

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

1            PROCEEDINGS IN CAMERA:

2  
12:22:57 3            COMMISSIONER: We are now in closed session.

12:23:10 4  
12:23:11 5            MR WOODS: It's just been brought to my attention that you  
12:23:15 6            might not understand and it might be my failing from  
12:23:18 7            telling you about this, Mr Smith, that other human sources,  
12:23:25 8            the identity of other human sources is essentially a  
12:23:30 9            protected matter and we're not even going to talk about  
12:23:32 10           that in closed hearings, do you understand that?---I think  
12:23:36 11           so, yes.

12  
12:23:37 13           The reason is whilst this is a private or a closed hearing  
12:23:43 14           there are issues essentially that need to be kept  
12:23:48 15           confidential in any event. There's a difference between  
12:23:53 16           someone who assists police and ultimately gets into the  
12:23:57 17           witness box or makes a statement against other  
12:24:00 18           individuals?---That's right.

19  
12:24:01 20           To someone who assists police and doesn't become a witness.  
12:24:05 21           You'd understand those concepts?---Yes.

22  
12:24:07 23           And the ones who don't give evidence against other  
12:24:12 24           individuals, but do assist police, we're not going to be  
12:24:17 25           discussing in private hearing and we can certainly deal  
12:24:20 26           with issues in other ways that your evidence might touch on  
12:24:23 27           after I've finished your evidence-in-chief and you've had a  
12:24:26 28           chance to discuss with Mr Chettle?---Okay.

29  
12:24:28 30           I just think that might have arisen at some stage in the  
12:24:32 31           last couple of days in your evidence and there were things  
12:24:35 32           you might want to expand on that might be problematic in  
12:24:39 33           that circumstance. I'm probably being too cryptic for you  
12:24:44 34           to know what the hell I'm talking about, but anyway?---I'm  
12:24:48 35           used to living in a cryptic world so I think I understand  
12:24:51 36           it.

37  
12:24:52 38           You might explain it to me later then. What I'm wanting to  
12:24:55 39           talk about now and I'll ask you some questions about now in  
12:24:59 40           some detail are the dealings with ██████████, who we can  
12:25:07 41           name in a closed session only as ██████████ and you know  
12:25:11 42           who that is on the list in front of you?---Oh, yes.

43  
12:25:18 44           Part of the - - - ?---Hang on, sorry, I'm looking at the  
12:25:22 45           wrong reference.

46  
12:25:22 47           That's okay. You'll see there should be a - - - ?---I beg

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

12:25:28 1 your pardon, of course. [REDACTED] yes.  
2  
12:25:32 3 I was calling him the [REDACTED] before?---I've got it, my  
12:25:36 4 mistake.  
5  
12:25:37 6 He's had [REDACTED]. Part of the overall plan of -  
12:25:42 7 well the plan of Operation Posse was to dismantle the  
12:25:46 8 Mokbel criminal cartel by the most efficient means, you  
12:25:51 9 agree with that? Forget about the most efficient means,  
12:25:58 10 the plan was to bring down the Mokbel cartel?---That was  
12:26:02 11 Purana's plan as I understand it, yes.  
12  
12:26:05 13 And the plan of attack was, the part that you were involved  
12:26:10 14 in or Ms Gobbo was assisting with in late 2005 and early  
12:26:15 15 2006, was to catch a Mokbel associate red-handed, have them  
12:26:23 16 looking down the barrel of significant time and then  
12:26:28 17 offering them a deal to assist with information that might  
12:26:31 18 implicate others involved in that criminal activity. That  
12:26:34 19 was at least part of the plan, you accept that?---Yes.  
20  
12:26:39 21 [REDACTED] was of interest from an early stage because it  
12:26:44 22 was known, and in fact Ms Gobbo said a number of times in  
12:26:47 23 face-to-face meetings, that he would be in a position to  
12:26:51 24 implicate the Mokbels in serious drug manufacture, do you  
12:26:54 25 agree with that?---Yes.  
26  
12:26:59 27 There's a number of instances in the early - in fact I  
12:27:05 28 think the very first face-to-face meeting that you and  
12:27:09 29 Mr White had with Ms Gobbo and then continuing through  
12:27:12 30 other interactions you had with her where she refers to  
12:27:16 31 [REDACTED] as being a client of hers, you accept that that  
12:27:21 32 was the case?---Yes.  
33  
12:27:27 34 In the first ICR at p.4 of the large 3838 document, if that  
12:27:34 35 can be brought up on the screen. It doesn't need to be on  
12:27:40 36 the public screen or the larger screens, just the witness's  
12:27:43 37 screen and mine and the Commissioner's. So p.4 of that.  
12:27:51 38 It's very small text unfortunately. There we go. "HS  
12:27:57 39 believes that nothing will ever", et cetera. Then down  
12:28:02 40 further, "[REDACTED] is very worried. He could have sold  
12:28:06 41 all of them out, put everyone in gaol for a long time but  
12:28:11 42 wouldn't do it". That was something that was explained to  
12:28:17 43 you by Ms Gobbo at your first meeting, do you accept  
12:28:20 44 that?---Yes.  
45  
12:28:22 46 Okay. It was known to you from the very get-go with  
12:28:31 47 Ms Gobbo that this was a person who was actually in a

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

12:28:36 1 position where he could have some significant impact on  
12:28:40 2 bringing down the Mokbel cartel?---That was the potential,  
12:28:44 3 yes.  
4

12:28:50 5 At ICR 2 - I won't take you to the actual reference, but  
12:28:58 6 Ms Gobbo says, "That rumour comes from [REDACTED] who is a  
12:29:01 7 client of mine, was an [REDACTED] I assume he's not  
12:29:07 8 [REDACTED] whilst on bail but I'm not with him 24 hours a day  
12:29:11 9 so I don't ..." She was explaining that he was a client,  
12:29:17 10 do you accept that?---Yes.  
11

12:29:18 12 And that he was a [REDACTED]?---Yes.  
13

12:29:20 14 And that from then on, from this early period on, one of  
12:29:24 15 the things that you were attempting to do through Ms Gobbo  
12:29:27 16 was to identify the location of where such [REDACTED]  
12:29:32 17 might be going on; is that correct?---That's right, yes.  
18

12:29:35 19 In order to catch [REDACTED] red-handed?---Yes.  
20

12:29:40 21 And get him to roll on the Mokbels?---That's right.  
22

12:29:52 23 The Commission has records that show that Ms Gobbo was  
12:29:56 24 acting for commercial gain [REDACTED] from [REDACTED] until at  
12:30:04 25 least March [REDACTED] and you would have assumed, I take it,  
12:30:09 26 that when she said she was acting for him that she was  
12:30:12 27 doing it for commercial gain; is that right?---I didn't  
12:30:18 28 think of it like that but I'm not disputing she was acting  
12:30:23 29 for him.  
30

12:30:27 31 There was an issue that arose early, and there's quite a  
12:30:31 32 deal of information that goes to it, but to some degree it  
12:30:35 33 really speaks for itself. The issue was that for matters  
12:30:39 34 that were pending before the court that [REDACTED] was going  
12:30:43 35 to enter a plea in relation to, if those matters came on  
12:30:48 36 sooner rather than later it might be difficult to use him  
12:30:53 37 for the tactic that we spoke about a moment ago, do you  
12:30:58 38 agree with that, because he'd go inside and he wouldn't be  
12:31:02 39 [REDACTED]---Well I know, I think I know what you're  
12:31:08 40 referring to. There's a number of matters around that  
12:31:10 41 subject but that came up, yeah, that was an issue. But as  
12:31:13 42 to the other matters about the timing of that court case,  
12:31:17 43 yes.  
44

12:31:20 45 There were a couple of plans afoot. One was to catch him  
12:31:23 46 red-handed in that way. Another one I'd suggest that is  
12:31:27 47 talked about in [REDACTED] 2005 and then petering off in early

.11/09/19

6101

SMITH XXN - IN CAMERA



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

12:31:34 1 2006 was a chance meeting with Dale Flynn who it seemed - I  
12:31:40 2 should say ██████████ and Ms Gobbo had significant affection  
12:31:43 3 for?---Or perhaps trust in would be a better term, but yes,  
12:31:50 4 that's right.

5  
12:31:51 6 Trust might be a better word. And the suggestion was that  
12:31:56 7 if Ms Gobbo - sorry, if ██████████ was to meet Mr Flynn in a  
12:32:03 8 social environment where he wouldn't be suspecting that  
12:32:07 9 there might be ██████████ taking place, that he  
12:32:10 10 might speak frankly with Mr Flynn about the activities that  
12:32:18 11 the Mokbels were involved in, do you remember those  
12:32:20 12 conversations?---Things of that nature, yes, that was  
12:32:28 13 floated as a possibility, yes.

14  
12:32:32 15 At one of those meetings it was suggested it might happen  
12:32:36 16 at the ██████████ Hotel and it might be after ██████████ had  
12:32:40 17 had a couple of ██████████?---I remember the name of the  
12:32:43 18 hotel, yep.

19  
12:32:48 20 Apparently from the reading of the ICRs the plan - that  
12:32:53 21 never came about?---No.

22  
12:32:55 23 And the plan changed to essentially Ms Gobbo assisting  
12:32:59 24 where she could and where she was obtaining information to  
12:33:03 25 identify the place that ██████████ might be happening, that's  
12:33:06 26 what happened next?---That's right.

27  
12:33:11 28 The records speak for themselves so I'm not going to take  
12:33:14 29 you through each of those occasions, but it was the case  
12:33:20 30 that she was getting a suggestion here and there about  
12:33:25 31 where ██████████ might be but it was difficult to pin down  
12:33:29 32 ██████████ because he wasn't being very direct with Ms Gobbo  
12:33:33 33 about what the plans were for ██████████---That's right.  
12:33:40 34 There was a number of small pieces of information over  
12:33:43 35 quite a period of time from my recollection.

36  
12:33:46 37 Yes, okay. I'll just read an example of one of these, I  
12:33:54 38 can take you to it if it assists. This is ICR 014 at  
12:34:00 39 p.101. There's a meeting on ██████████ of the ██████████ 2005 where it  
12:34:05 40 says, "Updated re ██████████ Advised surveillance  
12:34:10 41 opportunities for ██████████ regarding bail reporting.  
12:34:13 42 ██████████ will sign on bail at a particular police station  
12:34:17 43 and then probably return to the ██████████  
12:34:20 44 This is information that Ms Gobbo was giving to say this is  
12:34:24 45 how you might be able to find where ██████████, do you  
12:34:29 46 agree with that?---Pardon me, if that's an ICR of mine that  
12:34:35 47 would be right.

.11/09/19

6102

SMITH XXN - IN CAMERA



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

1  
12:34:36 2 Yes, okay. It's a dot point one and I think you were  
12:34:40 3 saying you're not a lover of dot points before.  
4  
12:34:44 5 COMMISSIONER: It's not his.  
12:34:45 6  
12:34:46 7 MR WOODS: In any event, it was a time - I think it might  
12:34:48 8 be Mr White's document.  
9  
12:34:51 10 COMMISSIONER: No. I'm just trying to find the pseudonym.  
12:34:52 11  
12:34:52 12 MR WOODS: Although we might scroll up and I can tell you  
12:34:57 13 whose it is?---It may be Mr White's.  
14  
12:34:57 15 COMMISSIONER: It's Black, officer Black.  
12:35:00 16  
12:35:02 17 MR WOODS: You wouldn't dispute what Officer Black records  
12:35:04 18 there. It's consistent with your memory of what was  
12:35:07 19 happening in these months in any event, that this is what  
12:35:10 20 she was doing, to try and help you locate where [REDACTED]  
12:35:13 21 might be at?---I didn't write it but reading that that's  
12:35:17 22 clear to me that's what happened.  
23  
12:35:25 24 There was discussion - I've touched on it briefly - that  
12:35:31 25 can be taken off the screen. The discussion that was being  
12:35:34 26 had with Ms Gobbo, one of the aspects of it was how to make  
12:35:41 27 sure that [REDACTED] was kept out of custody so that the  
12:35:46 28 plan could be played out properly, do you accept that?---I  
12:35:54 29 accept that topic was discussed but there's a number of  
12:35:58 30 factors that affected that and I don't recall it being  
12:36:01 31 initiated by us.  
32  
12:36:02 33 Can we bring up p.219 of the ICRs, please. This is an  
12:36:17 34 entry, "Discussed general ideas re [REDACTED]". I'll just  
12:36:23 35 find that. Two-thirds of the way down the page at 12.12,  
12:36:30 36 just above. "Discuss general ideas re [REDACTED]'s  
12:36:37 37 adjournment. Human source thinks the best plan is for the  
12:36:40 38 human source to be unavailable. To discuss at next  
12:36:42 39 meeting". You accept that what this is recording is that  
12:36:44 40 there was a discussion about how [REDACTED]'s matters might  
12:36:48 41 be adjourned?---Yes, but there was a number of people  
12:36:53 42 wanting that - that's what - yeah, that's what that's  
12:36:58 43 about, yeah.  
44  
12:36:58 45 She says, not the handlers, she says the best plan is that  
12:37:02 46 she's not available to do the plea on his behalf, do you  
12:37:06 47 accept that?---At this point, yes, I think there was, as

.11/09/19

6103

SMITH XXN - IN CAMERA

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

12:37:09 1 you say, a number of discussions about this.  
2  
12:37:12 3 We'll go to a number of others. Then I want you to go to  
12:37:15 4 p.225?---What's the date of that one may I ask?  
5  
12:37:20 6 Yes.  
7  
12:37:21 8 COMMISSIONER: [REDACTED]  
12:37:22 9  
12:37:22 10 MR WOODS: [REDACTED]. Then p.225. There's another entry  
12:37:29 11 there about [REDACTED] asking about [REDACTED]'s  
12:37:36 12 adjournment?---Yes.  
13  
12:37:37 14 [REDACTED] said to [REDACTED] to put some money aside to send  
12:37:41 15 Ms Gobbo overseas so that she's unavailable for court.  
12:37:45 16 [REDACTED] really wants [REDACTED] to get an  
12:37:48 17 adjournment?---That's right.  
18  
12:37:49 19 "Gobbo says that the prosecutor must say we consent in  
12:37:54 20 court to get any adjournment for [REDACTED]. There are a  
12:37:56 21 total of [REDACTED] co-accused at this stage. One is pleading  
12:38:00 22 not guilty but human source feels this is likely to change  
12:38:05 23 closer to date. Discuss various options". At this stage  
12:38:08 24 this was a discussion between the handlers and Ms Gobbo  
12:38:11 25 about options to get [REDACTED]'s plea adjourned?---Options,  
12:38:16 26 yes, that's right.  
27  
12:38:20 28 She complains further down about a particular judge's  
12:38:24 29 sentencing and then she says that there should be an  
12:38:30 30 adjournment sought either way if two particular judges are  
12:38:36 31 to be listed to hear the matter because of the harshness of  
12:38:39 32 their penalties?---M'hmm.  
33  
12:38:41 34 This is her explaining other reasons why the matter might  
12:38:46 35 be pushed off?---These are her words, exactly.  
36  
12:38:53 37 [REDACTED] himself wasn't returning calls at that stage and  
12:38:56 38 that seems to be an indication from her that it was  
12:38:58 39 difficult for her to deal with him about the adjournment  
12:39:00 40 application and there are other references to that in the  
12:39:03 41 ICRs. You agree that she was having difficulty contacting  
12:39:06 42 him during this period of time?---I wish I noted that. I  
12:39:13 43 thought that was more - well, it speaks for itself.  
44  
12:39:17 45 Yes?---She was having difficulty contacting him about  
12:39:19 46 whatever she wanted to talk to him about.  
47

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

12:39:21 1 At p.228 of the same ICRs, this is 7 April 2006, there's  
12:39:28 2 discussion with Mr White re [REDACTED] adjournment and  
12:39:37 3 possible reasons for same. Sorry, I think it might be a  
12:39:41 4 bit further up. "Human source is generally worried re  
12:39:43 5 health and to be advised at next meeting that that is our  
12:39:48 6 priority. If [REDACTED] matter is adjourned it's an  
12:39:52 7 advantage to investigation but handler concerned re  
12:39:56 8 deceiving court and human source to be advised not to do so  
12:40:01 9 if claiming reason is human source's health". Here  
12:40:04 10 Mr White's saying don't do something that is untruthful in  
12:40:09 11 trying to bring about this adjournment, you agree with  
12:40:11 12 that?---No, I'm saying that.

13  
12:40:15 14 Sorry, sorry. I'm misreading, okay. So you advised  
12:40:20 15 Ms Gobbo that she shouldn't do that?---M'hmm.

16  
12:40:26 17 Then at p.244, and this is [REDACTED] 2006, Ms Gobbo is still  
12:40:34 18 making suggestions to you about how to bring about  
12:40:39 19 [REDACTED]'s adjournment. She says, "Get a high ranking  
12:40:43 20 police member to approach the OPP and request an  
12:40:45 21 adjournment. Who can approach the Chief Judge's associate  
12:40:50 22 and explain that the Crown Prosecutor is unavailable?"  
12:40:53 23 There's no indication there that this was anything other  
12:40:56 24 than something coming from Ms Gobbo that was being  
12:41:00 25 recorded, but do you - - - ?---Yes.

26  
12:41:03 27 Do you recall being party to these conversations?---I  
12:41:07 28 remember her saying them. I'm not saying we were going  
12:41:11 29 along with them.

30  
12:41:12 31 No, I understand. And then p.251 of the same document,  
12:41:17 32 which is the [REDACTED] a few days later. Ms Gobbo  
12:41:23 33 is giving advice about what the prosecutor needs to say so  
12:41:28 34 that the chances of obtaining an adjournment are increased.  
12:41:33 35 She says, "Human source says that the prosecutor must say  
12:41:37 36 something like, 'Prosecutor is not available', or similar.  
12:41:41 37 Says it must come from the prosecution side"?---H'mm.

38  
12:41:45 39 "Controller Sandy White advised". It's the case here that  
12:41:50 40 she, the suggestion that she - if you can scroll down a  
12:41:55 41 little bit further on that page. It's that bit there and  
12:41:59 42 then just over on to the next page?---Sorry, sorry, just go  
12:42:06 43 back so can I read it please.

44  
12:42:07 45 Yes, go ahead. Leave that on the screen with the bottom of  
12:42:10 46 that page and the top of the next page. Yes, that's it.  
12:42:15 47 Thank you?---Right, hang on. M'hmm. Yes. What's



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

12:42:31 1 the - - -  
2  
12:42:32 3 The question is even though your position is, well, we  
12:42:36 4 weren't willing participants in this conversation about  
12:42:39 5 [REDACTED] getting an adjournment to stay out to be able to  
12:42:43 6 [REDACTED] she gives advice about how that might be brought  
12:42:47 7 about and you pass that information on to Sandy White, do  
12:42:50 8 you agree with that?---Yes, yes, but she was under pressure  
12:42:55 9 from I believe [REDACTED] and perhaps others for this to  
12:42:59 10 occur.  
11  
12:43:00 12 So is it your position - - - ?---And also I understand  
12:43:09 13 [REDACTED] also wanted that.  
14  
12:43:15 15 Yes. Also the SDU wanted that, didn't they, because it  
12:43:21 16 would mean that it was going to bring about the possibility  
12:43:23 17 of implicating [REDACTED]---I think Purana wanted  
12:43:30 18 it.  
19  
12:43:31 20 Yes, okay?---We were not getting involved in that sort of  
12:43:35 21 thing at all. That's an investigative matter.  
22  
12:43:39 23 But it was a plan of attack, and I could take you back to  
12:43:45 24 the bits that we've already looked at before?---No, it's  
12:43:48 25 okay.  
26  
12:43:48 27 The plan of attack was that he'd be out in order to be able  
12:43:51 28 [REDACTED] and then in order to be able to be caught?---That's  
12:43:56 29 right. I think Purana somehow - I think they somehow  
12:44:02 30 facilitated it but that was in their hands.  
31  
12:44:08 32 At p.241, this is on a slightly different issue, about what  
12:44:15 33 Ms Gobbo's status was in all of this because she was acting  
12:44:21 34 on a brief from solicitor [REDACTED] and was, in  
12:44:30 35 relation to the matters pending, the matters we were  
12:44:33 36 talking about where there was an adjournment being  
12:44:36 37 sought?---M'hmm.  
38  
12:44:37 39 And this says, "Just come from a meeting with [REDACTED] and  
12:44:46 40 [REDACTED] barrister re pending court case for  
12:44:50 41 [REDACTED] Arrange to meet [REDACTED] at midnight so  
12:44:53 42 there'll be no need for a phone call. Source worried that  
12:44:57 43 the cock tease approach will not last much longer at  
12:45:02 44 keeping [REDACTED] close. [REDACTED] wants source to just  
12:45:06 45 hold some money he hopes to get from an earlier meeting in  
12:45:10 46 the night, not for any legal fees". You accept that one of  
12:45:14 47 the reasons that she was explaining to this particular

.11/09/19

6106

SMITH XXN - IN CAMERA

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

12:45:16 1 handler that she was going to meet [REDACTED] at midnight  
12:45:27 2 was so that [REDACTED] wouldn't find out about it?---No,  
12:45:32 3 that's not how I read that at all.

4  
12:45:35 5 What's your understanding?---So midnight, in other words  
12:45:41 6 the handler's saying, "Don't ring me at midnight."

7  
12:45:46 8 It's about the handler?---That's how I read it.

9  
12:45:49 10 "Arrange to meet [REDACTED] at midnight so there'll be no  
12:45:52 11 need for a phone call." So she's meeting him at  
12:45:55 12 midnight?---That's how - yeah.

13  
12:45:56 14 Simply to avoid calling the handler is your  
12:45:58 15 understanding?---That's how it reads to me.

16  
12:46:00 17 The cock tease approach that she's talking about down the  
12:46:03 18 bottom, she - I'm not suggesting at this stage that it's  
12:46:07 19 something that the SDU were encouraging, but certainly she  
12:46:11 20 is talking there about using the cock tease approach to  
12:46:15 21 keep [REDACTED] close to be able to implicate him, that's  
12:46:20 22 what she was saying here, do you accept that?---It's in  
12:46:23 23 inverted commas so it looks like a direct quote. I'd  
12:46:27 24 always told her never to engage in relationships that she  
12:46:31 25 wouldn't normally engage in

26  
12:46:34 27 Are you aware of anyone else at the SDU suggesting that  
12:46:37 28 Ms Gobbo should be a cock tease in order to be able to  
12:46:40 29 obtain information from [REDACTED] ---No, not at all. No,  
12:46:44 30 of course not.

31  
12:46:44 32 This was something that she came up with herself as far as  
12:46:49 33 you know?---That's how it appears, yes.

34  
12:46:54 35 Would it be appropriate for a human source manager to ask  
12:46:57 36 for any human source to do?---No, it breaks a number of  
12:47:01 37 rules.

38  
12:47:01 39 What would you do in the hypothetical that you were told by  
12:47:04 40 a female human source that she was intending to be a cock  
12:47:08 41 tease in order to get information out of someone who might  
12:47:13 42 be able to be implicated?---What would I do? I'd do what  
12:47:17 43 this handler's done and record it because the controller  
12:47:21 44 needs to know.

45  
12:47:22 46 Would you tell her not to do it?---You'd have to be a party  
12:47:29 47 to the conversation, but yeah, possibly.

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

1  
12:47:31 2 Well, the person would be doing it as an agent of the  
12:47:33 3 police clearly because they're telling the handler that  
12:47:36 4 that's what they're doing. You'd have to do more than just  
12:47:43 5 record it, wouldn't you?---Yeah, but I'd have to be a party  
12:47:47 6 to the conversation I think because those words, I  
12:47:49 7 understand, you know, what it means, but one person's  
12:47:54 8 meaning of that may be totally different to another's, even  
12:47:58 9 though we can read those words on the document there.  
12:48:03 10 Yeah, I'd want to, I guess, understand more exactly what  
12:48:08 11 they meant and if they meant that it would have to be  
12:48:10 12 addressed.  
13  
12:48:13 14 Did she ever give you any indication that she was using  
12:48:19 15 some kind of flirtation to keep [REDACTED] close?---I don't  
12:48:22 16 believe so. I think she felt he felt close to her. I  
17 think he felt that.  
18  
12:48:23 19 She told you he was [REDACTED] to her I think; is  
12:48:27 20 that right?---I've recorded things of that nature.  
21  
12:48:29 22 She said about a number of individuals to you over the  
12:48:32 23 years?---I can't remember.  
24  
12:48:35 25 You don't remember her saying, talking about other men who  
12:48:38 26 were attracted to her?---Oh, yeah, yes, she probably did,  
12:48:46 27 yeah. I can't remember what context now, but if she did I  
12:48:49 28 would have recorded it.  
29  
12:48:55 30 At p.261 of those ICRs there's an entry. Now I should say  
12:49:04 31 this is the night after the arrest of [REDACTED] and  
12:49:12 32 [REDACTED] There's an entry - let me just see if it's on  
12:49:17 33 that screen. I'm looking for an entry that says, "Human  
12:49:22 34 source wants to see [REDACTED] before going to cells". No,  
12:49:31 35 it might be my mistake in how I've recorded it. There we  
12:49:36 36 go?---Yes.  
37  
12:49:37 38 This is at 11.17 in the morning, "Human source wants to see  
12:49:41 39 [REDACTED] before going to cells about giving him  
12:49:43 40 instructions re what he should say to certain people,  
12:49:47 41 specifically solicitor [REDACTED]'?---Yes.  
42  
12:49:53 43 You'd accept that this is Ms Gobbo taking specific action  
12:49:59 44 to ensure that [REDACTED] doesn't know about  
12:50:04 45 Ms Gobbo's involvement other than as a solicitor for  
12:50:08 46 [REDACTED]?---Yes, I think maybe even more than that, the  
12:50:16 47 fact that she knew that they'd been arrested, that that

.11/09/19

6108

SMITH XXN - IN CAMERA



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

12:50:20 1 wouldn't get out is my memory. She was concerned about  
12:50:23 2 that because she would have been expected to tell other  
12:50:26 3 people if she had known.  
4  
12:50:34 5 Just to draw a line under it. You accept that it was  
12:50:37 6 unethical, in your view at least, for her to be acting on  
12:50:40 7 behalf of ██████████ at least following ██████████'s  
12:50:45 8 arrest?---Yes, I do.  
9  
12:50:58 10 Just a couple of other - - - ?---We tried to discourage her  
12:51:02 11 well before that.  
12:51:03 12  
12:51:03 13 Yes, I understand. You tried to discourage her but she  
12:51:06 14 kept providing information in relation to ██████████'s ██████████  
12:51:10 15 ██████████ activities, that's the situation as it seems in the  
12:51:14 16 ICRs?---I discovered her acting for him and there was  
12:51:18 17 always a reason to do so, which in hindsight - yeah.  
18  
12:51:25 19 Just out of interest, I mean one of the things that's  
12:51:28 20 become apparent in Mr White's evidence and various other  
12:51:32 21 people's evidence is that it really demonstrates what a  
12:51:37 22 tangled web it is when you engage a barrister as a human  
12:51:42 23 source in this situation. Firstly, you agree with that  
12:51:46 24 proposition for a start, that it's a very complicated  
12:51:50 25 position that everyone was in, including Ms Gobbo?---It  
12:51:58 26 was, but other high risk sources have been in very  
12:52:01 27 complicated situations too. But yeah, it was difficult to  
12:52:04 28 manage. It was unique. It was the first. It was a number  
12:52:10 29 of things, yeah.  
30  
12:52:11 31 One of the reasons is that when you've got someone like  
12:52:16 32 Ms Gobbo, who despite being told on various occasions that  
12:52:19 33 she can't act for various people, turns up to act for those  
12:52:24 34 people anyway and that's one of the issues that arises  
12:52:27 35 given a barrister acting as a human source, and that's what  
12:52:33 36 happened in this situation, you accept that?---Yes.  
37  
12:52:36 38 And the difficulty that you faced, one of the difficulties  
12:52:41 39 you faced was, "How do we stop her acting for these  
12:52:45 40 people"?---That's right. Yes, that's right.  
41  
12:52:47 42 The problem was if you went and said to the people, "She  
12:52:55 43 can't act for you for unspecified reasons", that posed the  
12:52:59 44 real risk of disclosing the fact she was assisting the  
12:53:03 45 police?---Of course, it would be blatantly obvious.  
46  
47 It's another reason why someone in her position should

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

12:53:12 1 never have been registered as a source in the first place,  
12:53:14 2 do you agree with that?--No, not necessarily about  
12:53:16 3 informing about current criminality. I know I've come back  
12:53:17 4 to that point, but I think it could have been managed  
12:53:22 5 better and we could have managed it better and done things  
12:53:24 6 a bit differently. But the general proposition you asked  
12:53:27 7 me in that question I don't agree with.

8  
12:53:31 9 Isn't the real problem here that when she turns up - if we  
12:53:37 10 just take [REDACTED] as an example?--M'hmm.

11  
12:53:42 12 Do you accept once she turned up to represent [REDACTED] on  
12:53:45 13 the evening of [REDACTED] 2006, you should have had nothing  
12:53:52 14 to do with her after that moment?--Well you can't just  
12:53:57 15 walk away from a high risk source and leave them high and  
12:54:00 16 dry, you have a duty of care about their safety so it's  
12:54:05 17 quite difficult to do that.

18  
12:54:06 19 Don't you have some part to play to ensure that the  
12:54:10 20 judicial process plays out fairly for accused people as  
12:54:12 21 well?--Yes, and at the time we tried to discourage her  
12:54:17 22 from doing it and obviously she still did it. Now, you  
12:54:21 23 know, in hindsight, of course, I wish we had done things  
12:54:26 24 differently there but at the time we struggled through it.

25  
12:54:30 26 Okay?--I was concerned about it but looking back we should  
12:54:35 27 have done more.

28  
12:54:37 29 All right. In fact you really should have told her you  
12:54:43 30 would have nothing to do with her after [REDACTED] 2006,  
12:54:49 31 you'd have to accept that, wouldn't you?--With her I don't  
12:54:58 32 know if that would have worked. I know that, for example,  
12:55:01 33 in later times, I think that was an approach that was  
12:55:03 34 adopted by - I'm told this, I don't know it first-hand -  
12:55:07 35 adopted by investigators after the source left the SDU and  
12:55:13 36 I don't think it worked there.

37  
12:55:15 38 No, I don't think it worked there either from the documents  
12:55:18 39 that have been disclosed to the Commission. What about the  
12:55:27 40 possibility - so you say that you can't leave a source high  
12:55:30 41 and dry, especially someone who's as high risk as Ms Gobbo.  
12:55:34 42 What we can see in the ICRs and other related documents is  
12:55:39 43 thousands of pages of information that has been obtained  
12:55:44 44 from Ms Gobbo after [REDACTED] 2006?--M'hmm.

45  
12:55:53 46 If you were just looking after her welfare then wouldn't it  
12:55:56 47 be the case that you'd protect her welfare without

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

12:56:02 1 obtaining information from her?---I just think the way you  
12:56:09 2 asked that question, I think it presumes something happened  
12:56:13 3 that I don't think did, sorry.  
4

12:56:16 5 What we can see is after [REDACTED], and I can take you to  
12:56:20 6 literally hundreds and hundreds of examples of Ms Gobbo  
12:56:25 7 continuing to provide information to the police?---Yes, I'm  
12:56:29 8 sure - - -  
9

12:56:30 10 That was useful to the police through the SDU after [REDACTED]  
12:56:34 11 [REDACTED] when in your position, look, "We should have probably  
12:56:38 12 just been looking after her welfare after [REDACTED]", as I  
12:56:42 13 understand your evidence. What I'm saying is if you just  
12:56:45 14 want to look after her welfare you can do that without  
12:56:49 15 obtaining information?---Oh, okay. You put to me the  
12:56:55 16 proposition that you can't just walk away because of the  
12:56:57 17 welfare, which is my position.  
18

12:57:01 19 Yes?---But I'm not saying that that was the position put in  
12:57:05 20 place. We were looking after welfare but I think  
12:57:07 21 ultimately we wound down but in the meantime there was  
12:57:12 22 still information obtained, I'm not denying that. You're  
12:57:18 23 question is should we have done that? Is that the  
12:57:21 24 question?  
25

12:57:22 26 If your reason for not disassociating yourself with  
12:57:25 27 Ms Gobbo after she turned up after [REDACTED]'s arrest was,  
12:57:30 28 "Well, we had to continue to look after her welfare", I'm  
12:57:32 29 suggesting to you that if that was what you were concerned  
12:57:34 30 we would not see thousands of pages of information that she  
12:57:37 31 provided after [REDACTED] 2006, do you accept that?---No, I  
12:57:42 32 gave that answer as a reason not to walk away from a high  
12:57:46 33 risk source in that situation. Am I being pedantic or are  
12:57:53 34 we at cross-purposes? I'm not sure.  
35

12:57:57 36 Do you accept that she was tasked to undertake various  
12:58:00 37 tasks on behalf of the SDU post [REDACTED] 2006?---I believe  
12:58:05 38 that she was. I can't recall.  
39

12:58:06 40 Because of that conflict position that she was in, that  
12:58:11 41 tasking shouldn't have happened, should it?---I thought she  
12:58:15 42 was going to withdraw any further contact from [REDACTED]  
43

12:58:22 44 But hang on, we were looking a moment ago, Mr Smith, at the  
12:58:27 45 stage where you stepped in to her handling, a number of  
12:58:31 46 years after this event, so - - -?---That's right.  
47



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

12:58:35 1 What you thought obviously didn't come to fruition because  
12:58:38 2 you yourself were obtaining information from her into  
12:58:44 3 2008?---Yeah. Again, I clarify something I said earlier,  
12:58:48 4 maybe you misinterpreted. I said a reason not to disengage  
12:58:55 5 from a high risk source, you know, it would be because of  
12:58:58 6 their welfare. I'm not saying that we then didn't take  
12:59:02 7 information. Clearly we did. I'm sorry, I'm just - - -  
8

12:59:08 9 That's all right?---You keep putting to me that like that's  
12:59:12 10 what we did. I'm saying no, no, no that's - you asked me  
12:59:15 11 before. That would be a potential reason not to disengage  
12:59:19 12 with a source and a good one. But the source was still  
12:59:25 13 registered. So we didn't do that. You asked me why didn't  
12:59:29 14 we walk away.  
15

12:59:30 16 We might move on. There's a transcript of [REDACTED] 2006  
12:59:36 17 which is VPL.0005.0097.0011. This is a couple of days  
12:59:48 18 before [REDACTED]'s arrest and I'll tell you the reason I'm  
12:59:52 19 wanting to take you to some of the contents is, firstly,  
12:59:58 20 you're a participant in this face-to-face with Ms Gobbo,  
13:00:02 21 and, secondly, some of the issues and the difficulties that  
13:00:05 22 you and Mr White saw arising in the very context we've just  
13:00:08 23 been looking at, or talking about - - - ?---Yes.  
24

13:00:10 25 - - - arose, and you can see that you're grappling, the  
13:00:15 26 two of you are grappling and asking Ms Gobbo to grapple  
13:00:18 27 with the reality of her turning up if [REDACTED] gets  
13:00:21 28 arrested. That's why I'm wanting to take you to it?---Yes.  
13:00:26 29 If it assists you, I have read this recently.  
30

13:00:30 31 Okay, good, good. Page 264 of that document there's an  
13:00:36 32 exchange - it will come up on yours and my screen in a  
13:00:42 33 moment. 264 I think it is. It should start, you saying,  
13:00:54 34 "There's too much, this stuff can wait I think".  
35

13:00:59 36 COMMISSIONER: Has this already been tendered?

13:01:01 37  
13:01:02 38 MR WOODS: Well insofar as all of the transcripts have been  
13:01:05 39 tendered, yes.  
40

13:01:05 41 COMMISSIONER: But this particular one?

13:01:07 42  
13:01:07 43 MR WOODS: No, I don't think so.  
44

13:01:08 45 COMMISSIONER: Okay, thanks.

13:01:09 46  
13:01:10 47 MR WOODS: Not that I can find. Here we go, 264. You say,

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

13:01:16 1 "There's too much, this stuff can wait I think". Mr White  
13:01:20 2 says, "That's can wait". Ms Gobbo says, "No, that's one of  
13:01:23 3 my question s". You say, "Go for it". Mr White says,  
13:01:27 4 "What's, what's the question?" Ms Gobbo says, "What  
13:01:31 5 happens at the end?" Mr White, "For you?" Ms Gobbo, "Of  
13:01:35 6 [REDACTED]". White, "For [REDACTED]". "Of [REDACTED]", says  
13:01:38 7 Gobbo. White says, "What, when he gets arrested?" Smith,  
13:01:42 8 "In what sense?" Gobbo, "M'mm". Smith, "Good question,  
13:01:48 9 talk about it. How do you see it? Smith says, "Let's  
13:01:51 10 forget about the timing. Let's just say when it happens".  
13:01:51 11 Ms Gobbo, "No, no, you can forget about the timing because  
13:01:54 12 my credibility as far as he's concerned will be nonexistent  
13:01:59 13 if he's arrested before [REDACTED]". Mr White, "[REDACTED]". But  
13:02:04 14 [REDACTED] like [REDACTED] and like a lot of people that are  
13:02:07 15 committing crime, he could get arrested any tick of the  
13:02:11 16 clock beyond anybody's control". Go down to the next page  
13:02:15 17 at 266. Mr White says, "And the first thing he's going to  
13:02:18 18 do, we would assume, is that he would ring you". Ms Gobbo,  
13:02:24 19 "He'll ring no one else but me". Another page down.  
13:02:29 20 There's a discussion about what her response will be.  
13:02:33 21 Mr White says, "One of the things that's concerned us a  
13:02:35 22 little bit is". Ms Gobbo laughs on the tape and says, "One  
13:02:39 23 of the things". Mr White says, "A lot of things but the  
13:02:42 24 most concerning, [REDACTED] will be afforded every  
13:02:46 25 opportunity to speak to a solicitor and obviously that's  
13:02:51 26 going to be you. And everything will go on as it normally  
13:02:54 27 would". Ms Gobbo, "M'mm". Mr White, "He would have an  
13:03:01 28 expectation that you'd represent him". Mr White, "How does  
13:03:03 29 that work?" Ms Gobbo, "I'll just send him a message 'what  
13:03:07 30 happened to you?' or shall I call him? I'm only joking, go  
13:03:12 31 on". Mr White, "How does that work?" Ms Gobbo, "If?"  
13:03:15 32 Mr White, "If you represent him whilst at the same time  
13:03:18 33 you've been instrumental in his apprehension". Now, just  
13:03:23 34 pausing there. Both Mr White and you at this stage were  
13:03:27 35 grappling with the same issue that you and I were grappling  
13:03:27 36 with a moment ago, weren't you?---Yes.  
37  
13:03:29 38 And you were asking her, "Nicola, how are you going to be  
13:03:33 39 dealing with this because we don't quite understand how  
13:03:36 40 that's going to work", do you accept that?---Yeah, I do.  
13:03:42 41 Sadly, yep.  
42  
13:03:43 43 And that it was your expectation, your clear expectation  
13:03:46 44 that she would be the one who was going to turn up and  
13:03:49 45 represent him?---I don't - I think it had been discussed  
13:03:55 46 about her not representing him.  
47

.11/09/19

6113

SMITH XXN - IN CAMERA

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

13:03:57 1 Well whether or not it had been discussed here, so far we  
13:04:02 2 don't see any reference to - so far, to saying, "Nicola, we  
13:04:06 3 don't want you to turn up and represent him", so far?---Not  
13:04:14 4 at this meeting, but I'm of the understanding that had  
13:04:18 5 already occurred and - yes, so it's not mentioned here,  
13:04:22 6 that's fair enough, but I believed it had been discussed  
13:04:24 7 previously and - - -  
8  
9 Ms Gobbo - sorry, keep going?---No, that's okay.  
10  
13:04:24 11 Ms Gobbo goes on to say, "Yeah, that's one of the things  
13:04:28 12 keeping me up at night". Couple of lines down, Ms Gobbo,  
13:04:32 13 "What's the big deal? You're not going to tell him".  
13:04:36 14 Mr White says, "No, we're not but". Ms Gobbo says, "Nor am  
13:04:39 15 I. I don't really feel like being dead this month. I'm  
13:04:43 16 not saying" - and then the sentence peters out. Mr White  
13:04:43 17 says, "Yeah, I see. I'm not, I'm not thinking that you're  
13:04:46 18 going to be compromised, I'm just wondering". Ms Gobbo,  
13:04:50 19 "How I'm going to deal with myself?" Mr White,  
13:04:56 20 "Ethically". Mr Green, "Or practically". Mr White, "It's  
21 the same, it's the same issue because he's going to find  
13:05:00 22 out I suppose, but". Ms Gobbo says, "Morally you're  
13:05:02 23 asking". Mr White, "Yeah, and it's a problem more for you  
13:05:06 24 than for us, but". Ms Gobbo says, "You don't care".  
13:05:10 25 Mr White says, "Well". Ms Gobbo says, "Like you care about  
13:05:13 26 what I'm thinking but you don't care about from his point  
13:05:16 27 of view, true?" Mr White says, "Well we care about the  
13:05:20 28 position that we're putting you in. Granted, you're the  
13:05:24 29 master of your own destiny". Ms Gobbo says, "I told you  
13:05:28 30 remember, talking about this right at the beginning, that  
13:05:30 31 this would end up being a real problem and I knew it would  
13:05:34 32 be. What can I do? I mean". Mr Green says, "How would it  
13:05:38 33 run practically on the night? Say you get the phone,  
13:05:42 34 'Look, I've just been arrested'." Ms Gobbo, "Yeah". And  
13:05:46 35 then there's a bit more - sorry, Mr Green then says, I  
13:05:47 36 should point out, "And you don't have to answer these  
13:05:49 37 questions if it's breaching ...".  
13:05:52 38  
13:05:52 39 Now a couple of pages down at, my note says 262 -  
13:06:05 40 sorry, 271. Top of 270, if you go there. Sorry, go down  
13:06:11 41 to the bottom. Green says, "One minute, get the record of,  
13:06:15 42 some record of interview done and then sit down and talk  
13:06:18 43 business". Ms Gobbo says, "No". Top of the next page,  
13:06:22 44 "What, what would be the best practical way", says Green.  
13:06:26 45 Gobbo says, "He needs to have it in his mind"?---I'm sorry,  
13:06:31 46 I'm not on that page.  
47



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

13:06:33 1 COMMISSIONER: The transcript isn't keeping up with you.  
13:06:35 2 You've got us a little confused I think.  
13:06:38 3  
13:06:39 4 MR WOODS: The "sexual fantasies" reference is in fact I  
13:06:40 5 think on the page before.  
6  
13:06:41 7 COMMISSIONER: We've got that now at 271, yes.  
13:06:44 8  
13:06:44 9 MR WOODS: I'm on the next page, I'm sorry, down. I think  
13:06:48 10 my notes may have the wrong page. Here we go. "What would  
13:06:54 11 be the best practical way?" Ms Gobbo, "He needs to have it  
13:06:58 12 in his mind before he gets back to the police station, back  
13:07:00 13 to St Kilda Road". You say, "Do you reckon?" Ms Gobbo  
13:07:04 14 says, "Yeah". Mr White says, "What, that he can save  
13:07:04 15 himself?" Ms Gobbo says, "That he's fucked". Mr White,  
13:07:08 16 "But he does need to know that he can". Ms Gobbo says, "Oh  
13:07:12 17 no, not that he can save himself, no". The conversation  
13:07:17 18 goes on and then down the end of that page Mr Smith, you  
13:07:20 19 say, "He's fucked, he's fucked again". Ms Gobbo says, "But  
13:07:24 20 he should know that he's totally completely fucked". Top  
13:07:28 21 of the next page, "With evidence at this stage". Ms Gobbo,  
13:07:33 22 "Yeah". Mr Green, "Like he's knee deep in ...".  
13:07:38 23  
13:07:38 24 Even with what you say about the inaccuracy of some  
13:07:43 25 portions of the transcript, you accept that this is a  
13:07:45 26 conversation that took place between the four of  
13:07:49 27 you?---Yes.  
28  
13:07:55 29 I don't need to take you to the reference but then at p.280  
13:08:02 30 there's a discussion about using his [REDACTED] to [REDACTED]  
13:08:05 31 [REDACTED] and how that might be a method by which he might be  
13:08:09 32 more willing to talk. You've read this transcript  
13:08:15 33 recently, you accept that that was discussed between  
13:08:17 34 Mr Green and - in fact between the four of you?---Well she  
13:08:21 35 brought it up and we listened to it, yeah.  
36  
13:08:24 37 Ms Gobbo says, "You won't get anywhere. You won't get  
13:08:27 38 anywhere with him unless you allow him to [REDACTED],  
13:08:30 39 because by then he'll be [REDACTED]". Mr White later  
13:08:36 40 says, "What does he [REDACTED]?" Ms Gobbo, "Anything".  
13:08:40 41 Mr Green says, "[REDACTED]". Ms Gobbo says, "Anything he  
13:08:44 42 can get his hands on". Ms Gobbo says, "No, I have the  
13:08:46 43 (indistinct) so don't worry, but he always [REDACTED] mine".  
13:08:48 44 Mr Green the next page down says, "Just a simple tactic  
13:08:52 45 would be he's not allowed [REDACTED] until after the  
13:08:55 46 interview and then when he, when the initial preliminary  
13:08:58 47 interview is done, then he can just [REDACTED] [REDACTED]"

.11/09/19

6115

SMITH XXN - IN CAMERA

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

13:09:01 1 and not let him stop for two hours while he's contemplating  
13:09:05 2 the future of his". Ms Gobbo says, "Not let him stop is  
13:09:09 3 right. When he gets very stressed he just [REDACTED]".  
13:09:13 4 That was one of the discussions that happened on that  
13:09:15 5 occasion as well?---M'mm.  
6  
13:09:17 7 Can you play clip 46, please.  
13:09:29 8  
9 (Audio recording played to hearing.)  
10  
13:10:52 11 That was your voice at the end saying, "Just the  
13:10:55 12 general ethics of this situation" before Ms Gobbo  
13:10:59 13 responded?---Yes.  
14  
13:11:00 15 I suggest to you - I tender that and I should tender the  
13:11:07 16 transcript that came before it, Commissioner.  
17  
13:11:10 18 COMMISSIONER: I think there's nothing in the audio that  
13:11:12 19 can't be released, is there?  
13:11:15 20  
13:11:15 21 MR WOODS: No.  
13:11:19 22  
13:11:19 23 #EXHIBIT RC492A - Audio of [REDACTED] 06.  
13:11:26 24  
13:11:27 25 #EXHIBIT RC492B - Transcript with pseudonyms applied.  
13:11:37 26  
13:11:37 27 MR WOODS: It's been inquired by Victoria Police whether  
13:11:39 28 that reference to [REDACTED] on the top - no, it doesn't  
13:11:43 29 have the name of the individual. So no. Thank you,  
13:11:46 30 Commissioner.  
31  
13:11:50 32 COMMISSIONER: It might actually have to have the term  
13:11:53 33 '[REDACTED]' removed and just be a blank in accordance with  
13:11:57 34 the orders that have been made.  
13:11:58 35  
13:11:58 36 MR WOODS: Yes, that would be right.  
37  
13:12:01 38 COMMISSIONER: It is right. In the tape - is [REDACTED]  
13:12:08 39 used in the tape?  
13:12:10 40  
13:12:10 41 MR WOODS: No, there's no sound.  
42  
13:12:13 43 COMMISSIONER: The tape's okay but before the transcript  
13:12:16 44 goes up on the website it will have to have [REDACTED]  
13:12:20 45 removed.  
13:12:20 46  
13:12:21 47 MR WOODS: Yes, thank you, Commissioner. We'll attend to

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

13:12:23 1 that over the break. Just before the break. Mr Smith, it  
13:12:30 2 was the case, as Mr White identified in that clip, that -  
13:12:37 3 well, I'll read it to you. "Wouldn't it be the case that  
13:12:42 4 down the track that a defence barrister could argue, well,  
13:12:45 5 the advice he got prior to participating in the record of  
13:12:51 6 interview was not impartial because it was done on behalf  
13:12:54 7 of the police by a person that was acting for the police".  
13:12:54 8 You heard those words a moment ago?---Yes.  
9  
13:12:56 10 And that was a concern that not just Mr White had but you  
13:13:01 11 had on the same occasion; is that right?---That's right,  
13:13:03 12 you can tell the topics and this conversation was  
13:13:09 13 work-shopping these issues and, yeah, you can read the  
13:13:15 14 words that were said. And, yeah, we didn't - - -  
15  
13:13:20 16 Can I say to yours and Mr White's credit it appears that  
13:13:24 17 you were pretty on the money about the issues that might  
13:13:27 18 arise given the circumstances that faced you in relation to  
13:13:32 19 the use of Ms Gobbo?---But we didn't go far enough.  
20  
13:13:36 21 You might not have gone far enough in what you were doing  
13:13:39 22 about that but you well understood what the problem was is  
13:13:43 23 what I'm suggesting to you?---I don't know that we well  
13:13:48 24 understood it. I think we danced around it to a degree,  
13:13:52 25 but yes.  
26  
13:13:53 27 You knew that it would be said that the person who was  
13:13:55 28 giving advice to ██████████ was an agent of the police and  
13:13:59 29 was not acting on ██████████'s behalf or in his best  
13:14:05 30 interests, do you accept that?---Yeah, Mr White said that,  
13:14:09 31 yeah.  
32  
13:14:10 33 You don't disagree?---No, no, I do not.  
34  
13:14:16 35 Commissioner, that might be a convenient time.  
36  
13:14:18 37 COMMISSIONER: Yes, all right then. We'll adjourn until 2  
13:14:21 38 o'clock, thanks.  
13:14:23 39  
13:14:23 40 <(THE WITNESS WITHDREW)  
13:14:24 41  
42 LUNCHEON ADJOURNMENT  
43  
44  
45  
46  
47



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

13:56:08 1 UPON RESUMING AT 2.02 PM:  
14:02:31 2  
14:02:36 3 MR WOODS: Can you hear me, Mr Smith?---Loud and clear,  
14:02:39 4 Mr Woods.  
14:02:40 5  
14:02:41 6 <PETER SMITH, recalled:  
14:02:42 7  
14:02:42 8 Just before we get going again, Ms Enbom raised something a  
14:02:49 9 moment ago. I think there's to be a discussion tomorrow.  
14:02:50 10 Sorry, we were talking about something right when you came  
14:02:53 11 on the Bench.  
14:02:54 12  
14:02:54 13 COMMISSIONER: Yes.  
14:03:08 14  
14:03:08 15 MR WOODS: Sorry, strike that. We'll talk about that  
14:03:10 16 during the break.  
14:03:12 17  
14:03:12 18 COMMISSIONER: There's one thing to mention. I think  
14:03:14 19 there's an application for leave to appear by Faruk Orman's  
14:03:21 20 representatives in respect of Dale Flynn. I understand  
14:03:24 21 counsel assisting has looked at it and support the  
14:03:28 22 application for leave but because there has been an  
14:03:31 23 attitude stated by Victoria Police beforehand that it  
14:03:34 24 wasn't appropriate, I mention that now, and if you're going  
14:03:39 25 to be opposing it, or if anyone else is to be opposing it,  
14:03:43 26 could you let me know and we'll have it mentioned tomorrow,  
14:03:46 27 otherwise I'll approve it on the papers.  
14:03:49 28  
14:03:49 29 MS ENBOM: Yes, thank you, Commissioner, I'll get in touch.  
14:03:52 30  
14:03:52 31 COMMISSIONER: Thank you.  
14:03:56 32  
14:03:56 33 MR WOODS: Mr Smith, before the break we were talking about  
14:04:00 34 that meeting a couple of days before ██████████'s arrest.  
14:04:07 35 On the day of the arrest - your diaries are tendered  
14:04:14 36 entirely but I just want to take you to - do you have a  
14:04:20 37 hard copy of your diaries there?---They're all here next to  
14:04:25 38 me. I'll need the reference of course.  
14:04:29 39  
14:04:29 40 Have you had a chance in the last little while, it's not  
14:04:33 41 going to be an exam about what they contain, I just want to  
14:04:37 42 understand whether or not you've had a look at the day of  
14:04:39 43 ██████████'s arrest, around that period recently?---No, I  
14:04:44 44 haven't. I think I looked at the contact report a while  
14:04:49 45 ago, as in a month ago, I'm sure it will be in line.  
14:04:54 46  
14:04:55 47 The Commission's been provided with a video of the arrest

.11/09/19

6118

SMITH XXN - IN CAMERA

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

14:05:05 1 of [REDACTED] and [REDACTED] Indeed it's the case, as it had  
14:05:11 2 been understood to be, after each of them is read their  
14:05:16 3 rights they say that Nicola Gobbo is the person that they  
14:05:20 4 want to represent them?---H'mm.  
14:05:23 5  
14:05:23 6 That was certainly, insofar as [REDACTED] was concerned,  
14:05:27 7 that was what she said to you would be the case a couple of  
14:05:30 8 days before?---That's right.  
14:05:31 9  
14:05:33 10 Just some time points on the day of the arrest. Are you  
14:05:38 11 able to say when it was that you first attended the police  
14:05:45 12 facility on that day? Firstly, were you anywhere in the  
14:05:50 13 vicinity of the arrest occurring of those two people?---No,  
14:05:53 14 no.  
14:05:53 15  
14:05:53 16 But you were advised that the arrest was to occur that  
14:05:57 17 day?---I don't even know if that's right.  
14:06:00 18  
14:06:00 19 How is it that you came to be - you wanted to say  
14:06:05 20 something?---I'm sure I was advised by someone, probably  
14:06:08 21 Inspector O'Brien, about the arrest happening. Whether I  
14:06:13 22 was told that day, I don't know. We weren't a priority as  
14:06:17 23 far as they're concerned, I'm sure.  
14:06:19 24  
14:06:19 25 I see. In fact there had been, in one of the ICRs that we  
14:06:25 26 were looking at a moment ago, there was a discussion with  
14:06:28 27 Ms Gobbo, firstly where she was advised of the arrest by  
14:06:34 28 the SDU and, secondly, when she was advised of the arrest  
14:06:39 29 by the investigators, you saw that before lunch?---That's  
14:06:41 30 right, yeah.  
14:06:42 31  
14:06:42 32 In the discussion that you had with her there was a plan  
14:06:47 33 for a meeting with her after she turned up to do whatever  
14:06:52 34 she needed to do in relation to [REDACTED] and  
14:06:56 35 [REDACTED]---That's right.  
14:06:56 36  
14:06:58 37 Mr Biggin's diary indicates that it was at 6.35 pm that  
14:07:06 38 [REDACTED] arrived at the station and that there was a pitch  
14:07:10 39 to [REDACTED] about him starting to cooperate. Are you  
14:07:16 40 aware of those initial - that's Mr Flynn's statement at  
14:07:21 41 paragraph 48. Are you aware of that pitch happening early  
14:07:25 42 on in the piece when he arrived at the police station?---As  
14:07:30 43 I say, I was present when Mr O'Brien spoke to him so  
14:07:35 44 that's, if that's the same time, I suppose that's the same  
14:07:39 45 thing, but I'd have to check the diary if you want me to be  
14:07:44 46 specific.  
14:07:44 47

.11/09/19

6119

SMITH XXN - IN CAMERA

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

14:07:45 1 It's about 15 minutes before and according to Mr O'Brien's  
14:07:48 2 diary, at 18:50, that he spoke to ██████████ in the  
14:07:54 3 boardroom in your company, so it appears to have been  
14:07:57 4 O'Brien, you and ██████████ in the boardroom. Do you accept  
14:08:00 5 that?---Yes. That's what I was talking about.

14:08:05 6  
14:08:06 7 If that time mark is 18:50, then were you an observer to  
14:08:12 8 that conversation or were you a participant in that  
14:08:14 9 conversation?---I was, well effectively I was an observer,  
14:08:18 10 I was there, I didn't say anything.

14:08:19 11  
14:08:20 12 It might be my lack of understanding of the management and  
14:08:25 13 the way in which things worked within the Victoria Police,  
14:08:29 14 but is it a strange thing, it would be unusual for someone  
14:08:35 15 from the SDU to attend an arrest like that if it wasn't in  
14:08:40 16 circumstances where there was a source like Ms Gobbo in the  
14:08:43 17 background, is that right?---Yeah, but I wasn't, I wasn't  
14:08:49 18 there for that reason, I was there in case - yeah.

14:08:53 19  
14:08:53 20 I understand. You were there for a different reason not to  
14:08:57 21 do with Ms Gobbo?---Yes.

14:09:00 22  
14:09:03 23 You were there, although there was another reason because  
14:09:07 24 earlier in the day you'd said to Ms Gobbo that you'll  
14:09:10 25 arrange to have a meeting with her straight  
14:09:14 26 afterwards?---As in totally away from there, yes.

14:09:18 27  
14:09:18 28 You knew that she would be attending that location  
14:09:22 29 though?---Yeah, we had discussed that obviously and we knew  
14:09:26 30 that was going to eventuate.

14:09:29 31  
14:09:29 32 Then do you recall how long the conversation went for  
14:09:33 33 between Mr O'Brien, you and ██████████ in the boardroom,  
14:09:37 34 just generally?---Not long, 10 or 15 minutes maybe. It may  
14:09:46 35 be in my diary or probably is.

14:09:49 36  
14:09:50 37 This was in circumstances where it's well-known, and we've  
14:09:54 38 been through the materials to show, that the plan was to  
14:09:59 39 get ██████████ to cooperate in implicating the  
14:10:04 40 Mokbels?---That was the Purana plan, yes, correct.

14:10:06 41  
14:10:07 42 You were going to assist in making a pitch, I take it, to  
14:10:11 43 ██████████?---Not specifically, no. I didn't involve, I  
14:10:17 44 wasn't involved in the pitch, Inspector O'Brien spoke to  
14:10:20 45 him, as I recall. I specifically remembered I did not say  
14:10:24 46 a word but I was there in - - -  
14:10:31 47



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

14:10:31 1 In another capacity as well?---If the possibility  
14:10:34 2 eventuated I would be needed in my role as a handler.  
14:10:39 3  
14:10:39 4 I see. Mr Flynn's statement says that you, "O'Brien and  
14:10:43 5 Flynn started talking to ██████████ about reasons why it's  
14:10:44 6 in his best interest to start cooperating, reduce gaol and  
14:10:47 7 ██████████ ██████████ told he wanted to speak with Gobbo again  
14:10:53 8 at the police station. You contacted Gobbo who said she  
14:10:58 9 would return" and there's a note in Mr Flynn's diary that  
14:11:03 10 says "discussed options". Was there a moment when Ms Gobbo  
14:11:07 11 left and was then asked to return to the police  
14:11:11 12 facility?---I can't remember. I'd find it odd if I called  
14:11:17 13 her to come back because that's the investigator's role at  
14:11:20 14 that point, but yeah, there was, I can't remember, I'd have  
14:11:24 15 to check.  
14:11:24 16  
14:11:25 17 Do you remember any concern being raised, given the focus  
14:11:33 18 on ██████████ rolling against the Mokbels, was there any  
14:11:38 19 concern about your attendance, because if that was  
14:11:44 20 disclosed it might affect charges that follow or other  
14:11:49 21 people implicated if there was an SDU member present?---I  
14:11:54 22 understand the question because the presence of an SDU  
14:11:57 23 member only means one thing, doesn't it?  
14:11:59 24  
14:11:59 25 I'm talking about specifically only in relation to ██████████  
14:12:04 26 ██████████ in the general sense that it was expected or it was  
14:12:07 27 hoped that he would roll on the Mokbels?---That's right.  
14:12:10 28  
14:12:10 29 And that was the plan that had been developed?---Yes.  
14:12:13 30  
14:12:13 31 What I'm asking is, if it was recorded in some documents,  
14:12:16 32 as it seems to have been in some diaries, that you were  
14:12:22 33 there?---Yes.  
14:12:22 34  
14:12:23 35 Isn't there then a concern that a human source might be  
14:12:24 36 exposed, being Ms Gobbo?---But, well but the reason, that  
14:12:33 37 was not the reason we were there. The reason we were there  
14:12:37 38 was to pitch, for me to assist Inspector O'Brien if it  
14:12:41 39 eventuated, and I think people in his circle, under his  
14:12:44 40 command, I think knew exactly that was the reason why we  
14:12:48 41 were there.  
14:12:48 42  
14:12:48 43 On the night of the arrest we've talked about there being a  
14:12:51 44 meeting with Ms Gobbo afterwards. I'll get this brought up  
14:12:55 45 on the screen. It's VPL.0005.0104.0001. Somewhat  
14:13:07 46 unhelpfully I don't think I put a page reference into my  
14:13:12 47 notes, I might just need to read it to you. There's an

.11/09/19

6121

SMITH XXN - IN CAMERA

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

14:13:18 1 exchange where Ms Gobbo says, "Yeah, I don't, I mean look,  
14:13:21 2 I don't, look, I don't hate [REDACTED] and I mean, I don't  
14:13:26 3 even, I'm not even upset with him for putting me in this  
14:13:30 4 position". Mr Green says, "Have you helped [REDACTED]"  
14:13:34 5 Ms Gobbo says, "Today?" Mr Greens says, "Maybe it might  
14:13:38 6 not be so easy to see it now, but like if you were to put  
14:13:42 7 yourself forward a week or two, or six weeks or even five  
14:13:46 8 years down the track and look back, have you helped [REDACTED]  
14:13:49 9 [REDACTED]" Ms Gobbo says, "Yes, I have and getting him to ...  
14:13:54 10 pushing him over the line tonight, which is what I knew I'd  
14:13:58 11 be able to do, yeah, he'll appreciate it in time".  
14:14:03 12 Mr Green says, "Not only ethically giving him the correct  
14:14:07 13 advice on what have you, cast all that aside, emotionally  
14:14:10 14 for you, have you done the right thing for him? Have you  
14:14:15 15 been". Ms Gobbo says, "For him?" There it is on the  
14:14:18 16 screen now. Mr Green, "True to the". Ms Gobbo says, "For  
14:14:23 17 him, yes". Mr Green says, "Yeah, yeah, okay. What's the  
14:14:27 18 main thing that you've done that's right or good for him?"  
14:14:31 19 Ms Gobbo says, "Looked after his interests". Mr Green  
14:14:35 20 says, "Yeah". Ms Gobbo says, "Looked after his interests  
14:14:38 21 to the exclusion of others, including myself because by  
14:14:42 22 looking after his interests I've put my life at risk".  
14:14:46 23 Mr Green says, "You've jeopardised your own". Ms Gobbo  
14:14:50 24 says, "Not livelihood, life". You were a party to this  
14:14:56 25 conversation?---I was present. Must have been, yeah.  
14:14:59 26  
14:15:00 27 Did you find it extraordinary that Ms Gobbo was  
14:15:03 28 characterising what she had done for [REDACTED] in this  
14:15:07 29 selfless way?---I think a little bit but part of that  
14:15:14 30 conversation is about, from a handler's point of view, and  
14:15:18 31 I'm not taking away from the words that were said.  
32  
14:15:22 33 Yes, I understand?---From the handler's point of view of  
14:15:25 34 handling someone in a difficult position. So being a  
14:15:28 35 person that they can, I was going to say shoulder to cry  
14:15:32 36 on, that's incorrect, but a person that they could confide  
14:15:36 37 in because they couldn't confide in anybody else about it.  
14:15:40 38  
14:15:41 39 The day after [REDACTED]'s arrest there was another  
14:15:47 40 face-to-face between - - -  
14:15:53 41  
14:15:53 42 COMMISSIONER: Can we tender this one first?  
43  
44 MR WOODS: Yes.  
45  
14:15:55 46 COMMISSIONER: This is [REDACTED]?  
14:15:57 47

.11/09/19

6122

SMITH XXN - IN CAMERA

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

14:15:57 1 MR WOODS: Yes, it is, it's that evening.  
14:15:58 2  
14:15:58 3 COMMISSIONER: Can we just do these pages that you referred  
14:15:59 4 to.  
14:16:00 5  
14:16:00 6 MR WOODS: 16 and 17 I believe.  
14:16:07 7  
14:16:13 8 COMMISSIONER: I don't think there is anything to be PIIed  
14:16:19 9 there, is there?  
14:16:21 10  
14:16:21 11 MR WOODS: The names of the handlers.  
14:16:23 12  
14:16:23 13 COMMISSIONER: Yes.  
14:16:23 14  
14:16:24 15 #EXHIBIT RC493A - (Confidential) Document number  
14:12:57 16 VPL.0005.0104.0001 dated [REDACTED]/06.  
14:16:25 17  
14:16:26 18 #EXHIBIT RC493B - (Redacted version.)  
14:16:27 19  
14:16:28 20 MR WOODS: A clip that's already been tendered and played  
14:16:31 21 so I don't think I need to play to you is clip 41, which is  
14:16:35 22 a face-to-face meeting the day after the arrest. The  
14:16:38 23 reason I want to take you to it is Ms Gobbo says, "And I  
14:16:42 24 ... and she met Brian and Dale and [REDACTED] and in front  
14:16:46 25 of them, and I was a bit embarrassed, and [REDACTED] burst  
14:16:50 26 into tears, grabbed my hand and said he didn't think he  
14:16:53 27 could do it. Like he didn't want to put me in any danger".  
14:16:57 28 Sandy White says, "H'mm". Ms Gobbo says, "And that's  
14:17:01 29 really, that is really, really hard". Sandy White says,  
14:17:06 30 "But the situation for [REDACTED] is now 3,000 times better  
14:17:11 31 than it was yesterday". Ms Gobbo says "Yeah, and he needed  
14:17:14 32 a bit of a push, yeah". I don't think we need to finish  
14:17:17 33 that off. You accept that what Ms Gobbo was telling her  
14:17:20 34 handlers, including you, on the night of his arrest and the  
14:17:24 35 day after his arrest, was that she had assisted in giving  
14:17:29 36 [REDACTED] a push to assist the police?---Yeah, that piece  
14:17:45 37 I've got in front of me, that's what it sounds like.  
14:17:49 38  
14:17:49 39 Yes, okay?---Can I clarify something that is in front of  
14:17:53 40 me?  
14:17:54 41  
14:17:54 42 Yes?---"He grabbed my hand and didn't want to put me in any  
14:18:00 43 danger", that was about, do you want me to explain what  
14:18:04 44 that's about or it doesn't matter?  
14:18:07 45  
14:18:07 46 I understand, I think it's implicit there that he was  
14:18:10 47 concerned that none of the flack would come back to



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

14:18:13 1 Ms Gobbo for the matters that he needed a push about, is  
14:18:17 2 that right?---Yeah, yeah.  
14:18:19 3  
14:18:19 4 Because of the other people that she knew and acted on  
14:18:22 5 behalf of and socialised with?---Yeah, but she said needed  
14:18:26 6 a bit of a push. I guess the best people to ask is the  
14:18:31 7 investigators who spoke about how cooperative he was or  
14:18:34 8 whatever. Those are the words she said though.  
14:18:37 9  
14:18:38 10 In the one I took you to a moment ago she was saying, "Yes,  
14:18:42 11 and I have - getting him to, pushing him over the line  
14:18:45 12 tonight, which I knew I'd be able to do. Yeah, he'll  
14:18:49 13 appreciate it in time". On two occasions she's taking the  
14:18:55 14 credit, rightly or wrongly, for pushing ██████████ over the  
14:18:59 15 line to assist police, that's what she was saying?---That's  
14:19:01 16 what she was saying but I guess you'd have to ask her the  
14:19:04 17 meaning. People have different ways of expressing  
14:19:09 18 themselves, other people interpret it differently. But  
14:19:09 19 certainly those are the words said there.  
14:19:09 20  
14:19:10 21 Just so you're aware, we put those propositions to those  
14:19:14 22 people who were involved in that part of the process. The  
14:19:17 23 reason I'm putting these propositions to you is that you  
14:19:20 24 were involved in this part of the process and they  
14:19:23 25 weren't?---Okay.  
14:19:24 26  
14:19:25 27 This is what she was saying to you about what she had  
14:19:28 28 done?---H'mm.  
14:19:29 29  
14:19:29 30 COMMISSIONER: That's already been tendered?  
14:19:32 31  
14:19:32 32 MR WOODS: Yes, it has, I don't know the exhibit number of  
14:19:35 33 that. It may not have been tendered actually, sorry.  
14:19:41 34  
14:19:41 35 COMMISSIONER: I don't think it has.  
14:19:41 36  
14:19:41 37 MR WOODS: We can tender that.  
14:19:41 38  
14:19:42 39 COMMISSIONER: That's ██████████ 06?  
14:19:42 40  
14:19:42 41 MR WOODS: Yes, ██████████ 06.  
14:19:42 42  
14:19:44 43 COMMISSIONER: Between Nicola Gobbo and the SDU handlers  
14:19:53 44 and what pages, please? If we can just scroll.  
14:20:00 45  
14:20:01 46 MR WOODS: It won't be on that version that's on the clip  
14:20:03 47 there because that's just an excerpt.

.11/09/19

6124

SMITH XXN - IN CAMERA

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

14:20:09 1  
2 COMMISSIONER: Why don't we just do that excerpt.  
3  
4 MR WOODS: That's easier.  
5  
14:20:12 6 COMMISSIONER: Thank you, I'm told it's p.32. That has  
14:20:15 7 already been anonymised.  
14:20:17 8  
14:20:17 9 MR WOODS: It has been from my reading of it.  
14:20:21 10  
14:20:22 11 #EXHIBIT RC494A - Audio recording [REDACTED]/06.  
14:20:25 12  
14:20:25 13 #EXHIBIT RC494B - Transcript.  
14:20:31 14  
14:20:35 15 WITNESS: Can I just interrupt? Obviously I don't know  
14:20:40 16 what she said to [REDACTED] This is what she said here.  
14:20:46 17  
14:20:47 18 MR WOODS: Yes, and I'm only asking you insofar as what she  
14:20:50 19 said to you?---Yes.  
14:20:51 20  
14:20:52 21 I take your point and it's a fair point to say that just  
14:20:55 22 because she was saying that to you in your view doesn't  
14:20:58 23 mean that she necessarily did give that person a push, she  
14:21:02 24 might have been saying that for some other reason, is that  
14:21:04 25 right?---There may be - that's right. Yeah, full stop,  
14:21:10 26 that's right.  
14:21:10 27  
14:21:13 28 At the same meeting there's an exchange, and this is clip  
14:21:19 29 42, if that could be played. This is still the [REDACTED]  
30  
14:21:29 31 (Audio recording played to the hearing.)  
14:21:55 32  
14:21:55 33 It's not a particularly clear audio, but you accept what  
14:22:01 34 she's saying to you there is that she will get [REDACTED]  
14:22:05 35 there as well and what she's implicating by that is that  
14:22:09 36 she'll get [REDACTED] to roll and to assist the police?---It  
14:22:16 37 is unclear and I suppose I would express it in she will get  
14:22:23 38 [REDACTED] to do what's in the best interests for him.  
14:22:28 39  
14:22:28 40 And what's in the best interests for Victoria Police as  
14:22:31 41 well?---Well, a person decides to become a witness, that's  
14:22:39 42 a big step for them, and they've got to make it.  
14:22:42 43  
14:22:42 44 Yes, and it's also - - - ?---Does it help the prosecution?  
14:22:48 45 Yes, it does. But that's a person's own decision when they  
14:22:51 46 find themselves in certain circumstances.  
14:22:54 47

.11/09/19

6125

SMITH XXN - IN CAMERA

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

14:22:54 1 Yes, I see?--Which more than one person has done, clearly.  
14:22:57 2  
14:22:58 3 But just going back to my question though, you accept that  
14:23:01 4 she was saying to you, for whatever that motivation might  
14:23:04 5 have been, whether it was in [REDACTED] best interests or  
14:23:07 6 not, she was saying to you as a member of the SDU that she  
14:23:11 7 would get [REDACTED] there and in that phrase she was  
14:23:15 8 meaning she would get him to roll?--To make a statement so  
14:23:23 9 he could be a witness?  
14:23:25 10  
14:23:25 11 Yes?--I think that's what she's talking about, yes, it's  
14:23:29 12 quite indistinct.  
14:23:30 13  
14:23:30 14 That can be taken off the screen.  
14:23:32 15  
14:23:32 16 COMMISSIONER: Do you want to tender that?  
14:23:34 17  
14:23:35 18 MR WOODS: Yes, I forget to tender that as well.  
14:23:38 19  
14:23:38 20 COMMISSIONER: [REDACTED] will have to come out before it  
14:23:43 21 goes into the public arena. Clip 42, audio and tape  
14:23:49 22 between Nicola Gobbo and Peter Smith.  
14:23:53 23  
14:23:57 24 #EXHIBIT RC490A - Audio recording between Nicola Gobbo and  
14:23:59 25 Peter Smith  
14:23:59 26  
14:23:59 27 #EXHIBIT RC490B - Edited audio.  
28  
14:23:59 29 #EXHIBIT RC490C - Transcript.  
30  
14:23:59 31 #EXHIBIT RC490D - Edited transcript.  
14:24:04 32  
14:24:04 33 COMMISSIONER: [REDACTED] needs to be taken out.  
14:24:06 34  
14:24:07 35 MR WOODS: I should that [REDACTED]'s name was removed from  
14:24:09 36 that same line but it might not make an awful lot of sense  
14:24:14 37 without any of those names in there but that's appropriate  
14:24:19 38 that be taken out.  
14:24:20 39  
14:24:20 40 COMMISSIONER: Yes.  
14:24:25 41  
14:24:25 42 MR WOODS: You, Mr Smith, were asked some questions about  
14:24:30 43 whether, this is in relation to you providing a statement  
14:24:33 44 to this Commission, asked whether LPP or other duties were  
14:24:38 45 breached by Ms Gobbo. You give an answer about [REDACTED]  
14:24:45 46 and you say, "There was an incident shortly after the  
14:24:49 47 arrest of [REDACTED] in 2006. The source had been advised

.11/09/19

6126

SMITH XXN - IN CAMERA



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

14:24:53 1 she could not act for [REDACTED] but insisted on doing so  
14:24:56 2 for her perceived reasons of her personal safety from other  
14:25:00 3 criminals. Post this arrest and after meeting with [REDACTED]  
14:25:04 4 [REDACTED] the source provided information that [REDACTED] were  
14:25:09 5 [REDACTED] the walls and the premises where a [REDACTED]  
14:25:12 6 [REDACTED] had been located. I passed this  
14:25:15 7 information on to Detective Inspector O'Brien at the Purana  
14:25:18 8 Task Force". The question you were asked was about LPP or  
14:25:22 9 other duties being breached by Ms Gobbo?--H'mm.

14:25:25 10  
14:25:25 11 That's your answer. I just want you to expand. Is it your  
14:25:29 12 understanding that that was a breach of some legal  
14:25:34 13 professional privilege obligations or some sort of conflict  
14:25:42 14 situation that that put Ms Gobbo in?---I thought it might  
14:25:46 15 be LPP.

14:25:49 16  
14:25:50 17 All right. I want to ask you some questions about [REDACTED]  
14:25:54 18 [REDACTED] and you know who [REDACTED] is?---Yes.

14:25:58 19  
14:26:03 20 His true identity and the identity of others will be on  
14:26:07 21 that document, Exhibit 81 that's with you?---Yes.

14:26:10 22  
14:26:14 23 There was an interview on [REDACTED] 2006 that you weren't  
14:26:19 24 involved in. It was Sergeant Bateson and Detective Acting  
14:26:27 25 Inspector O'Brien attending at [REDACTED] Prison, which they  
14:26:30 26 did on a number of occasions to speak to [REDACTED] who was  
14:26:33 27 contemplating assisting police and you're aware that there  
14:26:37 28 was a long period of time where [REDACTED] was contemplating  
14:26:41 29 doing that. Are you aware of that?---The details of  
14:26:46 30 [REDACTED] when he did or didn't do whatever he did, those  
14:26:51 31 are not clear to me. They may have been at the time. I  
14:26:55 32 was only going on any interaction I had with investigators  
14:26:58 33 about it, I wasn't sort of hands-on as it were of course.

14:27:03 34  
14:27:03 35 You were aware he had been implicated by [REDACTED] as the  
14:27:06 36 person who supplied [REDACTED] that was used in the [REDACTED]  
14:27:13 37 [REDACTED] murder, are you aware of that?---I probably was at  
14:27:17 38 the time. I can't remember those things now. There was  
14:27:21 39 too much else going on.

14:27:22 40  
14:27:22 41 I understand. The reason I'm asking these questions about  
14:27:26 42 that particular interview is because the transcript of that  
14:27:34 43 interview that Bateson and O'Brien undertook with [REDACTED]  
14:27:39 44 was something that was later taken to a face-to-face  
14:27:43 45 meeting between the handlers and Ms Gobbo and she was given  
14:27:47 46 an opportunity to read it. Do you have a memory of that  
14:27:50 47 occurring?---Yes, yes.

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

14:27:52 1  
14:27:57 2 My document ID might be different to that of others. I  
14:28:01 3 have OPP.0002.0001.1269. This interview - I should say I  
14:28:13 4 haven't followed any other version that's been shown but  
14:28:21 5 can you see that on the screen in front of you? I'm not  
6 asking you to read it at this stage but does it appear on  
14:28:27 7 your screen, Mr Smith?---There's something coming up now.  
14:28:29 8 Yes, yes, the first page is there, yes.  
14:28:33 9  
14:28:33 10 Okay, great. Could it be taken to p.1349, the top  
14:28:38 11 right-hand corner. While that's getting there I'll give  
14:28:51 12 you the substance of what it says. Mr O'Brien says to  
14:28:57 13 [REDACTED] "So what are you going to do as far as a  
14:29:01 14 solicitor goes?" [REDACTED] "Well it depends on what you  
14:29:06 15 want to do. Can I ask a question?" The answer is, "Yeah".  
14:29:11 16 "Nicola, listen to this one, right", this is [REDACTED]  
14:29:15 17 "You've got to answer this one for me. Nicola and [REDACTED]  
14:29:18 18 would like to convince me because Nicola knows, right,  
14:29:21 19 really I shouldn't be doing fuckin' 34 years for nothing  
14:29:27 20 because she knows a fair bit about it and she's the one  
14:29:30 21 that convinced me to come in, as well [REDACTED]. [REDACTED]  
14:29:31 22 always has. Forget [REDACTED] now. I want to ask you, one sec, I  
14:29:36 23 want to ask you", and there's something indecipherable  
14:29:41 24 there. "Nicola's the one who convinced me. I don't know,  
14:29:44 25 but I trust her. Who can I get to put it all together for  
14:29:48 26 me?" And the answer from Mr Bateson is, "Look, I reckon  
14:29:55 27 [REDACTED] is an honest solicitor". And [REDACTED] says,  
14:30:01 28 "Yeah, but he's a weak something though. What I mean by  
14:30:05 29 that" and there's an exchange, and then it's ultimately  
14:30:10 30 said, "Yeah, but he's honest". If that's taking some time  
14:30:15 31 to come up on the screen, I think it's not far off, I just  
14:30:19 32 want to attribute these phrases to the correct individuals.  
14:30:23 33 As I say, Mr Smith, I'm not suggesting you were part of  
14:30:29 34 this conversation, I just want to take you to what was  
14:30:29 35 said between these individuals?---I'm listening carefully  
14:30:32 36 to what you're saying but - the page line hasn't merged yet  
37 by the way. I'm listening carefully to what you're saying  
14:30:37 38 but may I preface it by saying I knew if I was given this  
14:30:42 39 at some stage, which I think I was, this transcript, the  
14:30:45 40 content was really nothing like I went into any depth at  
14:30:50 41 all I'm sure. As I recall it, as I recall it.  
14:30:55 42  
14:30:56 43 I understand. I won't be suggesting to you that you had a  
14:30:59 44 fulsome knowledge of this transcript either before it was  
14:31:03 45 shown to Nicola Gobbo or after it was shown to Nicola  
14:31:07 46 Gobbo, just so you're aware of that?---Or in fact that  
14:31:12 47 entire case.

.11/09/19

6128

SMITH XXN - IN CAMERA



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

14:31:14 1  
14:31:14 2 COMMISSIONER: I'll just mention while we are trying to get  
14:31:19 3 it up, it was tendered as 476A and B.  
14:31:28 4  
14:31:28 5 MR WOODS: Unless it's a network issue, that might be the  
14:31:31 6 easier version to bring up. There we go. Unfortunately my  
14:31:42 7 page numbers won't work, I know it's towards the last few  
14:31:47 8 pages.  
14:31:47 9  
14:31:48 10 COMMISSIONER: Yes, just seeing if it can be moved on now.  
14:31:49 11 Yes, it can be moved on now.  
14:31:52 12  
14:31:58 13 MR WOODS: If you can go to the last few pages, probably  
14:32:03 14 four pages from the end. Here we go, "Nicola, listen to  
14:32:13 15 this one, right". Keep going down. There's the phrase  
14:32:18 16 from [REDACTED] where he says that [REDACTED] isn't as  
14:32:23 17 forthright as he'd like him to be. Then there's, "Can I  
14:32:30 18 ask a question, whatever happens", et cetera?---Sorry, it's  
14:32:34 19 going a bit fast.  
14:32:35 20  
14:32:35 21 Let's stop there and Bateson says, "I believe Nicola is  
14:32:39 22 ultimately honest too"?---Scroll up a little bit. "I  
14:32:47 23 believe Nicola" - yeah, I just want to catch up.  
14:32:51 24  
14:32:52 25 They're talking about [REDACTED] just above, and by here they're  
14:32:55 26 talking about Nicola and Bateson says, "And I believe  
14:32:59 27 Nicola is ultimately honest too". [REDACTED] "She is but I  
14:33:04 28 don't think she'll sell me out to them". Bateson says,  
14:33:10 29 "Well I don't think she will either". [REDACTED] "I'll be  
30 honest with you, I've got a gut feeling she'd rather help  
14:33:15 31 you than what's going on out there". Bateson says, "Well I  
14:33:16 32 don't know about that but I think she's honest, mate". [REDACTED]  
14:33:20 33 says, "Can I ask this question? Whatever happens" and then  
14:33:24 34 he's talking about some arrangements that can hopefully be  
14:33:28 35 made to help him and his family more broadly. That can be  
14:33:33 36 taken off the screen.  
14:33:33 37  
14:33:34 38 COMMISSIONER: Can I just say then before it goes, then  
14:33:38 39 O'Brien makes the point that he thinks it's best to have  
14:33:40 40 someone independent.  
14:33:42 41  
14:33:42 42 MR WOODS: Yes.  
14:33:42 43  
14:33:42 44 COMMISSIONER: And then Bateson says something else just a  
14:33:46 45 few questions on.  
14:33:47 46  
14:33:47 47 MR WOODS: Yes, and we've gone through - - -



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

14:33:49 1  
14:33:49 2 COMMISSIONER: We have. I just want to put that in context  
14:33:52 3 here if you don't mind.  
14:33:54 4  
14:33:55 5 MR WOODS: O'Brien says, "I think it would be advantageous  
14:33:58 6 for you to have someone independent". Then keep scrolling  
14:34:01 7 up. ██████████ "That's what I was thinking but at the same  
14:34:05 8 time they don't know my whole situation. Nicola knows the  
14:34:09 9 inside and out of it, do you understand what I'm trying to  
14:34:11 10 say? If there was an agreement she sort of, you know what  
14:34:11 11 I mean". Bateson says, "My point of view, it's all up to  
14:34:15 12 you, but from my point of view I just want to say I think  
14:34:19 13 Nicola"?---Sorry, can you just go back a bit? When you  
14:34:23 14 started talking just then it wasn't on the page.  
14:34:26 15  
14:34:26 16 That's okay?---Just pause it there for a second. I see,  
14:34:33 17 okay, gotcha.  
14:34:35 18  
14:34:35 19 He's umming and ahing a bit about Nicola down the end of  
14:34:44 20 that page. Then move to the top of the next page. ██████████  
14:34:45 21 to the two police officers, "Would you use Nicola?"  
14:34:49 22 Bateson says, "Oh". ██████████ "I'm ██████████ if you're  
14:34:55 23 ██████████, if I've told youse how upfront it is". O'Brien  
14:35:01 24 said, "Alls you want is somebody who's going to act for you  
14:35:04 25 properly and your best interests and be honest". ██████████  
14:35:07 26 "And no one can know nothing. That's it", et cetera,  
14:35:12 27 et cetera. And then down the bottom it says, "She'll keep  
14:35:16 28 her mouth shut", obviously a reference to Ms Gobbo. And  
14:35:21 29 there's a bit more back and forth there. Bateson says down  
14:35:27 30 the bottom, "That's up to Nicola but that's what you're  
14:35:30 31 putting her in about, the situation she'll be in if she  
14:35:35 32 assists ██████████ providing information". As I say, your  
14:35:39 33 position is that whilst it might have been that you took  
14:35:43 34 this out to a meeting with Ms Gobbo, it doesn't mean that  
14:35:47 35 you've read it chapter and verse beforehand, is that  
14:35:50 36 right?---Yeah, is this the one we looked at now, is it?  
14:35:56 37  
14:35:56 38 I'll come to that?---Okay. Yeah, to answer your initial  
14:36:00 39 question, yeah, that's right.  
14:36:01 40  
14:36:02 41 Chronologically this is obviously a separate story to the  
14:36:07 42 ██████████ story?---Yes.  
14:36:08 43  
14:36:09 44 I've deliberately dealt with it separately so that both you  
14:36:12 45 and I and the Commissioner don't get confused?---Okay.  
14:36:15 46  
14:36:16 47 It was actually on ██████████ 2006, so a couple of days

.11/09/19

6130

SMITH XXN - IN CAMERA

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

14:36:20 1 before [REDACTED] arrest, at that face-to-face meeting  
14:36:26 2 that this document was shown to Ms Gobbo. And it was  
14:36:30 3 attended by Mr White, Mr Green and yourself. Can you play  
14:36:38 4 clip 43, please.  
5  
6

14:36:42 7 (Audio recording played to the hearing.)  
8

14:39:05 9 I tender that clip, Commissioner.

14:39:09 10  
14:39:25 11 COMMISSIONER: We're checking it's not already tendered.

14:39:28 12  
14:39:28 13 MR WOODS: I don't think that has been tendered.

14:39:31 14  
14:39:31 15 COMMISSIONER: Will that have to be edited?

14:39:34 16  
14:39:34 17 MR WOODS: There will need to be A and B.  
18

14:39:40 18  
19  
14:39:10 20 #EXHIBIT RC496A - Audio recording [REDACTED]/06.

14:39:20 21  
14:39:22 22 #EXHIBIT RC496B - (Redacted version.)

14:39:44 23  
14:39:44 24 #EXHIBIT RC496C - Transcript.

14:39:46 25  
14:39:46 26 #EXHIBIT RC496D - (Redacted version.)  
27

14:39:48 27  
14:39:48 28 Mr Smith, it stands out pretty starkly at the end of that  
14:39:52 29 exchange - can you just bring that back up on the screen,  
14:39:57 30 sorry - that where Ms Gobbo reads the line of her client  
14:40:05 31 [REDACTED] saying, "Well I don't know about that but I think  
14:40:10 32 she's honest", it seems to me from what I can tell everyone  
14:40:14 33 in the room laughs. Did you hear that?---Yes, I did.  
34

14:40:17 34  
14:40:20 35 And the joke was that everyone knew that she was dishonest,  
14:40:24 36 that was the joke, wasn't it?---No, no. No, the joke was  
14:40:31 37 people used to, she used to be - she was a lawyer that was  
14:40:37 38 always associated with criminals in what an outsider would  
14:40:44 39 see as potentially inappropriate and there was a lot of  
14:40:47 40 mistrust I think in police circles about her and I think  
14:40:51 41 that was, that's been mentioned early on in the contact  
14:40:55 42 reports.  
43

14:40:56 43  
14:40:58 44 Just - - -?---That's my, that's my understanding of that.  
14:41:01 45 I mean I guess I could be wrong, but that's how I hear it.  
46

14:41:05 46  
14:41:05 47 Can I explore that. She's talking about ironic lines he

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

14:41:12 1 uses. She says when Bateson - - -?---Can I have the number  
14:41:19 2 again please?  
14:41:19 3  
14:41:19 4 It should be now. It might not be. Give it a moment and  
14:41:22 5 it should come up on the screen?---Okay.  
14:41:28 6  
14:41:29 7 COMMISSIONER: Let me know when it's there?---It's there.  
14:41:34 8  
14:41:34 9 MR WOODS: What I'm focusing on is the second-last line  
14:41:39 10 where she reads what Mr Bateson says, "I don't know about  
14:41:43 11 that but I think she's honest" and then there's uproarious  
14:41:48 12 laughter that comes after that. What I'm suggesting to you  
14:41:49 13 is that laughter came from the scenario that you each found  
14:41:52 14 yourself in sitting in a room with a lawyer who was going  
14:41:56 15 to be representing this individual, or he was tossing up at  
14:41:59 16 this stage?---No.  
14:42:00 17  
14:42:01 18 And that everyone knew she was dishonest because she was  
14:42:04 19 talking to human source managers?---No, that's not right.  
14:42:07 20  
14:42:08 21 Can you explain again what other interpretation could  
14:42:10 22 possibly be given to this exchange?---You've got  
14:42:14 23 Mr Bateson, who is a well-recognised, recognised as a good  
14:42:19 24 investigator, but also publicly reasonably well-known - - -  
14:42:22 25  
14:42:23 26 Just pausing there, who knows she's a human source?---I  
14:42:27 27 think he's on the list. He would have, of course he would.  
14:42:30 28  
14:42:30 29 Yes, he did know. Sorry, keep going?---That's not the  
14:42:33 30 point I was making. The point I'm making is Mr Bateson  
14:42:37 31 himself was a well-known investigator in the Purana era, in  
14:42:42 32 that area. And, you know, the source had come, had come to  
14:42:51 33 us because, partly because of her association with  
14:42:53 34 criminals and actually I think it's even perhaps in the  
14:42:57 35 risk assessment that this may have been a possibility, that  
14:43:02 36 there was a perception that she was doing the wrong thing  
14:43:05 37 because of her regular and odd association with criminals  
14:43:11 38 at all different times and places and there was a lot of  
14:43:15 39 distrust amongst police circles of her. So - and from a  
14:43:21 40 personal point of view, if your proposition you're putting  
14:43:24 41 to me, I would not laugh out loud about that in a source's  
14:43:28 42 presence.  
14:43:28 43  
14:43:29 44 I want to put a couple of propositions to you. Bateson  
14:43:33 45 knew that she was assisting the police through the SDU,  
14:43:36 46 you've accepted that?---Yes, of course he did, yes.  
14:43:39 47

.11/09/19

6132

SMITH XXN - IN CAMERA



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

14:43:39 1 The handlers in this room, including yourself, knew that  
14:43:42 2 she was assisting the police obviously, that's correct,  
14:43:46 3 isn't it?---Yeah.  
14:43:47 4  
14:43:49 5 Gobbo herself, it goes without saying, knew that she was  
14:43:54 6 assisting the police?---Yeah.  
14:43:56 7  
14:43:56 8 The only person that was a party to or being spoken about  
14:44:00 9 in this exchange here who didn't know that she was  
14:44:04 10 assisting police was [REDACTED] do you accept that?---Um,  
14:44:09 11 okay, yeah, but your question was that she was a liar.  
14:44:12 12  
14:44:12 13 No, it's the humour that is found in the fact that  
14:44:16 14 Mr Bateson tells Ms Gobbo, sorry, tells [REDACTED] that he  
14:44:22 15 thinks that Nicola Gobbo is honest and what I'm saying is  
14:44:26 16 that that was the source of the laughter and not what you  
14:44:30 17 were attempting to explain a moment ago?---Right. I've  
14:44:35 18 explain it the best I can. That's not how I see it. I  
14:44:38 19 don't recall it but I just, I heard the laughter and I  
14:44:41 20 heard the tape. That's how I see it.  
14:44:45 21  
14:44:45 22 It might be said against you that those who were laughing  
14:44:50 23 at this passage that Ms Gobbo was reading out were finding  
14:44:54 24 significant humour in a significant abuse of process, what  
14:44:58 25 do you say about that?---No, as I say that's not - I'm not  
14:45:03 26 agreeing to that because of my previous explanation.  
14:45:06 27  
14:45:07 28 COMMISSIONER: What if we say it this way, that she thought  
14:45:13 29 - [REDACTED] says, "I've got a gut feeling she'd rather help  
14:45:17 30 you than help what's going on out there", and the point  
14:45:20 31 that Nicola Gobbo's making is that in fact he was right on  
14:45:24 32 the money, that that's exactly what she was doing and  
14:45:28 33 that's why everyone laughed, because it was irony?---I can  
14:45:33 34 see the reference to ironic. Well I guess people see it  
14:45:38 35 differently.  
14:45:39 36  
14:45:39 37 All right, that's okay?---I see it how I see it, yes.  
14:45:43 38  
14:45:44 39 That's okay.  
14:45:44 40  
14:45:45 41 MR WOODS: You have your own understanding of what that  
14:45:48 42 document means and I think you've explained that to the  
14:45:50 43 best of your ability?---Keeping in mind I've got no memory  
14:45:56 44 of all of that happening.  
14:45:57 45  
14:45:57 46 No, I understand, which is why I should say I was putting  
14:46:01 47 each of those propositions to you about what each of those

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

14:46:04 1 people who were sitting in the room knew at that stage, not  
14:46:07 2 necessarily now?---Okay.

14:46:10 3  
14:46:16 4 If clip 45 from the same meeting could be played, please.

5  
14:46:22 6 (Audio recording played to the hearing.)

7  
14:50:55 8 Stop it there, I wanted to finish it at "talk to Stuart in  
14:51:00 9 the morning". Gobbo was telling you, if you scroll up to  
14:51:03 10 the top of that exchange, that ██████████ couldn't be told  
14:51:11 11 by Bateson that Gobbo was involved in ██████████'s statement  
14:51:16 12 taking. Now, do you have a recollection of that being the  
14:51:20 13 case?---No, because the - I say the detail of that case,  
14:51:31 14 it's in there, I'm not disputing what's said there although  
14:51:35 15 it's very difficult to hear.

14:51:36 16  
14:51:37 17 But you were aware at the time that Ms Gobbo, not at the  
14:51:42 18 time it occurred but at this time when this exchange took  
14:51:45 19 place, that Gobbo had been integral in assisting ██████████  
14:51:49 20 in providing statements, so far that's understandable from  
14:51:55 21 the transcript, do you agree with that?---Yes, of course.  
14:51:59 22 None of the details of any of those I wouldn't be aware of.

14:52:02 23  
14:52:03 24 I understand you don't know the details of it, just that  
14:52:05 25 that was the situation, that she had assisted. Secondly,  
14:52:09 26 that ██████████'s statements implicated ██████████ and she's  
14:52:13 27 saying that as well, do you agree with that?---I'm actually  
14:52:19 28 finding it a little bit confusing. I'm not trying to be  
14:52:22 29 difficult.

14:52:23 30  
14:52:23 31 That's okay. These are confusing things to try and  
14:52:26 32 describe quite frankly. Now, what it says at the top of  
14:52:31 33 the page, it sounds weird because when he's, when he's  
14:52:36 34 asking about - - -

14:52:36 35  
14:52:36 36 COMMISSIONER: I think the witness wants to ask something.

14:52:40 37  
14:52:41 38 MR WOODS: Sorry, I didn't hear that. Go ahead?---No, no,  
14:52:44 39 I was going to ask you to point me to the particular  
14:52:44 40 passage, yes.

14:52:45 41  
14:52:45 42 Okay. What she's saying at the top there is that Stuart  
14:52:49 43 can't say she got, say to him, and here she's talking about  
14:52:55 44 ██████████ that Nicola Gobbo got ██████████ over the line  
14:52:59 45 because he can't say anything about it. What I'm saying to  
14:53:02 46 you is that, firstly, Ms Gobbo had been integral in getting  
14:53:08 47 ██████████ over the line and that's what she's saying in

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

14:53:11 1 that top passage. Right, you accept she's telling you she  
14:53:15 2 got ██████████ over the line?---She's saying that she did, I  
14:53:20 3 don't know whether - - -

14:53:22 4  
14:53:22 5 Whether she did or didn't another thing. She's saying she  
14:53:26 6 did?---Yes.

14:53:27 7  
14:53:27 8 She's also saying that that fact can't be explained to  
14:53:33 9 ██████████ do you accept that? That's who she's talking  
14:53:38 10 about in that passage?---I think so.

14:53:47 11  
14:53:47 12 All right. And that the reason - and the method by which  
14:53:51 13 that will be kept from ██████████ is Stuart Bateson, do you  
14:53:59 14 agree? That's what she's telling you at least?---To me  
14:54:06 15 it's clear. It's up to the investigators to manage, yes.

14:54:10 16  
14:54:11 17 She also says at the bottom of that page there, she says  
14:54:15 18 that her role in assisting ██████████ making, amending  
14:54:20 19 ██████████'s statements I should say, is from a defence  
14:54:24 20 barrister's point of view a critical thing to cross-examine  
14:54:28 21 about, "Who made the changes, who did this and who worded  
14:54:32 22 it, that has never come out but I've got to face, face the  
14:54:36 23 risk of that coming out at the trial so my fear that it all  
14:54:40 24 hasn't..." She's saying that a critical matter to the  
14:54:50 25 defence had not come out, do you accept that? She was  
14:54:53 26 telling you that?---That she thought it might by a reading  
14:54:58 27 of that.

14:54:58 28  
14:54:58 29 That's right, the last sentence there she's talking about  
14:55:00 30 the fear to her safety if it did come out, do you accept  
14:55:03 31 that?---Yes, the safety aspect being that she, against, I  
14:55:12 32 suppose fear of reprisals from the people whoever the  
14:55:17 33 statements were made against.

14:55:17 34  
14:55:20 35 That critical thing from a defence barrister's point of  
14:55:24 36 view had never come out, that was what she was saying to  
14:55:27 37 you?---That's how it reads.

14:55:28 38  
14:55:29 39 Then the page down. Keep going. And then it says how the  
14:55:41 40 statements were changed, sorry, were amended, and you can  
14:55:45 41 keep going down. Keep going. Sorry, go further up. But  
14:55:51 42 she was indicating to you and Mr White that that particular  
14:55:58 43 issue had at least at that stage never come out, is that  
14:56:02 44 right?---That's right. I have zero recollection of it but  
14:56:09 45 that's how it reads and it looks like she was still worried  
14:56:14 46 about making that.

14:56:15 47



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

14:56:15 1 Yes, that's right. Whilst you weren't involved in that  
14:56:18 2 [REDACTED] process, your understanding of conflict of  
14:56:23 3 interest, you'd accept the fact that she had a serious  
14:56:28 4 conflict of interest in assisting [REDACTED] in any regard  
14:56:32 5 given the fact that she had assisted [REDACTED] in  
14:56:35 6 implicating [REDACTED] --As I say, I don't even - I hope  
14:56:43 7 this doesn't sound too obtuse. I did not know then in  
14:56:49 8 detail, certainly do not know now, who was charged with  
14:56:53 9 what particular heinous crime. You know, I don't know what  
14:56:58 10 else to say. I wasn't aware of the fact. I mean you're  
14:57:02 11 saying it to me now.

14:57:03 12  
14:57:03 13 In [REDACTED] 2006, given the significance of what these  
14:57:08 14 characters had been involved in at the time, I suggest to  
14:57:11 15 you you would have very well-known who [REDACTED] and  
14:57:14 16 [REDACTED] were and the crimes that they were implicated in  
14:57:17 17 in [REDACTED] 2006, you'd have to accept that?---I may well  
14:57:21 18 have. If I have it's probably recorded in contact reports  
14:57:26 19 and the like. But right now I can't, and even back then  
14:57:29 20 I'm sure I didn't have a thorough knowledge because as far  
14:57:33 21 as sources were concerned they didn't need to know.

14:57:37 22  
14:57:37 23 We've talked about what [REDACTED] implicated [REDACTED] in,  
14:57:45 24 namely providing [REDACTED] that was used in a [REDACTED]  
14:57:50 25 and we've talked about [REDACTED] seeking a deal and  
14:57:56 26 providing information in relation to other's criminal  
14:57:59 27 activities. Gobbo herself was involved in assisting  
14:58:06 28 [REDACTED] in that process and we've seen that in the  
14:58:09 29 transcripts we've been to today, do you agree with  
14:58:12 30 that?---Yep.

14:58:17 31  
14:58:18 32 So ICR 38, at p.360, if it can be brought up on the screen,  
14:58:24 33 this is the record ICR 38 of [REDACTED] 2006. I'm  
14:58:32 34 just going to bring an ICR up on the screen. It relates to  
14:58:38 35 [REDACTED] It says about just under halfway down the page,  
14:58:51 36 "HS going to BSR at 18:00 to read [REDACTED]'s statements".  
14:58:59 37 Firstly, this is one of your entries, do you accept that?  
14:59:02 38 We can take you to the top if you'd like to see that?---No,  
14:59:04 39 I can tell it's mine.

14:59:05 40  
14:59:06 41 Can you explain for the Commission what the BSR is?---That  
14:59:09 42 would be the St Kilda Road complex.

14:59:13 43  
14:59:14 44 She's told you when you've called her back that's where  
14:59:17 45 she's going at 18:00 that day to read those statements,  
14:59:20 46 that's what she told you?---H'mm.

14:59:22 47

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

14:59:22 1 Later on in the day, sorry, the next day, sorry, in the  
14:59:26 2 morning, you can see on the Wednesday morning that she's  
14:59:30 3 very impressed with ██████████'s statements including over  
14:59:33 4 40 pages - that should come off the main screen, sorry.  
14:59:49 5 "She's saying she's impressed with ██████████ statements,  
14:59:52 6 includes over 40 pages, re trafficking, human source  
14:59:55 7 amended some slightly", do you see those words  
14:59:58 8 there?---Yes.  
14:59:58 9  
14:59:58 10 And then over the next page at 361, "Meeting with DS Flynn"  
15:00:06 11 and that's a meeting between you and DS Flynn, is that  
15:00:09 12 right?---Yep, I'm just reading it.  
15:00:12 13  
15:00:12 14 "Flynn says human source supplied a lot of details re  
15:00:16 15 ██████████ statements" and then goes through some other  
15:00:19 16 details there?---That's what Flynn tells me.  
15:00:24 17  
15:00:24 18 That's what Flynn tells you. She says she's amended some  
15:00:28 19 slightly, Flynn said she supplied a lot of details for  
15:00:33 20 ██████████ statements, that's right?---Yes.  
15:00:35 21  
15:00:36 22 In the SMLs, I don't know whether they're (indistinct) but  
15:00:43 23 at p.41 of the 3838 source management log - I've got a VPL  
15:00:52 24 number if that would assist. Just whilst that's being  
15:00:56 25 brought up I should say, Commissioner, I tender clip 45  
15:00:59 26 which is the last one I played, I don't think I tendered  
15:01:02 27 that.  
15:01:02 28  
15:01:03 29 #EXHIBIT RC497A - Audio ██████████ 06.  
15:01:07 30  
15:01:08 31 #EXHIBIT RC497B - (Redacted version.)  
32  
15:01:08 33 #EXHIBIT RC497C - Transcript.  
34  
15:01:08 35 #EXHIBIT RC497D - (Redacted version.)  
15:01:11 36  
15:01:23 37 So then we see in the SMLs - are they in front of you at  
15:01:28 38 the moment, Mr Smith?---Yes, p.41 is.  
15:01:30 39  
15:01:31 40 Okay, great. The first two entries seem to accord with  
15:01:36 41 what we've seen in the ICRs, that she's going there to view  
15:01:42 42 ██████████'s statements, that she's impressed with the  
15:01:46 43 statements?---Yeah.  
15:01:48 44  
15:01:49 45 All right. Now, can you play clip 47, please. This is ██████████  
15:02:16 46 ██████████ 2008 and this is a face-to-face meeting between  
15:02:20 47 "Mr White, Mr Green and Ms Gobbo.

.11/09/19

6137

SMITH XXN - IN CAMERA

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

1  
15:02:27 2 (Audio recording played to the hearing.)  
3  
15:05:00 4 You can stop the clip there. This is a couple of years  
15:05:03 5 after those entries in the ICRs in the SML?---H'mm.  
15:05:09 6  
15:05:09 7 Again, not a conversation that you were a party to, but  
15:05:13 8 what I want to ask you is what - there's a name taken out  
15:05:18 9 in the middle of it where she says, "Even (space) doesn't  
15:05:22 10 know about this" and the name that's there is ██████████'s  
15:05:26 11 name. And what she's indicating is that ██████████ doesn't  
15:05:34 12 know that she has attended the police station to change  
15:05:41 13 ██████████'s statements. So you understood that's what she  
15:05:45 14 was saying in that exchange?---I think so. Talking about  
15:05:51 15 amending statements, yeah.  
15:05:52 16  
15:05:53 17 If you could scroll that back up to that portion of the  
15:05:56 18 transcript, please. Just pausing there. When it's asked  
15:06:00 19 who thought ought the scheme, and I just want to go through  
15:06:03 20 the scheme in a moment, she says, "I presume Jim O'Brien or  
15:06:07 21 maybe" and then she uses Sandy White's first name?---Right.  
15:06:12 22  
15:06:12 23 She's presuming who came up with this arrangement of  
15:06:17 24 statements. Moving up from there.  
15:06:37 25  
15:06:38 26 COMMISSIONER: I think there seems to be some concern about  
15:06:40 27 it being on the screen, is there?  
15:06:42 28  
15:06:42 29 MS ENBOM: No, no, it was on the large screen.  
15:06:46 30  
15:06:46 31 COMMISSIONER: Yes, but I don't think - - -  
15:06:48 32  
15:06:48 33 MR WOODS: From my point of view, I've checked it.  
15:06:51 34  
15:06:51 35 COMMISSIONER: It's been PIIed.  
15:06:53 36  
15:06:53 37 MR WOODS: Not by the police.  
15:06:54 38  
15:06:55 39 COMMISSIONER: Not by the police but there's nothing in it  
15:06:58 40 that could be objectionable.  
15:06:59 41  
15:06:59 42 MR CHETTLE: My concern is that Mr Woods has put that it  
15:07:01 43 was Mr White's first name that was on the document and my  
15:07:06 44 understanding with Mr Winneke is that although it may be  
15:07:09 45 that name, it's not Mr White's name, that's what I'm  
15:07:13 46 concerned about.  
15:07:15 47

.11/09/19

6138

SMITH XXN - IN CAMERA



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

15:07:16 1 COMMISSIONER: All right.  
15:07:17 2  
15:07:17 3 MR CHETTLE: The way it was put - - -  
15:07:18 4  
15:07:19 5 COMMISSIONER: You're saying it's the same first name but  
15:07:20 6 you're saying it's not Mr White, it was someone else.  
15:07:26 7  
15:07:26 8 MR CHETTLE: It's someone else with the same name.  
9  
15:07:29 10 COMMISSIONER: Yes, I understand.  
15:07:29 11  
15:07:30 12 MR WOODS: That's why I put it the way that I did. I  
15:07:33 13 should say, Commissioner, it's not for the witness but  
15:07:33 14 given the indications in the document it seems clear at  
15:07:36 15 this stage that it was Sandy White but we might explore  
15:07:40 16 that further. In any event I just wanted to - - -  
15:07:43 17  
15:07:43 18 COMMISSIONER: Or Mr Chettle at least can explore it  
15:07:48 19 further.  
15:07:48 20  
15:07:49 21 MR WOODS: That's right. If you can move - where were we?  
15:07:51 22  
15:07:51 23 COMMISSIONER: I think that's all been tendered, hasn't it?  
15:07:54 24  
15:07:55 25 MR WOODS: The audio hasn't been tendered, I think the  
15:07:58 26 transcript may well have been. The audio certainly hasn't  
15:08:01 27 been.  
15:08:01 28  
15:08:01 29 COMMISSIONER: I've got 480A and B as an audio transcript  
15:08:05 30 of [REDACTED] and - that's the transcript.  
15:08:11 31  
15:08:11 32 MR WOODS: I think it might just be the transcript.  
15:08:13 33  
15:08:13 34 COMMISSIONER: That's the transcript, okay.  
15:08:15 35  
15:08:18 36 #EXHIBIT RC498 - Transcript  
15:08:24 37  
15:08:25 38 MR WOODS: Mr Smith, were you aware of an arrangement  
15:08:29 39 whereby Ms Gobbo would be provided access to St Kilda Road  
15:08:37 40 by someone other than a potential police witness in the  
15:08:42 41 case to make amendments to [REDACTED]'s statements?---No.  
15:08:48 42  
15:08:50 43 Are you aware of that happening in relation to [REDACTED]  
15:08:55 44 where it was the handlers who were involved in that process  
15:09:05 45 previously?---I'm sorry, I'm not clear on that question.  
15:09:12 46  
15:09:13 47 Well, what I'm suggesting to you is that on [REDACTED] 2006

.11/09/19

6139

SMITH XXN - IN CAMERA

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

15:09:23 1 there had been facilitated by the handlers access for  
15:09:31 2 Ms Gobbo to provide amendments to ██████████'s statements.  
15:09:39 3 Now are you aware of that occurring?---I'm getting confused  
15:09:43 4 here, amendments or was that shown a transcript?  
15:09:46 5  
15:09:47 6 She's reading the statements and she's told that she can  
15:09:50 7 write on them. Are you aware of that happening for ██████████  
15:09:55 8 ██████████--Did I do that?  
15:09:56 9  
15:09:56 10 I'm asking whether you're aware of it?---No. That's why  
15:10:02 11 I'm asking you, was it me?  
15:10:04 12  
15:10:07 13 Here we have on ██████████ 2006 a slightly different  
15:10:14 14 method used where she says, "I edited it, I went to Purana  
15:10:21 15 secretly one night and edited all his statements. I  
15:10:24 16 corrected them. But no one ever knows about that. That  
15:10:27 17 would never come out. Even ██████████ doesn't know that I  
15:10:31 18 did that and they're ██████████ statements". She says  
15:10:35 19 down the bottom, "He could never reveal it because he  
15:10:38 20 doesn't know about it, and they were very good the way they  
15:10:42 21 did it, because the Detective that I did it with is not a  
15:10:45 22 witness so it can never come out with people just telling  
15:10:48 23 the truth". Then the bit underneath is where I took you to  
15:10:52 24 where Mr O'Brien and someone of that first name assisted in  
15:10:56 25 that process. So is this an event that you knew about in  
15:11:01 26 relation to ██████████---No.  
15:11:04 27  
15:11:05 28 Is it an event that causes you concern looking at it in  
15:11:09 29 2019, what occurred?---Well yes, on the surface. I mean  
15:11:17 30 clearly there's others you need to, can ask or answer  
15:11:23 31 questions about it. On the surface of what the source says  
15:11:26 32 happened, yes, but I also know that the source sometimes  
15:11:29 33 remembered things differently to the way they happened. I  
15:11:32 34 mean I don't know, I wasn't there. To answer your  
15:11:35 35 question, was it concerning the way it reads? Yes.  
15:11:38 36  
15:11:39 37 But it does, I've taken you to the contemporaneous  
15:11:42 38 conversations that you were having with Ms Gobbo where she  
15:11:45 39 said she was going down to St Kilda Road for that precise  
15:11:47 40 reason?---Yes, but this was dealing with the investigators  
15:12:02 41 as the barrister for those people making statements. I  
15:12:02 42 think she was - can you ask that question to them.  
43  
15:12:02 44 Yes, okay?---We didn't have any input into what was in  
15:12:06 45 those statements at all.  
15:12:07 46  
15:12:07 47 What I'm wondering is that even though you weren't a party

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

15:12:10 1 to this later conversation, it is a cause for concern, I  
15:12:13 2 suggest, where she says even the statement maker doesn't  
15:12:16 3 know that she did it, if she's correct about that?---The  
15:12:21 4 statement maker? The person whose name's on the statement?  
5  
15:12:26 6 [REDACTED] doesn't know that I did that", she says?---Yes,  
15:12:30 7 that's what I can't understand. How do you do that without  
15:12:33 8 the witness knowing that the statement's been changed? I  
15:12:37 9 don't understand that. I can't explain it. It clearly  
15:12:39 10 needs further explanation. I don't know.  
11  
15:12:41 12 All right. We can go into public hearing, Commissioner.  
13  
15:12:47 14 COMMISSIONER: Yes, excellent. We'll go into public  
15:12:50 15 hearing now.  
15:12:51 16 - - -  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

.11/09/19

6141

SMITH XXN - IN CAMERA