:41 1
10:27:41 2 "Not achievable without rewriting the review"?---It says
10:27:45 3 that, yes.
10:27:46 4
10:27:46 5 "At no stage did the CSD review focus upon the relevant
10:27:51 6 aspects of SDU function"?---Yes.
10:27:54 7
10:27:54 8 "I recommend we not employ this tactic"?---I see that.
10:27:58 9
10:27:58 10 The word tactic says it all, doesn't it?---Yes.
11
10:28:02 12 It's a way they're trying to achieve a result with either
10:28:06 13 the Comrie review or the CSD review?---That's one way of
10:28:12 14 putting it, yes.
10:28:12 15
10:28:16 16 Then down the bottom, just to put it in context, "Liz, the
10:28:21 17 above has been predominantly compiled by Paul, value added
10:28:25 18 and endorsed by me", so that's Fryer saying, "Sheridan has
10:28:29 19 done most of this but I've touched it up a bit"?---It
10:28:32 20 appears to be the case, there must be another email in
10:28:36 21 existence I would think, or another document.
10:28:39 22
10:28:39 23 As I say, Commissioner, my call relates to any of the
10:28:43 24 documents relating to this document.
10:28:45 25
10:28:45 26 COMMISSIONER: Email chain, yes.
10:28:47 27
10:28:48 28 MR CHETTLE: Thank you. So let's take it forward to
10:28:57 29 Exhibit 362, please. We're now going forward to 11
10:29:09 30 December 2012?---Yes.
10:29:11 31
10:29:12 32 And it's a, what do you call - is this a cover sheet or
10:29:17 33 some - what do you call this document?---I don't really
10:29:20 34 know. It's something for the Commissioner of Police
10:29:28 35 obviously for some meeting.
10:29:29 36
10:29:30 37 It's something from Sheridan as the actioning
10:29:32 38 officer?---Correct.
10:29:32 39
10:29:33 40 With the endorsing officers being Ashton, Deputy
41 Commissioner?---Yes.
42
10:29:40 43 Assistant Commissioner Pope?---Yes.
44
10:29:42 45 And Commander Fryer?---Correct.
10:29:43 46
10:29:43 47 This copy has provision for Ashton to sign it off but it

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10:29:48 1 obviously hasn't been on the one I've got?---That appears
10:29:51 2 to be the case.
10:29:51 3
10:29:53 4 MS ARGIROPOULOS: Commissioner, before Mr Chettle moves on
10:29:56 5 to the next topic can I just raise a matter in relation to
10:30:04 6 questions asked by Mr Chettle about a person referred to as
10:30:05 7 [REDACTED]. I understand that might be legal advice over which
10:30:09 8 Victoria Police may wish to make a claim of legal
10:30:12 9 professional privilege. I just wonder if in the interim
10:30:14 10 that could be removed from the live stream so that we can
10:30:18 11 just continue with the questioning without that being
10:30:21 12 published.
10:30:23 13
10:30:24 14 COMMISSIONER: What line is it, please?
10:30:26 15
10:30:29 16 MS ARGIROPOULOS: So it's on p.7764 - 3. The person is
10:30:38 17 referred to in line 8 and then the advice is described from
10:30:43 18 line 17 through to 21.
10:30:47 19
10:30:47 20 COMMISSIONER: There's no problem with [REDACTED]'s name, is
10:30:49 21 there?
10:30:50 22
10:30:50 23 MS ARGIROPOULOS: No, it's really just the advice from 17
10:30:53 24 through to 21 that we'd seek to have removed from the live
10:30:58 25 stream and not published at this stage.
10:31:01 26
10:31:01 27 COMMISSIONER: Okay, the evidence wasn't that [REDACTED] wasn't a
10:31:05 28 lawyer but a human relations expert, but he might be an
10:31:10 29 industrial law expert, is it?
10:31:12 30
10:31:12 31 MS ARGIROPOULOS: Yes, I've received those instructions
10:31:14 32 since that evidence was given, hence the concern.
10:31:18 33
10:31:18 34 MR CHETTLE: Can I be heard on this, Commissioner?
10:31:21 35
10:31:21 36 MS ARGIROPOULOS: As I say - sorry, before that, can I just
10:31:24 37 say we haven't had notice that this particular item was
10:31:28 38 going to be referred to today so we are just doing our best
10:31:32 39 to try to deal with these issues on the run without
10:31:34 40 delaying or limiting Mr Chettle's ability to ask questions.
10:31:40 41
10:31:40 42 COMMISSIONER: Just to clarify, you're wanting from line -
10:31:42 43 - -
10:31:42 44
10:31:43 45 MS ARGIROPOULOS: Line 17 through to line 21.
10:31:45 46
10:31:45 47 COMMISSIONER: It's really probably 18, "Giving advice to

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10:31:50 1 the Chief Commissioner" itself is okay, isn't it? It's the
10:31:55 2 nature of the advice.
10:31:56 3
10:31:56 4 MS ARGIROPOULOS: Yes, that's okay. Thank you
10:31:57 5 Commissioner.
10:31:57 6
10:31:57 7 COMMISSIONER: 18 to 21. Yes Mr Chettle.
10:32:08 8
10:32:08 9 MR CHETTLE: Commissioner, if there is any legal
10:32:10 10 professional privilege it's clearly been waived. I
10:32:16 11 tendered this document some time ago when it was tendered.
10:32:18 12 It has been provided without any claim of legal
10:32:20 13 professional privilege, I tendered it through Sandy White.
10:32:23 14
10:32:23 15 COMMISSIONER: We're not going to have the argument now.
10:32:28 16 You flagged that, we might need to have the argument later.
10:32:32 17 Do you want to be heard as to whether we just take it out
10:32:34 18 for the time being?
10:32:35 19
10:32:36 20 MR CHETTLE: I'm happy to have it taken out for the time
10:32:38 21 being.
10:32:38 22
10:32:38 23 COMMISSIONER: We'll have that argument at a convenient
10:32:38 24 time. It may be that Victoria Police decides they don't
10:32:41 25 wish to claim legal professional privilege, but we'll see.
10:32:47 26 They need some time to think about it. That seems fair
27 enough.
28
29 MS ARGIROPOULOS: Thank you Commissioner.
30
10:32:51 31 COMMISSIONER: Do you want to say anything, Mr Woods?
10:32:51 32
10:32:51 33 MR WOODS: No, however I would just refer those who are
10:32:54 34 having the conversation to the provisions of the Act, when
10:33:00 35 talking about waiver and things like that, that the
10:33:02 36 situation is that it's not an excuse, as we all know, to
10:33:03 37 not to provide something. The privilege is waived once
10:33:07 38 it's provided.
10:33:08 39
10:33:08 40 COMMISSIONER: The other issue is the public availability
10:33:11 41 of it.
10:33:12 42
10:33:12 43 MS ARGIROPOULOS: We understand, thank you.
10:33:13 44
10:33:15 45 COMMISSIONER: Page 7764 lines 18 to 20 is to be for the
10:33:26 46 time being redacted from the public transcript and to be
10:33:30 47 taken out of the - not to be streamed if possible and is

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10:33:37 1 not to be referred to publicly at this stage and I'll
10:33:41 2 adjourn any application in respect of the claim of legal
10:33:45 3 professional privilege in respect of that matter to a date
10:33:48 4 to be fixed.
10:33:50 5
10:33:51 6 MR CHETTLE: Thank you Commissioner. Just for chronology,
10:33:53 7 Mr Biggin, the Covert Services Report that I took you to
10:33:59 8 before was published on 31 January 2013, even though it
10:34:06 9 bears the date 2012, do you follow?---Correct.
10:34:08 10
10:34:09 11 If I've now got Exhibit 362 up there and we turn over the
10:34:16 12 page, it may be described as a briefing note I think
10:34:19 13 because it's to brief the Chief Commissioner on the Covert
10:34:24 14 Services Division review finding and seek endorsement to
10:34:29 15 action the nine recommendations contained therein. Do you
10:34:32 16 follow?---Correct.
10:34:32 17
10:34:33 18 Again, I take it you've not seen this before?---No, no.
10:34:37 19
10:34:39 20 It sets out the history that in March of 2012 Assistant
10:34:43 21 Commissioner Pope commissioned the review?---Yes.
10:34:45 22
10:34:45 23 And what the Terms of Reference were?---Yes.
10:34:48 24
10:34:51 25 They're set out in paragraph 3?---Yes.
10:34:55 26
10:34:55 27 And then paragraph 4, "A steering committee was established
10:34:58 28 and communication with the Police Association occurred
10:35:01 29 throughout the review"?---It says that, yes.
10:35:03 30
10:35:03 31 "The steering committee consisted of ICSC management
10:35:08 32 representatives, together with representatives from human
10:35:10 33 resources department, workplace relations and the Force
10:35:15 34 psychology unit"?---Okay, yes.
10:35:17 35
10:35:19 36 The management representatives of ICSC are you and
10:35:22 37 Mr Paterson, are they?---We're two of them supposedly, yes.
10:35:26 38
10:35:29 39 Then, paragraph 5, "Complacency due to long-term exposure
10:35:35 40 to covert policing was identified as being of significant
10:35:39 41 concern and risk to Victoria Police"?---I see that.
10:35:42 42
10:35:42 43 They rely upon a report from [REDACTED] from the police
10:35:46 44 psychology identifying the value of introducing time in
10:35:51 45 position in the units?---Maximum time in position, yes.
10:35:55 46
10:35:58 47 MS ARGIROPOULOS: Sorry, Commissioner, that name has been

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10:36:00 1 mentioned before and I haven't complained about it, but now
10:36:04 2 that that particular explanation has been given there's a
10:36:07 3 PII claim in respect of that. I ask that lines 5 through
10:36:12 4 to 7 be removed from the live stream.
10:36:14 5
10:36:15 6 MR CHETTLE: Sorry, Commissioner, I'd forgotten that, that
10:36:18 7 is correct.
10:36:18 8
10:36:18 9 COMMISSIONER: Do you want to be heard, Mr Woods?
10:36:20 10
10:36:20 11 MR WOODS: No, not at this stage.
10:36:23 12
10:36:24 13 COMMISSIONER: Lines 5 to 7 of at p.7764 of the transcript
10:36:36 14 should be removed, and further down?
10:36:41 15
10:36:42 16 MR CHETTLE: I've only mentioned - I don't think I got to
10:36:45 17 the second quote. If I did it should come out. I can call
10:36:54 18 her the [REDACTED] The [REDACTED] - - -
10:36:58 19
10:36:58 20 COMMISSIONER: You did mention the name, 7771. Take out
10:37:05 21 the name of the [REDACTED]. Did you want - was it just the
10:37:14 22 name you want out? No, you want the whole of that down to
10:37:19 23 line 7?
10:37:22 24
10:37:22 25 MS ARGIROPOULOS: That's correct, that whole, the name and
10:37:24 26 the explanation.
10:37:25 27
10:37:25 28 COMMISSIONER: Yes, down to line 7 on that page, 7771.
10:37:36 29 That's not to be published, taken out of the public
10:37:40 30 transcript for the time being at least and not to be
10:37:44 31 live-streamed.
10:37:49 32
10:37:49 33 MR CHETTLE: An expert, is that - can I refer to what she -
10:38:04 34 "An expert cited SDU as being a particular risk due to
10:38:10 35 frequent contact with career criminals in high pressure
10:38:13 36 situations", do you see that?---I see that, yes.
10:38:15 37
10:38:15 38 "The steering committee accepted the expert's
10:38:18 39 advice"?---Yes, I see that.
10:38:18 40
10:38:20 41 Reading that, you'd form the opinion that the particular
10:38:23 42 expert had made some findings or recommendations in
10:38:26 43 relation to the SDU, wouldn't you?---You would think so,
10:38:29 44 yes.
10:38:30 45
10:38:31 46 Commissioner, I don't intend to take - just briefly, can
10:38:34 47 Exhibit 442 be brought up, please.

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10:38:39 1
10:38:39 2 COMMISSIONER: Yes.
10:38:52 3
10:38:56 4 MR CHETTLE: This is Exhibit 442, written by that
10:39:00 5 particular expert. Do you follow, Mr Biggin?---I follow.
10:39:03 6
10:39:03 7 I'm not going to take you through it, I just want to know
10:39:06 8 if you've ever seen it before?---I haven't but I've had
10:39:11 9 some conversations with that expert about similar matters.
10:39:14 10
10:39:14 11 Up until after you left, SDU handlers were seeing
10:39:19 12 psychologists every [REDACTED] to help them with the job
10:39:22 13 they had to perform, did they not?---Correct.
10:39:24 14
10:39:25 15 Is it your understanding that after you left management
10:39:29 16 terminated that procedure?---Yes.
10:39:32 17
10:39:33 18 So steps perhaps to assist with any of the psychological
10:39:38 19 risks that handlers might have were actively removed by
10:39:44 20 management after you left the unit?---That would appear to
10:39:47 21 be the case.
10:39:47 22
10:39:48 23 All right. Commissioner, the contents of Exhibit 442 will
10:39:54 24 be a matter for submissions I should submit.
10:39:57 25
10:39:57 26 COMMISSIONER: Yes.
10:39:58 27
10:40:03 28 MR CHETTLE: All right. Then if you go over the page of
10:40:06 29 this document to paragraph 6. "The Chief Commissioner was
10:40:14 30 told that two of the units that are nominated there have
10:40:18 31 been identified as having rigid thinking, militancy and
10:40:23 32 systematic resistance to change which are concerns for
10:40:28 33 health and safety concerns", do you see that?---That's
10:40:31 34 paragraph 8?
10:40:32 35
10:40:32 36 Yes?---Yes.
10:40:33 37
10:40:33 38 "A number of specific cases of the SDU were examined and
10:40:38 39 unethical and high risk behaviour was outlined"?---Yes, I
10:40:43 40 see that.
10:40:43 41
10:40:47 42 "Coincidental, and independent to the CSD review, Comrie
10:40:53 43 conducted a review in relation to a particular source", do
10:40:56 44 you see that, and he made 27 recommendations?---Yes.
10:41:02 45
10:41:03 46 This is paragraph 7?---I'm sorry, 7. I see that, yes.
10:41:07 47

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10:41:07 1 The Chief Commissioner is told about?---Yes.
10:41:09 2
10:41:09 3 What Mr Comrie finds?---Yes.
10:41:11 4
10:41:13 5 On that, apart from what you were shown yesterday of those
10:41:19 6 questions and answers you provided Gleeson, you had no
10:41:23 7 involvement or consultation with the Comrie review?---No.
10:41:26 8 I was asked if I - - -
10:41:28 9
10:41:28 10 To your knowledge no member of the SDU was spoken to or
10:41:32 11 consulted by, apart from that meeting that you had with
10:41:36 12 Gleeson, in relation to the Comrie review?---That's my
10:41:41 13 understanding.
10:41:41 14
10:41:41 15 And what Command did with it, they classified it as high
10:41:46 16 secret and secure and nobody ever got to see it until the
10:41:49 17 litigation Ms Gobbo brought in the Supreme Court?---That
10:41:54 18 may be the case, I'm not aware of that.
10:41:57 19
10:41:57 20 Was it a document that was made available to SDU
10:42:02 21 operators?---No.
10:42:03 22
10:42:03 23 Or to you?---No.
10:42:06 24
10:42:07 25 Then in paragraph 9 the author of this document opines
10:42:12 26 that, "The observations of SDU management, the expert and
10:42:16 27 the Comrie investigation all blend to create the view that
10:42:20 28 the SDU needs to be closed as soon as possible"?---It says
10:42:23 29 that.
10:42:24 30
10:42:24 31 "It's the opinion of the review that it's only a matter of
10:42:26 32 time before the SDU unduly exposes a source or the
10:42:32 33 organisation to significant risk that cannot be
10:42:35 34 mitigated"?---It says that.
10:42:36 35
10:42:37 36 So at that point of time what they're in fact saying in
10:42:40 37 general terms is the unit has gone rogue and it represents
10:42:44 38 a risk to the organisation, that's the effect of it, isn't
10:42:47 39 it?---A future risk, that's right.
10:42:49 40
10:42:57 41 I want to go - that's the advice to the Chief Commissioner
10:43:01 42 on 11 December 12?---Yes.
10:43:05 43
10:43:05 44 If I can take you back to a document I touched on yesterday
10:43:08 45 in relation to timing and that is a briefing note, Exhibit
10:43:19 46 360. As at 12 September, we've gone back now three months
10:43:34 47 to before that briefing note to the Commissioner, do you

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10:43:36 1 follow?---I see that.
10:43:37 2
10:43:41 3 Fryer writes to Pope and says, "Executive command have
10:43:45 4 reviewed the Comrie inquiry and endorsed the
10:43:47 5 recommendations that the SDU cease practice", that's the
10:43:53 6 ICSD, that the SDU cease practice?---It says that, yes.
10:43:57 7
10:43:58 8 ICSD stands for?---Intelligence and Covert Support
10:44:06 9 Department as it was then, it's now Intelligence and Covert
10:44:07 10 Support Command of course.
10:44:07 11
10:44:07 12 That's a decision effectively by Mr Pope at that stage. Is
10:44:12 13 he ICSD at that stage?---They're actually Executive Command
10:44:17 14 have endorsed it. Sorry, I read up the top Acting Deputy
10:44:23 15 Commissioner Pope. Mr Pope was clearly upgraded and so was
10:44:26 16 Mr Fryer, so Fryer was the department head and Mr Pope had
10:44:30 17 responsibility for this department and others, yes.
10:44:32 18
10:44:32 19 It's clear that as at 12 September they decided to close
10:44:37 20 the unit?---That would appear to be the case, yes.
10:44:40 21
10:44:40 22 What happens in the next few months is trying to work out a
10:44:45 23 way to do it?---Yes.
10:44:46 24
10:44:46 25 And I've taken you through some of the arguments in
10:44:49 26 relation to that?---Yes.
10:44:50 27
10:44:51 28 There are some names, Sheridan and Fryer have met with a
10:44:54 29 couple of people whose name I'm not - - -?---Yes, I see
10:44:56 30 that.
10:44:56 31
10:44:59 32 "Who confirm that ^{PII} [REDACTED] "?---It says
10:45:02 33 that.
10:45:03 34
10:45:04 35 Now, ^{PII} [REDACTED] involves legal propriety, does it
10:45:11 36 not?---Can do, yes.
10:45:14 37
10:45:14 38 MS ARGIROPOULOS: Sorry, Commissioner, this is exactly the
10:45:16 39 same LPP issue that I raised previously. Can I ask that
10:45:21 40 this not be published if Mr Chettle has to go to it?
10:45:24 41
10:45:24 42 MR CHETTLE: All I'm interested in - well it's probably the
10:45:25 43 very point, the assertion that ^{PII} [REDACTED]
10:45:28 44 ^{PII} [REDACTED] is one that excites my attention.
10:45:30 45
10:45:30 46 COMMISSIONER: The document's there. Just deal with it
10:45:35 47 gently and move on I think.

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10:45:36 1
10:45:37 2 MR CHETTLE: All right.
10:45:38 3
10:45:39 4 COMMISSIONER: You can refer him to the paragraph.
10:45:41 5
10:45:42 6 MR CHETTLE: Go to paragraph 3. "It's intended that
10:45:48 7 Sheridan and I advise the staff on 18 September 2012", that
10:45:56 8 is in six days after this note was written?---Correct.
10:45:59 9
10:46:00 10 And, "At 14:00", at 2 o'clock, "The Chief Commissioner's
10:46:05 11 decision is that the SDU cease practice"?---It says that,
10:46:10 12 yes.
10:46:10 13
10:46:11 14 The next lines, "Biggin and Paterson will be advised on the
10:46:16 15 day before, 17 September 2012"?---Yes.
10:46:18 16
10:46:19 17 You and Paterson are supposedly on the steering committee
10:46:22 18 but you're not going to be told about it until the day
10:46:25 19 before the decision is implemented?---Correct.
10:46:28 20
10:46:28 21 I take it you weren't told on 18 September 2012, as this
10:46:33 22 intention states?---No, we weren't. We were told on the
10:46:37 23 day it was closed.
10:46:38 24
10:46:39 25 That's in February of 2013?---13.
10:46:44 26
10:46:44 27 All right. So there's been a delay obviously?---Correct.
10:46:47 28
10:46:48 29 Can I have Exhibit 288 brought up, please. It may not be
10:47:10 30 one I've given you before.
10:47:12 31
10:47:13 32 COMMISSIONER: What exhibit number was that?
10:47:14 33
10:47:15 34 MR CHETTLE: 288, it's the letter shutting them down,
10:47:19 35 Commissioner. Yes, thank you?---It appears to be a draft.
10:47:22 36
10:47:23 37 This is the draft. All you're to do is insert the name of
10:47:31 38 the particular member?---Yes.
10:47:32 39
10:47:32 40 And then tell them the review's occurred. Did you get a
10:47:36 41 copy of this?---No.
10:47:37 42
10:47:39 43 Evidence was given by - I might have the wrong one here -
10:47:44 44 yes. This is the one to the undercover - no, it's not.
10:47:48 45 It's the SDU one, I apologise. There was a separate one
10:47:50 46 for the Undercover Unit in relation to maximum time in
10:47:53 47 position?---Okay.

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10:47:54 1
10:47:54 2 And you would expect - and this is the one sacking the
10:47:57 3 SDU?---Yes.
10:47:58 4
10:48:02 5 Clearly a predecessor of that letter had been drafted back
10:48:07 6 in September of 2012 but it doesn't get delivered until
10:48:11 7 February 2013, do you follow?---Correct.
10:48:14 8
10:48:16 9 Thank you. Then can I take you to Exhibit 363, please.
10:48:35 10 That's terribly difficult to read because of the blue paper
10:48:41 11 but can you, thank you, make it bigger?---I can, I can read
10:48:42 12 it.
10:48:42 13
10:48:42 14 It is an email or some sort of communication?---It's an
10:48:45 15 email.
10:48:46 16
10:48:47 17 From Graham Ashton, who's then Assistant Commissioner, is
10:48:50 18 he?---Deputy Commissioner.
10:48:51 19
10:48:52 20 Deputy Commissioner to Ken Lay, who is now the Chief
10:48:56 21 Commissioner?---Yes.
10:48:57 22
10:48:57 23 Just to help me, after Christine Nixon was Overland, was
10:49:02 24 it?---Overland, correct.
10:49:03 25
10:49:03 26 And then Ken Lay?---Then Ken Lay.
10:49:05 27
10:49:06 28 Presumably Mr Lay is pretty new in the job at this
10:49:10 29 stage?---He would have been. I think Mr Overland departed
10:49:14 30 in 12, wasn't it?
10:49:16 31
10:49:16 32 Yes. This is shortly after Mr Overland's departure as
10:49:20 33 Chief Commissioner?---Yes.
10:49:20 34
10:49:20 35 COMMISSIONER: In 2011 actually.
10:49:22 36
10:49:23 37 MR CHETTLE: 2011, thank you. I haven't got the dates in
10:49:24 38 my head, Commissioner.
10:49:25 39
10:49:25 40 COMMISSIONER: No, I know.
10:49:27 41
10:49:27 42 MR CHETTLE: This communication is dated 15 January 2013
10:49:31 43 now?---At 3.05 pm.
10:49:33 44
10:49:34 45 And, "Ken, was wondering if you had the chance to discuss
10:49:37 46 our decision to disband Source Development Unit with", is
10:49:42 47 that the Police Association?---Yes, that's with BV, Police

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10:49:46 1 Association.
10:49:46 2
10:49:46 3 "Would you do so sooner than later, we are ready to go,
10:49:50 4 subject to this occurring. I understand from Doug Fryer
10:49:56 5 that word about the decision is starting to filter out to
10:49:59 6 some of the troops. Graham Ashton"?---Okay.
10:50:02 7
10:50:03 8 I take it you at this stage still hadn't been told about
10:50:16 9 the decision?---No.
10:50:16 10
10:50:20 11 Thank you, I want to leave that, Commissioner, at this
10:50:24 12 stage. Now, I just want to put to you a couple of the
10:50:35 13 findings of the Comrie report and ask you to comment on it
10:50:38 14 because what he's doing is reviewing the management of
10:50:41 15 Ms Gobbo by that unit. Do you follow?---Yes, I do follow.
10:50:44 16
10:50:45 17 And the exhibit that we're - is Exhibit 510, which I showed
10:50:50 18 you the cover of yesterday. And can I turn to p.6 of 61,
10:51:21 19 please. Under the heading "Context of this review"?---Yes.
10:51:28 20
10:51:28 21 "I highlight that this review is focused on 3838 matter and
10:51:32 22 encapsulates the period from the commencement of her
10:51:35 23 registration as a human source in September 05 until early
10:51:39 24 09 when it ultimately decided that she be used as a witness
10:51:43 25 and enter the protected Witsec program", do you see
10:51:48 26 that?---Yes.
10:51:48 27
10:51:49 28 He notes that, "There had been many changes to human source
10:51:52 29 management since she left"?---Yes.
10:51:55 30
10:51:55 31 Now, "In keeping with the Terms of Reference for this
10:52:00 32 review, my considerations have been based on existing March
10:52:04 33 2012 human source policies, procedures, instructions and
10:52:09 34 control measures, albeit that many of these have been
10:52:13 35 enhanced since her registration", do you see that?---I see
10:52:16 36 that.
10:52:16 37
10:52:16 38 To say that, what he's doing is applying 2012 policy to
10:52:20 39 2005 conduct. It's totally different, isn't it?---That's
10:52:25 40 the comment he's making, yes.
10:52:27 41
10:52:27 42 The reality is you would know that the 2012 policy is
10:52:30 43 totally different to what existed in 2005?---It had
10:52:34 44 changed, that's correct.
10:52:34 45
10:52:42 46 At pp.7 and 8, at the bottom of the page, he is talking
10:52:56 47 about the file that he reviewed in order to carry out his

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10:53:00 1 investigation, do you follow?---He does, yes.
10:53:01 2
10:53:02 3 "The entire human source file is constructed and maintained
10:53:04 4 on an IT application called Interpose"?---He says that.
10:53:08 5
10:53:08 6 "Which is utilised by Victoria Police for investigation,
10:53:11 7 case management and intelligence processes"?---Correct.
10:53:14 8
10:53:14 9 Again, that was not the way her records were kept as we
10:53:17 10 went through yesterday?---Correct.
10:53:19 11
10:53:20 12 So any criticism of the documents that he saw, the way they
10:53:25 13 were stored, handled, filed would be invalid because he
10:53:30 14 hasn't looked at the real records maintained by the
10:53:34 15 unit?---It appears he hasn't checked the whole records,
10:53:37 16 that's right.
10:53:38 17
10:53:53 18 At p.10 - you'll remember I took you to comments that were
10:54:07 19 reproduced in the correspondence that Mr Fryer had with the
10:54:14 20 psychologist, not the psychologist, the human relations
10:54:19 21 person I talked about before?---Yes.
10:54:21 22
10:54:21 23 About poor work practices that were observed by
10:54:26 24 Mr Comrie?---Yes.
10:54:27 25
10:54:32 26 He says in paragraph 2 - actually, I'll go back to the
10:54:37 27 first paragraph, "The Interpose records presents an
10:54:43 28 enormous (indistinct) and textual narrative of about 170
10:54:44 29 lengthy ICRs, each capturing about seven days of
10:54:47 30 interaction"?---Yes.
10:54:48 31
10:54:48 32 "Records on file suggest that some of the handlers' source
10:54:53 33 meetings were protracted affairs with recordings of some of
10:54:56 34 those meetings extending for many hours, six hours or
10:55:00 35 more"?---That's what he says.
10:55:01 36
10:55:02 37 "The full Interpose records also includes SML, risk
10:55:04 38 assessments, information reports. There is not an AOR
10:55:06 39 documented on the file", do you see that?---It says that.
10:55:08 40
10:55:09 41 "The file does not hold any corroborative media such as
10:55:13 42 audio recordings that may assist in any file audit,
10:55:18 43 understanding and evaluation. Advice on file suggests that
10:55:22 44 not all audio recordings can be located", see that?---I see
10:55:26 45 that.
10:55:26 46
10:55:26 47 The reality was, as we went through yesterday, the practice

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10:55:31 1 of SDU at the time - I don't - the practice of SDU at the
10:55:44 2 time you said was to get those receipts system I told you
10:55:49 3 about to ensure all the records were properly stored at
10:55:52 4 HSMU?---That came in later during the course of the running
10:55:56 5 of the SDU, yes.
6
10:55:57 7 Because?---Records were unable to reconciled.
10:56:00 8
10:56:00 9 Yes. And they existed, without going into details that
10:56:03 10 might be methodology, complete transparency was maintained
10:56:08 11 by the unit?---I believe so, yes.
10:56:09 12
10:56:10 13 And indeed, on that very issue an ICR, an informer contact
10:56:17 14 report or a source contact report, whichever you want to
10:56:21 15 call it, is designed to be a record of everything they were
10:56:23 16 told by the particular source?---Correct.
10:56:26 17
10:56:26 18 It's obviously not an encyclopedia of truth or fact because
10:56:33 19 it is recording what they were told, not necessarily - that
10:56:35 20 is what the source said occurred?---That's correct. No
10:56:39 21 intelligence process had been run over the document at all.
10:56:44 22 It was just a - what had been said had been documented. A
10:56:45 23 bit like a diary note.
10:56:46 24
10:56:47 25 The instruction to the handlers was that everything, as
10:56:49 26 best as possible, should be put in the ICR if it relates to
10:56:52 27 a telephone call?---Correct.
10:56:54 28
10:56:56 29 Because they have to take contemporaneous notes of that
10:57:00 30 telephone call?---Correct.
10:57:01 31
10:57:01 32 Whereas in face-to-face meetings there are other methods
10:57:04 33 available to ensure transparency?---Correct.
10:57:07 34
10:57:14 35 He talks about the need, if you look at the large paragraph
10:57:22 36 in the middle, and it makes, his conclusion, "It makes good
10:57:28 37 sense for all related material to be securely and
10:57:32 38 accountably stored in the one location to be readily
10:57:34 39 available to formally inform such processes"?---He makes
10:57:39 40 that observation, yes.
10:57:40 41
10:57:40 42 To your knowledge and your evidence would be that that in
10:57:43 43 fact existed, that was the state of affairs at the
10:57:47 44 time?---Correct. The Informer Management Unit had never
10:57:51 45 ever told me documents were missing.
10:57:52 46
10:57:52 47 Indeed what he saw, it comes down to, was not the records

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10:57:56 1 that the SDU kept in relation to Ms Gobbo, they were
10:58:00 2 somehow, whatever was put on Interpose in 2009?---They were
10:58:04 3 Interpose records.
10:58:05 4
10:58:06 5 Or some of them?---Some of them, I explained their
10:58:09 6 transition yesterday.
10:58:09 7
10:58:17 8 He says at p.10 - I just want to find the quote. I might
10:58:45 9 have the wrong page reference. Yes. Sorry, can I go up to
10:58:57 10 the previous paragraph. His conclusion in relation to the
10:59:01 11 records in the centre, "I consider that ad hoc arrangements
10:59:06 12 for the storage of critical human source related material
10:59:11 13 in a variety of places presents unacceptable risk,
10:59:15 14 particularly in the case of high risk human sources"?---He
10:59:19 15 makes that comment, yes.
10:59:20 16
10:59:21 17 "Sufficient storage must be provided so that all human
10:59:24 18 source related data is secured in a respective Interpose
10:59:28 19 file managed by the HSMU to form a complete searchable and
10:59:33 20 accountable record"?---He says that, yes.
10:59:39 21
10:59:39 22 That implies that there wasn't such a thing and your
10:59:43 23 evidence would be that there was?---There was, yes.
10:59:45 24
10:59:45 25 At p.12 - let me put this. At p.11 at the bottom he talks
11:00:02 26 about, starts to talk about how some of the ICRs were late
11:00:06 27 in being compiled and that's something you would agree with
11:00:09 28 and the unit would agree with, they had difficulty keeping
11:00:14 29 up with the administrative side of it?---We don't deny that
11:00:18 30 at all.
11:00:18 31
11:00:20 32 Then he talks about missing, on p.12 he points to what he
11:00:24 33 says are the reasonable conclusion that ICRs to account for
11:00:30 34 the period 16 September 06 to 27 September 06 have not been
11:00:36 35 submitted, do you see he comes to that conclusion?---He
11:00:39 36 came to that conclusion, yes.
11:00:41 37
11:00:41 38 Did it come to your attention at any stage that there had
11:00:44 39 been an overwrite of one of the ICRs by another ICR?---No.
11:00:49 40
11:00:52 41 Of course one of the simple ways to find out about records
11:00:55 42 would have been to ask anybody who worked there at the
11:00:58 43 time, wouldn't it?---It would have been to ask one of the
11:01:02 44 analysts.
11:01:03 45
11:01:03 46 Or indeed one of the source handlers or
11:01:06 47 controllers?---Exactly, yes, or indeed the Inspector.

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11:01:09 1
11:01:12 2 At p.14 - in the centre paragraph the utilisation of the
11:01:33 3 legal practitioner as a human source?---Yes.
11:01:34 4
11:01:35 5 The last paragraph of that, "Some particular handlers seem
11:01:39 6 keen to take full advantage of 3838's capabilities by also
11:01:44 7 seeking tactical advice about the best way to disrupt
11:01:49 8 activities of certain clients and even information about
11:01:52 9 where points of vulnerability may lie for
11:01:57 10 prosecutions"?---I see that.
11:01:57 11
11:01:59 12 To your knowledge did any of that happen under your
11:02:02 13 watch?---Not to my knowledge, no.
11:02:03 14
11:02:12 15 At p.15 - can I summarise this. Mr Comrie came to the
11:02:32 16 conclusion that the handlers were actively seeking legally
11:02:39 17 professionally privileged information and not discouraging
11:02:43 18 her from providing such information. Do you follow?---I
11:02:46 19 follow that.
11:02:47 20
11:02:47 21 And indeed that conclusion gets picked up in the Comrie
11:02:51 22 report and in the Kellam report, I apologise, the Kellam
11:02:56 23 report and in the Supreme Court proceedings in front of
11:02:58 24 Justice Ginnane?---Okay.
11:03:00 25
11:03:01 26 On that topic, did you have any involvement or input in
11:03:03 27 relation to what happened in the Supreme Court with the
11:03:06 28 civil action?---No, none. Suffice to say that, as I said
11:03:17 29 yesterday, Superintendent Peter Lardner at one point spoke
11:03:20 30 to me well before those matters and Peter was attached to
11:03:24 31 the civil litigation area and I then referred him back to
11:03:29 32 the SDU to speak to the SDU.
11:03:30 33
11:03:30 34 Right. It's on p.15. Entries, see the last paragraph
11:03:37 35 going down the next page after the quote - keep going.
11:03:43 36 Sorry, 16. Entries contained in the 3838 ICRs, taken at
11:03:49 37 face value, indicate that on many occasions 3838 in
11:03:55 38 providing information to police handlers about 3838's
11:03:58 39 clients has disregarded legal professional
11:04:03 40 privilege?---Makes that comment, yes.
11:04:04 41
11:04:05 42 "Furthermore, in some instances it's open to interpret that
11:04:08 43 such conduct may have potentially interfered with a right
11:04:12 44 to a fair trial for those concerned"?---It makes that
11:04:15 45 comment.
11:04:15 46
11:04:15 47 "In the absence of any apparent active discouragement from

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11:04:17 1 the police handlers for 3838 to desist from furnishing
11:04:22 2 information on such matters, the handlers remain vulnerable
11:04:25 3 to the perception that they may have actually been inducing
11:04:28 4 or encouraging the provision of such information"?---It
11:04:31 5 says that.
11:04:31 6
11:04:32 7 Now, to your knowledge they were actively telling her not
11:04:40 8 to provide legal professional privileged
11:04:43 9 information?---That's my understanding, yes.
11:04:44 10
11:04:44 11 That was the direction that you gave or discussion you had
11:04:47 12 with Mr White?---With Mr Hardy.
11:04:50 13
11:04:50 14 And Mr Hardy?---Yes.
11:04:51 15
11:04:52 16 Yes, the Inspector. It's apparent, I suggest, by reference
11:04:59 17 to the material that they were telling her not to provide
11:05:03 18 it and when she did they didn't disseminate it?---That
11:05:07 19 appears to be the case on the reading, yes.
11:05:09 20
11:05:10 21 On occasions when it looks like it's being disseminated a
11:05:14 22 close review might indicate that it probably wasn't, do you
11:05:18 23 follow what I'm putting?---I follow what you say.
11:05:22 24
11:05:26 25 At p.21 he deals with the issue of risk assessments in the
11:05:38 26 centre of the page?---He does, yes.
11:05:43 27
11:05:43 28 And he says that the first of these risk assessments was
11:05:46 29 compiled more than two months after they started dealing
11:05:49 30 with her and one day short of two months after her
11:05:52 31 registration?---It does.
11:05:54 32
11:05:56 33 "Policy at the time required a risk assessment to be
11:05:58 34 completed within [REDACTED] of registration"?---It says that,
11:06:01 35 yes.
11:06:02 36
11:06:02 37 That misunderstands entirely the registration process,
11:06:06 38 doesn't it?---It's a strict reading of the policy in
11:06:09 39 isolation, yes.
11:06:10 40
11:06:10 41 Mr Paterson has given evidence, and indeed so has Mr White,
11:06:14 42 that the way it worked is that you'd give a number to
11:06:17 43 somebody in order to protect her anonymity, or their
11:06:22 44 anonymity, conduct an assessment as to their viability,
11:06:25 45 produce a risk assessment and when that was done submit it
11:06:29 46 to the Central Source Registrar for their acceptance or
11:06:32 47 otherwise of risk?---Correct.

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11:06:34 1
11:06:34 2 That was the correct way to do it, wasn't it?---It was.
11:06:37 3
11:06:37 4 So in this case Mr Sandy White's involvement as a
11:06:42 5 controller during the assessment phase and completion of
11:06:51 6 the risk assessment report by Mr Smith was an entirely
11:06:55 7 proper way to do it?---Yes.
11:06:57 8
11:07:00 9 You were taken to some of the monthly risk assessments that
11:07:03 10 were recorded in the source management log?---I was.
11:07:06 11
11:07:08 12 And they purport to be summaries of change, if there's been
11:07:14 13 any change in situation and whether the risk remains the
11:07:17 14 same?---Correct.
11:07:18 15
11:07:19 16 You weren't taken to a number of risk reports that were
11:07:24 17 completed in 2007 and into 2008 as part of the monthly
11:07:28 18 review compiled by Officer Fox - do you know who Officer
11:07:31 19 Fox is?---I do.
11:07:35 20
11:07:37 21 He produced extensive and comprehensive risk analysis in
11:07:44 22 relation to his handling of her as a source, did he
11:07:49 23 not?---I don't recall it but that would not surprise me.
11:07:51 24
11:07:52 25 If need be, I'm trying to cut back, but I can take you to -
11:07:56 26 Mr Woods took you to some of the shorter ones, I can take
11:08:00 27 you to ones that go for some pages.
11:08:02 28
11:08:03 29 MR WOODS: With respect, I think if the documents speak for
11:08:05 30 themselves then we might be able to move on.
11:08:07 31
11:08:07 32 COMMISSIONER: Absolutely.
11:08:08 33
11:08:08 34 MR CHETTLE: All right, I'll move on. I was trying to do
11:08:11 35 it in brief and not take him to the document.
11:08:13 36
11:08:13 37 COMMISSIONER: Yes, sure. As you say, you'll be making
11:08:16 38 submissions so you can just refer to documents,
11:08:20 39 particularly when they're not this witness's documents.
11:08:24 40
11:08:29 41 MR CHETTLE: Any criticism that there was not ongoing risk
11:08:35 42 assessment conducted in relation to Ms Gobbo would in your
11:08:39 43 opinion be ill-founded, would it not?---Wouldn't be
11:08:42 44 accurate, that's right.
11:08:43 45
11:08:47 46 This is one I want to take you to particularly. It's p.27.
11:09:00 47 Perhaps I'll go to the bottom of p.26. He comes to the

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11:09:08 1 conclusion, "I consider that the risk assessment processes
11:09:12 2 utilised for 3838 were grossly inadequate"---I see that.
11:09:17 3
11:09:18 4 A conclusion you would not agree with?---I think that's -
11:09:21 5 no, I don't agree with it.
11:09:22 6
11:09:23 7 "Readily identified significant risks were simply not
11:09:26 8 documented and accordingly no controls were developed or
11:09:29 9 put in place." Now this, "It's open to conjecture whether
11:09:34 10 such actions were a consequence of naivety at the time of
11:09:38 11 initial engagement, or were the consequence of more
11:09:42 12 considered action due to an underlying awareness that the
11:09:46 13 documentation of such matters of inherent risk would in all
11:09:51 14 probabilities derail the sanctioning of usage of 3838 as a
11:09:55 15 police informer"---I see that.
11:09:56 16
11:09:57 17 What he's saying is there was a deliberate downplaying of
11:10:00 18 risk in order to make sure that management were fooled into
11:10:03 19 keeping her registration going?---I don't agree with that.
11:10:06 20
11:10:06 21 That's what he's saying though, isn't it?---That's what he
11:10:12 22 is.
11:10:12 23
11:10:12 24 As a proposition I suggest to you it is just nonsense?---I
11:10:15 25 don't agree with it.
11:10:15 26
11:10:16 27 Would you accept my suggestion that it's nonsense?---I
11:10:18 28 think he is being very emotive in his language and perhaps
11:10:22 29 you are as well.
11:10:23 30
11:10:24 31 Thank you. Forgive me, Mr Biggin. It's the sort of thing
11:10:31 32 that would enable management to say, "We didn't know what
11:10:36 33 was going on", wouldn't it, to distance themselves from the
11:10:39 34 actions of the troops?---Yes.
11:10:41 35
11:10:41 36 And remember yesterday I put to you that upper level
11:10:46 37 command in 2012 saw a train coming that was going to run
11:10:51 38 into Victoria Police and steps were taken to distance
11:10:54 39 themselves from what had occurred and blame it all on the
11:10:57 40 SDU, do you follow what I'm putting?---I do, but my sort of
11:11:01 41 take on that analogy is the train had already hit us prior
11:11:06 42 to that.
11:11:06 43
11:11:06 44 The question of who it kills is the problem, isn't it?---We
11:11:09 45 were hit in 2009 in my view.
11:11:11 46
11:11:19 47 The suggestion that there had been a concerted plan to

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11:11:23 1 keep, for example, you and Mr Overland in the dark so that
11:11:27 2 she would be registered as a source has no basis at all,
11:11:31 3 does it?---No, no.
11:11:33 4
11:11:39 5 It's accepted, and I think you accept, that with hindsight
11:11:43 6 when issues arose in relation to conflict of interest as
11:11:48 7 distinct from legal professional privilege, legal advice
11:11:52 8 should have been sought?---Yes, I agree with that.
11:11:54 9
11:11:54 10 So far as conflict of interest is concerned, would it be
11:11:59 11 fair to say that that was perceived, rightly or wrongly, as
11:12:03 12 really a matter for the barrister whereas police focused
11:12:08 13 more on issues of whether or not they were breaching legal
11:12:12 14 professional privilege?---That was my understanding at the
11:12:14 15 time, yes.
11:12:15 16
11:12:15 17 In focusing on LPP, legal professional privilege, the risks
11:12:20 18 associated with conflict were missed?---To a large degree,
11:12:23 19 yes.
11:12:23 20
11:12:24 21 When they were detected on a number of occasions, Mr White
11:12:29 22 and other members of the SDU told her that she could not
11:12:33 23 act for certain people and she assured them that she
11:12:37 24 wouldn't?---That was my understanding.
11:12:38 25
11:12:38 26 Do you now know that unbeknownst to the SDU members she was
11:12:43 27 charging clients for work that she said she wasn't doing,
11:12:48 28 did you hear about that occurring?---No, no.
11:12:50 29
11:12:50 30 That she was with acting for clients and charging them
11:12:53 31 significant sums of money contrary to what she was telling
11:12:56 32 the SDU?---Okay, right.
11:13:00 33
11:13:01 34 That's consistent with sources being manipulative and
11:13:04 35 dishonest, isn't it?---It is, yes, it's part of the risk,
11:13:09 36 yes.
11:13:09 37
11:13:14 38 At p.29, the first dot point on that page, "3838 from the
11:13:38 39 outset of the relationship engaging in clearly manic
11:13:42 40 conduct giving reasonable cause to suspect health and
11:13:46 41 mental health issues either existed or would arise. She
11:13:50 42 worked extended and excessive hours, contending with
11:13:53 43 significant employment related stress, while out
11:13:56 44 socialising with criminal clients most nights and making
11:13:59 45 calls to police handlers at least seven times a day, seven
11:14:03 46 days a week, to pass on contemporary information. Such a
11:14:08 47 lifestyle was clearly unsustainable and presented

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11:14:10 1 significant health and mental health risks to 3838"?---It
11:14:14 2 says that, yes.
11:14:15 3
11:14:15 4 Attempts were made to try and help her with those issues,
11:14:19 5 weren't they?---They were, yes.
11:14:21 6
11:14:21 7 As far as you're concerned whatever stress issues she might
11:14:25 8 have suffered, there was nothing to indicate that the
11:14:27 9 quality of the information she was providing was
11:14:30 10 compromised because of any mental health issues?---Not that
11:14:33 11 I'm aware.
11:14:33 12
11:14:35 13 Commissioner, would that be a convenient time for the
11:14:38 14 morning break? I'll try and trim it down.
11:14:45 15
11:14:45 16 COMMISSIONER: Yes, all right then. We'll have the
11:15:18 17 midmorning break.
11:15:21 18
11:15:21 19 (Short adjournment.)
20
11:36:44 21 COMMISSIONER: I might just interpose a matter for a
11:36:46 22 moment. Ms Martin, I've had a read of the confidential
11:36:50 23 affidavit and I'm prepared to make the interim orders
11:36:54 24 permanent. Is there anything you wanted added to them?
11:37:02 25
11:37:02 26 MS MARTIN: There was, Commissioner. Just in respect of,
11:37:03 27 we had already sought redaction of the names. There were
11:37:04 28 just a couple of other words that were referred to - - -
29
11:37:07 30 COMMISSIONER: I have the page of the transcript here that
31 you - - -
32
33 MS MARTIN: - - - at about that time.
34
11:37:08 35 COMMISSIONER: So if you just tell me which - what bits
11:37:13 36 there are. I'll mark the confidential affidavit which is
11:37:19 37 to be place indeed a sealed envelope and not to be opened
11:37:22 38 without an order from me as Exhibit 587, I think we're up
11:37:30 39 to. 589, I have to catch up a bit.
11:37:31 40
11:37:35 41 #EXHIBIT RC588 - Confidential affidavit of Hans Koenderink.
42
11:38:04 43 MS MARTIN: Thank you, Commissioner. Do I need to refer to
11:38:07 44 the - - -
45
11:38:07 46 COMMISSIONER: Just tell me which parts you want - - -
11:38:09 47

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11:38:10 1 MS MARTIN: Lines 39 and 41 of p.7584 of the transcript.
11:38:15 2 In addition to the names that we had requested be redacted.
3
11:38:20 4 COMMISSIONER: Why - I'm just wondering why?
11:38:23 5
11:38:23 6 MS MARTIN: Only in respect of - because of the words that
11:38:25 7 are referred to in those two lines it wouldn't be too
11:38:29 8 difficult to surmise what the name is that has been
11:38:31 9 redacted if the individual officer is later called to
11:38:36 10 provide evidence and mentions - - -
11
11:38:39 12 COMMISSIONER: I think it would, wouldn't it?
11:38:44 13
11:38:44 14 MS MARTIN: We are in open hearing so I don't want to go
11:38:46 15 into what those particular words say. In my submission it
16 wouldn't be too difficult to surmise - - -
17
11:38:49 18 COMMISSIONER: This is Mr Woods comments about "we'll have
11:38:53 19 to call him".
11:38:54 20
11:38:54 21 MS MARTIN: Yes, and the preceding line saying that - - -
22
11:38:56 23 COMMISSIONER: That's already taken out. We've already got
11:38:59 24 "blank" is out.
11:39:01 25
11:39:01 26 MS MARTIN: Yes, it's the "we've already got" which is a
11:39:05 27 bit of an issue in the sense of, in circumstances where a
11:39:07 28 name's been redacted "we've already got" - - -
29
11:39:10 30 COMMISSIONER: I'm not prepared to make those additional
11:39:12 31 orders. I think the orders that are made are perfectly
11:39:15 32 adequate to protect the person involved.
11:39:18 33
11:39:19 34 MS MARTIN: Understood.
35
11:39:20 36 COMMISSIONER: Thanks Ms Martin.
11:39:21 37
11:39:21 38 MS MARTIN: Thank you.
39
11:39:22 40 COMMISSIONER: The order that was made as an interim order
11:39:28 41 will now become a permanent order until further order.
11:39:32 42 That's Exhibit 389. Thank you. Was there another matter
11:39:37 43 we needed to deal with before - Mr Holt?
11:39:43 44
11:39:43 45 MR HOLT: I need final confirmation of a matter,
11:39:45 46 Commissioner, but I'll will raise it as soon as I'm in a
11:39:46 47 position to correct the record from this morning. I simply

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11:39:47 1 want confirmation of the matter beforehand if I may.
2
11:39:48 3 COMMISSIONER: All right. I understood that was to be done
11:39:51 4 now. All right then. So back to you Mr Chettle.
11:39:54 5
11:39:55 6 MR CHETTLE: Thank you, Commissioner. Mr Biggin, before I
11:39:56 7 come back to Mr Comrie, you talked yesterday about cultural
11:39:59 8 change that was going on at the Victoria Police Force at
11:40:04 9 the relevant times, remember giving some explanation
11:40:06 10 yesterday?---Yes, I do.
11
11:40:09 12 The SDU itself was an agent for great cultural change at
11:40:13 13 Victoria Police was it not?---That's one way of looking at
11:40:15 14 it, yes.
15
11:40:16 16 They were, the whole process of the way in which informers
11:40:20 17 were managed, the way in which they dealt with them,
11:40:23 18 represented a significant cultural change for
11:40:26 19 investigators?---A significant change, that's right, yes.
20
11:40:29 21 There wasn't one that they - that had some resistance that
11:40:34 22 had to be overcome?---There was resistance in the early
11:40:36 23 days from investigators having to actually acknowledge the
11:40:41 24 sources were a corporate resource, rather than an
11:40:44 25 individual resource, yes.
11:40:46 26
11:40:46 27 Thank you. On the issue of Mr O'Connor and the issue of
11:40:49 28 whether he was an experienced Inspector, to your knowledge
11:40:52 29 had he completed any of the source management courses
11:40:55 30 before he became an Inspector at the unit?---I don't - no,
11:41:00 31 I don't know. I can't answer that.
32
11:41:06 33 Back to this document in front of you, the Comrie report,
11:41:09 34 very briefly. The next paragraph "Handlers dealing with
11:41:12 35 3838". Mr Comrie makes the comment that they would be
11:41:18 36 tag-teamed as part of a strategy to regulate workload and
11:41:22 37 safeguard handler welfare?---Yes.
38
11:41:24 39 "An objective observer when considering such tactics could
11:41:29 40 interpret that the welfare of 3838 was somewhat a more
11:41:32 41 secondary consideration." Now what do you say as to that
11:41:35 42 observation?---I think it's an observation that's probably
11:41:37 43 not accurate.
44
11:41:38 45 Not accurate?---No.
46
11:41:40 47 All right, thank you. You would imagine, would you not,

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11:41:52 1 that before you draw an adverse conclusion you might
11:41:55 2 actually ask the person involved, give them some natural
11:41:59 3 justice?---That would be the procedure I would follow.
4

11:42:09 5 There was a document called Change of Handler form that was
11:42:12 6 completed when handlers were changed?---Correct.
7

11:42:15 8 And there would be a briefing from one handler to the other
11:42:18 9 about the status of the sources that they were going to
11:42:21 10 handle?---Correct.
11

11:42:23 12 At p.42 Comrie concludes, can you see under the "Multiple
11:42:49 13 handler approach" he talks about "tag-teaming may have been
11:42:53 14 able to respite for individual members. A consequence,
11:42:55 15 there may have been no one handler had absolute continuity
11:42:59 16 on dealings with 3838 and therefore would be across
11:43:03 17 subtleties in changes in behaviour, demeanour, health and
11:43:08 18 mental health"?---He made that observation, yes.
19

11:43:09 20 The reality was bar for periods when he was on leave, Sandy
11:43:15 21 White was effectively the controller in charge of this
11:43:17 22 particular source?---Correct.
23

11:43:20 24 If he was away on leave for brief periods of time either
11:43:25 25 Mr Richards or Mr Black would fill in?---Correct.
26

11:43:31 27 But to suggest that no one was across the changes in
11:43:35 28 demeanour, health and mental health of the source of 3838
11:43:39 29 is just not true, is it?---I wouldn't agree with that, no.
30

11:43:44 31 It was also suggested that because of the lack of
11:43:49 32 timelessness of submission of records the controller was
11:43:52 33 not checking and not validating the reports that were
11:43:56 34 eventually compiled. Now you've - this is at the bottom of
11:43:59 35 that first paragraph, you see that?---Yes, I see that.
36

11:44:02 37 The audit that you conducted and the audits you conducted
11:44:05 38 thereafter demonstrated that the controllers were doing
11:44:08 39 their jobs?---I thought - my observation was they were
11:44:12 40 doing their job, yes.
41

11:44:18 42 Forgive me, I'm going to be as selective as I can be here.
11:44:24 43 At p.43 under the heading for "Processes for managing human
11:44:39 44 source interaction", "I have carefully considered the ICR
11:44:42 45 and SML processes that Victoria Police utilise to account
11:44:46 46 for engagement with a human source and for contemplating
11:44:50 47 and recording related managerial decisions"?---I see that.

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11:44:54 1
11:44:54 2 "I note that a variety of other jurisdictions use similar
11:44:59 3 processes. Whilst there may be some issues of concern
11:45:02 4 within the Victoria Police process, by far and above the
11:45:06 5 most significant issue of concern with 3838 matter would
11:45:08 6 seem to relate to the unsatisfactory management and
11:45:11 7 supervision of process"?---It says that, yes.
8
11:45:14 9 Then he sets out a number of things that he says indicate
11:45:18 10 unsatisfactory management and supervision process?---I see
11:45:21 11 that, yes.
12
11:45:23 13 ICRs submitted late, he says months or even years after
11:45:26 14 conversations have occurred?---Yes.
15
11:45:28 16 Do you recall any example of years?---No.
17
11:45:32 18 "ICRs not being checked or quality assured or validated by
11:45:36 19 handlers"?---I see that.
20
11:45:37 21 Was that the case?---Not that I recall, no.
22
11:45:40 23 "Significant and serious discrepancies in accounts of
11:45:43 24 issues depicted in ICRs, as compared to SML entries
11:45:48 25 relating to the same matter." Do you have any idea what
11:45:52 26 he's talking about?---No.
27
11:45:54 28 "Issues of concern not being identified in ICR content."
11:45:59 29 Again, do you know what he's talking about?---No, I've got
11:46:02 30 no idea what he's talking about .
31
11:46:04 32 Again, "Issues of concern worthy of referral elsewhere
11:46:08 33 being parked and not being revisited", do you see that. I
11:46:13 34 think we referred to that yesterday?---Yes.
35
11:46:14 36 He suggested that issues of police corruption were parked
11:46:17 37 and that's just not the case, is it?---No, it's not the
11:46:20 38 case.
39
11:46:26 40 He concludes finally at p.52, the bottom of the page, "I do
11:46:44 41 not intend to repeat the sound recommendations made by CMRD
11:46:50 42 in regard to these observations. I also note that these
11:46:53 43 recommendations have been accepted by Victoria Police and
11:46:57 44 certain action has been implemented in response". Just
11:47:01 45 stopping you there. That's the report that I briefly
11:47:03 46 touched on yesterday in 2010, is it not?---I believe so,
11:47:07 47 yes.

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11:47:07 1
11:47:07 2 "However, I feel compelled to add that I consider ongoing
11:47:11 3 failings by handlers and controllers in respect to ensuring
11:47:16 4 timely submission and checking and validating contact
11:47:19 5 reports for recognised high risk sources for which they
11:47:23 6 were responsible should cause Victoria Police to reconsider
11:47:27 7 the capacity of such persons to be entrusted to undertake
11:47:32 8 these critical roles." Now in real talk he's saying that
11:47:38 9 they shouldn't be allowed to be handlers and
11:47:41 10 controllers?---That's what he's saying, yes.
11
11:47:42 12 Can I ask for your reaction to that assertion in relation
11:47:45 13 to the men that you know I act for?---I don't agree with
11:47:51 14 that. In fact I trusted those people.
15
11:47:53 16 As far as you're concerned, leaving aside the issues that
11:47:59 17 bring us here today about Gobbo, they worked hard?---They
11:48:02 18 did work hard, yes.
19
11:48:04 20 They worked long hours?---They did that as well, yes.
11:48:08 21
11:48:09 22 And they did the job they were asked to do?---As well as
11:48:11 23 that. And not only that, they'd also undergone the most
11:48:15 24 extensive probity check of anyone in Victoria Police.
25
11:48:18 26 So far as he suggests they weren't up to it, you clearly
11:48:21 27 disagree with that suggestion?---We can argue all day. I
11:48:24 28 don't agree with that, that's right.
11:48:26 29
11:48:27 30 Thank you. I'll put that away and I'll just turn to a
11:48:30 31 couple of other brief matters. Yesterday the Commissioner
11:48:43 32 asked you about - you recall saying you were told by Fryer
11:48:49 33 or Pope that it was corruption issues?---Yes.
34
11:48:51 35 And the Commissioner asked you about whether or not there
11:48:53 36 was an investigation?---Yes.
37
11:48:55 38 In relation to that?---Yes.
39
11:48:56 40 Because you were told that you might be interviewed about
11:48:59 41 it?---Yes.
42
11:48:59 43 It's fair to assume - has there ever been any evidence of
11:49:08 44 any investigation at all in relation to, apart from Comrie
11:49:10 45 and the review of Mr Pope?---And IBAC, no. Other than
11:49:16 46 that, no.
47

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11:49:16 1 No police investigation?---Not that I'm aware.
2
11:49:17 3 No interviews with you?---No one's ever spoken to me
11:49:19 4 formally in a formal interview setting in relation to my
11:49:23 5 management of the SDU.
6
11:49:24 7 You've never seen anything to indicate corruption on behalf
11:49:27 8 of the members of the SDU?---No, and I say yesterday, if
11:49:31 9 there had have been I would have been very, very
11:49:33 10 disappointed.
11
11:49:34 12 You remember there were questions asked of you, this is
11:49:39 13 p.7625 and following, about you going to Mildura and the
11:49:42 14 assertion that there'd been a conversation, it was put to
11:49:44 15 you, in Mr White's diary?---Yes.
16
11:49:47 17 About something. That can be brought up, please. It's
11:49:51 18 Mr White's diary for 22 July 2008. If we open it up at -
11:50:51 19 can I have the transcript at p.7625. Mr White's diaries at
11:50:59 20 p.1479, does that help? That was the page that Mr Woods
11:51:03 21 put to you yesterday. Can we just go up the page a bit.
11:51:28 22 The other way. Sorry, I've got to get up or down right.
11:51:34 23 Keep going until we get to it. Keep going. This is the
11:51:58 24 day you said you weren't having a conversation with
11:52:03 25 Mr White because you were up in Mildura opening the new
11:52:06 26 police station?---I said I was up there, I hadn't recorded
11:52:08 27 it in my official diary. I didn't say I didn't have the
11:52:13 28 conversation, I perhaps didn't record it.
29
11:52:15 30 What it actually relates to, if I can refresh your memory,
11:52:18 31 on that day, 22 July, Mr White had a conversation with
11:52:22 32 Mr Black about a conversation that he'd had with you, do
11:52:25 33 you follow what I'm putting?---Yes.
34
11:52:27 35 So what you were being shown yesterday was the entry
11:52:31 36 Mr White made in his diary about a conversation you had
11:52:35 37 with Mr Black earlier whilst Mr White was on leave?---Okay.
38
11:52:40 39 Follow? And the relevant conversation that relates to
11:52:43 40 Mr Black occurred on 3 July. Have you got your diaries for
11:52:48 41 3 July of 2008, please?---I think I do.
42
11:53:24 43 I have to be careful about this because it's heavily
11:53:27 44 redacted and it relates - I just wanted to clarify
11:53:32 45 something that arose. You have an entry at 15:10 of a
11:53:47 46 discussion you had with Officer Black on that
11:53:53 47 day?---Thursday 3 July 2008 we're talking about?

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1
11:53:56 2 Yes?---Page 34 of my diary.
3
11:54:03 4 Okay?---I have a meeting with Officer Black, yes.
5
11:54:05 6 And it's in relation to - - -?---"Request from Task Force
11:54:10 7 Petra re holdings."
8
11:54:12 9 There's a number of sensitive names and things there that
11:54:16 10 have been redacted, aren't there?---Not in my official
11:54:19 11 diary.
12
11:54:20 13 Not in yours, all right?---It's "liaised with" and then the
11:54:24 14 name's mentioned.
15
11:54:25 16 Petra had requested some documents and there were some
11:54:28 17 comments - see, what I'm looking at is Mr Black's diary
11:54:33 18 which is probably different to yours?---Yes.
19
11:54:35 20 Suffice to say, do you accept that what was recorded on the
11:54:40 21 22nd was Mr White being told by Mr Black of his
11:54:52 22 conversation with you, not you talking to Mr White?---I
11:54:57 23 accept that, yes.
24
11:55:00 25 I'm not going to - that's just to clear up with this
11:55:04 26 confusion that happened yesterday about you being in
11:55:07 27 Mildura?---Just to finish that bit in relation to my diary,
11:55:11 28 now that I'm looking at, at 18:13 that day I spoke to
11:55:15 29 Mr Black again and the request from the person I can't
11:55:17 30 mention was on hold.
31
11:55:18 32 Right?---Till next week at their request, whatever that
11:55:22 33 means.
34
11:55:23 35 All right. You've provided - sorry, one thing I meant to
11:55:31 36 ask. You had meetings from time to time with Mr Jack
11:55:35 37 Blayney?---Yes.
38
11:55:35 39 Did he ever bring to your attention that he had managed or
11:55:38 40 had something to do with Ms Gobbo as a human source in the
11:55:40 41 past?---No.
42
11:55:42 43 He's told the Commissioner that he was of the view that she
11:55:45 44 was somewhat of a loose cannon I think was the expression
11:55:49 45 he used?---I've seen that in the press, yes.
46
11:55:51 47 Okay. That would have been helpful for you to have known

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11:55:53 1 that, I take it?--Well at the time it would have been
11:55:56 2 really handy, yes.
3

11:56:00 4 Mr Purton gave evidence, at least initially, that in 2006
11:56:05 5 the whole of the Crime Department effectively knew that she
11:56:08 6 was a human source. In re-examination he considered - in
11:56:12 7 cross-examination he said, "Well I might be wrong about
11:56:15 8 2006, it might be 2008 or 9", but what would you say as to
11:56:20 9 the proposition that in 2006 the whole of the Crime
11:56:23 10 Department knew of her identity?---I was actually spoken to
11:56:27 11 OPI about the same issue. "The whole of the Crime" is a
11:56:31 12 broad sweeping statement which I don't agree with, but
11:56:34 13 there was certainly more than one squad that knew of her
11:56:37 14 existence and assistance to police.
15

11:56:41 16 It was that concern that led to SDU compiling a list of who
11:56:45 17 did know about her?---Correct.
18

11:57:05 19 Just one other thing. Yesterday we dealt with the request
11:57:09 20 by Mr Overland to have SDU resume handling of Ms Gobbo
11:57:17 21 after she'd been deregistered, remember?---Yes, correct.
22

11:57:22 23 That occurred early in 2009?---Yes.
24

11:57:24 25 Having refused that application, the following year in 2010
11:57:27 26 did Commander Fryer approach you and ask for you to resume
11:57:33 27 handling her in 2010?---Correct.
28

11:57:35 29 And again, this is approaching you to ask SDU to resume
11:57:40 30 handling Ms Gobbo?---Correct.
31

11:57:42 32 Presumably because they were finding her difficult to
11:57:44 33 manage?---Correct.
34

11:57:46 35 But again, you refused that application?---Correct.
36

11:57:51 37 All right. Now, you were asked about what happened to the
11:57:54 38 reward app. Remember there was a reward application - - -
11:57:57 39 ?---There was.
40

11:57:59 41 - - - considered in relation to her?---Yes.
42

11:58:00 43 And certain documents prepared?---Yes.
44

11:58:03 45 Mr White instructs me that that effectively got killed off
11:58:06 46 by the civil action. When she was compensated by the civil
11:58:10 47 action in 2010 the reward application disappeared?---I

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11:58:13 1 accept that, yes.
2
11:58:15 3 Does that make sense?---It makes sense. Other than
11:58:21 4 facilitating it through to the Informer Management Unit,
11:58:25 5 who then prepare the documentation, I don't want happened
11:58:28 6 with it after that.
7
11:58:28 8 You accept that - I can do this the short way. You've
11:58:33 9 provided the Commission with, annexed to your statement, a
11:58:39 10 summary of your entries in your diary?---I did.
11
11:58:42 12 What you've done, as best you can, is reproduce the effect
11:58:46 13 of what's in your diary?---Correct.
14
11:58:49 15 And rather than go through each of the entries in annexure
11:58:54 16 1 to your diary, you would say, "If you go to my diary
11:58:59 17 you'll find what's written in the summary"
11:59:01 18 effectively?---Correct, yes.
19
11:59:03 20 So it is what it is?---Yes.
21
11:59:05 22 It's clear, isn't it, that by reference to that diary,
11:59:10 23 after you took over as Superintendent in charge of the SDU,
11:59:15 24 you were regularly updated by Mr White in relation to SDU
11:59:20 25 issues?---Correct.
26
11:59:22 27 And you were also updated from other officers from time to
11:59:25 28 time when he wasn't available?---Correct.
29
11:59:28 30 You regularly updated Commander Moloney in relation to what
11:59:33 31 was occurring?---Correct.
32
11:59:34 33 And on occasions you attended at the premises?---Yes,
11:59:44 34 that's correct.
35
11:59:46 36 The suggestion, and again I won't take you to it, any
11:59:50 37 suggestion that you were a remote, distant and not really
11:59:55 38 interested Superintendent would be one you would
11:59:58 39 reject?---I reject that, yes.
40
12:00:00 41 You did your best you could to be over all the issues that
12:00:02 42 they were confronting?---Correct.
43
12:00:07 44 There was never anything that you observed, any attempt by
12:00:11 45 SDU officers or handlers, to conceal anything from
12:00:16 46 you?---Not that I'm aware, no.
47

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12:00:18 1 Indeed, as far as you know there was total transparency,
12:00:23 2 Mr White insisted on total transparency in relation to
12:00:26 3 their actions?---Correct.
4

12:00:29 5 Mr White was - you've seen some of his diary notes?---Yes.
6

12:00:33 7 And I'm not going to take you through all of them but I
12:00:36 8 want to suggest to you that he was probably a more copious
12:00:40 9 diary note-taker than you?---No doubt about that at all. I
12:00:43 10 think one of the mistakes I made in relation to this was,
12:00:48 11 like all diary entries when you read back in retrospect,
12:00:52 12 you don't put sufficient detail and it causes issues now
12:00:57 13 some ten years later when you're trying to read it in
12:01:00 14 context and sometimes a line made sense at the time and
15 just doesn't make sense now but - - -
16

12:01:02 17 Do you accept that if there's a conversation recorded by
12:01:06 18 Mr White in his diary with you, that that conversation
12:01:11 19 occurred?---I would, yes.
20

12:01:13 21 Would you accept that if there's a conversation in the
12:01:15 22 source management log, or records in the source management
12:01:16 23 log of conversations with you, you'd accept that they
12:01:19 24 occurred?---I accept the conversation occurred, I would
12:01:24 25 need to see the context of the conversation and the
12:01:27 26 comments, but I accept the conversation occurred.
27

12:01:29 28 You don't have a recollection of the individual details of
12:01:32 29 individual conversations I would assume after all this
12:01:35 30 time?---No. No, I don't, no.
31

12:01:36 32 Mr Biggin, I could spend another hour going through
12:01:41 33 Mr White's diaries and getting them compared to your diary
12:01:44 34 entries and we can see that they were different in some
12:01:47 35 regards, do you follow?---I would expect that, yes.
36

12:01:49 37 But to save us doing that, the records are the records.
12:01:52 38 You would be prepared to accept that what he puts in his
12:01:56 39 diary would be, from his point of view, an accurate
12:02:00 40 representation of what occurred?---It would an accurate
12:02:03 41 representation of the conversation that occurred. I would
12:02:04 42 probably need to see each of the individual comments before
43 I would - - -

12:02:08 44
12:02:08 45 You may not agree with his conclusions?---That's right.
46

12:02:11 47 But what you're saying is - - - ?---The conversation most

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12:02:14 1 probably occurred, yes.
2
12:02:15 3 The facts of the conversation wouldn't be disputed and the
12:02:19 4 assertions and conclusions he'd draw may not be the same as
12:02:22 5 yours?---True.
6
12:02:41 7 Throughout the years that you oversaw SDU managing
12:02:49 8 Ms Gobbo, were you ever asked by any superior officer who
12:02:53 9 was aware of her involvement what the rules of her
12:02:56 10 engagement were?---No.
11
12:02:59 12 Was her involvement as an informer ever questioned by any
12:03:02 13 of them?---No one.
14
12:03:05 15 Did anyone ever sit down with you and say, "Is this a good
12:03:08 16 idea or a bad idea" as to having her as an
12:03:14 17 informer?---Never.
18
12:03:14 19 Did any of them ever ask you the details of what
12:03:19 20 information was being obtained?---No. Just to answer a
12:03:34 21 little bit further on that point. I've mentioned two other
12:03:38 22 agencies that became subsequently aware of this person.
12:03:43 23 They never, ever raised that same question with me.
24
12:03:48 25 I've got to confess, I'm still lost as to the identity of
12:03:52 26 one of those yesterday. Does it start with N and end with
12:03:55 27 A or - - - ?---Well that was their earlier name but they
12:03:59 28 became the A - - -
29
12:04:00 30 They name something else?---Yes.
31
12:04:02 32 They were once the NCA?---Correct.
33
12:04:04 34 That was what you were talking about yesterday when I
12:04:07 35 didn't understand it?---Yes.
36
12:04:09 37 The other one was the OPI?---Correct. And indeed, if I can
12:04:13 38 just - something else comes to me. Our internal
12:04:17 39 investigations department, our Ethical Standards command,
12:04:20 40 there was certainly one member I know knew her identity
12:04:23 41 because that was my liaison point with anything that I
12:04:26 42 referred to them.
43
12:04:29 44 That was Attrill, was it?---No, no, that was Superintendent
12:04:32 45 Masters.
46
12:04:33 47 Masters?---Yes.

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1
12:04:34 2 There's been evidence from Mr Attrill too, do you know
12:04:38 3 him?---I do, he investigated one aspect of a complaint.
4
12:04:41 5 He was aware that she was a human source?---He would have
12:04:45 6 been.
7
12:04:45 8 So your point being that no one from ESD ever blew the
12:04:48 9 whistle and yelled up or complained about her used?---Well
12:04:51 10 no one even picked up the phone and said, "Biggin, what are
12:04:54 11 you doing?" No one said that, no.
12
12:04:57 13 Although nobody raised it with you, from the outset of your
12:05:01 14 involvement it was ongoing discussion between you and
12:05:05 15 members of the SDU, in particular Mr White, that Ms Gobbo
12:05:09 16 was not to provide privileged information?---Yes.
17
12:05:14 18 They were aware of that and seeking to manage that
12:05:16 19 issue?---That's my understanding, yes.
20
12:05:25 21 Thank you, Commissioner.
22
12:05:26 23 COMMISSIONER: Thanks Mr Chettle. I'll just mention the
12:05:38 24 last exhibit is actually 588, not 589. Yes, Mr Holt or
12:05:47 25 Ms Argiropoulos? Ms Argiropoulos.
12:05:51 26
27 RE-EXAMINED BY MS ARGIROPOULOS:
28
12:05:52 29 Thank you, Commissioner.
30
12:05:53 31 COMMISSIONER: I take there's no other applications for
12:05:55 32 cross-examination?
12:05:56 33
12:05:56 34 MS ARGIROPOULOS: That's what I was anticipating, I
12:05:57 35 apologise.
36
12:05:58 37 COMMISSIONER: No.
12:05:59 38
12:06:01 39 MS ARGIROPOULOS: Mr Biggin, I don't have a lot of
12:06:02 40 questions for you but if I can just ask you, firstly, about
12:06:05 41 the audit conducted by Lucinda Nolan?---Yes.
42
12:06:13 43 You're now aware that she audited other human source files
12:06:18 44 but not the file of Ms Gobbo?---Correct.
45
12:06:21 46 You indicated in your statement at paragraph 51 that you
12:06:29 47 were not aware of this at the time and believed that

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12:06:32 1 Superintendent Nolan should have also reviewed Ms Gobbo's
12:06:36 2 human source records?---Correct.
3
12:06:38 4 I take it that remains your position?---It does, yes.
5
12:06:42 6 When SDU become aware that Superintendent Nolan had not
12:06:46 7 reviewed Ms Gobbo's file, is that something you learned
12:06:49 8 recently?---Just recently, yes.
9
12:06:52 10 Did anybody ask your advice as to whether or not
12:06:56 11 Superintendent Nolan should audit Ms Gobbo's file?---Not
12:07:01 12 that I recall, no.
13
12:07:12 14 COMMISSIONER: Could I just ask you, so why SDU think you
12:07:14 15 were auditing only her file?---Because that was the file I
12:07:17 16 was told to audit. Mr Moloney gave me a direction to audit
12:07:20 17 that file and that file only.
18
12:07:24 19 Thank you.
20
12:07:26 21 MS ARGIROPOULOS: Mr Biggin, just moving on to the next
12:07:27 22 topic. You have given some evidence about a request that
12:07:29 23 you made for Andrew Glow to audit Ms Gobbo's file?---Yes.
24
12:07:41 25 If I can just ask for a document to be brought up. It's
12:07:45 26 VPL.6066.0025.8873. Mr Biggin, this appears to be an email
12:08:10 27 from yourself to Andrew Glow?---Correct.
28
12:08:13 29 Dated 5 February 2008 in relation to that particular
12:08:16 30 topic?---It does, it says "Audit".
31
12:08:18 32 Yes. If I could now ask Mr Skim to bring up a document -
12:08:26 33 thank you. That's the one. Is this an issue cover sheet,
12:08:30 34 this was attached to that email that I've just shown
12:08:34 35 you?---It appears to be so.
36
12:08:39 37 You were shown this document yesterday?---I was, yes.
38
12:08:43 39 And do you recognise that to be a document which records
12:08:48 40 your request for - well, it records two things. Firstly,
12:08:55 41 it confirms that you conducted an audit?---It does, yes.
42
12:08:58 43 On Thursday 31 January 2008?---Correct.
44
12:09:09 45 There's a number of redactions to the table there?---Yes.
12:09:12 46
12:09:12 47 They relate to, is it your recollection they relate to

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12:09:16 1 other files which are not relevant to this Royal
12:09:19 2 Commission?---Correct.
3
12:09:21 4 But obviously at the top there there's your notes in
12:09:23 5 relation to your audit of the file relating to
12:09:28 6 Ms Gobbo?---Correct.
7
12:09:29 8 And in terms of your finding, you note there that there's a
12:09:33 9 risk assessment to be conducted by Inspector
12:09:36 10 Glow?---Correct.
11
12:09:41 12 Further down the page just above the heading
12:09:45 13 "Recommendation", the document there again records your
12:09:50 14 intention to task Inspector Glow to conduct an audit on all
12:09:55 15 current sources, especially 3838?---Correct.
16
12:10:01 17 Commissioner, can I tender the email and the audit
12:10:06 18 document.
12:10:07 19
12:10:14 20 COMMISSIONER: It's already been redacted?
12:10:19 21
12:10:20 22 MS ARGIROPOULOS: Yes, perhaps if it can be an A and a B.
12:10:23 23 It seems to have been redacted.
24
12:10:24 25 COMMISSIONER: All right then.
12:10:27 26
12:10:28 27 #EXHIBIT RC589A - (Confidential) Email of 5/2/08 and the
12:10:33 28 attached issue cover sheet concerning an
12:10:36 29 audit of the SDU files.
12:10:39 30
12:10:40 31 #EXHIBIT RC 589B - (Redacted version.)
12:10:45 32
12:10:46 33 MS ARGIROPOULOS: If I could ask the operator to now bring
12:10:48 34 up Exhibit 586. That's VPL.0005.0040.0009. Mr Biggin, you
12:11:00 35 recall being asked some questions in relation to this
12:11:02 36 document?---I do.
37
12:11:04 38 This being your - - - ?---Response.
39
12:11:09 40 - - - response to the questions asked by Superintendent
12:11:10 41 Gleeson?---Yes.
42
12:11:12 43 SDU understand Superintendent Gleeson to be working with
12:11:14 44 Mr Comrie on the Comrie review?---Initially I didn't but I
12:11:18 45 now know that, yes.
46
12:11:20 47 Did you have understanding at the time of compiling this

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12:11:22 1 response or not?--I don't think so. I think my response -
12:11:29 2 as I mentioned in the evidence, we met in the corridor
12:11:32 3 outside level 18 and we had a corridor conference initially
12:11:36 4 and my understanding was he was doing a review of human
12:11:39 5 sources and then subsequent to that I then learnt that he
12:11:43 6 was working either with or for or alongside Mr Comrie.
7

12:11:48 8 All right. In response to some questions asked by
12:11:55 9 Mr Chettle yesterday you indicated that at least in
12:11:58 10 response to some of these questions, and in particular in
12:12:04 11 relation to answer 13, you were asked at transcript 7724
12:12:13 12 about that answer and where you got the information from to
12:12:19 13 include in that response and you indicated that you would
12:12:21 14 have got that from someone from the Source Unit, probably
12:12:25 15 White or Black or one of the handlers?--Correct, I said
12:12:28 16 yes.
17

12:12:30 18 Do you recall speaking with the SDU members, whether White
12:12:36 19 or anybody else, to inform your response to other questions
12:12:41 20 in this document?--I don't recall that now. I may have, I
12:12:44 21 may not have. I don't know.
22

12:12:52 23 You've given evidence on a number of occasions, including
12:12:58 24 this morning in response to an answer, a question from
12:13:05 25 Mr Chettle, where you indicated or you agreed with the
12:13:07 26 proposition that you weren't across the detail of what was
12:13:11 27 happening in the SDU but you had a general overview of what
12:13:15 28 was happening in relation to Ms Gobbo?--Correct.
29

12:13:18 30 And just to make it clear, that was a question asked within
12:13:22 31 the context of the timing from which you took over
12:13:25 32 functional control of the SDU?--Yes.
33

12:13:28 34 Is it safe to assume that where answers to questions in
12:13:32 35 this document deal with the detail, you must have spoken to
12:13:39 36 or consulted with SDU members to assist you with the detail
12:13:42 37 in that document?--I would expect that to be the case,
12:13:46 38 yes.
39

12:13:50 40 An example of that, you were also asked about part of the
12:13:54 41 document that deals with Ms Gobbo critiquing a brief of
12:13:59 42 evidence?--That's right, yes.
43

12:14:00 44 That was another example of something that you said you
12:14:02 45 weren't aware of that?--Correct.
46

12:14:07 47 And I suggest you must have sought some advice or consulted

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12:14:11 1 with someone in the SDU to assist you to answer that
12:14:13 2 question?---That would be the case, yes.
3
12:14:16 4 Thank you, Commissioner.
5
12:14:18 6 COMMISSIONER: Yes. Yes Mr Woods.
12:14:21 7
8 RE-EXAMINED BY MR WOODS:
9
12:14:23 10 Thank you, Commissioner. Mr Biggin, there was a question
12:14:27 11 put to you earlier this morning by Mr Chettle about
12:14:31 12 dissemination of legally professionally privileged
12:14:35 13 information?---Yes.
14
12:14:36 15 It was put to you that a close review might indicate that
12:14:39 16 it probably wasn't was the question, do you recall that
12:14:42 17 question, a question along those lines?---Something along
12:14:48 18 those lines, yes.
19
12:14:49 20 Your answer was you followed what Mr Chettle said but you
12:14:52 21 didn't give a yes or a no?---Yes.
22
12:14:55 23 Have you conducted a close review of the ICRs to determine
12:15:01 24 what material was and was not disseminated by the SDU
12:15:04 25 handlers?---No.
26
12:15:08 27 It was also put to you that Mr Purton's evidence that I put
12:15:13 28 to you a few days ago, that it was common knowledge in the
12:15:17 29 Crime Department, and then some re-examination of Mr Purton
12:15:19 30 where he said that might have been later in time, that that
12:15:22 31 number of people knew about Ms Gobbo's identity who were
12:15:28 32 outside the SDU?---Yes.
33
12:15:30 34 There's a phrase, I don't need to take you to the document,
12:15:33 35 but there's a phrase in your audit which was conducted in
12:15:37 36 April 2006 where you say as follows, "The accurate number
12:15:40 37 of police that", should say, "are aware of the identity of
12:15:47 38 the source is not known but it is clear that it is
12:15:49 39 many"?---Yes.
40
12:15:50 41 "Upon reading the file it is clear that at least two teams
12:15:53 42 and management from the MDID, Task Force Purana staff, ACC
12:15:58 43 staff, State Intelligence Division staff and management
12:16:01 44 Ethical Standards Department, State Surveillance Unit and
12:16:06 45 Undercover Unit who either know the identity or could give
12:16:09 46 an educated guess as to the true identity", that was your
12:16:12 47 understanding as at April 2006?---Correct.

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1
12:16:15 2 There was an audio clip that I played to you, the clip
12:16:22 3 where Ms Gobbo is explaining that the ethics of the
12:16:27 4 situation are not as they should be?---Yes, I understand.
5
12:16:34 6 Then what I think Mr Chettle took you to was a passage
12:16:38 7 after that where there was an exchange about whether or not
12:16:43 8 it was legally acceptable or not, do you recall
12:16:46 9 that?---Yes.
10
12:16:47 11 There's a clip that I'd like played from the same meeting.
12:16:51 12 It's a couple of pages on from that exchange that
12:16:55 13 Mr Chettle took you to. If that could be played now. This
12:17:11 14 is 20 April 2006 and it's at p.278 onwards. It's just a
12:17:27 15 short clip.
12:17:39 16
12:18:51 17 (Audio recording played to hearing.)
12:18:51 18
12:18:51 19 Was it explained to you by the human source handlers
12:18:55 20 that she was encouraging, inciting and conspiring with one
12:19:01 21 of her criminal clients?---No.
22
12:19:03 23 There's - - -
24
12:19:05 25 COMMISSIONER: Or that she was concerned that she
12:19:08 26 was?---No, but it gets back to the point of motivation,
12:19:13 27 which is one of the reasons we never put our finger on. We
12:19:17 28 still don't know to this day what the motivation was.
12:19:20 29
12:19:20 30 MR WOODS: It was also put to you about whether or not it
12:19:23 31 was known to those SDU handlers as to whether or not
12:19:28 32 Ms Gobbo was charging particular clients for the work that
12:19:33 33 she was doing for them?---Yes.
34
12:19:35 35 I'd like another clip to be played. This is about a month
12:19:38 36 after Ms Gobbo's registration with the SDU. It was 28
12:19:45 37 October 2005. It's talking about a particular individual
12:19:48 38 who we won't name.
12:20:08 39
12:22:49 40 (Audio recording played to hearing.)
12:22:49 41
12:22:50 42 You know the person that's being discussed in that
12:22:52 43 clip?---I do.
44
12:22:53 45 And you accept that in that clip Ms Gobbo is telling her
12:23:00 46 handlers unambiguously that that person is paying for her
12:23:04 47 legal services?---That's what it says down the bottom, yes.

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12:23:07 1
12:23:07 2 Thank you. In some examination I took you through the
12:23:10 3 other day you accepted that there was no acknowledgement of
12:23:14 4 responsibility on file when you conducted your audit in
12:23:17 5 April of 2006, do you recall that?---I did. I do.
6
12:23:20 7 You accepted that there should have been one in the
12:23:22 8 file?---Yes.
9
12:23:22 10 And you accepted that you should have identified that that
12:23:25 11 was a problem with the file?---Yes.
12
12:23:27 13 The reason that an Acknowledgement of Responsibilities is
12:23:31 14 so important, particularly in relation to a human source
12:23:34 15 such as Nicola Gobbo who is a practising defence barrister,
12:23:37 16 is that, I suggest, it needed to be very, very carefully
12:23:40 17 defined and understood by all of those concerned at the
12:23:44 18 beginning what she could inform in relation to and what she
12:23:48 19 could not inform in relation to, do you agree?---I do.
20
12:23:52 21 For example, clear instructions that she should not inform
12:23:55 22 on behalf of people that she was acting for?---That would
12:24:00 23 have been handy to be included, yes.
24
12:24:06 25 And that she should either feel comfortable informing on a
12:24:15 26 person or acting on behalf of a person, but not
12:24:18 27 both?---Yes, that would be handy, yes.
28
12:24:21 29 And also not to later act on behalf of people that she'd
12:24:26 30 previously informed on, you accept that would have been an
12:24:29 31 appropriate thing to require of her?---Same answer, yes.
32
12:24:34 33 The reasons why those boundaries needed to be set at the
12:24:38 34 outset is because of the risks to the integrity of the
12:24:42 35 criminal justice system, you agree with that?---And also
12:24:45 36 the risk to Ms Gobbo, yes.
37
12:24:46 38 So personal risks to her and risks to the integrity of the
12:24:50 39 justice system?---Yes.
40
12:24:51 41 And that's because in circumstances where a person's
12:24:55 42 charged with a criminal offence, they have, for example,
12:24:58 43 the right to silence, you agree with that?---They do.
44
12:25:01 45 They would expect that their barrister is not talking to
12:25:04 46 the police about them at all without their
12:25:07 47 authority?---That's one expectation you would expect, yes.

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1
12:25:09 2 And in fact if it became revealed to that person later on
12:25:13 3 that their barrister had in fact been talking to the police
12:25:16 4 without their authority they'd have a right to be quite
12:25:19 5 upset about that?---Yes, they would.
6
12:25:21 7 So it's correct, on the review of the materials that you've
12:25:24 8 seen in the last few days, that those strict boundaries
12:25:27 9 weren't set at the outset with Ms Gobbo?---That appears to
12:25:31 10 be the case.
11
12:25:31 12 And indeed those boundaries weren't enforced during the
12:25:38 13 time of registration with the SDU?---That appears to be the
12:25:40 14 case.
15
12:25:43 16 You accept that the failure to establish those boundaries
12:25:46 17 is a very significant contributor to why we're here in the
12:25:49 18 Royal Commission now?---That's one of the causal factors,
12:25:52 19 yes.
20
12:25:55 21 You audited the file, Ms Gobbo's file in April 2006,
12:26:03 22 correct?---I did, correct.
23
12:26:05 24 And you accept that you have to take some of the
12:26:08 25 responsibility for the failure to identify and enforce
12:26:12 26 those boundaries from that date onwards?---I do.
27
12:26:16 28 And as at 1 July 2006 when you took functional control it
12:26:20 29 would be even more so from that date?---Correct. I've
12:26:25 30 already - I think I said to you, the buck stops with me.
31
12:26:29 32 Sorry, I didn't catch that?---I said the buck stops with
12:26:33 33 me.
34
12:26:33 35 Yes, okay, thank you?---I accept my failings and my
12:26:37 36 responsibilities.
37
12:26:37 38 I understand?---I don't step away from that and never will.
39
12:26:43 40 There was some questions that were asked of you earlier in
12:26:47 41 regard to exchanges between Mr Sheridan and Mr Pope in
12:26:55 42 2012, do you recall?---Yes.
43
12:26:57 44 Now there's an email between Mr Sheridan and Mr Pope, from
12:27:02 45 Mr Sheridan to Mr Pope that Mr White was taken to in his
12:27:08 46 evidence and I want, if I could, to have - it's Exhibit 444
12:27:13 47 and I can read the VPL number out if that would be a better

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12:27:18 1 way to find it. Oh, there we go. Now, you'll see down the
12:27:22 2 bottom in italics - just to put it into context, it's 24
12:27:28 3 June 2012, it's from Sheridan to Pope?---On a Sunday, yes.
4
12:27:32 5 Yes, that's right. He says, "Jeff, I've been thinking over
12:27:35 6 the weekend about your pending discussion with the Chief re
12:27:41 7 SDU and handling of Witness F", and that's Ms Gobbo?---Yes.
8
12:27:46 9 Then in the italics down the bottom he says, and this is
12:27:50 10 the point that Mr White was taken to that I want to ask you
12:27:50 11 some questions about: "What really tips the scales for me
12:27:53 12 is that the handling of Witness F has been undertaken and
12:27:56 13 managed by the best trained human source personnel within
12:28:00 14 the Force. These individuals have travelled the world and
12:28:03 15 been trained and educated by the best and yet they still
12:28:07 16 lost their way! In short, our best people in this area
17 must be able to ensure that we do not make these mistakes
12:28:13 18 in the future". Now do you see that?---I do.
19
12:28:14 20 In his evidence Mr Winneke, who was leading evidence from
12:28:18 21 Mr White, took Mr White to that passage?---Yes.
22
12:28:22 23 And Mr Winneke asked him, "In light of all of that, a
12:28:26 24 comment that's made, I suggest, in italics there is not all
12:28:30 25 together a misplaced comment I suggest to you". And he
12:28:34 26 said, "I think the paragraph in italics, I agree with you".
12:28:38 27 Do you see that?---I see the one in italics.
28
12:28:40 29 You understand that that's Mr White's evidence in relation
12:28:43 30 to Mr Sheridan's conclusion?---I accept that.
31
12:28:46 32 Would you share that conclusion?---I think that we made
12:28:50 33 mistakes along the way, yes, and I would accept that, yes,
12:28:54 34 I think probably what he's saying is being truthful, yes.
35
12:28:57 36 There were some questions asked both by me and by
12:29:01 37 Mr Chettle about Operation Briars. I just want to take you
12:29:06 38 to a couple of bits and pieces about that?---Sure.
39
12:29:09 40 I did take to you a 21 September 2007 entry in your diary
12:29:14 41 which was a meeting between yourself, Mr White and
12:29:16 42 Mr Overland?---Yes.
43
12:29:20 44 I want to take you to a couple of issues before that. So
12:29:24 45 that - just to put it in context - was a meeting in which
12:29:27 46 it was discussed the possibility of Ms Gobbo being given
12:29:31 47 some information, to then distribute that information to

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12:29:36 1 Mr Waters to assist in the investigations for Operation
12:29:39 2 Briars, do you recall that?---I don't specifically recall
12:29:41 3 the thing but I accept that now, yes.
4
12:29:44 5 All right. That was 21 September. There are a couple of
12:29:53 6 things that came before that. On 8 September 2007, this is
12:29:56 7 at p.1202 of the ICRs, and the reason that I'm putting this
12:30:03 8 to you is that it begs a couple of questions that you may
12:30:09 9 or may not be able to answer about what happened on 21
12:30:12 10 September, so some time afterwards?---Certainly.
11
12:30:16 12 There's a call there from Ms Gobbo?---Yes.
13
12:30:18 14 Or to Ms Gobbo, and one of the things she says is she's
12:30:22 15 going to be seeing Docket Waters, do you agree with
12:30:26 16 that?---It does say that, yes.
17
12:30:28 18 And that that information is then verbally disseminated to
12:30:30 19 Ron Iddles, you'll see down the bottom of that
12:30:34 20 entry?---Yes, I see that.
21
12:30:35 22 Then next, two days later on 10 September 2007, there's a
12:30:40 23 meeting of the Briars board of management?---Okay.
24
12:30:44 25 I'll take you to it. It's VPL.0100.0048.1578. This is 10
12:30:56 26 September 2007, "Briars board of management meets and
12:31:00 27 authorises the SDU to task Gobbo to release information to
12:31:05 28 Waters regarding the ID of a key witness" and that Lalor
12:31:10 29 and Waters were the targets of an operation. Now, that
12:31:17 30 matches with the information - - - ?---Sorry, what am I
12:31:23 31 looking at?
12:31:23 32
12:31:23 33 MS ARGIROPOULOS: Sorry to interrupt, could I ask that the
12:31:25 34 documents be taken down from the big screen. There's just
12:31:28 35 names that are not redacted. I'm sorry to interrupt.
36
12:31:31 37 COMMISSIONER: Yes.
12:31:32 38
12:31:33 39 WITNESS: Whilst we're doing that which - - -
12:31:35 40
12:31:35 41 MR WOODS: Yes, go ahead?---What am I looking at please?
42
12:31:39 43 There should be, there's a Briars board of management - - -
12:31:41 44 ?---It's not on the screen.
45
12:31:42 46 - - - document. Sorry, it will be in a moment. It's
12:31:44 47 VPL.0100.0048.1578. If I've got that number wrong we can

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12:31:52 1 come back to it. I should say, you weren't on the Briars
12:31:57 2 board of management?---No.
3
12:31:59 4 I'm just wanting to put this in context?---Even when I was
12:32:03 5 upgraded in Mr Moloney's place I never took part in that.
6
12:32:09 7 I understand, yes. That's on its way. In any event, what
12:32:11 8 it will show is that there was an authorisation that those
12:32:15 9 items of information, firstly, that the identity of a key
12:32:24 10 witness in the matter, you probably know who that
12:32:27 11 is?---Yes.
12
12:32:27 13 And that both these two officers were targets, so if you
12:32:31 14 scroll - keep going down?---Mr Waters was no longer a
12:32:34 15 serving member of Victoria Police, he was out. But one
12:32:38 16 other member was a target.
17
12:32:39 18 Yes, that's right. In fact we'll see in a moment how that
12:32:42 19 plays out. This appears to be 11 days prior. So you'll
12:32:46 20 see there, "Tasking of 3838" under "Investigation
12:32:50 21 strategy"?---Yes.
22
12:32:51 23 Then there are some notes, handwritten notes down the
12:32:54 24 bottom. The Commission has handwritten notes from a number
12:32:57 25 of the attendees at this particular meeting?---They look
12:33:01 26 like Mr Overland's notes to me.
27
12:33:05 28 Say that again, sorry?---That looks like Mr Overland's
12:33:09 29 writing to me.
30
12:33:10 31 Yes. I think that might be right. You'll see 3838 is
12:33:13 32 mentioned on a number of occasions down there?---Yes.
33
12:33:17 34 Two days after that meeting, if ICR p.1211, this is 12
12:33:23 35 September 2007, could be brought up, there is some
12:33:30 36 information that's given, and it's the information that I
12:33:33 37 mentioned a moment ago, which is given to Nicola Gobbo to
12:33:40 38 pass on to Docket Waters?---Okay.
39
12:33:44 40 You'll see there 12th of the 9th 2007 at 18:16?---Yes.
41
12:33:51 42 And she'll text him if she wants to see him, make up
12:33:59 43 something about wanting a coffee or she saw him and waved,
12:34:02 44 et cetera, et cetera. Then you'll see down further that
12:34:09 45 there is the information that she's asked to pass on, the
12:34:15 46 murder has something to do with a vampire?---Yes.
47

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12:34:18 1 No need to be more specific than this, that person, the
 12:34:22 2 witness has mentioned something about an address which
 12:34:26 3 Docket and Lalor got for him. If investigators find what
 12:34:29 4 computer database or where it came from, they are then
 12:34:33 5 confident of charging Docket and Lalor?---I see that, yes.
 6
 12:34:37 7 If the 13 September, which is p.1215, is gone to. You'll
 12:34:47 8 see there "she expects Waters to turn up this afternoon or
 12:35:00 9 tomorrow"?---Yes.
 10
 12:35:01 11 Et cetera, et cetera. Then you'll see, if you scroll
 12:35:04 12 down - keep going, keep going. Okay. You'll see
 12:35:10 13 there?---Yes.
 14
 12:35:11 15 13th of the 9th 2007, Waters has turned up to her
 12:35:17 16 office?---Yes.
 17
 12:35:18 18 He's very cautious, et cetera, et cetera?---Yes.
 19
 12:35:21 20 She's passed on the information to him?---Yes.
 21
 12:35:22 22 All right. Then if you keep scrolling down. Okay.
 12:35:28 23 There's a discussion about the murder and then at the very
 12:35:33 24 bottom of the entry that's verbally disseminated to Ron
 12:35:37 25 Iddles of Operation Briar?---Yes. It should actually be
 12:35:42 26 Briars but yes.
 27
 12:35:42 28 Yes, I agree. Now, your own diary of 9 November - in fact
 12:35:54 29 before we go to that. Do you understand why it was that on
 12:35:56 30 21 September, so some days after this, the discussion
 12:36:01 31 occurred between yourself, White and Overland about the
 12:36:05 32 authorisation to give this information to Ms Gobbo and for
 12:36:09 33 her to pass it on to Waters when in fact that had already
 12:36:14 34 occurred days before?---No, I don't recall that now, no.
 35
 12:36:20 36 Your own diary of 9 November, so after this date, a couple
 12:36:25 37 of months after?---Yes.
 38
 12:36:28 39 0556?---Yes.
 40
 12:36:29 41 There's an entry there, "Deputy Commissioner Simon
 12:36:32 42 Overland, re 3838. AC Ashby", what's that next
 12:36:38 43 word?---Should be an "and" I think.
 44
 12:36:40 45 "And Steve Linnell should be" - - - ?---"Aware. Will
 12:36:42 46 finalise by 17:00 meeting/welfare Inspector Wilson."
 47

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12:36:49 1 Do you understand what that entry is relating to?---As I
12:36:51 2 said the other day, not really, no. I know I think that
12:36:55 3 day there was a meeting with the Chief at 17:00.
4
12:36:59 5 Yes?---I think that was the date that there'd been some OPI
12:37:04 6 hearings or something in the days leading up to it, if I'm
12:37:09 7 correct. And both Ashby and Linnell had either been
12:37:15 8 suspended or about to be suspended, I think. That's my
12:37:17 9 recollection. I was upgraded I think at this point of
12:37:21 10 time.
11
12:37:21 12 That's the correct day. My understanding of the situation,
12:37:25 13 you might correct me, is that Ashby announced his immediate
12:37:29 14 resignation that day?---He did, yes. And when the Chief
12:37:33 15 briefed all of Command at 17:00 of which, because I was
12:37:36 16 upgraded, I was one of the people briefed, we were told
12:37:43 17 he'd resigned and I remember quite specifically that the
12:37:44 18 Chief was very disappointed in Ashby that he hadn't at
12:37:48 19 least offered an apology to Victoria Police on his way out
12:37:51 20 the door.
21
12:37:51 22 I see. The further audit - now you'll remember in your
12:37:55 23 evidence that I was taking you through the other day we had
12:37:57 24 a copy of the August 2006 audit?---Yes.
25
12:38:01 26 I asked you about these other ones that were
12:38:04 27 mentioned?---Yes.
28
12:38:05 29 And counsel for Victoria Police has now taken you to one of
12:38:08 30 those?---Yes.
31
12:38:09 32 I should say, Commissioner, for the record that was a
12:38:11 33 document that was produced overnight that Mr Holt showed me
12:38:14 34 a copy of tomorrow.
35
12:38:16 36 COMMISSIONER: He showed you a copy of it yesterday?
12:38:19 37
12:38:19 38 MR WOODS: Sorry, yesterday. I can't even remember what I
12:38:22 39 said. But yes. So that's the reason the witness wasn't
12:38:28 40 taken to it. I think there was a call that I made I think
12:38:33 41 and there was a search done, so that's where the document -
12:38:35 42 - -
12:38:35 43
12:38:35 44 MR HOLT: I can confirm, Commissioner, they were found in a
12:38:39 45 search of Mr Glow's email. And in response to that call,
12:38:42 46 and also there was already under way searches for any
12:38:42 47 additional documents being undertaken, there already have

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12:38:44 1 been and patently if anything further emerges it will be
12:38:52 2 immediately advised to the Commission.
3
12:38:54 4 COMMISSIONER: Thanks Mr Holt. So did you want to tender
12:38:55 5 that?
12:38:55 6
7 MR WOODS: Yes, I think it's already tendered.
8
9 COMMISSIONER: Already tendered, all right.
10
12:38:56 11 MR WOODS: I just want to bring it up on the screen if I
12:38:58 12 might. It's already been tendered. It's one of the recent
12:39:01 13 exhibits. I'll tell you VPL though. It's 6066.0025.8874.
12:39:11 14 That's the same - - -
15
12:39:14 16 COMMISSIONER: Sorry, I thought you said it was just
12:39:15 17 produced so that's why I assumed it wasn't tendered.
12:39:18 18
12:39:19 19 MR WOODS: No, so this the further audit that
12:39:21 20 Ms Argiropoulos took Mr Biggin to.
21
12:39:23 22 COMMISSIONER: Yes.
12:39:24 23
12:39:24 24 MR WOODS: A moment ago. It has found its way into the
12:39:27 25 system. I just wanted to ask a couple of questions about
12:39:30 26 it.
27
12:39:30 28 COMMISSIONER: Yes.
12:39:31 29
12:39:38 30 MR WOODS: While it's coming up what I'll ask you about it
12:39:45 31 is that essentially one of the things - one of the
12:39:52 32 conclusions it makes is that the continued use of Ms Gobbo
12:39:55 33 as a source is appropriate following that audit?---Yes.
34
12:40:00 35 And that's in early 2008?---Yes.
36
12:40:06 37 There is actually a phrase in it that fails me at the
12:40:09 38 moment, unless someone's got a hard copy of it because I
12:40:12 39 don't?---It says "satisfactory", doesn't it?
40
12:40:16 41 I might just wait for that to be brought up on the screen.
12:40:19 42 I can read the number again if that helps.
12:40:23 43
12:40:23 44 MS ARGIROPOULOS: Exhibit 589.
45
12:40:26 46 COMMISSIONER: Yes, it is 589. It's the most recently
12:40:29 47 tendered exhibit, which makes sense.

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12:40:30 1
12:40:31 2 MR WOODS: Good, it's a redacted one. You'll see that in
12:40:34 3 relation to Nicola Gobbo the first entry, "Long serving
12:40:38 4 source since 2005, well-known to many investigators.
12:40:41 5 Source number changed"?---Yes.
12:40:42 6
12:40:43 7 "Satisfactory, risk assessment to be conducted by Inspector
12:40:47 8 Glow"?---Yes.
9
12:40:49 10 Do you know if a written risk assessment was conducted by
12:40:52 11 Inspector Glow?---I don't know, but I know the instructions
12:40:55 12 were there were two risk assessments to be conducted,
12:40:58 13 whether it's time or another time, after the burning of her
12:41:00 14 car.
15
12:41:01 16 Yes, I understand?---One was a strategic by Mr Glow himself
12:41:06 17 and the other one was tactical by members of the SDU.
18
12:41:09 19 Okay?---With the passage of time I don't recall whether
12:41:11 20 they were done. I would presume they were.
21
12:41:13 22 Sure. This is January 2008. The finding is that it's
12:41:20 23 satisfactory but there does need to be a risk assessment;
12:41:23 24 is that correct?---Yes, yes.
25
12:41:24 26 Can I go to the SMLs.
12:41:24 27
12:41:25 28 MR CHETTLE: Sorry, can I ask before you leave that
12:41:26 29 document, there's been redactions on the names at the top
12:41:29 30 who he spoke to and redactions to the names of the team
12:41:33 31 leaders. Now surely with pseudonyms they can be told who
12:41:38 32 they were. We don't know who he spoke to unless we get the
12:41:43 33 pseudonyms.
12:41:44 34
12:41:45 35 MR WOODS: They're not the Commission's redactions. I
12:41:48 36 think that's fair enough.
12:41:49 37
12:41:50 38 MR HOLT: It was redacted very quickly for the purposes
12:41:52 39 of getting it today.
40
41
12:41:53 42 COMMISSIONER: Yes. It's been tendered as A and B and so
12:41:53 43 that proper process will go through. And automatically I
12:41:58 44 think the pseudonyms are applied in the document that's to
12:42:02 45 be publicly made available. So that will be done.
12:42:02 46 MR CHETTLE: Thank you, Commissioner.
12:42:03 47

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12:42:04 1 MR WOODS: Thank you. So I'm after the source management
12:42:07 2 log of 28 March 2007, so about a year before. The reason
12:42:16 3 that I'm wanting to ask you some questions is that the
12:42:19 4 finding of satisfactory but the risk assessment needed to
12:42:22 5 be conducted, I want to understand the context in which
12:42:25 6 that conclusion was reached by you. The 28th of the 3rd
12:42:33 7 you'll see - you might have to go down a bit further I
12:42:39 8 think. "The human source reports receiving another SMS
12:42:42 9 threat, 'You need to keep that informing dog mouth shut
12:42:47 10 slut'", do you see that?---I do.
11
12:42:49 12 You understand that that's someone who's identifying
12:42:51 13 Ms Gobbo as an informer?---Or a suspected informer, yes.
14
12:42:57 15 On the 25th of the 7th 2007, in the same document, there's
12:43:02 16 another threat that's received that I'll just read out. It
12:43:06 17 says, at the beginning of the entry is, "You talk", by text
12:43:14 18 message, sorry, "You talk you die. Every dog has its day",
12:43:18 19 it reads, do you see that?---I see that.
20
12:43:20 21 I take it in conducting your audit you viewed the SMLs, as
12:43:28 22 you did the time before?---I most probably did. I would
12:43:32 23 have, I suspect, yes.
24
12:43:33 25 And you would have reviewed the ICRs?---I probably did,
12:43:37 26 yes.
27
12:43:38 28 And no one had been arrested for these threats to Ms Gobbo
12:43:44 29 at the stage of you writing this later audit?---No.
30
12:43:48 31 You accept that these are serious threats against
12:43:51 32 her?---They're threats. The nature of them would probably
12:43:56 33 be determined by the investigation being conducted.
34
12:43:59 35 But there's no indication in your audit that that - you'd
12:44:03 36 had a discussion with those people, you agree with
12:44:06 37 that?---Correct.
38
12:44:08 39 In fact we talked about the risks pertaining to every human
12:44:12 40 source, but in particular Ms Gobbo because of the social
12:44:15 41 and professional contact she had with elements of the
12:44:19 42 criminal underworld, do you remember that?---We did, yes.
43
12:44:21 44 Given that and given these threats, and I certainly could
12:44:26 45 take you to others but I don't intend to now, that predate
12:44:30 46 your later audit?---Sure.
47

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12:44:31 1 How is it that you found the situation was satisfactory as
12:44:35 2 at January 2008?---It's just a general statement that the
12:44:43 3 file in itself was satisfactory. It's not to say there
12:44:47 4 weren't issues, and there weren't issues and matters that
12:44:48 5 needed to be addressed but the - - -
6
12:44:49 7 So it was just how the file looked was what you were
12:44:52 8 talking about?---And the relationship. At that point of
12:44:54 9 time it was satisfactory. It wasn't great, it wasn't bad,
12:44:57 10 it was satisfactory.
11
12:44:58 12 It must have caused you pretty serious concern though to
12:45:01 13 know that someone was actually calling her an informer and
12:45:04 14 telling her to keep her mouth shut?---That happens quite
12:45:07 15 frequently with human sources.
16
12:45:08 17 That they're identified as human sources by other people
12:45:11 18 who are unknown?---People that suspect sometimes ring up
12:45:14 19 other people and accuse people of it and it's reported,
12:45:18 20 whether they're human sources or not. But to answer your
12:45:22 21 question, any threat to any human source would give me
12:45:25 22 concern.
23
12:45:27 24 You've given some evidence about the close relationship you
12:45:31 25 had with Mr White?---Yes.
26
12:45:35 27 And the real disappointment that you feel that things ended
12:45:38 28 the way they did for his time at Victoria Police?---Yes.
29
12:45:41 30 When's the last time you spoke to Mr White?---Certainly
12:45:44 31 I've spoken to him once since he departed Victoria Police.
12:45:49 32 It was in January of this year when Assistant Commissioner
12:45:54 33 Paterson called us in and told us the Royal Commission had
12:45:55 34 been called and what the parameters were. He was in
12:45:55 35 attendance. We had a sandwich and a cup of coffee together
12:46:00 36 and we caught up in relation to what he was up to and he
12:46:03 37 asked me in relation to my partner.
38
12:46:06 39 That was the last time you spoke to him?---That was the one
12:46:10 40 and only time I've spoken to him since he departed Victoria
12:46:13 41 Police.
42
12:46:14 43 I see. The document that you prepared in response to
12:46:16 44 Mr Gleeson's inquiries?---Yes.
45
12:46:21 46 That became the Comrie review?---Yes.
47

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12:46:23 1 Here it is on the screen. This is well and truly after
12:46:25 2 that - there were analogies of trains or train wrecks, I
12:46:32 3 can't remember quite what they were now?---Yes.
4
12:46:33 5 But that moment in 2009, this is three years later?---I
12:46:36 6 think my analogy was we'd been hit by the train in 2009, I
12:46:40 7 think Mr Chettle was putting it at 2012, 13.
8
12:46:43 9 I see. You'll see that the first entry there, the first
12:46:46 10 paragraph you say, "Human source 3838 created an
12:46:49 11 opportunity for Victoria Police never before encountered
12:46:53 12 and in all probability never to be encountered again". Do
12:46:58 13 you see that?---Correct, and I reinforce the second part of
12:47:01 14 it now.
15
12:47:02 16 Yes. Can I suggest to you that even with all of those
12:47:04 17 things that had happened since 2009, your focus was still
12:47:09 18 on the opportunity, rather than the problems, that it had
12:47:13 19 created for Victoria Police, do you agree?---No, I don't
12:47:16 20 agree with that.
21
12:47:18 22 What exactly do you mean by the phrase "created an
12:47:21 23 opportunity never before encountered"?---Well what happened
12:47:25 24 is - what I mean is that resulting from my briefings with,
12:47:31 25 in the October of 05, with Mr Purton and Mr Moloney, and
12:47:35 26 then with Mr Overland in 2006, that they saw this
12:47:38 27 particular human source as a person of significant interest
12:47:43 28 on behalf of Victoria Police.
29
12:47:45 30 Because of the value of information she could
12:47:47 31 provide?---Possibly could provide, yes.
32
12:47:49 33 I see. And in fact by the time this document was drafted
12:47:52 34 had provided?---Had provided, yes.
35
12:48:01 36 At A3 of the document, so it's on the next page, so this is
12:48:06 37 answer 3 and you're answering the questions that were asked
12:48:10 38 of you?---Yes.
39
12:48:11 40 You say there were a number of discussions about having the
12:48:13 41 source's value discussed with a member of the legal
12:48:16 42 profession?---Yes.
43
12:48:19 44 Given the nature of this source, "The view that the source
12:48:21 45 would not cooperate if the relationship was known to peers
12:48:24 46 in the legal profession, this was unable to be
12:48:29 47 achieved"?---Yes.

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1
12:48:29 2 I took you to an entry in your diary, and I'll come back to
12:48:34 3 this document in a moment but in the meantime I can go to
12:48:37 4 your diary, this is at consolidated 0524?---This is the one
12:48:43 5 talking about the judge?
6
12:48:44 7 Yes, that's right?---Yes.
8
12:48:44 9 And I'm wanting to understand whether or not this is
12:48:47 10 addressing the same issue?---It was partially the same
12:48:49 11 issue, yes.
12
12:48:52 13 That's - we'll just go to the phrase. "Witness Witsec,
12:48:59 14 future directions, verbal briefing to DC Overland. Legal
15 opinion" - no, it's in fact down the bottom. It's the next
12:49:07 16 entry down. "legal opinion from judge", that's the
12:49:09 17 entry?---Yes.
18
12:49:11 19 What I want to understand is was the discussion about
12:49:15 20 approaching a retired judge to ask for advice because then
12:49:21 21 it could be avoided asking a current member of the legal
12:49:25 22 profession?---I don't recall that. In fact I don't recall
12:49:30 23 the conversation specifically and I don't recall that
12:49:33 24 aspect of it.
25
12:49:34 26 Are you aware of Victoria Police on other occasions
12:49:37 27 approaching retired judicial officers for advice on other
12:49:40 28 issues?---No, no.
29
12:49:45 30 Might it have been possible, given the difficulty that was
12:49:49 31 faced by Ms Gobbo potentially not wanting legal advice to
12:49:56 32 be obtained from someone in the industry, to have sought
12:49:59 33 legal advice in the hypothetical from someone either in the
12:50:02 34 legal industry or a retired judge, is that something that
12:50:05 35 was considered?---As I said, I can't recall the specifics
12:50:09 36 of the conversation other than the diary entry now. But it
12:50:14 37 could well have been considered, I don't know. I'm sorry,
12:50:17 38 I don't remember.
39
12:50:18 40 No, no, that's okay. Just back to the entry that we had up
12:50:23 41 a moment ago in the Gleeson, or the letter to
12:50:27 42 Gleeson?---Yes.
43
12:50:29 44 The situation was that Gobbo wouldn't have wanted it to
12:50:32 45 happen and that's what you recall the situation
12:50:35 46 being?---Yes.
47

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12:50:36 1 And so essentially if she was forced the risk was losing
12:50:41 2 her as a source, that's inevitably what this paragraph is
12:50:44 3 talking about, the tension between those two things?---Not
12:50:47 4 necessarily, no. It could have been achieved without her
12:50:51 5 knowledge, as you've articulated to me, that could have
12:50:55 6 been done.
7

12:50:55 8 But was that ever thought of though?---I don't recall that
12:50:59 9 being thought of, no.

12:51:00 10
12:51:00 11 What we have here though is discussions about the source's
12:51:07 12 value discussed with a member of the legal
12:51:09 13 profession?---Yes.
14

12:51:09 15 But against that was the risk of losing her as a
12:51:13 16 source?---Well, if that's the case, that's the case.
17

12:51:19 18 What I'm suggesting to you is that what - the two
12:51:23 19 considerations that are addressed, either implicitly or
12:51:28 20 explicitly in this paragraph, of those two the continued
12:51:33 21 use of Ms Gobbo as a legal source won out in any
12:51:37 22 event?---Well, she continued on is the position. What was
12:51:41 23 the date of this - this letter was in 13.
24

12:51:45 25 Sorry, I said a legal source, I meant a human
12:51:48 26 source?---Yes, the relationship continued until 2009, yes.
12:51:50 27

12:51:50 28 Yes, okay. You say that as a legal practitioner this human
12:52:01 29 source was aware of their role and responsibilities, et
12:52:04 30 cetera?---Yes.
31

12:52:04 32 "She was warned on numerous occasions not to mix the role
12:52:09 33 and responsibilities"?---Yes.
34

12:52:10 35 "This guidance was mostly ignored by the human
12:52:13 36 source"?---Yes.
37

12:52:14 38 The reason that those who warned her did so was because of
12:52:17 39 the risks to the legal justice system if those roles were
12:52:21 40 mixed?---That was one of the reasons.
41

12:52:26 42 The fact that she ignored that guidance, or you say this
12:52:30 43 guidance was mostly ignored, I suggest to you is a
12:52:34 44 demonstration to those who told her not to mix those roles
12:52:37 45 and who observed her ignoring that advice, knew that those
12:52:43 46 risks persisted in relation to the legal justice
12:52:46 47 system?---I'm not quite sure what they thought but that's a

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12:52:49 1 possibility.
2
12:52:49 3 It's clear from reading those words and knowing what you
12:52:52 4 know about the relationship persisting between 2005 and
12:52:56 5 2009?---I go back to my original answer, I'm not quite sure
12:53:02 6 it's in their mind that that's a possibility.
7
12:53:04 8 All right. I want to ask about - there's another phrase in
12:53:18 9 the document where - if you could just scroll down please.
12:53:22 10 There you go. "The human source was registered prior to my
12:53:25 11 involvement", so this is the middle of the page?---Yes.
12:53:28 12
12:53:29 13 "In this matter. The thought process at the time", as
12:53:33 14 you've been briefed, so someone's told you this?---Yes.
15
12:53:35 16 Is, "The source was dealing with a number of different
12:53:37 17 police members disclosing a number of criminal matters that
12:53:41 18 came to the source's notice, so a decision was taken to
12:53:44 19 register the human source to protect the individual, the
12:53:46 20 community and Victoria Police"?---Correct.
21
12:53:49 22 Who was it that told you that?---I can't recall now, I
12:53:52 23 don't know.
24
12:53:52 25 Was it the SDU members that you were dealing with when you
12:53:57 26 were getting assistance putting this document together, or
12:54:01 27 did you speak to them to try and understand what you should
12:54:03 28 be saying to Mr Gleeson?---I probably spoke to them. I
12:54:06 29 can't recall who told me that but this would have been
12:54:08 30 early in the piece if you read that in context. This is
12:54:12 31 early, right, in the piece, around the time of
12:54:15 32 registration, so I would - - -
33
12:54:17 34 That's why it's of critical interest to the Commission
12:54:20 35 because there are two possible views of the world. One is
12:54:23 36 that in September 2005 Ms Gobbo simply fell into the lap of
12:54:31 37 those MDID members and then immediately to the SDU?---Yes.
38
12:54:35 39 The other view of the world is the view of the world that's
12:54:38 40 discussed quite clearly in this, which was that prior to
12:54:40 41 that date she was separately dealing with a number of
12:54:43 42 different police members and that was your understanding of
12:54:46 43 the situation as you wrote this in 2012?---That was my
12:54:49 44 understanding of it, yes.
45
12:54:50 46 That was something that was told to you?---Somebody had to
12:54:54 47 have told me that, yes.

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1
12:54:55 2 You don't have a memory of who that was?---No.
3
12:54:57 4 You know now that prior to her registration in 2005 she was
12:55:01 5 dealing with Mr Pope?---Yes.
6
12:55:03 7 You know she was dealing with Mr De Santo?---I do.
8
12:55:06 9 You know she was dealing with Mr Bateson?---I do now, yes.
10
12:55:09 11 Are they some of the individuals that were identified to
12:55:13 12 you as some of the people that she was dealing with
12:55:16 13 separately prior to her registration with the SDU?---I
12:55:19 14 didn't know about Mr Pope but they would have been - I
12:55:23 15 don't specifically recall who those members were now.
16
12:55:26 17 And specifically you were told that this was a plan to
12:55:30 18 bring together the information and the individuals that she
12:55:33 19 was dealing with into one single source, that was what you
12:55:38 20 were told?---It was, it was to corral the information,
12:55:42 21 that's right.
22
12:55:42 23 You accept the situation was there was plan by Victoria
12:55:45 24 Police to bring together separate individuals, separate
12:55:49 25 bits of information she was providing to other individuals
12:55:51 26 and register her in 2005?---Correct. And also at the same
12:55:56 27 time the Source Unit was just getting up and running.
28
12:55:59 29 Yes?---Whereas it was Victoria Police prior to that time,
12:56:02 30 we didn't have a unit that actually dealt with these issues
12:56:06 31 it did, yes.
12:56:06 32
12:56:06 33 So the timing was right from that perspective too?---Yes.
34
12:56:12 35 The top of p.4, which might be the next page.
12:56:17 36 "Furthermore, the Inspector was required to actively manage
12:56:20 37 the Unit and as the Superintendent it was my practice",
12:56:23 38 your practice, "to speak to the members at least weekly on
12:56:26 39 operational issues, including workload"?---Yes.
40
12:56:30 41 So you spoke to the members weekly?---Roughly weekly, yes.
42
12:56:36 43 And at A6 you'll see, "A number of issues were parked for
12:56:42 44 fear of identifying the human source"?---Yes.
45
46
12:56:43 47 "And depending on the issues some can now be reported,
others will never be able to be reported as they have been

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12:56:44 1 disclosed by persons who know the human source and know
12:56:47 2 what information they have told the source"?--Yes.
12:56:49 3
12:56:50 4 "This is standard practice in human source management and
12:56:52 5 in my view a sound practice"?--Correct.
6
12:56:54 7 And you say, "These disclosure decisions should be finally
12:56:57 8 made upon the source being deemed as inactive"?--Yes.
9
12:57:02 10 Now, why is it that disclosure of this relationship would
12:57:06 11 need to wait until she was deemed as inactive?--Because
12:57:12 12 once the file is no longer active and being built upon you
12:57:15 13 can actually go back in hindsight and in the clearance of
12:57:18 14 time, take your time and make decisions about those issues
12:57:21 15 that you've parked. You can either say, one, we need to
12:57:26 16 actually now report this matter or this is going to
12:57:29 17 actually identify the source so we can never ever do that
12:57:32 18 and you make those decisions.
19
12:57:34 20 I understand. So the disclosure we're talking about here
12:57:38 21 is disclosure in relation to criminal proceedings?--No, it
12:57:41 22 could be disclosure in relation to a large number of
12:57:44 23 matters. It was more information that was provided by the
12:57:46 24 source in one-on-one conversations with another person.
12:57:48 25 The other person would very, very quickly know the only
12:57:51 26 person I've discussed this particular issue with is
12:57:55 27 Ms Gobbo, so Ms Gobbo must be the person providing the
12:57:58 28 information, which would then once again cause some
12:58:01 29 personal concerns for Ms Gobbo.
30
12:58:03 31 Is it your evidence that you're not talking about
12:58:05 32 disclosure in criminal proceedings in that passage
12:58:07 33 there?--No, I'm not. I don't think I am.
34
12:58:11 35 All right?--Yes.
36
12:58:11 37 Once it became clear to you though, I would assume, that
12:58:17 38 this relationship might have had an adverse effect on
12:58:22 39 convictions and people were languishing in gaol because of
12:58:25 40 them, I can assume that you would have done something
12:58:30 41 immediately about disclosure or cause that to occur?--I
12:58:33 42 would have if I'd still been in the position but of course
12:58:37 43 a lot of those arose after my time.
44
12:58:39 45 At answer 8, AORs were used for 3838. There were two
12:58:46 46 systems in use initially, et cetera, et cetera. "On a
12:58:51 47 number of occasions the AORs were reinforced with the

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12:58:54 1 source"?---Yes.
2
12:58:57 3 The initial AOR that should have been on the file
12:59:01 4 wasn't?---It wasn't but I was advised it had been done.
5
12:59:04 6 Okay. Was it Mr White who told you it had been
12:59:08 7 done?---Correct.
8
12:59:08 9 Have you ever seen evidence of it?---Other than on the RFA,
12:59:13 10 which I've already said.
11
12:59:15 12 Yes?---That box was ticked. That's the only evidence that
12:59:19 13 said it existed and Mr White saying he'd done it or
12:59:21 14 believed he'd done it.
15
12:59:23 16 The basis on which you answered question 8 is because of
12:59:25 17 what Mr White had told you?---Yes.
18
12:59:27 19 Just over the next page. You say there, "The human source
12:59:36 20 was told on many occasions not to involve themselves in
12:59:40 21 matters where they were not required"?---Yes.
12:59:42 22
12:59:43 23 "Being highly intelligent and with an attitude of being
12:59:46 24 superior to others, this was nearly impossible to
12:59:49 25 manage"?---Yes.
26
12:59:49 27 Just pausing there. Is this something you knew about or is
12:59:53 28 this something you would be told in preparation of this
12:59:55 29 document?---Something I was told.
12:59:56 30
12:59:57 31 "The source did become involved in matters after being
13:00:00 32 discharged from hospital"?---Yes.
13:00:01 33
13:00:03 34 "This was after the source was advised they should not
13:00:06 35 interact with others but chose to ignore this
13:00:11 36 advice"?---Yes.
37
13:00:11 38 Are you talking there about Ms Gobbo's stroke?---I'm not
13:00:16 39 quite sure it was something else told.
40
13:00:16 41 "The source had difficulty distinguishing between friend
13:00:21 42 and target as many of the targets were indeed friendly with
43 the source"?---Yes.
44
13:00:24 45 "The source also socialised with a number of targets and
13:00:24 46 was continually warned not to do that"?---Yes.
47

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13:00:27 1 Now, she was difficult to manage and that's something you
13:00:35 2 knew about during your time - - - ?---Yes.
3
13:00:39 4 - - - in functional control of the SDU?---Yes. As most
13:00:42 5 sources are, they are difficult to manage, yes.
6
13:00:44 7 She essentially did what she wanted is what you're
13:00:46 8 expressing there at A11?---Yes.
9
13:00:54 10 Given the profession that she came from and the risks both
13:00:57 11 to herself and the integrity of the justice system, I'm
13:01:02 12 suggesting to you in circumstances where she was acting in
13:01:04 13 the way she was, it simply shouldn't have been allowed to
13:01:07 14 continue or as long as it did?---In hindsight I agree with
13:01:10 15 you, yes.
16
13:01:11 17 At A12 you set out that she sees a particular person as a
13:01:15 18 father figure, I assume that that's Mr White?---It is
13:01:19 19 Mr White, yes.
20
13:01:20 21 At A13 there's a brief critique, as it were. If that could
22 just be brought up a little bit so it can be in the middle
13:01:34 23 of the screen. There we go. "The source contact reports
13:01:36 24 are managed by the controllers and Inspector. The incident
13:01:36 25 in relation to the brief critique occurred after the source
13:01:40 26 had been advised not to do this." You were taken to this a
13:01:42 27 little while ago?---Yes.
28
13:01:44 29 That's something that was explained to you?---Yes.
30
13:01:46 31 Are you aware that on occasions witness statements were
13:01:50 32 provided to Ms Gobbo to peruse?---I've been told that now,
13:01:54 33 yes.
34
13:01:54 35 Was it something that the handlers told you at the
13:01:56 36 time?---No.
37
13:01:57 38 You accept that in circumstances where Ms Gobbo is being
13:02:02 39 given statements by human source handlers and not
13:02:05 40 investigators, that she's not reviewing those in a capacity
13:02:11 41 as a lawyer?---Well, she may be doing it as a lawyer, I'm
13:02:15 42 not quite sure what her mind-set is, but I wouldn't have
13:02:19 43 been happy with that practice I can tell you.
44
13:02:25 45 Yes. It would be very unusual you'd accept?---I don't
13:02:27 46 recall it ever being done before.
47

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13:02:28 1 This occurred while you were in functional control of the
13:02:31 2 SDU; is it the fact that no one ever told you?---No one
13:02:34 3 told me, no.
13:02:35 4
13:02:36 5 Should they have told you?---Well they should have. The
13:02:38 6 way I managed they should have at least told the Inspector,
13:02:41 7 who should have told me.
8
13:02:43 9 At answer 16 there's - you talk about your opinion there,
13:02:49 10 about the move from human source to witness?---Yes.
11
13:02:52 12 You say that your opinion that you passed on wasn't given
13:02:56 13 enough weight?---Yes.
14
13:02:57 15 When you discussed that you were in risky territory, and I
13:03:01 16 take it this is a conversation you had with Assistant
13:03:07 17 Commissioner Overland?---Yes.
18
13:03:08 19 His response was that, "Maybe I was being", you were too
13:03:12 20 conservative, "and maybe we", Victoria Police, "need to be
13:03:16 21 more aggressive in this regard?---Yes.
22
13:03:18 23 "And what we could achieve with the source's
13:03:20 24 assistance"?---Yes.
25
13:03:21 26 So rather than say, "Yes, I accept those concerns about her
13:03:24 27 safety", Mr Overland said to you, "No, you're being too
13:03:29 28 conservative, we need to be more aggressive with her use as
13:03:32 29 a source"?---I'm paraphrasing but that was essentially part
13:03:36 30 of the conversation, yes.
31
13:03:40 32 There's an entry in - that document can be taken down.
13:03:45 33 There's an entry in Mr Maguire's advice that you were taken
13:03:50 34 to where Mr Chettle asked you a question about it and he
13:03:57 35 said to you that he, being Mr Maguire, suggests that the
13:04:02 36 SDU targeted the respective defences of people - - -
37 ?---Yes.
38
13:04:05 39 - - - Ms Gobbo was acting for, "Do you follow what I'm
13:04:09 40 suggesting?" And you said, "I understand what you're
13:04:11 41 saying, yes"?---Yes.
42
13:04:13 43 You then responded that you weren't aware of that ever
13:04:16 44 happening?---No.
45
13:04:19 46 You understand now that at the first face-to-face meeting
13:04:23 47 Mr White said to Ms Gobbo, "Tell us everything you know

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13:04:27 1 about Tony Mokbel"?---You've told me that, yes.
2
13:04:32 3 You accept it was known to Mr White and Mr Smith who were
13:04:35 4 at that meeting that Tony Mokbel was a current client of
13:04:36 5 Ms Gobbo's?---It was known to them, yes.
6
13:04:38 7 And that he had an upcoming trial for Commonwealth
13:04:41 8 matters?---I believe so.
9
13:04:46 10 I don't necessarily need to take you to this audio clip,
13:04:50 11 it's been played I think probably a few times in the
13:04:53 12 Commission, but on 12 January 2006 Ms Gobbo has a meeting
13:04:59 13 with White and Smith in which she says, "But Tony will not
13:05:07 14 change his mind, you know, and look, forget about privilege
13:05:10 15 for a minute, let's say hypothetically his lawyer sat him
13:05:14 16 down and said", and then she goes on to say, "All of the
13:05:19 17 reasons why that person, why Tony Mokbel should plead and
13:05:23 18 the pressure that's being put on Tony Mokbel". At the end
13:05:27 19 Officer Smith - she says, "Anyway, he's been told".
13:05:32 20 Officer Smith says, "Hypothetically". Ms Gobbo says,
13:05:36 21 "Huh?" Officer Smith says, "Hypothetically". You accept
13:05:40 22 that if the conversation occurred the way that I've just
13:05:43 23 explained it, then that is clearly a conversation in which
13:05:46 24 Ms Gobbo is providing to the handlers advice that's been
13:05:52 25 given to Mr Mokbel about the strengths of his case?---That
13:05:58 26 may be the case, yes.
27
13:06:01 28 Then in Mr White's statement at paragraph 84 he says, "I
13:06:09 29 can see from an examination of my official diary on 18
13:06:13 30 February 2006 he received an update from Green in which
13:06:17 31 there was a discussion about Mr Mokbel's trial and he
13:06:22 32 cautioned Green not to speak to her about Mr Mokbel's
13:06:26 33 trial". Then I've taken Mr Green through it so I don't
13:06:31 34 need to take you through it but essentially despite that
13:06:35 35 there was discussion from Ms Gobbo to Mr Green about
13:06:41 36 Mr Mokbel's trial ongoing on at least three occasions. Now
13:06:46 37 are you aware of that?---No.
38
13:06:48 39 You accept that that's something that shouldn't have
13:06:50 40 happened?---I accept that, yes.
41
13:06:55 42 I played the clip to you where Ms Gobbo described to
13:07:03 43 Mr White on [REDACTED] of what she was doing was "ethically
13:07:08 44 fucked", do you recall that?---I remember that fruity
13:07:11 45 language, yes.
46
13:07:12 47 I suggested to you that it was most improper for White not

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13:07:17 1 to pass that information on to you, do you recall that?---I
13:07:21 2 recall that, yes.
3
13:07:22 4 You didn't accept that that was the case?---Yes.
5
13:07:25 6 One of the reasons you gave was that in his role he would
13:07:30 7 have been so busy that there were many, many things that
13:07:35 8 might have occurred that he perhaps should have passed on
13:07:37 9 but, you know, busyness probably got the better of him from
13:07:42 10 time to time?---True.
11
13:07:43 12 I want to talk just finally about a couple of issues that
13:07:48 13 arise out of those considerations. You had an
13:07:53 14 understanding that Posse, Operation Posse was targeting a
13:07:58 15 particular person that we spoke about in private
13:08:02 16 hearing?---Yes.
17
13:08:03 18 During your time at the MDID that person had been charged
13:08:09 19 and arrested?---Correct.
20
13:08:11 21 And at the time that we were talking about, and your
13:08:16 22 understanding of that particular operation, it was your
13:08:19 23 understanding that the focus of that operation was on that
13:08:24 24 person?---It was on the [REDACTED], yes, and that person but
13:08:27 25 the [REDACTED], yes.
26
13:08:32 27 There was an entry that I took you to in your diary where
13:08:39 28 Overland told you that Ms Gobbo needed to be
13:08:43 29 protected?---Yes, and Posse was a priority.
30
13:08:46 31 And Posse's a priority?---Yes.
32
13:08:48 33 You recall that?---Yes.
34
13:08:51 35 You knew, because of that exchange, that Gobbo was a very
13:08:58 36 valuable asset in relation to Operation Posse?---Yes.
37
13:09:03 38 You said on Wednesday that you knew that Ms Gobbo was
13:09:07 39 providing information to Operation Posse, that's
13:09:10 40 correct?---I believe so, yes.
41
13:09:13 42 You said that at the time of that person's arrest you knew
13:09:19 43 that Nicola Gobbo was that person's barrister?---Yes.
44
13:09:25 45 You attended the [REDACTED] on the day of arrest?---I did.
13:09:29 46
13:09:29 47 MR HOLT: I think we're into a level of bio data about this

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13:09:33 1 that's not ordinarily dealt with.
13:09:38 2
13:09:38 3 MR WOODS: I'm confident we're not.
13:09:41 4
13:09:42 5 MR HOLT: That's the objection, I'm asking for a bit of
13:09:45 6 care to be taken about details like those sorts of words.
7
13:09:45 8 COMMISSIONER: Yes, I'm sure Mr Woods is being very
13:09:47 9 careful, but we'll go very carefully, yes.
13:09:50 10
13:09:50 11 MR WOODS: You attended Purana when the arrest took
13:09:53 12 place?---No, later on that evening, yes.
13
13:09:55 14 On the evening of the arrest?---Yes.
15
13:09:57 16 You knew at that stage that Ms Gobbo was being handled by
13:10:03 17 the SDU?---Yes.
18
13:10:06 19 You watched Ms Gobbo on that evening talk to two members of
13:10:11 20 the SDU?---Correct.
21
13:10:14 22 You said in the back of your mind you thought Ms Gobbo
13:10:16 23 might have been providing information about the person who
13:10:20 24 we can't name, you said that in your evidence on
13:10:25 25 Wednesday?---Okay. Yes, I accept that I said that, yes.
26
13:10:30 27 You know the short period of time or you know the period of
13:10:34 28 time between your observations on that day and your audit
13:10:39 29 being conducted?---Yes.
30
13:10:41 31 You specifically state that you perused - the last ICR you
13:10:50 32 perused was 21?---Yes.
33
13:10:52 34 Having reviewed ICR 21 it's eight pages long and that
13:10:57 35 person's name occurs 74 times in those eight pages, do you
13:11:01 36 accept that?---I accept that.
37
13:11:02 38 Putting aside whether it's improper - whether it was
13:11:07 39 improper for White not to tell you about the situation, can
13:11:11 40 I suggest that because of all of the factors we've just
13:11:15 41 been through, you very well knew that the situation that
13:11:19 42 persisted when you drafted your report was ethically
13:11:23 43 repugnant?---I reject that.
44
13:11:26 45 And you knew very well, because of those things, that the
13:11:29 46 SDU was doing the wrong thing and you simply did nothing
13:11:34 47 about it?---No, I reject that.

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1
13:11:36 2 They're all the questions I have. Thank you Mr Biggin.
3
13:11:38 4 COMMISSIONER: Yes, thank you. Thank you Mr Biggin, you're
13:11:40 5 excused?---Can I just raise one issue?
6
13:11:43 7 Yes, of course?---At the time when I was managing the SDU I
13:11:47 8 was also involved in a large number of other matters. Does
13:11:50 9 the Commission, for the sake of completeness, want to know
13:11:52 10 about those or not, or if I provide them through my counsel
13:11:57 11 and perhaps they can be produced ?
13:11:59 12
13:11:59 13 In the sense that - - - ?---Nothing to do with human source
13:12:01 14 management and nothing to do with this issue.
15
13:12:02 16 Saying that you were busy, very busy?---Extremely busy
13:12:05 17 person, yes.
18
13:12:08 19 If they're not confidential you can say briefly what they
13:12:10 20 are?---There's 11 issues, I've written them. Firstly, I
13:12:16 21 was the liaison officer with Victoria Police for ASIS and
13:12:20 22 that required me to actually attend sometimes their
13:12:23 23 premises and to meet their people here in Melbourne and
13:12:28 24 have extensive discussions. In relation to the Command, I
13:12:31 25 was also the occupational health and safety chair, so I was
13:12:35 26 required to actually monitor occupational health and the
13:12:37 27 safety and injury of every member who was injured within
13:12:38 28 our Command and chair meetings. I was also the asset lead
13:12:41 29 for the Command, which meant that I needed to actually
13:12:43 30 annually conduct an audit of every asset within the Command
13:12:47 31 and seek funding in relation to replacing them. At that
13:12:50 32 point of time I think our Command had assets in the
13:12:54 33 millions. So that was an extensive job. In 2006, with
13:12:58 34 another Superintendent, I was appointed to investigate the
13:13:00 35 Police Association bullying matters relating to Mr Mullet.
13:13:04 36 I did that on behalf of the organisation and in relation to
13:13:08 37 over and above my duties. That took over 12 months to
13:13:11 38 actually complete that individual investigation. From 2002
13:13:17 39 to 2016 I was a member of the Drug Investigation Target
13:13:21 40 Committee, which changed its name to the Control and Major
13:13:24 41 Drug Operations committee. This operation approved every
13:13:26 42 major drug investigation conducted by Victoria Police
13:13:29 43 during that period. Met every Wednesday. I was also a
13:13:33 44 member of the 412 St Kilda Road refurbishment committee.
13:13:39 45 That was a building we had down in St Kilda Road which was
13:13:41 46 in very, very poor condition and \$8 million was given by
13:13:44 47 the government to try and paper over the cracks. A

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13:13:47 1 decision was made for that building then to be, it couldn't
13:13:50 2 be fixed so I was then the asset, then the lead for the
13:13:54 3 build of the new police premises at 313 Spencer Street.
13:13:58 4 That required me to sit on a committee and liaise with the
13:14:01 5 Command in relation to the building of that new premises,
13:14:05 6 and it's something I'm very proud of to say the least. I
13:14:08 7 was also appointed to the State based intergovernmental
13:14:11 8 committee on drug strategy. That was a committee that
13:14:14 9 actually met with health and education in relation to drug
13:14:16 10 issues in Victoria. As a part of that I was also appointed
13:14:20 11 to the NDLERF, which is a National Drug Law Enforcement
13:14:25 12 Research Fund, where we considered applications for funding
13:14:28 13 in relation to drug law matters. I was also appointed to
13:14:31 14 the Australian National Council on Drugs chaired by Dr John
13:14:35 15 Herron. That was a national committee with health in
13:14:38 16 relation to drug strategy across Australia, so I
13:14:42 17 represented Victoria Police on that. Let me say in
13:14:44 18 relation to those two roles, New South Wales has one person
13:14:46 19 doing that role full-time. I did it over and above the
13:14:50 20 duties that I was actually performing, along with the other
13:14:53 21 ones. I also conducted a number of organisational reviews,
13:14:55 22 including the review of the surveillance division which I
13:14:56 23 talked about yesterday. I also attended the Commissioner's
13:15:00 24 drug conferences on behalf of the Chief Commissioner of
13:15:03 25 Police in relation to where the Commissioners met and
13:15:08 26 discussed drug matters as they are affecting their
13:15:10 27 individual jurisdictions around Australia and represented
13:15:12 28 Victoria Police. I've got two to go. Also, there were two
13:15:16 29 significant corruption issues at the State Surveillance
13:15:20 30 Unit which reported to me. One was in 2006 where a member
13:15:23 31 was alleged to have, through the use of loose lips, which
13:15:26 32 is using my terms, disclosed information that went back to
13:15:28 33 the target. There was a significant operation conducted by
13:15:32 34 the Office of Police Integrity in relation to that. That
13:15:35 35 was ongoing and that took a lot of work on my behalf to
13:15:39 36 actually provide information for them. And then in 2008 a
13:15:42 37 document was leaked out of the, either the State
13:15:45 38 Surveillance Unit or another agency. It's then made its
13:15:49 39 way to the hands of criminals and kept popping up. So I
13:15:52 40 was required to extensively try to manage that particular
13:15:55 41 situation. And last but not least, I was also the Chair of
13:15:58 42 the Covert Targeting Committee which was conducted across
13:16:02 43 Victoria Police that so every deployment of an undercover
13:16:07 44 operative in Victoria had to be approved by me before the
13:16:09 45 operation could commence. So those were the issues that I
13:16:11 46 was dabbling with and dealing with at the same time. And
13:16:13 47 the last point I made is that I note that Victoria Police

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13:16:15 1 Superintendents these days have personal assistants and
13:16:19 2 many of them have a staff officer. I had none of those. I
13:16:22 3 did it all myself and I managed a budget in excess of \$30
13:16:26 4 million and a staff of about 250 people at the time.
5
13:16:29 6 COMMISSIONER: Thanks Mr Biggin. Anything arising out of
13:16:31 7 that, Mr Woods?
13:16:32 8
13:16:32 9 MR WOODS: Just one issue, and it's just that the audit
13:16:35 10 that was conducted on that day, it begins at 10.30 in the
13:16:38 11 morning. It's not clear from the redactions that have been
13:16:44 12 done to your diary when the audit concluded. Do you know
13:16:48 13 how long you took to conduct the audit on that day?---No, I
13:16:53 14 don't even recall conducting the audit. In fact, I'd
13:16:55 15 completely forgotten about it until the document arrived.
16
13:16:57 17 But you took that role seriously and performed it
13:17:00 18 diligently I take it?---Always did. And I accept my role.
13:17:04 19 And as I probably said to the Commissioner, I accept the
13:17:05 20 buck must stop with me, I accept that.
21
13:17:08 22 Thank you Mr Biggin.
23
13:17:11 24 COMMISSIONER: Thanks Mr Biggin. You're free to go and I'm
13:17:13 25 sure you'll enjoy your weekend?---Thank you.
13:17:17 26
27 (Witness excused.)
28
13:17:23 29 <(THE WITNESS WITHDREW)
30
13:17:24 31 COMMISSIONER: We'll resume at 2 o'clock with the next
13:17:28 32 witness who will be on video link at [REDACTED]
13:17:31 33 We'll resume in open hearing?
13:17:35 34
13:17:36 35 MR WOODS: Yes.
36
13:18:05 37 COMMISSIONER: We'll adjourn until 2 o'clock.
13:18:09 38
13:18:10 39 LUNCHEON ADJOURNMENT
40
41
42
43
44
45
46
47

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14:05:19 1 UPON RESUMING AT 2.12 PM:
14:07:53 2
14:07:55 3 COMMISSIONER: There's now two matters. I think Mr Purcell
14:12:06 4 instructed by Kenna Teasdale lawyers is appearing for
14:12:10 5 Officer Richards.
14:12:11 6
14:12:12 7 MR PURCELL: Yes, that's correct, Commissioner, I seek
14:12:14 8 leave to appear on behalf of Officer Richards.
14:12:16 9
14:12:16 10 COMMISSIONER: Thanks Mr Purcell. I understand Ms Martin
14:12:20 11 is asking for leave to appear for the Department of Home
14:12:25 12 Affairs for Officer Richards. Ms Martin.
14:12:31 13
14:12:31 14 MS MARTIN: I am here.
14:12:34 15
14:12:34 16 COMMISSIONER: Right, yes. So I take it there are no
14:12:37 17 objections to Ms Martin appearing in that capacity in
14:12:41 18 respect of this witness?
14:12:42 19
14:12:43 20 MR WINNEKE: No Commissioner.
14:12:44 21
14:12:44 22 COMMISSIONER: Leave is given. Thanks Ms Martin.
14:12:45 23
14:12:46 24 MR HOLT: Commissioner, can I very quickly raise an issue?
14:12:48 25
26 COMMISSIONER: Yes.
27
14:12:48 28 MR HOLT: That is I need to correct the record. We have
14:12:50 29 not been able to identify any formal advice to the
30 Commission that legal professional privilege was waived in
14:12:56 31 respect to Maguire advice and so I withdraw the suggestion
14:12:58 32 that it was, but nonetheless I can confirm that privilege
14:13:01 33 is waived.
14:13:02 34
14:13:02 35 COMMISSIONER: Thank you very much for that. Yes. Yes,
14:13:05 36 Mr Winneke.
14:13:06 37
14:13:06 38 MR WINNEKE: I call Mr Ted Richards.
14:13:16 39
14:13:17 40 COMMISSIONER: We have Mr Richards on the line here.
14:13:17 41 Mr Richards, I understand you're going to take the
14:13:20 42 oath?---Yes, I am.
14:13:20 43
14:13:20 44 Thanks Mr Richards, if you can take a Bible in your right
14:13:25 45 hand. Yes, it will be administered now.
14:13:29 46
14:13:30 47 <TED RICHARDS, sworn and examined:

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14:13:43 1
14:13:43 2 COMMISSIONER: Mr Richards, of course I should say, the
14:13:46 3 Commission is aware of your proper name and although the
14:13:50 4 oath is taken in the name of the pseudonym, of course it
14:13:53 5 applies in respect of your proper name?---Thank you.
14:13:56 6
14:13:57 7 Yes Mr Purcell.
14:13:58 8
14:13:59 9 MR PURCELL: Thank you Commissioner. Mr Richards, you were
14:14:01 10 asked to produce a statement to the Commission, is that
14:14:03 11 correct?---Yes.
14:14:04 12
14:14:04 13 You've made and signed a statement, have you not?---Yes, I
14:14:08 14 have.
14:14:08 15
14:14:09 16 When was that done, Officer Richards?---It was last month.
14:14:17 17
14:14:18 18 Does the date of the 2nd or 3rd of September sound
14:14:22 19 right?---Yes, that's correct.
14:14:22 20
14:14:23 21 Have you read that statement recently?---Yes, I have.
14:14:25 22
14:14:26 23 Is there anything you wish to add, change or
14:14:28 24 correct?---Just in respect of the address, I had [REDACTED]
14:14:33 25 [REDACTED] Street, it's actually 313 Spencer Street is the
26 actual address.
27
14:14:37 28 Yes?---And also my graduation date was [REDACTED] 1988, not
29 1989.
30
14:14:47 31 (Fire alarm sounding at remote location.)
14:14:47 32
14:14:49 33 COMMISSIONER: Officer Richards has kindly muted it so
14:14:53 34 we're not hearing it. I expect he is. I expect he'll turn
14:14:58 35 it back on when it's stopped. If I recall this sometimes
14:15:04 36 goes on for quite a long time. Are you sure this isn't a
14:15:09 37 conspiracy, Mr Holt?
14:15:10 38
14:15:11 39 MR HOLT: Commissioner, I wish I had the capacity to be
14:15:14 40 that clever.
14:15:15 41
14:15:15 42 WITNESS: I apologise, there's going to be some loud noise.
14:15:19 43 I'll just mute it again.
14:15:21 44
14:15:21 45 COMMISSIONER: Thanks. We're still going. Perhaps they
14:15:25 46 just have a lot of those drills there at [REDACTED]
14:15:29 47 [REDACTED], perhaps for good reason.

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RICHARDS XN

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14:16:01 1
14:16:02 2 WITNESS: Thank you Commissioner, we haven't been
14:16:04 3 evacuated.
14:16:05 4
14:16:05 5 COMMISSIONER: Yes Mr Purcell.
14:16:06 6
14:16:07 7 MR PURCELL: Officer Richards, just to go back over that,
14:16:11 8 there are two changes that you wish to make?---Yes.
14:16:13 9
14:16:13 10 One was to the address, correct?---Yes, that's correct.
14:16:15 11
14:16:15 12 That should be Spencer Street instead of PII [REDACTED]
14:16:19 13 Street?---Yes, that's right.
14:16:20 14
14:16:20 15 In paragraph 2 you graduated from the Victoria Police
14:16:24 16 Academy in PII [REDACTED] 1988, correct?---Correct, yes.
14:16:27 17
14:16:27 18 Apart from that are the contents of your statement true and
14:16:31 19 correct?---Yes, they are.
14:16:32 20
14:16:32 21 Is that your signature on the last page?---Yes, it is.
14:16:35 22
14:16:35 23 Commissioner, I seek to tender that statement.
14:16:37 24
14:16:41 25 #EXHIBIT RC590A - (Confidential) Statement of Officer Ted
14:16:41 26 Richards.
14:16:41 27
14:16:42 28 #EXHIBIT RC590B - (Redacted version.)
14:16:59 29
14:16:59 30 <CROSS-EXAMINED BY MR WINNEKE:
31
14:17:00 32 Mr Richards, I take it you can see me?---Yes, I can.
14:17:05 33
14:17:06 34 I can't see you so if I interrupt you it won't be because
14:17:14 35 I'm rude, well maybe I am, but it's because I can't see
14:17:16 36 you, and so occasionally that occurs?---Thank you.
14:17:18 37
14:17:23 38 After you graduated from the academy in 1988 you conducted
14:17:30 39 usual junior policing uniform duties in various places
14:17:34 40 throughout suburban Melbourne, is that right?---Yes, that's
14:17:38 41 correct.
14:17:38 42
14:17:39 43 And then you had your first role as a PII [REDACTED] in the PII [REDACTED]
14:17:46 44 PII [REDACTED], the former PII [REDACTED], is that right?---Yes, that's
14:17:49 45 correct.
14:17:49 46
14:17:49 47 That was in 96, is that right?---Yes.

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14:17:57 1
14:17:58 2 You remained in the [PII] until about 2001, is that
14:18:03 3 correct?---No, in 1999 I transferred to the [PII]
14:18:08 4 [PII]
14:18:08 5
14:18:08 6 I apologise. Can I ask you whether you had any dealings
14:18:15 7 with Ms Gobbo in those years. For example, in 1999 when
14:18:19 8 you were at the [PII] did you have any dealings with
14:18:22 9 Ms Gobbo?---No.
14:18:22 10
14:18:24 11 In the [PII], you were there for a period of time
14:18:30 12 and then you were in the [PII] as a
14:18:33 13 [PII], is that right?---Yes, that's correct.
14:18:35 14
14:18:36 15 Then you went back to the [PII] -
14:18:41 16 - - ?---After a stint at [PII], yes.
14:18:44 17
14:18:47 18 And you remained at the [PII]
14:18:54 19 until you transferred to the Dedicated Source Unit, as it
14:18:59 20 was then, in March of 2006, is that correct?---Yes, that's
14:19:03 21 correct.
14:19:03 22
14:19:04 23 When you were at the [PII] what
14:19:11 24 did you do there?---I was in charge of the cannabis crew.
14:19:18 25
14:19:19 26 And which detectives were in that crew?---[PII]
14:19:28 27 [PII]
14:19:32 28 [PII]
14:19:34 29
14:19:34 30 Did you have any dealings with Ms Gobbo at that time in
14:19:37 31 2002, 3, 4?---No.
14:19:39 32
14:19:40 33 At no stage did you have any dealings with her when you
14:19:43 34 were at the [PII]?---No.
14:19:44 35
14:19:48 36 And did you remain within the [PII] or did you task out to
14:19:54 37 other units in the four year period prior to going to the
14:20:00 38 DSU?---No, I remained at the [PII]
14:20:03 39
14:20:05 40 You transferred to the [PII] on [PII] or thereabouts in
14:20:11 41 2006, is that right?---To the Dedicated Source Unit.
14:20:16 42
14:20:16 43 I'm sorry, the DSU?---Yes.
14:20:19 44
14:20:19 45 How did you come to get that position?---It was an
14:20:24 46 advertised vacancy that I was selected for.
14:20:28 47

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14:20:32 1 What sort of training did you undergo when you went to that
14:20:35 2 unit?---Once at the Dedicated Source Unit, is that the
14:20:41 3 question?
14:20:41 4
14:20:42 5 Once you got, without going into detail did you do - -
14:20:45 6 -?---A [REDACTED] handling course.
14:20:48 7
14:21:18 8 MR WINNEKE: Where did you undergo training?---At the
14:21:22 9 Dedicated Source Unit.
14:21:23 10
14:21:24 11 Did you go away from Melbourne to another location?---Yes.
14:21:30 12
14:21:31 13 You're not allowed to mention the name of the place, but it
14:21:34 14 was a place in Victoria?---Yes.
14:21:36 15
14:21:37 16 And that went for about a [REDACTED]?---About [REDACTED].
14:21:41 17
14:21:41 18 [REDACTED] Who were you trained by?---Several people,
14:21:50 19 including Sandy White and international people.
14:21:54 20
14:21:55 21 People from, was there a person from Canada?---Yes, I
14:21:59 22 believe there were two.
14:22:00 23
14:22:00 24 Do you remember their names?---No, I don't remember their
14:22:07 25 names, no.
14:22:07 26
14:22:09 27 Were there any other members of the DSU who trained you
14:22:15 28 when you were doing that course?---I believe there was one
14:22:22 29 other member who was attached to the HSMU.
14:22:26 30
14:22:27 31 Do you know that person's name? Have you got a list of
14:22:30 32 names who you can't mention?---Yes, I'm just looking and
14:22:34 33 making sure we can mention that person. It was Glen Owen.
14:22:44 34
14:22:46 35 Obviously you were given specialist instruction about
14:22:52 36 dealings with human sources, is that right?---Yes.
14:22:55 37
14:22:58 38 And at that stage had you run any sources by that
14:23:05 39 time?---Yes.
14:23:06 40
14:23:08 41 I take it that was when you were a [REDACTED] at the [REDACTED],
14:23:12 42 is that right?---Yes.
14:23:13 43
14:23:15 44 When had you run your first source?---Probably dating back
14:23:25 45 to the mid-90s.
14:23:28 46
14:23:29 47 Probably when you were in the [REDACTED]?---It was before

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14:23:33 1 then.
14:23:34 2
14:23:35 3 So you at that stage had a significant degree of
14:23:40 4 experience, would you say, with human sources?---Compared
14:23:44 5 to others, yes.
14:23:45 6
14:23:45 7 Would that have been one of the reasons why you were
14:23:48 8 selected, as far as you can tell?---That's a fair comment.
14:23:54 9
14:23:56 10 Did you have any, aside from experience, had you undergone
14:24:01 11 any particular sort of training or instruction with respect
14:24:06 12 to human sources?---I was a PII
14:24:12 13
14:24:14 14 Can I ask you about some reasonably fundamental legal
14:24:21 15 matters. I take it you completed Detective Training School
14:24:27 16 and you went on to complete advanced investigator training,
14:24:30 17 is that right?---Yes.
14:24:31 18
14:24:33 19 And you believe that you had a reasonably comprehensive
14:24:38 20 understanding of the criminal law as it applied to police
14:24:45 21 investigators?---That's fair.
14:24:47 22
14:24:50 23 There are absolutely fundamental matters that you wouldn't
14:24:53 24 even need to be a trained Detective to know and that is,
14:24:56 25 for example, a person's right to silence?---Yes, that's
14:24:59 26 correct.
14:24:59 27
14:25:00 28 A person's right to speak to an independent legal
14:25:05 29 practitioner if they were a suspect and they sought to do
14:25:08 30 so?---Yes.
14:25:10 31
14:25:11 32 Those matters are fundamental, I take it?---Yes.
14:25:17 33
14:25:18 34 What about other matters such as privileges like legal
14:25:22 35 professional privilege, did you have a knowledge of those
14:25:25 36 sorts of, or that sort of legal principle?---I had a basic
14:25:31 37 understanding, yes.
14:25:33 38
14:25:33 39 I take it you, and most detectives, not uniform members,
14:25:38 40 would be aware that a person is entitled to speak to a
14:25:43 41 lawyer and have that communication respected as being
14:25:49 42 confidential?---Yes.
14:25:51 43
14:25:52 44 Obviously there may be exceptions. Obviously you can't
14:25:57 45 engage or at least conspire to engage in criminal conduct
14:26:02 46 with your lawyer, you'd assume that sort of conduct
14:26:06 47 wouldn't be the subject of legal professional privilege,

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14:26:08 1 but otherwise if they're speaking about legal matters
14:26:11 2 they're entitled to have that respected as being
14:26:15 3 confidential, was that your understanding?---From a client
14:26:17 4 to a legal professional conversation, absolutely.
14:26:21 5
14:26:21 6 Yes. Police aren't entitled to listen to those
14:26:24 7 conversations and utilise any information that they get.
14:26:27 8 You would have understood that I take it?---I'm not quite
14:26:32 9 sure I understand the "listen to the conversations", are
14:26:36 10 you referring to something else?
14:26:38 11
14:26:38 12 It would be entirely wrong if someone was speaking to a
14:26:41 13 legal practitioner to eavesdrop on the
14:26:45 14 conversation?---Yeah, I'm not quite sure. Are you talking
14:26:50 15 about using a listening device?
14:26:51 16
14:26:52 17 I don't know?---Or are you talking about eavesdropping?
14:26:55 18 I'm not sure.
14:26:55 19
14:26:56 20 What about putting a glass up to the door, would be allowed
14:27:00 21 to do that? Any way, any way at all, are you entitled to
14:27:03 22 take any steps to listen to someone having a conversation
14:27:06 23 with a lawyer?---In a legal professional privilege
14:27:10 24 capacity, no.
14:27:10 25
14:27:10 26 If they were at the police station, they want to speak to a
14:27:13 27 lawyer, firstly you're obliged to afford them their rights
14:27:18 28 pursuant to the Crimes Act, you understand that?---Yes.
14:27:20 29
14:27:21 30 You are obliged to take reasonable steps to permit them to
14:27:26 31 do so in privacy?---Yes, absolutely.
14:27:28 32
14:27:34 33 Were those matters that were discussed with you in your
14:27:42 34 training with the SDU or the DSU as it was then or
14:27:48 35 not?---No.
14:27:49 36
14:27:50 37 Those were matters that were - when were they, when did you
14:27:53 38 learn those matters or pick them up?---I think basic
14:27:57 39 training and Detective Training School. They were, it was
14:28:00 40 the more appropriate place to be taught about such, you
14:28:05 41 know, 464, et cetera.
14:28:07 42
14:28:09 43 Do you think that you had a reasonable grasp of those
14:28:13 44 matters when you got to the DSU?---Yes.
14:28:16 45
14:28:18 46 Do you think, and did you think when you were at the DSU
14:28:22 47 that it would be acceptable for a barrister who was

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14:28:25 1 actually an informer or an agent of Victoria Police to
14:28:30 2 provide legal advice to a person in respect of whom that
14:28:36 3 barrister had been providing information about?---Sorry,
14:28:42 4 you said that the person was providing legal advice to us?
14:28:46 5
14:28:46 6 I'll do it this way?---Yes.
14:28:48 7
14:28:48 8 At that time do you think or did you think that it would
14:28:52 9 have been acceptable for a barrister who happened to be an
14:28:57 10 informer of Victoria Police, right, so - - - ?---Yep.
14:29:01 11
14:29:01 12 An agent of Victoria Police, did you think that it would
14:29:05 13 have been acceptable for that person to provide legal
14:29:11 14 advice to a suspect, who was a suspect because of the
14:29:18 15 information provided by that barrister who was also the
14:29:20 16 informer, do you follow the question?---Not really, I'm
14:29:23 17 hearing you saying can that person provide legal advice to
14:29:27 18 a person, can the barrister provide legal advice to a
14:29:32 19 person they're providing information on, is that the
14:29:35 20 question? I know it looks like you're getting very
14:29:40 21 frustrated.
14:29:40 22
14:29:41 23 No, I'm obviously not making it clear. Let's say you've
14:29:44 24 got a person such as Ms Gobbo?---Yes.
14:29:46 25
14:29:46 26 And she's an informer, right?---Yes.
14:29:48 27
14:29:49 28 She's an agent of Victoria Police and she provides
14:29:51 29 information about a particular person who then, that person
14:29:55 30 is then arrested, do you follow so far?---Yes, yes,
14:29:59 31 absolutely.
14:29:59 32
14:29:59 33 Would it be appropriate for Ms Gobbo in that circumstance
14:30:03 34 to provide legal advice to that person, do you
14:30:09 35 think?---Right. I understand your question and that would
14:30:12 36 be up to Ms Gobbo to decide whether that's appropriate or
14:30:14 37 not I would have thought.
14:30:16 38
14:30:16 39 No, I'm asking you whether you think it's
14:30:19 40 appropriate?---I'm not a qualified lawyer from that
14:30:23 41 standpoint I'm not sure whether that's appropriate or not.
14:30:26 42
14:30:27 43 Even now you're not sure about that?---The question - I'm
14:30:33 44 not trying to be difficult, I'm just trying to make sure I
14:30:37 45 get the question right.
14:30:37 46
14:30:38 47 Absolutely, yes?---Should she be providing legal advice to

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14:30:42 1 someone that she has informed on?
14:30:46 2
14:30:46 3 Yes, exactly. Do you think that's an appropriate thing to
14:30:50 4 do?---I think I'd probably want to know a bit more of the
14:30:56 5 circumstances. I understand what you're saying. I think
14:30:59 6 if you can give me some circumstances around it I'd be able
14:31:03 7 to provide you with a better answer.
14:31:05 8
14:31:06 9 Okay, here's some more circumstances. You've got a person,
14:31:07 10 let's call them person A?---Yes.
14:31:12 11
14:31:12 12 And Ms Gobbo and the police decide - let's, I have to use a
14:31:17 13 letter which - I can't use X. Perhaps if we use Z, person
14:31:23 14 Z?---Yes.
14:31:23 15
14:31:25 16 The police and Ms Gobbo want to arrest and put person Z
14:31:31 17 behind bars, right. They've got a plan to arrest for
14:31:39 18 engaging in criminal activity, do you follow so far?---So
14:31:44 19 the police are targeting a person, Mr Z, and they're
14:31:48 20 getting information on Mr Z from 3838.
14:31:53 21
14:31:53 22 Ms Gobbo, right. And they're working together to do that,
14:32:00 23 do you follow?---Yes, I follow.
14:32:01 24
14:32:02 25 And then after all the information that's provided by
14:32:05 26 Ms Gobbo about person Z and then person Z, as a result of
14:32:11 27 all that the police have enough information to arrest
14:32:14 28 person Z?---Yes.
14:32:14 29
14:32:16 30 Right?---Yes.
14:32:17 31
14:32:18 32 And when person Z is arrested Ms Gobbo turns up to provide
14:32:23 33 legal advice about the appropriate course of action for
14:32:30 34 person Z. Do you follow that, right?---Yes.
14:32:33 35
14:32:34 36 Do you think that that would be an appropriate thing for
14:32:38 37 Ms Gobbo to do, firstly?---In hindsight, no.
14:32:42 38
14:32:43 39 Right. What about, forgetting about hindsight, back in
14:32:49 40 2006 would you then have thought that that was an
14:32:52 41 appropriate thing for Ms Gobbo to do?---Probably not, no.
14:32:56 42
14:32:57 43 Would you be prepared to say definitely not?---I'm
14:33:08 44 thinking. No - yeah. I don't think so, no, I don't think
14:33:13 45 it's appropriate, no.
14:33:13 46
14:33:14 47 On no view would it be appropriate, would it? Do you

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14:33:26 1 accept that, on no view could it be regarded as
14:33:30 2 appropriate?---As I said, I don't think myself personally,
14:33:34 3 I don't think it's appropriate, no.
14:33:35 4
14:33:41 5 It would be, I suggest, as inappropriate as a police
14:33:47 6 officer in effect playing a trick on someone who wanted to
14:33:50 7 speak to a lawyer and putting them on to a phone where
14:33:53 8 there was not a solicitor on the phone but a Sergeant in
14:33:57 9 another room who then says to the person, "Well I'm going
14:33:59 10 to give you some independent legal advice, you should make
14:34:03 11 admissions and assist the police because you're gone", that
14:34:06 12 would be wrong, wouldn't it?---That would be, but that's a
14:34:10 13 different scenario to what you're proposing.
14:34:12 14
14:34:12 15 It would be a scenario whereby the person who is
14:34:18 16 masquerading as a lawyer is not in fact an independent
14:34:22 17 lawyer but a police officer?---No, you've indicated in that
14:34:26 18 scenario that the police would provide someone that is in
14:34:29 19 fact not a lawyer though, so it's a different scenario to
14:34:35 20 the initial one you proposed.
14:34:36 21
14:34:36 22 The Gobbo scenario is really a lawyer who is an agent of
14:34:41 23 police who is really working with the police. So what I'm
14:34:44 24 suggesting to you is there's no real difference?---So it's
14:34:48 25 up to the client as to who they call, as a matter of
14:34:51 26 representation that they're offered to start with so that's
14:34:55 27 why I'm differentiating the two scenarios. One you're
14:34:58 28 saying the police will interject with a police agent versus
14:35:02 29 the other one where someone, a client who under their, as
14:35:06 30 you already stated, their rights have access to legal
14:35:10 31 representation to make that call as to who they see fit,
14:35:16 32 rather than one being proposed by police.
14:35:17 33
14:35:17 34 In any event, you see there's that difference and one is
14:35:20 35 worse than the other, would that be fair to say?---Yeah,
14:35:24 36 one has a client seeking who they want as representation.
14:35:28 37 The other scenario you're saying that the police interject
14:35:32 38 with someone.
14:35:32 39
14:35:33 40 But in either case let's assume that the person doesn't
14:35:36 41 know in fact that the person to whom they're speaking is
14:35:40 42 not in fact an independent lawyer. Do you accept that?
14:35:45 43 Both those scenarios are the same, aren't they, when you
14:35:48 44 look at it that way?
14:35:50 45
14:35:50 46 COMMISSIONER: That is they don't know that their lawyer
14:35:52 47 has been informing to the police on them?---Correct. Thank

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14:35:58 1 you Commissioner. Yes.

14:36:00 2

14:36:00 3 MR WINNEKE: Can I ask you about your knowledge of

14:36:06 4 obligations of disclosure. As an investigator in 2006 what

14:36:15 5 was your understanding about your obligations to disclose

14:36:18 6 either to the prosecution or to defence of matters that may

14:36:25 7 be relevant to the defence, even though they're not matters

14:36:29 8 that you're relying on to prosecute, do you follow the

14:36:32 9 question?---Yes, yes.

14:36:34 10

14:36:34 11 What was your understanding then?---If there was a request

14:36:39 12 by the court to provide information that hasn't been

14:36:42 13 disclosed in a brief of evidence.

14:36:44 14

14:36:44 15 Yes?---That we'd be then be required to disclose such

14:36:50 16 information.

14:36:50 17

14:36:51 18 If there was no request from the court, what would your

14:36:54 19 obligation of disclosure be?---As far as I know it would be

14:36:58 20 production of the evidence that would be used for a

14:37:01 21 prosecution case.

14:37:01 22

14:37:02 23 So even if you had information which you knew would be very

14:37:08 24 relevant to a defence lawyer to know about, you wouldn't be

14:37:14 25 obliged to hand it over?---No, we're not obliged.

14:37:18 26

14:37:18 27 Was that your understanding then?---Yes.

14:37:21 28

14:37:21 29 Even though that information may have shot a great big hole

14:37:27 30 through your case, you would not be obliged to hand it over

14:37:31 31 unless you were specifically asked for it, was that your

14:37:34 32 understanding?---Yes.

14:37:34 33

14:37:35 34 Where did you get that understanding? Where training did

14:37:38 35 you have?---We've gone through my training, the ^{PII} [REDACTED]

14:37:42 36 Training School and general training.

14:37:43 37

14:37:49 38 Did you understand the importance of obtaining evidence

14:37:54 39 lawfully when you were a ^{PII} [REDACTED] and a member of the SDU

14:37:59 40 back in 2006, thereabouts?---Yes.

14:38:01 41

14:38:05 42 You understood that if evidence was obtained unlawfully

14:38:10 43 there was at least a possibility that a court might exclude

14:38:14 44 it?---Yes.

14:38:15 45

14:38:17 46 Say, for example, if you had obtained information

14:38:21 47 unlawfully by placing a bug and you hadn't got a warrant to

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14:38:25 1 place that bug, that evidence stood a reasonable chance of
14:38:30 2 being excluded in court, did you understand that?---Yes,
14:38:35 3 it's up to the court's discretion, yes.
14:38:37 4
14:38:38 5 What if, for example, the accused didn't know that that
14:38:42 6 information had been unlawfully obtained. Did you have an
14:38:48 7 obligation to disclose that information to them then?---I
14:38:54 8 don't follow, is this a what if question?
14:38:57 9
14:38:57 10 Yes, what if, hypothetically?---A hypothetical that
14:39:02 11 Victoria Police would produce the legally obtained evidence
14:39:04 12 at a court hearing?
14:39:05 13
14:39:06 14 Yes?---Is that - - -
14:39:07 15
14:39:08 16 That's the hypothetical question. If you knew that you had
14:39:12 17 obtained evidence unlawfully and were going to utilise it,
14:39:18 18 would you have an obligation to tell anyone about
14:39:25 19 that?---I'm trying to think of a scenario where that would
14:39:27 20 actually happen, that we would obtain illegal evidence and
14:39:31 21 I can't think of one.
14:39:33 22
14:39:35 23 Don't worry about whether it would happen or not,
14:39:39 24 hypothetically if you knew that there was information on a
14:39:42 25 brief which had been improperly obtained, would you have
14:39:48 26 any obligation to bring that to anyone's attention?---Yeah,
14:39:54 27 I'm probably struggling with the question. The brief
14:39:58 28 preparation process, the supervisor checking the brief, the
14:40:02 29 brief, whether it's an OPP brief, whether it's a
14:40:06 30 Magistrates' Court brief, depending where it goes as to who
14:40:10 31 gets briefed, is it a matter of an out of court sessions
14:40:14 32 for the court to decide whether it's illegal or not? I'm
14:40:17 33 struggling to try and work out what that question is as a
14:40:21 34 hypothetical.
14:40:21 35
14:40:21 36 I just want you to grapple with the simple facts. If you
14:40:27 37 have knowledge yourself that there's information which
14:40:30 38 police are going to lead or which a prosecution is going to
14:40:33 39 lead which you know has been improperly obtained, but you
14:40:40 40 know the defence doesn't know about it, did you believe
14:40:42 41 that you had any obligation to disclose it?---I wouldn't
14:40:46 42 lead it.
14:40:47 43
14:40:47 44 Right. You wouldn't lead it?---Correct.
14:40:50 45
14:40:52 46 So your point is you simply would not lead evidence which
14:40:55 47 was improperly obtained?---Correct.

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14:40:58 1
14:41:09 2 The point that I'm getting at is do you accept - you said
14:41:13 3 before, "It's not up to me, if no one asks me to produce
14:41:18 4 information it's not up to me to volunteer information
14:41:22 5 which I suspect that the defence might want to know". That
14:41:26 6 was your position before, right?---Yes.
14:41:29 7
14:41:29 8 But what I'm really putting to you, that wasn't the case at
14:41:33 9 all. You knew back then if you had information or if
14:41:37 10 something had been done improperly, you either didn't lead
14:41:42 11 it or you drew it to the attention of the defence or
14:41:46 12 someone else. That's the ethical approach, isn't it, to
14:41:50 13 policing?---No - yeah, you're going to have to go back.
14:41:59 14 You're telling me I'm doing this as part of an
14:42:03 15 investigator, that's hypothetically putting something
14:42:05 16 illegal to the court as to whether I should disclose it,
14:42:09 17 now I'm struggling - - -
14:42:10 18
14:42:10 19 I'm not trying to be difficult, I'm not trying to be
14:42:14 20 tricky. It's a general point I'm trying to make. What you
14:42:17 21 said before was that, "It was only if a court ordered me to
14:42:22 22 produce material would I produce material if that material
14:42:26 23 would assist the defence". What I'm suggesting to you is
14:42:30 24 that now and then, back then, if you knew that there was
14:42:35 25 information which really ought be disgorged or disclosed,
14:42:39 26 then it would be disclosed, you'd have to disclose it. Do
14:42:46 27 you accept that proposition?---As I said, you know, since I
14:42:51 28 was an investigator last in 2006 under, and I'm not sure of
14:42:56 29 the Act and so I can't really quote it, as to disclosing of
14:43:01 30 all material as it pertains to the prosecution case, that's
14:43:05 31 what I'm standing by.
14:43:06 32
14:43:07 33 Yes. But what you said before is you don't have to
14:43:11 34 disclose or you didn't have to disclose material which may
14:43:14 35 be relevant to, which you weren't relying upon but might
14:43:19 36 assist the defence?---Correct.
14:43:23 37
14:43:23 38 Do you accept that that was your understanding of the
14:43:26 39 position of the law, at least it was your understanding
14:43:29 40 then?---Yes.
14:43:29 41
14:43:42 42 Can I ask you about your knowledge of Ms Gobbo. It's
14:43:54 43 reasonably clear from what you've said so far that you've
14:43:56 44 never had any dealings with her prior to your time at the
14:43:59 45 DSU, is that right?---Correct.
14:44:01 46
14:44:01 47 You'd never spoken to her as far as you know?---No.

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14:44:04 1
14:44:05 2 And your only dealings with her as been as a member of the
14:44:12 3 DSU, is that right?---That's right, yes.
14:44:15 4
14:44:15 5 You were there from 2006 as a [PII] ---Yes.
14:44:19 6
14:44:19 7 Through to 2012, is that right?---Yes, that's right.
14:44:22 8
14:44:24 9 I think you were promoted in 2009 to the rank of [PII]
14:44:31 10 [PII], is that right?---[PII]
14:44:33 11
14:44:33 12 I apologise. You remained, you didn't go elsewhere into
14:44:40 13 uniform to get experience as a [PII], you
14:44:44 14 remained within the DSU, is that right?---That's correct.
14:44:49 15 I went back out as a uniform [PII] to [PII]
14:44:53 16 in 2012-ish, 13.
14:44:57 17
14:44:57 18 Is that usual, that you would stay, you wouldn't go into
14:45:00 19 uniform or was that unusual?---50/50. It's not, neither
14:45:10 20 unusual or usual I would suggest.
14:45:14 21
14:45:15 22 For the most part of your time at the DSU, or at least
14:45:20 23 until 2009 you were a handler, is that right?---Yes.
14:45:24 24
14:45:26 25 And in whose crew were you? Whose team?---Sandy White.
14:45:34 26
14:45:36 27 Were you in his team for the whole time that you were there
14:45:39 28 up until 2009?---Yes.
14:45:42 29
14:45:46 30 Is it the case that you handled other informers or human
14:45:55 31 sources than Ms Gobbo in that period?---Yeah, I never
14:45:59 32 handled 3838, no.
14:46:01 33
14:46:01 34 You never met her during that period?---No. No, I still
14:46:05 35 haven't.
14:46:05 36
14:46:06 37 And you still haven't. Do you say that the only times that
14:46:09 38 you ever spoke to her were when you spoke to her over the
14:46:14 39 telephone in early 2012?---Yes, that's correct.
14:46:17 40
14:46:21 41 Is it the case that all of your human sources in relation
14:46:28 42 to all of those human sources, Mr White was the
14:46:33 43 controller?---No, as in mine?
14:46:40 44
14:46:40 45 Yes?---No.
14:46:40 46
14:46:40 47 If you're in his crew or in his team and he's the

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14:46:44 1 controller, would there be other people who would control
14:46:48 2 those human sources?---At some stages, yes, that's right.
14:46:52 3
14:46:52 4 So Mr Black at times?---Yes.
14:46:55 5
14:46:56 6 And who else?---I would have to go through my diary to see
14:47:02 7 who I reported to depending on the workload of particular
14:47:05 8 controllers at the time.
14:47:06 9
14:47:10 10 But it would be - sorry, White and Black were the [PII]
14:47:18 11 [PII] who were at the DSU when you were there,
14:47:24 12 is that right?---Yes.
14:47:25 13
14:47:25 14 They were the only two [PII] in the
14:47:27 15 period you were there?---The substantive ones, yes.
14:47:30 16
14:47:30 17 On occasions other [PII] would be upgraded, is that
14:47:34 18 right?---Correct.
14:47:34 19
14:47:35 20 And on those occasions you would, you may report to those
14:47:40 21 people?---Yes, that's right.
14:47:41 22
14:47:45 23 When did you first discover that Ms Gobbo was a human
14:47:50 24 source?---In 2006 when I started at the Dedicated Source
14:47:57 25 Unit.
14:47:57 26
14:47:58 27 And in what circumstances did you discover that?---I
14:48:03 28 believe it was at a unit meeting.
14:48:08 29
14:48:08 30 Probably one of the pretty early unit meetings I take it,
14:48:12 31 is that right?---Yes, yes, I'd agree with that.
14:48:14 32
14:48:14 33 If not the first?---I would think it would have been the
14:48:17 34 first.
14:48:17 35
14:48:17 36 Do you know how many sources, high risk human sources there
14:48:22 37 were at that stage when you started?---I could take a stab
14:48:25 38 in the dark and say there might have been a dozen.
14:48:28 39
14:48:30 40 And how many did you handle at that stage, to the best of
14:48:36 41 your recollection?---I think I started with around three.
14:48:41 42
14:48:42 43 And did that number change or was that more or less the
14:48:47 44 case the entire way through?---It waxed and waned depending
14:48:55 45 on availability of members, work management, workload
14:48:59 46 management, so up to six at a time, depending on how busy
14:49:02 47 the unit was and from a resource capability and also from

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14:49:08 1 the service that we provided investigators.
14:49:10 2
14:49:14 3 Which investigators were you providing a service to, say,
14:49:18 4 for example, in 2006, have you got a recollection?---No, it
14:49:21 5 would have been dependent on the request coming through for
14:49:26 6 assistance.
14:49:27 7
14:49:27 8 Did you provide services to Purana, for example?---I would
14:49:33 9 have over the time, absolutely.
14:49:34 10
14:49:40 11 Obviously you learned that Ms Gobbo was a human source when
14:49:44 12 you, shortly after you start, right?---Yes.
14:49:48 13
14:49:48 14 You'd heard about her, you knew about her, I take it, at
14:49:53 15 that stage by reputation or in the media, would that be
14:49:58 16 fair to say?---Probably not. I think I must have been
14:50:02 17 quite naive because I really didn't know much about her at
14:50:06 18 all.
14:50:06 19
14:50:07 20 I take it you would have been somewhat surprised to learn
14:50:12 21 that a barrister representing criminals was in fact a human
14:50:15 22 source, that would have been unusual I take it?---Yes.
14:50:18 23
14:50:19 24 What was your initial reaction when you found out that was
14:50:23 25 the case?---As I think you rightly put, I was surprised,
14:50:29 26 yes.
14:50:29 27
14:50:30 28 Did you have any discussions with any of the other members
14:50:33 29 about that?---Yes.
14:50:37 30
14:50:37 31 What sort of things were discussed? I know it's - -
14:50:43 32 -?---Pretty broad.
14:50:43 33
14:50:43 34 It's a broad question, but do you recall having, raising
14:50:51 35 any issues or having any discussions about difficulties
14:50:53 36 that that might pose, having a barrister as a source?---I
14:50:56 37 think I raised it fairly often to be honest over an amount
14:51:01 38 of time.
14:51:02 39
14:51:02 40 What did you raise, what did you discuss?---The perceptions
14:51:07 41 if the source was disclosed, the perceptions of the public
14:51:15 42 to think that we had that person as a police agent, if it
14:51:19 43 was exposed, I think the perception would be
14:51:22 44 extraordinarily negative due to the fact that if the public
14:51:26 45 don't know the ins and outs and the actual details of what
14:51:30 46 was going on, as a general rule I would say that, yeah, it
14:51:34 47 would be a very negative consequence.

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14:51:36 1
 14:51:39 2 Were those sort of discussions, I mean it I take it they
 14:51:46 3 weren't held in a vacuum, they would have arisen when
 14:51:49 4 certain matters were being discussed about the sort of
 14:51:53 5 information Ms Gobbo was providing actually, is that
 14:51:55 6 right?--Not necessarily, no. I have a very robust
 14:51:58 7 relationship with Mr White and would have flagged it with
 14:52:01 8 him as well, my thoughts around perception if this person,
 14:52:08 9 the relationship was disclosed.
 14:52:09 10
 14:52:10 11 I'll come to that in due course because I notice in your
 14:52:13 12 statement you do talk about the fact that it was a robust
 14:52:17 13 sort of environment and you were able to have those sorts
 14:52:20 14 of discussions. That's right, is it, you could have those
 14:52:23 15 sorts of discussions?---Yes, absolutely.
 14:52:25 16
 14:52:26 17 You weren't criticised or subject to negative performance
 14:52:31 18 ratings if you contradicted your boss, in effect, is that
 14:52:35 19 really what you're saying?---I think it's more the fact
 14:52:40 20 from a management point of view or a leadership point of
 14:52:43 21 view, I've worked obviously with Sandy White on several
 14:52:46 22 different occasions in different areas, that his way to
 14:52:50 23 ensure honesty and transparency within any workplace was to
 14:52:55 24 be able to have conversations that are robust and for
 14:52:59 25 people to explain their point of view or have a point of
 14:53:02 26 view in relation to the way things work. It's
 14:53:05 27 extraordinarily important when it comes to source
 14:53:07 28 management.
 14:53:07 29
 14:53:08 30 You say you've worked with Mr White before your time at the
 14:53:13 31 SDU, is that right?---Yes.
 14:53:15 32
 14:53:15 33 At the [REDACTED] PII?---At the [REDACTED]
 14:53:20 34 [REDACTED], I worked with him there. I also worked with him
 14:53:23 35 at the [REDACTED].
 14:53:24 36
 14:53:25 37 So how long had you known him for?---Since 19 - probably
 14:53:33 38 early 90s, I would think, I would have first met him but
 14:53:39 39 didn't work with him until the late 90s.
 14:53:41 40
 14:53:42 41 Then worked reasonably closely with him at the time you
 14:53:47 42 were at the [REDACTED] PII and also the [REDACTED]?---Not
 14:53:52 43 necessarily the [REDACTED]. He worked at a different section of
 14:53:56 44 the [REDACTED] than I did, but absolutely worked in the same
 14:54:00 45 division as him, yes.
 14:54:01 46
 14:54:01 47 You, I take it - he is senior to you in terms of age and

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14:54:06 1 obviously rank?---He's a lot older than me, yes. Sorry,
14:54:15 2 that was a joke.
14:54:16 3
14:54:16 4 I can't see you, I don't know. I couldn't see Mr White
14:54:22 5 either, I still don't know what he looks like. How much
14:54:27 6 older than you is he?---Probably about five or six years.
14:54:31 7
14:54:31 8 Is he a person who you respected?---Absolutely.
14:54:34 9
14:54:35 10 But nonetheless despite respecting him and admiring him,
14:54:41 11 you would be prepared to challenge him if you thought it
14:54:44 12 was appropriate to do so?---Yes, that's fair.
14:54:46 13
14:54:49 14 One of the things that you, I take it, did have discussions
14:54:59 15 about was her role as a barrister and an informer at the
14:55:05 16 same time?---Yes.
14:55:07 17
14:55:12 18 One of the things that you had to consider as a handler, I
14:55:18 19 assume, or as a person who is handling sources, is the
14:55:22 20 risks associated with that person with that venture, is
14:55:26 21 that correct?---Yes, that's correct.
14:55:27 22
14:55:28 23 And obviously if there's a possibility that a source might
14:55:35 24 be compromised, then that is a real risk for the safety of
14:55:43 25 the source I assume, firstly?---I presume you're talking
14:55:47 26 about their identity as a source?
14:55:49 27
14:55:50 28 Yes, identity?---Yes, yes.
14:55:51 29
14:55:52 30 And particularly someone such as Ms Gobbo who was providing
14:55:55 31 information against fairly heavy criminals?---Yes.
14:55:59 32
14:55:59 33 And there are a number of ways, I suppose, that a source
14:56:03 34 could be identified. One is if they're over-used, I
14:56:08 35 suppose that would be one way and people get an idea who
14:56:11 36 they are?---Yes.
14:56:12 37
14:56:13 38 Another way would be if they're indiscreet themselves and
14:56:17 39 they convey information which makes it clear that they're a
14:56:21 40 source?---Yes.
14:56:22 41
14:56:23 42 If, for example, they're not careful or if they're erratic
14:56:29 43 in their behaviour, those sorts of things can lead to the
14:56:32 44 exposure of a source?---Yes.
14:56:34 45
14:56:37 46 The more people who are aware of the source would lead to
14:56:41 47 the greater chance that the source could be exposed or

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14:56:44 1 compromised, that would be another matter, wouldn't
14:56:48 2 it?---Yes.
14:56:48 3
14:56:49 4 And another means of disclosure or compromise would be
14:56:55 5 lawful compromise, that is if a court says, "Well look,
14:56:58 6 this person or this information needs to be
14:57:03 7 disclosed"?---Yes.
14:57:03 8
14:57:04 9 Was that something that you considered at all times when
14:57:08 10 you were dealing with a human source, the possibility that
14:57:12 11 a human source might need to be disclosed because a court
14:57:16 12 would take the view that in order to get a fair trial the
14:57:21 13 information ought be handed over to the defence?---That's
14:57:25 14 fair.
14:57:25 15
14:57:27 16 In your experience in dealing with human sources did that
14:57:32 17 ever occur?---No.
14:57:34 18
14:57:35 19 It never occurred that a human source was in effect
14:57:41 20 uncovered because of the need to disclose material?---Not
14:57:45 21 the identity, no.
14:57:47 22
14:57:47 23 So what would occur is if absolutely necessary it might be
14:57:54 24 appropriate to disclose the fact that there was an
14:57:57 25 informer, but not the identity of the informer, is that
14:58:00 26 right?---I have been in that situation before, yes.
14:58:03 27
14:58:05 28 How did that - how would that arise? Perhaps using the
14:58:12 29 case that you're thinking of, can you give us an
14:58:15 30 explanation about how that would arise?---Yes, I think, I
14:58:21 31 think back to the early 2000s again, you'll have to excuse
14:58:26 32 my memory, it's probably a good 15, 16 years ago the case
14:58:30 33 I'm thinking of. I think it was the production of
14:58:36 34 affidavits for telephone intercepts where there was
14:58:40 35 redactions made whereby we furnished the statement to the
14:58:47 36 court explaining why the redactions had taken place to not
14:58:51 37 reveal the identity of the human source. The fact that the
14:58:54 38 redactions were made, made it fairly obvious to defence and
14:58:59 39 the court that there was obviously a human source involved.
14:59:04 40
14:59:04 41 Yes. And in that case the defence found out, I
14:59:11 42 assume?---But not the identity, no.
14:59:12 43
14:59:17 44 Did you take steps to ensure that the notes did not reveal
14:59:22 45 the identity of an informer?---Yes.
14:59:25 46
14:59:25 47 Or the fact of an informer?---As much as possible.

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14:59:30 1
14:59:31 2 What did you do to achieve that? How did you achieve that
14:59:37 3 by reference to your notes, for example?---Source's have a
14:59:44 4 unique identifier.
14:59:45 5
14:59:45 6 You'd use the number?---Yes.
14:59:47 7
14:59:48 8 And perhaps I should clarify. In your role as a member of
14:59:52 9 the SDU I take it?---Yes.
14:59:55 10
14:59:55 11 You didn't fillet your notes or redact your notes?---No.
14:59:59 12
15:00:00 13 Indeed, you weren't circumspect or careful about what you
15:00:05 14 put in your notes because the idea working at the SDU is
15:00:08 15 that you'd record everything?---Yes, that's correct.
15:00:11 16
15:00:16 17 Aside from the name of the human source?---Correct.
15:00:23 18
15:00:24 19 And you didn't hold anything back from recording from your
15:00:29 20 notes?---No.
15:00:30 21
15:00:30 22 So what you're talking about is as an investigator you
15:00:34 23 would - - - ?---Correct.
15:00:35 24
15:00:35 25 - - - this is prior to the time, you would tend to be a bit
15:00:38 26 careful about what you put in your notes?---Yes.
15:00:40 27
15:00:40 28 How did you, how did that come about? Were you taught to
15:00:45 29 do that?---I think, to be honest, it would be common sense.
15:00:53 30
15:00:53 31 Perhaps you can explain that. Why is that so?---Obviously
15:00:59 32 everything that we write down in your day book or your
15:01:02 33 diary is subject to the court's discretion to see what's in
15:01:06 34 it.
15:01:06 35
15:01:07 36 Right. And so what are you taught about generally with
15:01:12 37 respect to keeping notes as a junior police officer, what
15:01:15 38 are you taught about when it came to recording your notes
15:01:19 39 either in your diary or your day book?---The more the
15:01:24 40 better.
15:01:25 41
15:01:25 42 Right. So that was the instruction to a new police
15:01:31 43 officer. You've got a diary, you've got a day book, the
15:01:34 44 point of keeping those is to in effect protect yourself and
15:01:38 45 that is when something occurs you write it
15:01:42 46 down?---Absolutely.
15:01:44 47

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15:01:44 1 And ultimately you're going to have to give evidence in
15:01:47 2 court at some stage?---Yes.
15:01:49 3
15:01:49 4 In order to refresh your recollection you're going to have
15:01:53 5 to be in a position to produce your diary or your day book
15:01:56 6 and you'll be able to, with that assistance, provide
15:01:59 7 evidence about what occurred, or at least to assist your
15:02:02 8 recollection?---Yes.
15:02:03 9
15:02:04 10 Were you taught something different though when it came to
15:02:08 11 recording information about human sources or - were you
15:02:17 12 taught something different or was that just something - you
15:02:22 13 said before it's common sense, but who tells you these
15:02:25 14 things?---I think I learnt in the late 90s, mid-90s from my
15:02:34 15 supervisor back then about notes and PII issues.
15:02:40 16
15:02:40 17 Right. Insofar as PII issues, is that something that you
15:02:47 18 learnt about at Detective Training School or just from your
15:02:50 19 supervisors?---It was probably more attuned to covert
15:02:56 20 methodology from the early 90s.
15:02:58 21
15:03:01 22 When it comes to producing notes, and I take it over the
15:03:05 23 years as an investigator there would have been many, many
15:03:07 24 occasions where you were required to produce your notes
15:03:11 25 either to a court or as part of an 8A process in a hand-up
15:03:17 26 brief, would that be right?---Yes, that's true.
15:03:19 27
15:03:19 28 What do you do if there's material in those notes which you
15:03:24 29 think oughtn't be viewed by other people?---Seek advice
15:03:30 30 from OPP or supervisors in relation to what to do next,
15:03:35 31 next stages or next steps.
15:03:36 32
15:03:37 33 Is that something that you were taught to do?---I don't
15:03:43 34 know.
15:03:44 35
15:03:48 36 So, for example, if you've got notes which you think might
15:03:51 37 well reveal the identity or at least the fact of a human
15:03:55 38 source or methodology or some sort, would you go to someone
15:04:00 39 and speak to them about redacting the notes or would you
15:04:02 40 simply take a black marker, photocopy the page and then run
15:04:06 41 a marker through them?---No, it's not my decision. It's
15:04:14 42 speak to the supervisor or speak to the OPP or speak to
15:04:17 43 someone who could provide advice on what the next steps
15:04:21 44 are.
15:04:21 45
15:04:21 46 I take it what you're saying is, as far as you're
15:04:24 47 concerned, that's quite a significant matter to alter your

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15:04:27 1 notes or to take material out of your notes when those
15:04:31 2 notes have been called upon by a court or by some
15:04:35 3 compulsory process like a court or a court order?---It's
15:04:40 4 significant yes. I think you mentioned altering notes,
15:04:43 5 obviously notes are never altered.
15:04:45 6
15:04:46 7 When I say altered, I meant redacting or putting a black
15:04:50 8 marker through?---Yes.
15:04:51 9
15:04:51 10 Or, for example, I mean if you had a page in a diary where
15:04:56 11 there was a relevant entry but that relevant entry
15:05:01 12 concerned methodology or the identity of an informer, would
15:05:05 13 you hand over the page of notes or would you simply keep
15:05:12 14 them to yourself?---So I think we're starting to delve into
15:05:18 15 the hypothetical, would I, did I. If we're talking about
15:05:23 16 prosecution I would speak to the prosecutors and say, "If I
15:05:27 17 hand my whole diary in, this is the outcome that will
15:05:31 18 happen so therefore you should do a redaction exercise",
15:05:34 19 which therefore we provide an unredacted copy to the court,
15:05:40 20 we provide a statement attached to the unredacted copy to
15:05:44 21 say why we should provide a redacted copy to the court
15:05:48 22 because of public interest immunity issues surrounding
15:05:50 23 methodology or exposure of a source or exposure of an
15:05:53 24 undercover operative or something like it.
15:05:57 25
15:05:58 26 The Commission's had evidence that in some cases detectives
15:06:02 27 would take it upon themselves to simply redact out material
15:06:06 28 which they regard as PII or irrelevant material and it
15:06:13 29 wouldn't be brought to anyone else's attention, it would be
15:06:19 30 taken to a supervisor, for example. And the court might
15:06:25 31 not be told about it. Now, you would say, as far as you're
15:06:29 32 concerned, that wouldn't seem to be the appropriate way of
15:06:32 33 going about things?---No, I said what I do and you've asked
15:06:36 34 me whether I've been instructed to do that and that's
15:06:39 35 something I've learnt as a junior Constable in, as I say,
15:06:43 36 in the early 90s that that was the way I did what I did.
15:06:46 37
15:06:47 38 I follow, I follow. Are you able to recall who it was who
15:06:54 39 would have informed you about those matters?---I think
15:06:59 40 they'd long be retired by now.
15:07:01 41
15:07:01 42 No doubt. You can't recall any of those names?---Not - I
15:07:12 43 can recall my Sergeants in, I think, maybe the late 80s and
15:07:16 44 90s that would have taught me that, yes.
15:07:19 45
15:07:25 46 Now, I just want to ask you a few questions about your
15:07:29 47 involvement with Ms Gobbo. You've said that you spoke to

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15:07:35 1 her only on the occasions in 2012 and I'll come back to
15:07:38 2 that in due course. But you did have indirect dealings
15:07:44 3 with her, as I understand it, as her controller on a number
15:07:48 4 of occasions throughout the period of time that you were at
15:07:51 5 the SDU, is that right?---Yes.
15:07:52 6
15:07:55 7 Do you know when, and having gone through - perhaps I
15:08:02 8 should ask you this. What notes and records have you had
15:08:05 9 recourse to in the last little while in the preparation for
15:08:08 10 your evidence?---I have had a look through basically my
15:08:13 11 electronic diaries and my handwritten diaries. I haven't
15:08:17 12 been pointed to specific times or dates of conversations or
15:08:22 13 when I was controller, no.
15:08:23 14
15:08:25 15 Do I take it then that you haven't seen any of the records,
15:08:29 16 for example the source management log?---No.
15:08:32 17
15:08:33 18 And you haven't seen the ICRs?---The ICRs would have been
15:08:39 19 done by the handlers. Those ICRs?
15:08:41 20
15:08:42 21 No, I'm talking about in recent times. Have you not had
15:08:46 22 the ability to go through the ICRs and look at them?---Not
15:08:51 23 of recent time, no.
15:08:53 24
15:08:53 25 When was the last time you did go through those or you did
15:08:57 26 look at those materials?---2012 or when I was at the SDU.
15:09:03 27
15:09:05 28 And you haven't seen - - - ?---I wasn't called to any other
15:09:08 29 hearings or anything else that other members may have been
15:09:12 30 called to do so, therefore I haven't had cause to probably
15:09:18 31 have as an in-depth look at those documents you're talking
15:09:21 32 about.
15:09:21 33
15:09:21 34 And so you haven't been questioned about your involvement
15:09:24 35 in the SDU or your involvement with Ms Gobbo up until now,
15:09:28 36 is that right?---That's correct.
15:09:29 37
15:09:30 38 By anyone?---No. By no one.
15:09:34 39
15:09:35 40 Have you had any discussions with your fellow workers in
15:09:39 41 the SDU since you left in 2012?---Yes.
15:09:44 42
15:09:44 43 And have you spoken to any of them in recent times?---Yes.
15:09:47 44
15:09:48 45 And who have you spoken to?---Sandy White I speak to
15:09:54 46 regularly.
15:09:55 47

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15:09:55 1 When was the last time you spoke to him?---Probably last
15:10:01 2 week.
15:10:01 3
15:10:02 4 Prior to that when did you speak to him?---I speak to him
15:10:07 5 every week, I live around the corner.
15:10:09 6
15:10:10 7 I take it you've had fairly detailed discussions with him
15:10:13 8 about the evidence that he gave?---No, he won't talk about
15:10:17 9 his interactions with the Commission.
15:10:19 10
15:10:20 11 Okay. Have you spoken to him about the sorts of things
15:10:26 12 that you might be asked questions about?---The last thing
15:10:31 13 on his mind is talking about the Commission in all
15:10:36 14 fairness. I talk a lot more about his mental health issues
15:10:40 15 and fishing and surfing and that.
15:10:42 16
15:10:43 17 I'm glad to hear it. So what appears to be the case is
15:10:47 18 that you were a controller with respect to Ms Gobbo on two,
15:10:54 19 perhaps three occasions, would that be about right as far
15:10:57 20 as your recollection goes?---I think I put in my statement
15:11:01 21 there was six occasions that I spoke - sorry, did you say
15:11:04 22 as the controller?
15:11:05 23
15:11:05 24 Controller, yes?---Yeah, it might have been about two or
15:11:10 25 three, that's right.
15:11:11 26
15:11:11 27 From our analysis of the source management log, it's not
15:11:15 28 all that clear, it seems you took over as a controller on 2
15:11:19 29 April in 2007?---Yep.
15:11:20 30
15:11:20 31 When Sandy White was away and you remained as a controller
15:11:23 32 until 27 April or thereabouts?---Yes.
15:11:25 33
15:11:25 34 Would that be fair to say?---Yes.
15:11:27 35
15:11:27 36 Then again on 3 July or thereabouts until 17 July of 2007,
15:11:33 37 again it appears Mr White was away over that period of
15:11:37 38 time?---Yes.
15:11:37 39
15:11:39 40 It may have been also that you were a controller towards
15:11:44 41 the end of the period that Ms Gobbo was in fact a
15:11:49 42 registered human source, is that your understanding?---That
15:11:53 43 would be fair.
15:11:54 44
15:11:55 45 I'll come back to this in due course but do you recall
15:11:58 46 there were quite significant issues arising towards the end
15:12:02 47 of 2008, early 2009, when her period at the SDU was coming

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15:12:06 1 to a close?---That would be fair. I think there were
15:12:12 2 significant issues all the way through, yes.
15:12:14 3
15:12:18 4 Even though you were neither her handler - you weren't her
15:12:27 5 handler but you were a controller on occasions, I get the
15:12:31 6 impression that it was still a matter that was discussed
15:12:35 7 amongst yourselves on regular occasions, the fact that
15:12:41 8 Ms Gobbo was providing information?---Yes.
15:12:45 9
15:12:46 10 I take it it was a relatively tight knit unit, with - -
15:12:54 11 -?---Yes.
15:12:55 12
15:12:55 13 - - - not too many people?---Correct.
15:12:58 14
15:12:59 15 And there weren't Inspectors and Superintendents fussing
15:13:06 16 around all of the time, basically it was you and your
15:13:09 17 [REDACTED] who were more or less running the show to
15:13:13 18 a significant extent?---No, we were overseen by an
15:13:17 19 Inspector all the way through from when I got there in 2006
15:13:20 20 to the closure of the SDU.
15:13:22 21
15:13:23 22 The question I put I suppose was pretty broad, fussing
15:13:27 23 around probably doesn't mean much. On a daily basis you
15:13:31 24 wouldn't be seeing Inspectors, I take it, is that
15:13:35 25 right?---No, we would, absolutely.
15:13:37 26
15:13:37 27 You would?---Yes.
15:13:39 28
15:13:39 29 Who were the Inspectors who would be attending your unit on
15:13:46 30 a daily basis?---So from 2006 my recollection is Inspector
15:13:54 31 Dean McWhirter was there.
15:13:56 32
15:13:57 33 Right?---Then it was Inspector Andy Glow came in after
15:14:02 34 that, and Andy had an office within our office.
35
15:14:06 36 Right?---And then it was Inspector John O'Connor who also
15:14:10 37 had an office within our office.
15:14:12 38
15:14:17 39 We understand that when you first started in 2006 you were
15:14:21 40 actually located at St Kilda Road, is that right?---No.
15:14:26 41
15:14:26 42 You were located at a remote facility, I'm not asking you
15:14:30 43 where?---Yes, that's correct.
15:14:31 44
15:14:31 45 So at all times that you were there you were at the remote
15:14:35 46 facility, is that right?---Yes, that's right.
15:14:37 47

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15:14:37 1 And at that facility you say that there was an office which
15:14:41 2 was occupied by an Inspector at all times?---So we moved to
15:14:49 3 a new office, and I can't think of the date, but yes,
15:14:54 4 Inspector Andy Glow had an office within our office, so
15:14:57 5 yes, and John O'Connor was the Inspector post Andy Glow.
15:15:04 6
15:15:04 7 That was very much later, wasn't it, towards the end of
15:15:07 8 2009 or thereabouts?---Yeah, I think so, yeah.
15:15:11 9
15:15:12 10 So McWhirter and Glow were more or less hands-on there, in
15:15:16 11 the office at all times prior to O'Connor, is that
15:15:20 12 right?---So I think, if you break it down, the first
15:15:25 13 location that we were at in 2006, Mr McWhirter had an
15:15:29 14 office at St Kilda Road I believe from memory. We then
15:15:34 15 moved to another discrete location where Mr Glow had an
15:15:38 16 office where he was with us, he had other responsibilities,
15:15:41 17 not just as the Source Development Unit, and likewise with
15:15:46 18 Mr O'Connor had not just absolute responsibilities for the
15:15:52 19 Source Development Unit but also to other areas. I think
15:15:55 20 it was Mr McWhirter's recommendations in 2006 that the SDU
15:16:02 21 required a full-time Inspector dedicated to the Source
15:16:06 22 Unit.
15:16:06 23
15:16:07 24 So you spoke about meetings previously where there would be
15:16:13 25 discussion about various sources and so forth?---Yes.
15:16:17 26
15:16:17 27 Were they held on a weekly basis or a monthly
15:16:21 28 basis?---Weekly.
15:16:21 29
15:16:22 30 At those meetings was there an Inspector as a general
15:16:26 31 rule?---Yes.
15:16:26 32
15:16:27 33 So if there were robust discussions about whether or not it
15:16:31 34 was or wasn't appropriate to have Ms Gobbo as a human
15:16:36 35 source, there would, as a general rule, be an Inspector
15:16:39 36 there?---As a general rule, yes.
15:16:41 37
15:16:41 38 And it might be Mr McWhirter or it might be
15:16:45 39 Mr Glow?---Correct.
15:16:45 40
15:16:48 41 Did they participate in these discussions?---Yes. I'm
15:16:55 42 saying yes, I can't recollect what they said, but yes,
15:16:59 43 that's what they were there for as the IC.
15:17:04 44
15:17:05 45 On occasions would Superintendent Biggin be present as well
15:17:09 46 for these sorts of meetings?---Yes.
15:17:11 47

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15:17:12 1 And how regularly would he be there?---I'm just throwing
15:17:20 2 darts at a dart board for that, I'm not sure. You'd have
15:17:23 3 to ask him, I'm not sure.
15:17:25 4
15:17:26 5 But you don't have a recollection of him regularly being
15:17:27 6 there?---I dealt with, I've worked with Mr Biggin before
15:17:31 7 over the years so I've been to a lot of meetings with
15:17:35 8 Mr Biggin, so I couldn't answer that question about how
15:17:38 9 regularly he did or didn't attend.
15:17:40 10
15:17:40 11 COMMISSIONER: You said Mr McWhirter didn't have an office
15:17:43 12 within your unit?---That first location in early 2006,
15:17:52 13 Commissioner, is I don't recall him having an office within
15:17:56 14 our discrete office.
15:17:57 15
15:17:58 16 And he had a number of other duties as well as looking
15:18:02 17 after you?---Yes.
15:18:03 18
15:18:04 19 So what proportion of his time was spent with you?--- To be
15:18:13 20 honest I don't know. I don't know if it was split 50/50
15:18:18 21 with the Undercover Unit or with the Surveillance Unit or
15:18:21 22 other areas within the covert surveillance area, I'm not
15:18:24 23 sure.
15:18:25 24
15:18:26 25 Thank you. And then he recommended that you have a
15:18:30 26 full-time Inspector, did you get a full-time
15:18:33 27 Inspector?---No, we never did.
15:18:35 28
15:18:35 29 Never did. All right, thank you. Yes Mr Winneke.
15:18:38 30
15:18:39 31 MR WINNEKE: Thanks Commissioner. If you had a problem as
15:18:43 32 a handler as a member of the DSU would you go to Mr White
15:18:49 33 to raise that problem with him or would you go to Mr Glow
15:18:52 34 or Mr McWhirter or all of the above?---They worked at
15:18:59 35 different times during that progression, obviously Glow and
15:19:03 36 McWhirter didn't work together at the same time.
15:19:05 37
15:19:06 38 I follow, you know what I mean.
15:19:08 39
15:19:08 40 COMMISSIONER: I think he meant Biggin. I think Mr Winneke
15:19:12 41 meant Biggin, the Inspector or the Superintendent.
15:19:13 42
15:19:14 43 MR WINNEKE: No, Commissioner. When Mr McWhirter was there
15:19:15 44 would you have recourse to him, could you go and speak to
15:19:18 45 him?---Could we? Absolutely.
15:19:20 46
15:19:20 47 Likewise when Mr Glow was there, were you able to go and

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15:19:24 1 speak to him about any concerns that you had?---Yes,
15:19:27 2 absolutely we could.
15:19:28 3
15:19:28 4 As a general rule though would you speak to White or Black
15:19:33 5 first before you went off and spoke to Glow or
15:19:38 6 McWhirter?---Mr Black, yes, absolutely.
15:19:40 7
15:20:01 8 I wonder if we could have a short break, Commissioner.
15:20:05 9
15:20:05 10 COMMISSIONER: Sure, we'll have the midafternoon break.
15:20:08 11
15:20:08 12 (Short adjournment.)
15:20:08 13
15:39:57 14 COMMISSIONER: Yes, Mr Winneke.
15 15
15:40:01 16 MR WINNEKE: Thanks Commissioner. I asked you before about
15:40:05 17 the occasions that you took over as the handler of - as the
15:40:09 18 controller of Ms Gobbo?---Yes.
19 19
15:40:12 20 Were you given any briefing prior to doing that by
15:40:18 21 Mr White?---Yes.
22 22
15:40:18 23 And what sort of briefing were you given?---Verbal. I'd
15:40:26 24 also have access to the SMLs, contact reports and anything
15:40:30 25 else that I required.
26 26
15:40:32 27 Prior to taking over as handler would you get up to speed
15:40:35 28 on the issues that were going on about Ms Gobbo and the
15:40:38 29 sorts of - I'm sorry, I said handler, as controller would
15:40:44 30 you get up to speed on the issues that were currently
15:40:47 31 relevant?---Yes.
32 32
15:40:48 33 And you'd do that by looking at, for example, the source
15:40:52 34 management log and the previous contact reports, would that
15:40:55 35 be right?---And a verbal briefing, yes.
36 36
15:40:59 37 A verbal briefing. Did you ever get a documentary hand
15:41:07 38 over?---Not sure. I may have. I may have got an email but
15:41:11 39 I'm not sure whether I ever did that with Sandy.
40 40
15:41:14 41 One assumes that when you did take over it wouldn't be the
15:41:22 42 case that there would be absolutely up-to-date contact
15:41:25 43 reports, would that be correct?---Hence why sometimes a
15:41:28 44 verbal briefing was required.
45 45
15:41:30 46 Yeah, righto. Would you be given an understanding of her
15:41:38 47 particular responsibilities?---I'm not sure I follow that

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15:41:41 1 question.
2
15:41:41 3 Well there's a document, or a concept known as an
15:41:45 4 Acknowledgement of Responsibilities, an AOR, right?---Yes.
5
15:41:50 6 Is that a document or a principle which applies to all, or
15:41:57 7 applied to all human sources at the time?---Yes.
8
15:42:00 9 So one assumes that as a controller you would want to know
15:42:06 10 what the particular parameters were of the human source,
15:42:11 11 wouldn't you, what the information was that they could
15:42:15 12 provide?---That's separate to an AOR. I think by the time
15:42:21 13 I was the controller in 2007 I would have assumed that the
15:42:24 14 AOR had been conducted.
15
15:42:26 16 So do I take it then that you wouldn't be going and looking
15:42:31 17 at a document to determine whether or not an AOR had been
15:42:35 18 done?---No.
19
15:42:38 20 Insofar as Ms Gobbo was concerned, for example, I take it
15:42:41 21 you'd never dealt with a barrister as a human source
15:42:44 22 before?---No.
23
15:42:47 24 And you would have been keen to know about the sort of
15:42:51 25 information that she was providing and what the limits of
15:42:54 26 that information were?---I think for the previous 12 months
15:42:59 27 I'd been part of management meetings or unit meetings where
15:43:02 28 I'd been privy to all that information.
29
15:43:04 30 Right. And so what was your understanding when you took
15:43:08 31 over as controller about the sort of information that she
15:43:12 32 could provide and the limits on that?---Are you talking
15:43:21 33 2007?
34
15:43:22 35 2007, April, when you were a controller?---Stretching my
15:43:31 36 memory, it would be around whatever the particular taskings
15:43:34 37 were at the time.
38
15:43:36 39 Right. Was it your understanding that she wouldn't be
15:43:40 40 providing information that was the subject of legal
15:43:43 41 professional privilege?---That would make sense, yes.
42
15:43:47 43 And would she be providing information about people who she
15:43:55 44 was then currently advising or acting for?---She would be
15:44:00 45 providing information about current serious crimes or
15:44:03 46 crimes to be committed I think is probably an easier way to
15:44:08 47 describe it.

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1
15:44:08 2 Right. But that wasn't the question I asked. I was asking
15:44:12 3 a question about receiving information from people for whom
15:44:16 4 she was then acting?---In an official capacity?
5
15:44:22 6 Yes?---At court are you suggesting?
7
15:44:25 8 Yes?---I don't know. No, she wasn't being tasked in
15:44:29 9 relation to that.
10
15:44:31 11 Take, for example, Mr Karam. Did you know about
15:44:36 12 him?---Yes.
13
15:44:39 14 Did you know that she was acting for Mr Karam in early 2007
15:44:44 15 when you were Ms Gobbo's controller?---Yes.
16
15:44:49 17 And were there any embargoes as far as you were concerned
15:44:53 18 on the information that you would receive from her in
15:44:56 19 relation to Mr Karam?---I don't know the exact details
15:45:03 20 without looking through my diary. I'm happy to. But as a
15:45:06 21 general rule I agree with your suggestion.
22
15:45:08 23 That you weren't - Mr White didn't say to you, "Look, we're
15:45:11 24 not going to receive information about Mr Karam", he didn't
15:45:15 25 tell you that, did he?---I believe there was a - depending
15:45:19 26 on what time frame of 2007, there was an ongoing
15:45:25 27 investigation that she was part of and that also Mr Karam
15:45:28 28 was a part of.
29
15:45:29 30 Yes?---So obviously that was information that she was
15:45:33 31 required to pass over.
32
15:45:35 33 When you say she was required to pass over, how do you mean
15:45:39 34 she was required to?---We're talking about the same thing
15:45:43 35 which is in relation to the import?
36
15:45:45 37 Yes?---So from my understanding or my knowledge and memory
15:45:51 38 from back then, it was either be a co-conspirator in an
15:45:55 39 import or provide information to the police and assist the
15:45:59 40 police.
41
15:46:00 42 So was it your understanding that she had a s.51
15:46:04 43 notice?---No.
44
15:46:07 45 Do I take it then that what you're saying is your
15:46:09 46 understanding was that either she would be charged as being
15:46:12 47 a co-conspirator or she would provide information to the

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15:46:16 1 police about it, one or the other?--Well she wouldn't be
15:46:20 2 charged. Obviously if there's an investigation that would
15:46:22 3 lead to a charge down the track if she was part of the
15:46:26 4 importation, yes.
5
15:46:27 6 Did you take the view that she was a part of that
15:46:29 7 importation?--I took a view that I was informed by the
15:46:34 8 handlers as to what her activities were.
9
15:46:36 10 Yes?--That information was passed on to the investigators
15:46:39 11 as needs be.
12
15:46:47 13 Did you get any instructions from Mr White about the sort
15:46:49 14 of information that you could receive from Ms Gobbo in
15:46:52 15 relation to Mr Karam?--So your question is can we receive
15:46:59 16 it?
17
15:47:00 18 No, no, the question was quite clear. Did you get any
15:47:06 19 information from Mr White about what information you could
15:47:09 20 get from Ms Gobbo?--Yeah, I see you're getting upset about
15:47:15 21 this.
22
15:47:15 23 No, I'm not getting upset, I'm just asking you a
15:47:18 24 question?--So Mr White briefs me about what the actual
15:47:24 25 process is going on and what the source is tasked with.
26
15:47:29 27 Yes?--How it proceeds. So I'm not sure where in between
15:47:32 28 your question runs from this is what's coming in, this is
15:47:35 29 what the source is involved with, this is what the current
15:47:39 30 taskings are of the source, and this is how we proceed with
15:47:43 31 the information.
32
15:47:44 33 Okay. I take it that he didn't say to you, "Look, we don't
15:47:47 34 want to get information about Mr Karam even though she's
15:47:51 35 acting for him as a lawyer at the moment"?--I wouldn't
15:47:54 36 remember that specific detail, no.
37
15:47:58 38 Did you ever get anything like that from him?--As I say,
15:48:04 39 said to you before, over the last 12 months it was general
15:48:09 40 understanding within the SDU, not just myself as an active
15:48:13 41 controller, as a handler of other sources, that we - that
15:48:18 42 the handlers and the controllers prior to me would always
15:48:20 43 ensure or not ensure that they would suggest and push 3838
15:48:25 44 to ensuring that she doesn't receive LPP information.
45
15:48:28 46 All right. I wasn't asking you about LPP. The point is
15:48:34 47 this: as far as you were concerned you never received any

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15:48:37 1 instructions that you were not to get information from
15:48:40 2 Gobbo about people for whom she was then currently
15:48:43 3 acting?---I think I'll agree with you.
4
15:48:48 5 Yes. Good, okay?---Yes.
6
15:48:56 7 So what you say is there was a general understanding that
15:48:59 8 you wouldn't get LPP information?---That was what the
15:49:04 9 tasking of the handlers was when speaking to 3838, yes.
10
15:49:08 11 Right. Did you have access to any document which gave you
15:49:15 12 a clear understanding about what LPP was?---No.
13
15:49:26 14 Did you know whether there were any resources that you
15:49:29 15 could have a look at, at the SDU to give you an
15:49:35 16 understanding about that?---No, I'd had discussions in the
15:49:38 17 previous 12 months with other members of the SDU, including
15:49:42 18 Sandy White, about that.
19
15:49:44 20 So any information you got about LPP came from Sandy White
15:49:49 21 or other handlers; is that right?---And my previous
15:49:55 22 understanding through Detective Training School, through a
15:49:59 23 ■ year career, yes.
24
15:50:01 25 Yes, all right. I've asked you about those before. That's
15:50:03 26 the understanding that you had; is that right?---Yes,
15:50:06 27 that's correct.
28
15:50:07 29 Was there an SOP, a standard operating procedure manual
15:50:14 30 there that applied to the SDU?---Yes, there was.
31
15:50:17 32 Did you look at that on occasions?---I think that's the
15:50:22 33 first thing you read when attending a - or transitioning
15:50:28 34 over to the DSU as it were.
35
15:50:31 36 Was there a manual available to you, and we can't use the
15:50:35 37 name of it, but an English manual or a guide that was at
15:50:40 38 the SDU that you could look at if needs be?---Yes, there
15:50:46 39 were many. I think I understand the one you're referring
15:50:49 40 to.
41
15:50:51 42 Yeah, okay. Did you use that?---Yes.
43
15:50:54 44 And how regularly would you go to that?---Not that
15:50:59 45 regularly.
46
15:51:00 47 Where was it?---No idea.

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1
15:51:04 2 You knew when you were there, did you, or not?---This is a
15:51:10 3 document that had come from overseas ?
15:51:12 4
15:51:12 5 Yes?---Are you talking about?
6
15:51:15 7 Yeah, that's right?---Yeah, I can't remember if it was a
15:51:19 8 hard copy or soft copy, I'm not sure, but I know it was at
15:51:23 9 the office.
10
15:51:25 11 But you say that you did need to go and consult it on
15:51:28 12 occasions; is that right?---I think Mr White may have
15:51:31 13 directed me to it on numerous occasions.
14
15:51:33 15 Did he, right. In what circumstances?---When we would have
15:51:39 16 conversations about the validity of the use of 3838.
17
15:51:43 18 Right, okay. Perhaps I'll ask you about those discussions.
15:52:01 19 You say you had discussions about the validity of using her
15:52:04 20 on many occasions?---Yes, that would be fair.
21
15:52:11 22 Did you have a view about whether or not she should have
15:52:14 23 been used or not?---My view, I think I stated earlier on,
15:52:21 24 is that if it was disclosed, a relationship between 3838
15:52:25 25 and Victoria Police, the public perception would be quite
15:52:29 26 negative.
27
15:52:33 28 I take it that was something that he didn't agree with; is
15:52:37 29 that right?---Oh no, he absolutely agreed with that.
30
15:52:42 31 So he was in agreement with you that there would be a very
15:52:47 32 negative public opinion if it became apparent that a
15:52:52 33 barrister was being used?---Yes, that's correct.
34
15:52:57 35 And did any other members of the SDU share your
15:53:00 36 opinion?---I think everyone at the SDU shared the opinion
15:53:09 37 if the identity of the source is compromised it would
15:53:13 38 create a lot of public negativity both towards the SDU and
15:53:16 39 to the organisation of Victoria Police as a whole.
40
15:53:17 41 You were all in agreement that nonetheless it was still
15:53:18 42 very much appropriate to use Ms Gobbo as a human source; is
15:53:22 43 that right?---That's right, yes.
44
15:53:30 45 I wonder if you could have a look at a document,
15:53:38 46 VPL.6159.0068.3023. It may or may not be apparent to you
15:54:13 47 but that I understand is an email from you to a person

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15:54:16 1 called [REDACTED]. Do you know who that person would
15:54:19 2 be?---That's redacted on my screen.
3
15:54:23 4 Yes. It's redacted on ours but what I'm suggesting to you
15:54:31 5 is - I'm telling you this - - -
15:54:33 6
15:54:34 7 MR HOLT: I think it should - I just need to take
15:54:36 8 instructions on why it was redacted. These are relatively
15:54:39 9 recently provided documents. If it could not be referred
15:54:41 10 to in public I think that would be appropriate and I'll
15:54:42 11 take instructions as to why it's redacted but I don't think
15:54:45 12 we should just say it if it's redacted. I'd be grateful if
15:54:49 13 that could be taken from the screen and the name. I'll get
15:54:52 14 those instructions.
15
15:54:57 16 MR WINNEKE: Commissioner, we received these documents I
15:54:59 17 think the night before last.
15:55:01 18
15:55:01 19 MR HOLT: I'm not being critical at all. A decision has
15:55:06 20 been made for some reason to block that name out. There
15:55:07 21 may be a good for it.
22
15:55:11 23 MR WINNEKE: I shouldn't have said that so we better mark
15:55:12 24 out that name.
15:55:13 25
15:55:16 26 MR HOLT: I'll get those instructions quickly,
15:55:19 27 Commissioner.
28
15:55:19 29 MR WINNEKE: In any event, if you can take it that that's
15:55:22 30 an email that you have sent on 16 June 2009 to the person
15:55:28 31 I've mentioned but I won't mention again. Do you know who
15:55:30 32 that person is?---Yes.
33
15:55:34 34 The subject is "panel notes "and there's an attachment, do
15:55:38 35 you see that?---I can see it says "panel notes", yes.
36
15:55:43 37 What we might perhaps now do is put up the actual document
15:55:46 38 itself which was attached, which is VPL.6159.0068.3024. Do
15:55:58 39 you see that document there?---Yes.
40
15:56:02 41 Is that a document that you produced and attached to that
15:56:06 42 email which was sent on 16 June 2009?---I take it as -
15:56:13 43 that's what it is.
44
15:56:15 45 Just have a look at it and read it if you need to?---Yes.
46
15:56:27 47 You see under the heading "CHIS"?---Yes.

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1
15:56:41 2 MR HOLT: Commissioner, it's not our claim but I think that
15:56:43 3 that acronym is one that, Commissioner, you thought
15:56:45 4 breached an order in relation to the English document last
15:56:48 5 week. I'm not sure whether it should or should not to be.
15:56:52 6 To be fair, it was said.
15:56:52 7
15:56:53 8 MR WINNEKE: I know. As I understand it that's got a
15:56:55 9 particular meaning and it may well be a universal meaning.
15:56:59 10
15:57:01 11 MR HOLT: I'm raising it to assist. It's not our claim.
12
15:57:02 13 COMMISSIONER: Let me just check.
14
15:57:05 15 MR WINNEKE: Commissioner, it's an expression which was
15:57:06 16 used in the English manual which we have been careful
15:57:12 17 about, the actual name of the manual and so forth. But
15:57:14 18 insofar as that expression, it's only confined to that
15:57:19 19 particular manual.
20
15:57:20 21 COMMISSIONER: The name of the manual was a different
15:57:25 22 acronym, so it wasn't the acronym I was concerned about
15:57:25 23 yesterday. Yes, it is. That is the acronym.
24
25 MR WINNEKE: I think it is.
26
15:57:27 27 COMMISSIONER: That is. That is the acronym.
28
15:57:32 29 MR WINNEKE: I don't think that's a - Commissioner, I don't
15:57:35 30 think that's a name which is - - -
31
15:57:38 32 COMMISSIONER: The order was - there was no publication of
15:57:44 33 any reference to the name of Exhibit 280 or its contents
15:57:48 34 and I think that's what was agreed with the English
15:57:50 35 authorities.
36
15:57:52 37 MR WINNEKE: That acronym, as I understand it, is a common
15:57:57 38 acronym for a human source.
15:58:00 39
15:58:01 40 MR HOLT: Commissioner, we agree with that.
41
15:58:02 42 COMMISSIONER: Okay?---It's covert human intelligence
15:58:09 43 source.
44
15:58:10 45 The name of the manual is something else, it's the manual
15:58:13 46 of the da, da, da.
15:58:13 47

.11/10/19

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RICHARDS XXN

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15:58:13 1 MR WINNEKE: That's correct. It just so happens that in
2 that manual they use that description for a - - -
3

15:58:15 4 COMMISSIONER: It's in the title too but - I see.
15:58:19 5
15:58:20 6 MR HOLT: I don't think there's an issue with the acronym
15:58:22 7 per se, Commissioner. I just raised it because it was one
15:58:26 8 that was raised the other day.
9

15:58:28 10 COMMISSIONER: Yes. It's part of the title, but not the
15:58:30 11 entire title. No one's suggesting that that offends the
15:58:34 12 order, the title of the document not being referred to?
15:58:38 13

15:58:39 14 MR WINNEKE: No, Commissioner.
15

15:58:40 16 COMMISSIONER: Okay, so that can stay. We don't have to do
17 anything.
18

15:58:59 19 MR WINNEKE: Do you accept that that's a document that you
15:59:03 20 prepared?---I accept that's what's in front of me, yes.
21

15:59:09 22 Do you accept it's a document that you prepared and sent as
15:59:11 23 an attachment to an email?---I can't - yeah, yes.
24

15:59:24 25 What I can say is that underneath - if we go back to the
15:59:29 26 first page. Do you need to satisfy yourself that that's a
15:59:34 27 document that you prepared, Mr Richards?---No, no.
15:59:38 28

15:59:38 29 You accept that that's a document you prepared?---Yeah, I
15:59:41 30 can't remember it but, yeah, I have no problem saying it
15:59:44 31 is.
32

15:59:44 33 I'm told that underneath the redaction are the words
15:59:52 34 "upgraded as controller for covert human intelligence
15:59:56 35 source (CHIS) 2958", so obviously that's Ms Gobbo, do you
16:00:00 36 see that?---Yes, I do.
37

16:00:02 38 What you're saying in that document is that that was your
16:00:06 39 position as an upgraded controller for Ms Gobbo and it
16:00:13 40 says, "Long-term source had created much division within
16:00:17 41 the office as to usefulness, short and long-term
16:00:22 42 viability". Do you accept that, that that's what you said
16:00:24 43 in the document?---Yes.
44

16:00:28 45 What was the purpose of preparing that document,
16:00:30 46 Mr Richards?---It was to give me an understanding of what I
16:00:35 47 suppose examples I could or couldn't give a panel.

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1
16:00:40 2 You were going before a particular panel?---Yes.
3
16:00:43 4 What was the panel?---It could be either at SDU or at
16:00:49 5 Witsec, witness protection.
6
16:00:51 7 But nonetheless you prepared that document for the purposes
16:00:54 8 of going before the panel?---To have a discussion with that
16:00:59 9 other officer, yes.
10
16:01:01 11 Okay?---To talk about is this the right way to go about it?
16:01:04 12 What does this sound like?
16:01:06 13
16:01:09 14 Contrary to what you said before, what you've said in this
16:01:12 15 document is, "Long-term source had created much division
16:01:15 16 within the office as to the usefulness, short and term long
16:01:18 17 viability of Ms Gobbo"?---Yes.
18
16:01:22 19 So can you tell the Commission, can you describe to the
16:01:26 20 Commission the division within the SDU arising out of the
16:01:34 21 use of Ms Gobbo?---Absolutely. It's pretty - it goes along
16:01:40 22 the same lines that I've been talking about as to is the
16:01:43 23 risk of Ms Gobbo being exposed as a source, is it worth the
16:01:51 24 negative public perception.
25
16:01:53 26 Right. You took the view that it wasn't worthwhile doing
16:01:58 27 it, is that right, it wasn't worthwhile using her?---That's
16:02:03 28 two different things. So the usefulness, absolutely agreed
16:02:07 29 with the stance taken by the Source Development Unit. Did
16:02:12 30 I think the negative publicity from a public point of view
16:02:17 31 was there? It's a position that we're in now so obviously
16:02:24 32 my thought process around the perception of a negative
16:02:28 33 public response is valid.
34
16:02:30 35 Right. There was division in the sense that you took the
16:02:36 36 view that the negative public perception, if it came to
16:02:41 37 light, would be too great to justify the use of the
16:02:45 38 source?---As I said previously, to expand on it, it's about
16:02:52 39 the public perception not having a complete understanding
16:02:55 40 of the covert methodology, the issues that have been faced,
16:03:00 41 the risk of engagement plans that have been put in place,
16:03:04 42 and also the fact that what you're reading is a discussion
16:03:07 43 article versus anything else. The email's a discussion
16:03:10 44 article, not necessarily - I mean it's not an official
16:03:14 45 report or anything as such.
46
16:03:16 47 So who was the division between?---I can say I wore the

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16:03:23 1 black hat.
2
16:03:27 3 So you wore the black hat in the sense that you thought
16:03:30 4 that the risk was too great and she shouldn't be
16:03:35 5 used?---Yeah, I pushed people to think and to be probably
16:03:42 6 introspective about what we were doing, absolutely.
7
16:03:45 8 Were there any other people who agreed with you?---It's a
16:03:52 9 good question. I wouldn't be able to name particular
16:03:58 10 officers that either had - I'm pretty sure most people had
16:04:03 11 the same view in relation to 3838 being exposed.
12
16:04:09 13 Yes. But the point is you seem to be suggesting that the
16:04:13 14 risks were too great and therefore she shouldn't be
16:04:18 15 used?---As I said, we're reading a discussion email between
16:04:23 16 myself and a colleague about discussion points.
17
16:04:27 18 Yes?---So I think realistically take that document for what
16:04:32 19 it is, it is a discussion. I do agree with you that my
16:04:36 20 thought process around that, I do say that there would have
16:04:39 21 been people within the unit that said that it's too risky
16:04:44 22 due to the fact of if it's exposed, that it would be
16:04:49 23 damaging to the organisation, absolutely.
24
16:04:51 25 All right, okay. I mean ultimately if we go - in fact if
16:04:59 26 we continue reading it says that, "Came to light about to
16:05:06 27 make a statement to Petra re Hodson murders"?---Yes.
16:05:11 28
16:05:11 29 "Once source signs becomes a witness which carries its own
16:05:16 30 significant level of legal and moral problems. Knowledge
16:05:24 31 of source giving evidence and how tainted the evidence may
16:05:28 32 be, pressure from management to become witness and promises
16:05:32 33 to be made. I then assess the needs of the Petra Task
16:05:37 34 Force and the org. as a whole". You point out that
16:05:44 35 becoming a witness carries its own significant legal and
16:05:47 36 moral problems. Firstly, what are the legal problems
16:05:50 37 you're referring to?---Again, it's a discussion point and
16:05:54 38 I'm more than anything after a table discussion with the
16:06:00 39 person who's receiving the email to say what do we think
16:06:03 40 about this? It's more of a question than a statement.
41
16:06:06 42 Right. What were the legal issues that you were wondering
16:06:10 43 about?---The fact that from an organisation's
16:06:17 44 responsibility that we had told her in our original
16:06:20 45 engagement that she wouldn't be identified as a human
16:06:23 46 source.
47

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16:06:24 1 Right?---But probably my concern was to say is there legal
16:06:29 2 recourse to tell someone that that is the case and then we
16:06:33 3 do expose that person as a source.
4

16:06:38 5 The moral problems were similar, were they?---Yeah,
16:06:43 6 absolutely. From a public perception. What would the
16:06:46 7 public think from a moral standpoint.
8

16:06:48 9 What, about using a barrister?---Yes, that's correct.
10

16:06:54 11 What about, for example, the legal issues about using a
16:07:02 12 barrister against her own clients, did they raise any
16:07:06 13 issues?---No.
14

16:07:07 15 And that wasn't something that caused any concern?---So
16:07:13 16 you're asking did it cause concern to what?
17

16:07:18 18 To you?---No.
19

16:07:21 20 Right. As far as you were concerned was there any
16:07:25 21 discussion, or as far as you knew was there ever any
16:07:28 22 discussion about getting legal advice?---Not sure. To be
16:07:36 23 honest it rings a bell about discussion about has legal
16:07:39 24 advice been obtained. I can't put a finger on
16:07:46 25 time/date/person, so I'm sorry, I can't help you with that.
26

16:07:49 27 What you say is that you've got a recollection that there
16:07:52 28 was a discussion about getting legal advice at some stage,
16:07:54 29 but you can't recall?---Correct, yes.
30

16:07:59 31 Was that Ms Gobbo getting legal advice or the SDU getting
16:08:02 32 legal advice?---Victoria Police.
33

16:08:06 34 About what though?---About LPP.
35

16:08:10 36 About LPP?---Yes.
37

16:08:20 38 You go on and say, "The knowledge of the source giving
16:08:27 39 evidence and how tainted the evidence may be". What's your
16:08:30 40 understanding about the tainted evidence?---I'm reading it
16:08:34 41 as you are and I have no idea what that means.
42

16:08:39 43 You talk about pressure from management to become a
16:08:42 44 witness, I assume that's pressure coming from Purana and
16:08:47 45 senior members of Victoria Police Force to make her a
16:08:49 46 witness; is that right?---Yeah. I haven't written Purana
16:08:52 47 there but, you know, we can summations about anything with

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1 this document.
2
16:09:01 3 Petra I meant to say. Petra Task Force. That's your
16:09:05 4 recollection, isn't it, there was significant pressure
16:09:09 5 coming from Petra Task Force, Mr Overland, to make her a
16:09:14 6 witness?---That's a general statement. As a general
16:09:16 7 statement I'd agree with that.
8
16:09:17 9 And you assisted in the preparation of a SWOT analysis,
16:09:21 10 correct?---There's two things. One of them is the
16:09:27 11 discussion papers in front of us. The other factual part
16:09:31 12 of it, yes, I did assist in the SWOT process, yes.
13
16:09:33 14 Can you describe the process whereby the SWOT analysis came
16:09:37 15 about?---No. I know we were invited to go off site.
16
16:09:49 17 Yes?---And I think Mr Black organised it or Sandy White
16:09:54 18 did, I'm not sure.
19
16:09:56 20 Go on?---That's about all I remember to be honest.
21
16:10:03 22 You were invited to go off site. Was that for the purposes
16:10:06 23 of preparing a SWOT analysis or was it for the purpose of
16:10:11 24 undertaking or doing a course of some sort?---No, it was
16:10:16 25 for the SWOT analysis.
26
16:10:17 27 Okay. So a considerable amount of time and effort was put
16:10:21 28 into the SWOT analysis, is that what you're saying?---I
16:10:24 29 didn't say that but knowing Mr Black, absolutely, there
16:10:29 30 would have been quite a lot of time put into it.
31
16:10:32 32 Did Mr Black have a particular view about the use of
16:10:35 33 Ms Gobbo as a witness?---You'd have to ask him that.
34
16:10:41 35 From your perspective and understanding, did he have a
16:10:44 36 particular view?---I'm not sure. Again, you're talking
16:10:51 37 2006-ish, 7-ish. No, yeah, I'm not sure.
38
16:10:59 39 Well, I wonder if we can go to a document which is
16:11:19 40 VPL.0005.0013.1106. If we can go to - these are diaries of
16:12:08 41 a Mr O'Connor, John O'Connor. If we can go to 1108 and
16:12:16 42 you'll see at 17:30, this is on 30 December 2008, he's
16:12:25 43 called by Superintendent Biggin and there's a brief about
16:12:35 44 Command's decision to request a statement from Ms Gobbo.
16:12:39 45 "Moloney passed the message on to the Superintendent who
16:12:42 46 was on an RD today. Petra Task force continues with the
16:12:46 47 investigations into murder of the Hodsons. Superintendent

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16:12:50 1 Biggin wants the SDU to consider the implications if and
 16:12:51 2 when she makes a statement and the SDU is to brief the
 16:12:52 3 Superintendent tomorrow with foreseen implications". That
 16:12:56 4 appears to have led to a conference which was then set up.
 16:13:01 5 Later on there's a note, if we can move down to 20:25. Do
 16:13:10 6 you see that there's, "Set up conference call re Ms Gobbo"
 16:13:15 7 to yourself, Green and Smith, do you see that?---Yes, I do.
 8
 16:13:21 9 There's apparently a conference call, "Brief members of
 16:13:25 10 decision and plan SDU meeting for the morning". At
 16:13:31 11 31/12/08, "Summary of the brief discussions and obvious
 16:13:37 12 implications", do you see that?---I see that, yes.
 16:13:40 13
 16:13:41 14 It seems that there was a conference call set up and a
 16:13:43 15 number of matters were discussed amongst you with Inspector
 16:13:50 16 John O'Connor, do you accept that?---I'm reading the diary
 16:13:54 17 now. It says he set up an SDU meeting for an am on the
 16:14:02 18 31st of the 12th.
 19
 16:14:05 20 Yes?---Yep.
 21
 16:14:06 22 And it appears that there's brief discussions and obvious
 16:14:08 23 implications, do you see that?---Yes.
 24
 16:14:10 25 Do you accept that prior to the meeting the following
 16:14:13 26 morning there was a discussion in the evening about a
 16:14:17 27 number of matters which are set out there?---I take it if
 16:14:26 28 that's Inspector O'Connor's diary, that's his diary.
 29
 16:14:32 30 You see a number of dot points there, the first one being,
 16:14:35 31 "What is the objective of this process? Have source make a
 16:14:38 32 statement, become a Crown witness. The implications to the
 16:14:41 33 SDU, to Ms Gobbo, Petra, VicPol, victims, Hodsons times 2",
 16:14:47 34 do you accept that?---Yes, absolutely.
 16:14:48 35
 16:14:49 36 "SDU ongoing viability, SOP methodology, trade craft and
 16:14:51 37 exposure of staff", see that?---Yes.
 38
 16:14:53 39 And Ms Gobbo's credibility. Prior inconsistent statements,
 16:14:57 40 do you see that?---Yes.
 41
 16:15:00 42 So basically, as I understand it, what was being discussed
 16:15:02 43 were a number of consequences that arose from the potential
 16:15:14 44 making of a statement by Ms Gobbo, right? Now, do you
 16:15:37 45 accept that you had those discussions?---I'm happy to look
 16:15:42 46 in my diary. I just take it for granted that that's
 16:15:47 47 Mr O'Connor's diary.

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1
16:15:49 2 I might correct that. It may well be that that's an
16:15:52 3 attachment to an email of Mr O'Connor's. O'Connell,
16:15:58 4 rather. What I might suggest is that it's a diary entry
16:16:00 5 made by Mr Black. I apologise for misleading you?---Okay.
6
16:16:05 7 Nonetheless what am I suggesting is it was a discussion
16:16:08 8 that you were involved in where these matters were thrashed
16:16:11 9 out, do you accept that?---Yes. Yes, I do.
10
16:16:24 11 Insofar as prior inconsistent statements are concerned,
16:16:27 12 that would be a reference to matters or statements that
16:16:32 13 Ms Gobbo had made previously which would be inconsistent
16:16:35 14 with matters that might be put into her statement, that was
16:16:39 15 a concern that you had?---I can't comment on Mr Black's
16:16:44 16 diary entry on that.
17
16:16:45 18 Right. But what this appears to be is a note of
16:16:49 19 discussions that were had. It says it's a summary of the
16:16:52 20 discussions and obvious implications?---Yes.
21
16:16:56 22 Do you accept that there was a discussion about prior
16:16:58 23 inconsistent statements?---Yes, I do accept that.
24
16:17:02 25 And it may have been necessary to call for
16:17:07 26 recordings?---Yes.
27
16:17:08 28 And that necessity would arise because you would be in
16:17:13 29 possession of information, that is the SDU would be in
16:17:16 30 possession of information which would contradict
16:17:18 31 potentially information that Ms Gobbo may give in a
16:17:23 32 statement?---Yeah, I can't comment on that.
33
16:17:30 34 There's also references to her medication history, fitness
16:17:34 35 for interview and so forth, do you see that?---Yes.
36
16:17:37 37 And that was a matter that was discussed?---Again, I take
16:17:41 38 it as given. If they're in Mr Black's notes I have no
16:17:46 39 reason to disbelieve that I've spoken about them.
40
16:17:48 41 You understood by that stage that there had been
16:17:52 42 significant issues with respect to Ms Gobbo's
16:17:54 43 health?---Yes.
44
16:17:56 45 Indeed, her psychological state?---Yes.
46
16:18:02 47 There was discussion about her identity obviously becoming

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16:18:07 1 known if she became a witness?---Yes.
2
16:18:11 3 Her professional employment would be ended if the role
16:18:13 4 became exposed?---Yes.
5
16:18:17 6 Her role within the SDU would be exposed?---Sorry?
7
16:18:26 8 A source's role with VicPol?---Right, yes. Yes, I can see
16:18:31 9 that line.
10
16:18:32 11 That was something that was concerning?---That was part of
16:18:37 12 the discussions and implications, yes.
13
16:18:40 14 And there were issues with existing court cases?---I see
16:18:45 15 that line.
16
16:18:47 17 What was the discussion about there?---I have no
16:18:51 18 understanding - I can't remember that particular line from
16:18:55 19 the phone call in 09, no.
20
16:18:58 21 But what appears to be the issue is that you people were
16:19:02 22 discussing the possibility that there would be concerns
16:19:05 23 about existing court cases and whether or not it would be
16:19:10 24 necessary to disclose Ms Gobbo's role in the information
16:19:17 25 gathering process that led to those court cases?---That's
16:19:25 26 probably a long bow I can't draw.
27
16:19:30 28 What about if you have a look at the next line?---Yep.
29
16:19:33 30 Do you see that?---I see the next line, yes.
31
16:19:37 32 That was another matter that was discussed; is that
16:19:40 33 right?---That would be correct, yes.
34
16:19:40 35 That's appeal issues with former clients regarding unsafe
16:19:45 36 verdicts?---Yes.
37
16:19:45 38 That was something which concerned you, or at least you and
16:19:48 39 the other people with whom you were having this conference;
16:19:53 40 is that right?---So again it's Mr Black's diary notes and I
16:19:57 41 would have been part of the conversation about the notes
16:20:00 42 that he's written, yes.
43
16:20:01 44 Given your concern that you had repeatedly expressed about
16:20:06 45 the problems associated with using Ms Gobbo, I take it you
16:20:09 46 would agree with that proposition?---My proposition, as I
16:20:15 47 stated to you, was the negative impact on the public in

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16:20:19 1 relation to the exposure of 3838 as a source.
2
16:20:23 3 So you don't have any recollection of discussing issues
16:20:27 4 about Ms Gobbo's former clients and unsafe verdicts, you've
16:20:33 5 got no recollection about that at all; is that right?---No,
16:20:35 6 I would have had conversations with that, yes. But you're
16:20:38 7 asking the specifics and, no, I can't remember the
16:20:40 8 specifics of that conversation.
9
16:20:42 10 No, I'm not asking you about specific cases but I'm asking
16:20:45 11 you if you recall that during this discussion there was
16:20:49 12 concern expressed about the possibility that because
16:20:52 13 Ms Gobbo had provided information in relation to her
16:20:57 14 clients, then the convictions might be suspect; that was
16:21:02 15 something that was discussed, was it not?---Well so what
16:21:05 16 you just said isn't in those notes.
17
16:21:07 18 No?---It says appeal issues from former clients, and as I
16:21:11 19 said to you before, I can't recall the specifics of the
16:21:13 20 conversation. I don't dispute what is in that note in the
16:21:18 21 slightest. I know Mr Black's notes are 100 per cent
16:21:24 22 accurate and I assert that that would be the case.
23
16:21:25 24 So what can you say is you don't dispute what's written on
16:21:28 25 the page in front of you?---No.
26
16:21:31 27 But nonetheless you say that it would be an accurate
16:21:34 28 reflection of the discussion that was had?---Yes, I would.
29
16:21:38 30 The reason why these matters were being discussed, I take
16:21:41 31 it, is because you were coming up with a number of reasons
16:21:45 32 why it would be a very bad thing if Ms Gobbo was to become
16:21:50 33 a witness?---I would - I think that's fair, yes.
34
16:21:54 35 And one of the things that would occur is the potential for
16:21:59 36 Ms Gobbo's former clients to have their convictions
16:22:06 37 upset?---Yes, I would agree with that.
38
16:22:07 39 And that was something that was being discussed?---Yes,
16:22:11 40 that line is.
41
16:22:16 42 It says here that the advice from AC Moloney to Mr Biggin
16:22:21 43 was that they required a statement, do you see that?---Yes.
44
16:22:30 45 That was the decision of the Petra Task Force,
16:22:33 46 right?---Yes.
47

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16:22:34 1 The SDU don't know all the intel that Petra are holding,
16:22:39 2 correct?---Yes, I see that line.
3
16:22:43 4 Evidence could be sought from Ms Gobbo via an OPI hearing
16:22:47 5 rather than a traditional statement. What do you think
16:22:50 6 that means?---I could only have a wild guess.
7
16:22:59 8 Yes. What would the wild guess be?---That she'd be
16:23:05 9 summonsed to an OPI hearing.
10
16:23:08 11 And you've got no recollection of discussing that?---No,
16:23:12 12 not specifically.
13
16:23:15 14 Detective Senior Sergeant Shane O'Connell was conducting
16:23:21 15 the investigation and the statement; is that
16:23:23 16 right?---That's what that next line is, yes.
17
16:23:25 18 He'd spoken to Ms Gobbo on that day, the 30th, and set an
16:23:29 19 appointment for a statement to be taken the next Thursday;
16:23:33 20 is that right?---Yes, that's the next line.
21
16:23:34 22 It was agreed at the end of that discussion that a briefing
16:23:37 23 paper would be prepared to be provided to Superintendent
16:23:42 24 Biggin regarding the strengths, weaknesses, opportunities
16:23:44 25 and threats, that's the SWOT; is that right?---Yes, that's
16:23:47 26 the next line.
27
16:23:48 28 Righto. So then if we go - if we go back to - perhaps I
16:23:56 29 think Mr Black's diaries have been tendered, Commissioner.
16:24:00 30 They haven't. No, well I tender that page in any event.
31
16:24:03 32 COMMISSIONER: What page number is it?
33
16:24:08 34 MR WINNEKE: VPL.0005.0013.1108.
35
16:24:17 36 COMMISSIONER: Have Mr Black's diaries been tendered?
37
16:24:20 38 MR WINNEKE: No, they haven't, Commissioner.
16:24:23 39
16:24:23 40 WITNESS: That diary hasn't been redacted either,
16:24:26 41 Commissioner, in relation to the pseudonyms for those
16:24:28 42 members.
43
16:24:29 44 COMMISSIONER: Sure. No, don't worry, we're on to
16:24:30 45 that?---Thank you.
16:24:32 46
16:24:33 47 #EXHIBIT RC591A - (Confidential) Mr Black's diaries.

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16:24:39 1
16:24:43 2 #EXHIBIT RC591B - (Redacted version.)
3
16:24:45 4 COMMISSIONER: This page is noted at the VPL number
16:24:48 5 finishing in 1108.
6
16:24:50 7 MR WINNEKE: Thanks Commissioner. Having looked at that I
16:24:55 8 wonder if we can go back to the document that you prepared,
16:25:03 9 which is VPL.6159.0068.3024. If you go over to the next
16:25:14 10 page. Sorry, just go back to the earlier page down the
16:25:25 11 bottom. What you've said in your panel document is that
16:25:32 12 you arranged for a meeting of all the SDU staff, whether or
16:25:36 13 not they had dealings with Ms Gobbo or not, to gather the
16:25:43 14 best possible solution, do you see that?---Yes, I see it
16:25:46 15 and again I can only reference it, this is a discussion
16:25:49 16 paper. It's not an actual event that occurred.
17
16:25:52 18 No, I follow that. Then you say you then assist in a SWOT
16:25:57 19 analysis of the problem having regard to the factors
16:26:02 20 mentioned, do you accept that?---You're asking whether I
16:26:06 21 accept it. I see that line. Yes, I see the line.
22
16:26:10 23 You did involve yourself in the preparation of the SWOT
16:26:13 24 analysis; is that right?---That's not a line I'm reading
16:26:18 25 but was I was involved in the SWOT analysis? Yes, I think
16:26:22 26 I was.
27
16:26:22 28 It says you assisted in the SWOT analysis. So were you
16:26:25 29 involved in the SWOT analysis?---Again, the document that
16:26:29 30 you're reading off is not an factual event or incident
16:26:32 31 document.
32
16:26:32 33 Does it reflect the fact that you assisted in the SWOT
16:26:35 34 analysis?---No.
35
16:26:36 36 It doesn't?
37
16:26:38 38 COMMISSIONER: Sorry, it says that there?---Yes.
39
16:26:42 40 MR WINNEKE: It say I - yes. So does it reflect the fact
16:26:44 41 that you assisted in the SWOT analysis?---I can't remember
16:26:48 42 whether I was part of the SWOT analysis. I know it took
16:26:52 43 place. I may have been and I can only talk to you again
16:26:59 44 about the document you're reading from, which is not a
16:27:02 45 factual document. It's a document produced to provoke
16:27:06 46 discussion with the person I'm sending it to. What would
16:27:09 47 this sound like? Does this sound like something I could

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16:27:13 1 say to the panel? Is this what we're talking about? That
16:27:14 2 type of discussion paper. It's not a factual document.
3
16:27:18 4 Are there falsities in the document?---No, it's not a false
16:27:23 5 document. It can't be a false document when it's like a
16:27:26 6 hypothetical document for discussion.
7
16:27:28 8 Right?---Your question is was I a part of the SWOT
16:27:35 9 analysis? I'll go to my diary, if you give me to time, to
16:27:40 10 see whether I was part of it.
11
16:27:42 12 Is what you saying you produced a scenario for a panel
16:27:47 13 discussion?---No. This is - so it's a conversation I'm
16:27:57 14 having with the receiver of the email to say that what does
16:28:01 15 this sound like? Let's have a talk about this? Does it
16:28:04 16 sound right?
16:28:05 17
16:28:06 18 Well - - - ?---Is it a good example of something that I'm -
16:28:11 19 I've done or could do ?
20
16:28:13 21 Is it a fiction or not? What is it?---I'm sorry, I don't
16:28:21 22 know how to keep explaining it the same way.
23
16:28:23 24 You've agreed with the proposition that you'd been upgraded
16:28:30 25 as a handler for Ms Gobbo, that's correct?---Yes.
26
16:28:35 27 COMMISSIONER: Controller.
28
16:28:36 29 MR WINNEKE: We've asked you - - -?---Controller.
30
16:28:39 31 COMMISSIONER: Controller.
32
16:28:40 33 MR WINNEKE: We've asked you about the division within the
16:28:42 34 office as to the usefulness, that's correct, and there was
16:28:46 35 division you say?---That is there in line 2, yes.
36
16:28:49 37 Do you accept - I know it's there in line 2, do you accept
16:28:52 38 that there was division within the office about the use of
16:28:55 39 Ms Gobbo?---I think that's what we covered earlier, yes.
40
16:29:09 41 You say you're not sure whether you were involved in the
16:29:13 42 SWOT analysis; is that right?---Yeah, I'm happy to take a
16:29:17 43 look at my diary to see the date of the SWOT analysis to
16:29:20 44 see whether I was present or not. I'm not sure.
45
16:29:23 46 Righto. Have you got your diary there?---Yes, I've got
16:29:26 47 diaries here.

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1
16:29:27 2 Were you in the office on 31 December in the
16:29:42 3 morning?---You'll have to bear with me, I haven't got that
16:29:47 4 one up for 23 December.
5
16:29:49 6 31st?---Yeah, I haven't - - -
7
16:29:53 8 COMMISSIONER: He's just getting them?---I have my hard
16:30:08 9 copy diary here. I am on duty. I would have to have a
16:30:14 10 look at my electronic diary to see exactly where I was.
11
16:30:19 12 MR WINNEKE: So you were on duty in any event?---Yes, I
16:30:21 13 was, yes. Absolutely.
14
16:30:25 15 Have you got your electronic diary there?---No, not in
16:30:28 16 front of me.
17
16:30:31 18 All right, Commissioner. I note the time.
19
16:30:34 20 COMMISSIONER: There are a couple of housekeeping matters.
16:30:37 21 I'm asked to inform you that the upgrading of the
16:30:40 22 Commission's website will occur on next Wednesday. So it's
16:30:45 23 going to have a different look. The URL will remain the
16:30:49 24 same, the website will have a different format. If it's
16:30:52 25 changed on Wednesday don't think it's been hacked. It's
16:30:56 26 just changing.
16:30:58 27
16:30:59 28 I think Mr Woods isn't here but he did want to tender
16:31:02 29 a document. Do you know about that, Mr Winneke?
30
16:31:04 31 MR WINNEKE: I'm not certain about that, Commissioner. I
16:31:06 32 do want to tender a document he though, that's an email of
16:31:11 33 the panel discussion which I've just been asking the
16:31:13 34 witness about.
35
16:31:14 36 COMMISSIONER: So that's email and attachment re panel
16:31:18 37 discussion. Is there a date for that?
38
16:31:21 39 MR WINNEKE: I don't believe there is, Commissioner. I can
16:31:24 40 give you doc ID numbers.
16:31:28 41
16:31:28 42 MR CHETTLE: It's June 2009.
43
16:31:31 44 MR WINNEKE: I'm sorry, the date of the email was 16 June
16:31:34 45 2009.
46
16:31:35 47 COMMISSIONER: 16 June 2009.

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16:31:36 1
 16:31:37 2 #EXHIBIT RC592A - (Confidential) Email and attachment re
 16:31:17 3 panel discussion dated 16/06/09.
 16:31:39 4
 16:31:40 5 #EXHIBIT RC592B - (Redacted version.)
 6
 16:31:55 7 COMMISSIONER: The document that Mr Woods wanted to tender
 16:31:58 8 was the Briars board of management meeting minutes dated 10
 16:32:07 9 December 2007.
 10
 16:32:09 11 MR WINNEKE: I tender that, Commissioner.
 16:32:11 12
 16:32:11 13 #EXHIBIT RC593A - (Confidential) Briars board of management
 16:32:06 14 meeting minutes dated 10/12/07.
 16:32:20 15
 16:32:21 16 #EXHIBIT RC593B - (Redacted version.)
 17
 16:32:37 18 COMMISSIONER: We'll adjourn now until - - -
 16:32:41 19
 16:32:42 20 MR CHETTLE: Before you leave, Commissioner. Two things.
 16:32:45 21 Mr Winneke has one matter and I have another. You might
 16:32:49 22 recall - I'll deal with mine first.
 23
 16:32:51 24 COMMISSIONER: The witness can go if you wish now but we'll
 16:32:53 25 require you again on Monday week at 9.30.
 16:32:57 26
 16:32:57 27 MR CHETTLE: He's not around.
 28
 16:32:59 29 MR WINNEKE: I think the witness might be unavailable,
 16:33:01 30 Commissioner, at that time.
 31
 16:33:02 32 COMMISSIONER: He's not available then. So when is he next
 16:33:03 33 available?
 16:33:04 34
 16:33:05 35 MR PURCELL: It's my understanding he's going away from 23
 16:33:10 36 October until 3 November.
 37
 16:33:19 38 COMMISSIONER: What's wrong with the 21st?---Commissioner,
 16:33:23 39 I'll be here on the 21st.
 40
 16:33:26 41 Monday the 21st. You're free to go now. Thanks very much
 16:33:28 42 Mr Richards. 9.30 Monday the - he's gone.
 16:33:36 43
 44 <(THE WITNESS WITHDREW)
 45
 16:33:42 46 MR CHETTLE: Do you remember the hoo-ha I raised about the
 16:33:45 47 amendments to a transcript and there was a - - -

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1
16:33:48 2 COMMISSIONER: There have been so many, Mr Chettle.
16:33:50 3
16:33:51 4 MR CHETTLE: 568 is the exhibit number.
5
16:33:53 6 COMMISSIONER: Yes.
16:33:53 7
16:33:54 8 MR CHETTLE: I took some exception to the fact that it had
16:33:57 9 been altered without any consultation.
10
16:33:58 11 COMMISSIONER: Yes.
16:33:59 12
16:33:59 13 MR CHETTLE: As a result of which two things, Commissioner.
16:34:02 14 We've listened to it. The key word attributed to Mr Green
16:34:11 15 in the transcript tendered and amended by the Commission
16:34:16 16 was that on the way the whole act has been played out
16:34:19 17 "brilliantly", you might remember, that word was used and
16:34:23 18 repeated. We've listened to it. I might add, for what
16:34:26 19 it's worth, my instructions are Mr Green has listened to
16:34:29 20 it, and he says it's not "brilliantly", he says the word is
16:34:35 21 legitimately. My junior says that she thinks it's "you
16:34:40 22 know what I mean". The point of the exercise is the only
16:34:44 23 thing we can say is it's not "brilliantly". What I've done
16:34:47 24 is prepare copies with both our versions on it just to show
16:34:56 25 you really. I just want it on record that we don't accept
16:34:59 26 the "brilliantly", that's all.
27
16:35:01 28 MR WINNEKE: Commissioner, I'm prepared for those to be
16:35:03 29 tendered and they can also be exhibits.
30
16:35:05 31 COMMISSIONER: Why don't we make them - I think we've got
16:35:08 32 the - the tape is 568A and B, the transcript at the moment
16:35:13 33 is C for the confidential, D for the redacted. So we'll
16:35:16 34 make D the Commission version and then we'll make E
16:35:22 35 Mr Chettle's version.
16:35:23 36
16:35:24 37 MR CHETTLE: Anyone but Mr Chettle's. It's my client's
16:35:27 38 version.
39
16:35:29 40 COMMISSIONER: Right.
16:35:29 41
16:35:29 42 MR CHETTLE: Mr Green's version.
43
16:35:32 44 MR WINNEKE: Clearly there are differences in - - -
45
16:35:34 46 COMMISSIONER: Mr Green's version. As Mr Chettle would
16:35:36 47 have told juries many, many times, the tape is the best

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16:35:43 1 evidence and in fact it is the evidence.
2

16:35:44 3 MR WINNEKE: On one occasion I heard something and
16:35:47 4 Mr Chettle heard "bucket".
16:35:49 5

16:35:50 6 MR CHETTLE: No, it was the other way round. The other
16:35:53 7 matter, Commissioner, I've raised with Mr Winneke, and I
16:35:57 8 think we've settled the issue, we are concerned to get
16:36:01 9 copies of the exhibits before you in relation to the IBAC
16:36:07 10 transcripts of everyone other than my clients. You clearly
16:36:13 11 have them as exhibits. You can have them and rely upon
16:36:18 12 them and that's clearly a matter for you, Commissioner.
16:36:23 13 We, we submit, are entitled to see those documents because
16:36:27 14 you are going to rely on them, or can, and I understand
16:36:30 15 Mr Winneke is prepared to provide them to me once the PII
16:36:34 16 issue is fixed with the - - -
17

16:36:37 18 COMMISSIONER: It's a bit more complicated than that.
16:36:39 19 There are difficulties. I think we've been working our way
16:36:42 20 through them for some months now, so we're at the point now
16:36:46 21 where we're got them. We've given them to - each one that
16:36:51 22 concerns the individual has gone to the individual and
16:36:54 23 asked whether they have any difficulty. Mr Winneke, you
16:36:58 24 might be more up-to-date with this than I am.
25

16:37:01 26 MR WINNEKE: I'm up-to-date. For the most part there's
16:37:04 27 been no objection save for three matters.
28

16:37:06 29 COMMISSIONER: Okay.
30

16:37:07 31 MR WINNEKE: Or three people. Mr Flynn we've managed to
16:37:10 32 sort out because there was an issue there that he wanted
16:37:13 33 attended to and we're quite happy to attend to it. There
16:37:18 34 are issues with respect to Mr Ashton and Mr Overland and
16:37:23 35 they haven't quite been sorted out yet.
36

16:37:26 37 COMMISSIONER: No. I want time to think about that. I
16:37:28 38 can't do it now.
39

16:37:30 40 MR WINNEKE: No.
41

16:37:31 42 COMMISSIONER: Yes.
43

16:37:33 44 MR WINNEKE: It appears that there are issues with respect
16:37:35 45 to those three.
46

16:37:36 47 COMMISSIONER: And Mr Chettle's clients too have said

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16:37:39 1 something, have they?
2
16:37:41 3 MR WINNEKE: No, no, no.
16:37:41 4
16:37:41 5 MR CHETTLE: No, we've said show us ours and we'll you
16:37:45 6 yours.
7
16:37:47 8 MR WINNEKE: That's it. I'm weak at the knees.
9
16:37:54 10 COMMISSIONER: Too much information I'd say.
11
16:37:58 12 MR WINNEKE: Perhaps, Commissioner, if we can sort that
16:38:02 13 matter out it may well be that you can make an order - I
16:38:08 14 understand Mr Chettle wants to have access to these next
16:38:10 15 week. We're not sitting. If that can be done as soon as
16:38:14 16 possible. It may be able to be done during the course of
16:38:17 17 next week in chambers, Commissioner, and you might be able
16:38:21 18 to make an order, which would enable - assuming public
16:38:23 19 interest immunity issues are sorted out.
20
16:38:24 21 COMMISSIONER: If you want to adjourn I'll have a look at
16:38:27 22 it now. I just don't know, I haven't - there's an email
16:38:31 23 that's come in while we've been talking which I haven't
16:38:34 24 looked at yet.
25
26 MR WINNEKE: I don't think there's any need to adjourn,
27 Commissioner.
28
16:38:36 29 COMMISSIONER: I just haven't seen what Mr Ashton - I've
16:38:39 30 got three letters here from Ashton, Flynn and the handlers.
16:38:44 31 I just need to read them. There's no objection from the
16:38:47 32 handlers I'm told. The Flynn matter we've sorted. And
16:38:50 33 what's the matter Ashton matter? A matter for the Royal
34 Commissioner. He objects to release until he gets the
35 chance to review the - - -
36
16:38:58 37 MR WINNEKE: I think Mr Ashton - - -
38
16:38:59 39 COMMISSIONER: He wants time.
40
16:39:02 41 MR WINNEKE: Mr Ashton wants to know - perhaps his counsel
16:39:03 42 can make it clearer, Commissioner.
43
16:39:05 44 COMMISSIONER: Yes.
16:39:08 45
16:39:09 46 MR COLEMAN: The status as I understand it is my solicitors
16:39:10 47 had written to the Commission solicitors requesting

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16:39:13 1 provision of further information so Mr Ashton could review
16:39:16 2 the transcript in light of that material. Some of it's
3 been produced but some of it is yet to be produced.

4

5

6

COMMISSIONER: Yes, all right.

7

16:39:19 8 MR COLEMAN: And once that's been done we'll give a firm
16:39:21 9 position.

10

16:39:22 11 COMMISSIONER: We can't do anything then in relation to
16:39:24 12 Mr Ashton at the moment. But in relation to the remaining
16:39:29 13 IBAC - Mr Overland has also said that he wants to know who
16:39:37 14 would be getting them, so he needs to be told that what is
16:39:40 15 being proposed, I think, is that at the moment it would be
16:39:44 16 Ms Gobbo's lawyers and the handlers' lawyers, is that
16:39:47 17 right?

18

16:39:48 19 MR WINNEKE: That's as I understand it. I mean ultimately
16:39:50 20 it's a matter for you.

21

16:39:52 22 COMMISSIONER: Yes, but I mean I want to go through the
16:39:56 23 proper process of making sure that those whose transcripts
16:40:01 24 - because this is what I've told IBAC I will do, so we need
16:40:05 25 to go through that process.

26

16:40:08 27 MR WINNEKE: That can be done relatively quickly. He can
16:40:10 28 be informed of that and he might have a view one way or the
16:40:15 29 other, but ultimately it's a matter for you. Insofar as
16:40:18 30 Mr Ashton is concerned, again it's a matter for the
16:40:21 31 Commission. However, we might be able to sort that out.
16:40:23 32 But in any event, it does appear that for the most part
16:40:25 33 there's no objection to those documents being provided.

34

16:40:28 35 COMMISSIONER: The next thing I want to know from Victoria
16:40:31 36 Police is are they content for those documents that can be
16:40:35 37 provided to Ms Gobbo's lawyers and the handlers' lawyers to
16:40:43 38 be done so prior to the PII process?

39

16:40:50 40 MR HOLT: Yes, Commissioner. To both of those parties we
16:40:52 41 have arrangements in place with the consent of the
16:40:55 42 Commission for to that occur and we can liaise with both
16:40:58 43 parties to make those arrangements occur.

44

16:41:00 45 COMMISSIONER: I imagine that none of the others with
16:41:04 46 standing leave are asking for this at the moment?

16:41:08 47

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16:41:09 1 MR McDERMOTT: No, Commissioner.
2
16:41:11 3 COMMISSIONER: That's fine, you can do that when we sit
16:41:13 4 next.
16:41:14 5
16:41:14 6 MR HOLT: Commissioner, if you're content for the material
16:41:16 7 to go, we are content to the make those arrangements with
16:41:18 8 those two parties as we've done with other documents.
9
16:41:19 10 COMMISSIONER: If it's to go to any of the affected persons
16:41:22 11 or whatever, it would only be able to be done after a PII
16:41:25 12 had been done.
16:41:26 13
16:41:29 14 MR HOLT: Precisely so, Commissioner.
15
16:41:31 16 COMMISSIONER: All right. Then I think I probably need to
16:41:33 17 make an order that the IBAC transcripts in respect of
16:41:38 18 everyone save for Mr Ashton and Mr Overland at this stage
16:41:45 19 can be released on a confidential basis to the lawyers for
16:41:52 20 Ms Gobbo and the lawyers for the handlers.
16:41:57 21
16:41:58 22 MR COLLINSON: Just for clarity, Commissioner, that's on
16:42:00 23 the basis, of course, of the undertaking from counsel,
16:42:05 24 Mr Nathwani and me, not to disclose.
25
16:42:08 26 COMMISSIONER: That's right, on a - that's what I said, on
16:42:09 27 a confidential basis, yes. Are you happy with that,
16:42:11 28 Mr Winneke?
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16:42:12 30 MR WINNEKE: Yes, Commissioner.
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16:42:13 32 COMMISSIONER: Then we'll deal with the Ashton/Overland
16:42:16 33 matters when they're sorted out, which hopefully that will
16:42:19 34 be able to be done next week and I can make an order in due
16:42:22 35 course with respect to that.
36
16:42:23 37 MR WINNEKE: I think that's right, Commissioner. Insofar
16:42:26 38 as Mr Chettle, I've got no doubt that he - I assume the
16:42:27 39 basis upon which he would be provided it is the same as
16:42:30 40 it's provided by my learned friend.
16:42:34 41
16:42:35 42 MR CHETTLE: Absolutely understood.
43
16:42:37 44 COMMISSIONER: I think I've said that.
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16:42:39 46 MR WINNEKE: Good, okay.
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This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

16:42:41 1 COMMISSIONER: You're content, Mr Chettle?
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16:42:43 3 MR CHETTLE: I am, thank you, Commissioner. At the risk of
16:42:47 4 poking the bee's nest, can I say one more matter? The
16:42:50 5 transcripts that I raised a week ago of the conversations
16:42:52 6 with Ms Gobbo that the Commission have had. I know you
16:42:56 7 told me I was premature when I applied last time. Am I
16:43:00 8 still premature?
9
16:43:01 10 COMMISSIONER: It's still not sorted yet. It's ongoing.
16:43:04 11 We're trying to sort it. Hopefully it will get sorted next
16:43:08 12 week.
16:43:08 13
16:43:09 14 MR CHETTLE: Thank you, Commissioner.
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16:43:10 16 COMMISSIONER: Hopefully we'll be able to do that.
16:43:13 17
16:43:13 18 MR CHETTLE: Thank you.
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16:43:14 20 COMMISSIONER: Yes, all right. We'll adjourn until 9.30
16:43:17 21 Monday week.
16:43:44 22
16:43:45 23 ADJOURNED UNTIL MONDAY 21 OCTOBER 2019
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