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These claims are not yet resolved.

09:38:19 1 <PETER SMITH, recalled:
09:38:21 2
3 <CROSS-EXAMINED MR COLLINSON:
4
09:38:21 5 Mr Smith, my name is Collinson, I'm one of the two
09:38:25 6 barristers representing Ms Gobbo. Can I ask you, first of
09:38:29 7 all, to have a look at your witness statement, that is your
09:38:33 8 first witness statement in this proceeding. Have you got a
09:38:35 9 copy of it there?---I have a copy of the second one, not
09:38:49 10 the first one in my hand at the moment, no.
11
09:38:54 12 All right. I'll read out - - -
13
09:38:57 14 COMMISSIONER: Someone will be able to give you one there
09:38:59 15 I'm sure.
09:39:00 16
09:39:01 17 MR COLLINSON: Yes. We can perhaps bring it up on the
09:39:03 18 screen.
19
09:39:03 20 COMMISSIONER: Bring it up on the screen, yes.
09:39:06 21
09:39:06 22 MR COLLINSON: The document, it's Exhibit 485A and the
09:39:10 23 particular page I want is COM.0026.0001.0013. I think
09:39:26 24 those are the only page numbers. That's odd, because I'm
09:39:50 25 working from an unredacted version and it's question 18
09:39:59 26 that I'm focused on so I'm not sure whether - anyway, I
09:40:06 27 think we've found the right page. Mr Smith, you'll see in
09:40:10 28 question 18 you were asked, if you've got the screen
09:40:14 29 available to you there, to provide - - - ?---I do.
30
09:40:18 31 - - - details of your knowledge or belief as to whether LPP
09:40:21 32 or obligations of confidentiality or a lawyer's duty to act
09:40:27 33 in the best interests of her or his client were breached by
09:40:31 34 Ms Gobbo. Do you see that?---Yes.
35
09:40:33 36 In your answer you refer to the arrest of [REDACTED] and the
09:40:38 37 second sentence of your statement says, "The source had
09:40:43 38 been advised that she could not act for [REDACTED] but insisted on
09:40:48 39 doing so for her perceived reasons of her personal safety
09:40:52 40 from other criminals", do you see that?---That's right.
41
09:40:56 42 I'm focusing attention on the word "insisted" there. You
09:41:02 43 were also asked some questions about this by Mr Woods
09:41:05 44 yesterday and I don't think anyone needs to bring up the
09:41:09 45 transcript but it's transcript 6109. You were asked at
09:41:16 46 line 5, "You accept that it was unethical in your view at
09:41:20 47 least for her (that's Ms Gobbo) to be acting on behalf of

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SMITH XXN - IN CAMERA

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09:41:25 1 [REDACTED] at least following [REDACTED] arrest?" You
09:41:29 2 said, "Yes, I do". Then you added, "We tried to discourage
09:41:35 3 her well before that". Do you remember giving that
09:41:38 4 answer?---That sounds right.
5

09:41:41 6 Mr Woods, at least in this passage, may have partially
09:41:45 7 accepted your answer because at line 13 he said, "Yes, I
09:41:49 8 understand. You tried to discourage her but she kept
09:41:52 9 providing information in relation to [REDACTED] [REDACTED]
09:41:55 10 [REDACTED] activities. That's the situation as it seems in
09:41:58 11 the ICRs". And you answered, "I discovered her acting for
09:42:04 12 him and there was always a reason to do so, which in
09:42:08 13 hindsight, yeah". I think at transcript 6110 you repeat at
09:42:17 14 line 21 that, "We tried to discourage her from appearing".
09:42:25 15 What I want to try to - now when you first offered this
09:42:29 16 view of the matter in your first witness statement, as you
09:42:34 17 are inclined to emphasise quite fairly in your witness
09:42:39 18 statement, you hadn't had access to the ICRs, am I right
09:42:42 19 about that?---I certainly hadn't gone through them
09:42:47 20 thoroughly at that point.
21

09:42:49 22 And you hadn't played any audio transcripts of meetings
09:42:53 23 with Ms Gobbo on behalf of the SDU or looked at transcripts
09:42:59 24 of those?---No, and I still haven't done most of those.
25

09:43:05 26 It's an intimidating task. I don't think anyone's actually
09:43:08 27 done that, Mr Smith?---I think someone may have.
28

09:43:11 29 Okay. Pleased to hear it. Now, I want to try to talk
09:43:18 30 through with you some elements of the engagement that you
09:43:23 31 personally participated in with Ms Gobbo in relation to
09:43:27 32 [REDACTED]?---Yes.
33

09:43:31 34 Because I want to suggest to you, if I could nominate my
09:43:36 35 end point, that the police in the end were accepting of
09:43:51 36 Ms Gobbo coming along to St Kilda Road at the time of the
09:43:58 37 arrest of [REDACTED] to represent [REDACTED]. Do you agree
09:44:05 38 with that or not?---The short version is ultimately, yes,
09:44:13 39 we weren't happy with it, we tried to discourage it, but it
09:44:17 40 did happen and looking back now do I wish we hadn't done
09:44:21 41 it? Of course I do.
42

09:44:23 43 Yes, I'm leaving hindsight to one side at the moment. I'm
09:44:26 44 really just focusing on what the intention of Victoria
09:44:30 45 Police was or particular individuals at the time. Can I
09:44:38 46 start with some other evidence that you were asked about.
09:44:43 47 Do you recall that Mr Woods asked you about a reference in

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09:44:49 1 ICR 27 p.241 where Ms Gobbo made a reference to the cock
09:44:58 2 tease approach?---Yes.
3
09:45:03 4 And you gave an answer that SDU never sought to encourage -
09:45:15 5 I think you meant an inappropriate relationship between
09:45:18 6 Ms Gobbo and [REDACTED]?---I'm sure that's what I meant
09:45:25 7 because I recall at least one occasion myself saying words
09:45:30 8 to that effect, not to maintain a relationship for our
09:45:34 9 purposes, don't do that.
10
09:45:35 11 Yes. But I think we need to draw a distinction, don't we,
09:45:38 12 in this respect because when you said to [REDACTED], "Don't
09:45:48 13 have a relationship with" - sorry, when you said to
09:45:51 14 Ms Gobbo, "Don't have a relationship with [REDACTED]", you
09:45:54 15 meant, "Don't have a sexual relationship"; is that
09:46:00 16 right?---Sorry, I just want to be clear. The example I
09:46:03 17 just gave a minute ago, I can't remember whether that was
09:46:06 18 [REDACTED] or not. But I would never suggest to the source
09:46:09 19 to have a sexual relationship. I wouldn't - it wasn't
09:46:14 20 about not having a relationship at all.
21
09:46:16 22 Yes. My point is really that it's pretty clear, I suggest,
09:46:23 23 that from the outset the SDU handlers tasked Ms Gobbo to
09:46:35 24 develop a close friendship at least with [REDACTED], is that
09:46:41 25 fair?---I think it was as a result of it but it wasn't -
09:46:49 26 no, I wouldn't say she was tasked to do that because it
09:46:53 27 would have been better if it was probably a bit more
09:46:56 28 distant and if that information was able to be obtained.
09:46:59 29 No, I don't really agree with that. I do agree that it
09:47:02 30 probably occurred.
31
09:47:03 32 Yes. Well, let me just take you to a few references in the
09:47:07 33 ICRs to try to dissuade you, if I might, from that point of
09:47:16 34 view?---Okay.
35
09:47:17 36 If you go please to ICR 7, p.45. Down the foot of the
09:47:35 37 page, if I'm going too fast - you're working off the screen
09:47:42 38 I assume, are you?---I am. That's fine.
39
09:47:43 40 Yes. Down the bottom of the page you'll see under the
09:47:46 41 heading "Tasking" that Ms Gobbo was tasked to speak to
09:47:47 42 [REDACTED] for further intelligence re corruption
09:47:51 43 matters?---Yes.
44
09:47:51 45 That was essentially the implementation of a plan to try to
09:47:55 46 capture the Mokbels' [REDACTED] conducting [REDACTED] activities and
09:48:04 47 engaging with the Mokbels in order that eventually he might

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09:48:07 1 roll and implicate the Mokbels?---That's right. This
09:48:13 2 particular entry is probably not focused on that but you're
09:48:20 3 right in what you say.
4
09:48:20 5 I think it's perhaps fairer to say it unfolded in that
09:48:25 6 direction, didn't it, that it was seen that this
09:48:28 7 opportunity would arise, or hopefully would arise, to
09:48:31 8 utilise [REDACTED] in that way?---Right. I suppose - can
09:48:35 9 you remind what the date of this contact report is, please?
10
09:48:39 11 Yes, I can. This is quite early, 28 October?---Okay.
12
09:48:45 13 2005?---Yeah, it's quite early in the relationship with the
09:48:51 14 source, yeah, that would make sense, yes.
15
09:48:53 16 Yes. I think I can say, this is an ICR that you
09:48:58 17 prepared?---It is.
18
09:48:59 19 So it reflects discussions with you?---Yes.
20
09:49:02 21 If I can then take you to p.51, which is ICR 8. Again,
09:49:12 22 down the foot of the page do you see the last sentence - -
09:49:17 23 - ?---Yes.
24
09:49:18 25 - - - says, "Human source feels that it is likely that
09:49:21 26 [REDACTED] will want to take human source out as per
09:49:25 27 previous DSU plan"?---M'mm.
28
09:49:27 29 The words "as per previous DSU plan" are your words, aren't
09:49:33 30 they?---Yeah, but - - -
31
09:49:35 32 Sorry, I interrupted you. You go ahead?---No, no. Yes,
09:49:38 33 they are. I'm just trying to remember what the plan was.
34
09:49:41 35 Well, it seems to suggest, doesn't it, that the plan is for
09:49:47 36 Ms Gobbo to develop a social relationship with
09:49:56 37 [REDACTED]?---I can't remember but I mean that would be part
09:50:00 38 of it I guess, yeah.
39
09:50:02 40 It's only logical, isn't it?---Yes, it is.
41
09:50:05 42 If you want to have Ms Gobbo obtain information from
09:50:10 43 [REDACTED], she already knew him?---Yeah.
44
09:50:17 45 But the way to get him to be more fulsome in his
09:50:20 46 disclosures would be that if he got to know her pretty
09:50:26 47 well?---As you say, they did know each other I think quite

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09:50:32 1 well, and it was certainly to maintain the relationship. I
09:50:34 2 think before you were talking, unless I got it wrong, there
09:50:43 3 was certainly never any suggestion to do anything untoward
09:50:48 4 with that relationship if you like.
5

09:50:48 6 Yes. I want to keep a distinction clearly in mind. I will
09:50:52 7 never be suggesting to you, Mr Smith, that SDU encouraged
09:50:56 8 Ms Gobbo to have a sexual relationship with [REDACTED], you
09:51:00 9 understand that?---Yeah, okay.
10

09:51:03 11 My suggestion though was that SDU encouraged Ms Gobbo to
09:51:06 12 have a romantic relationship with [REDACTED]?---No, I
09:51:10 13 disagree with that, no. It was a relationship. That's
09:51:14 14 what I'm talking about as well, any sort of emotional - I'm
09:51:20 15 struggling for the right word in this forum. She was not
09:51:24 16 encouraged to have that sort of relationship with anybody.
17

09:51:26 18 All right. Do you accept that the last line on that page
09:51:30 19 tends to suggest it was in fact the DSU plan that, as it
09:51:37 20 said there - - - ?---It does.
21

09:51:38 22 That [REDACTED] would take Ms Gobbo out?---M'mm.
23

09:51:43 24 And those are your words?---That's right.
25

09:51:45 26 Do you suggest those words are erroneous?---No, no, but I
09:51:53 27 mean people can go out but that doesn't - I can't remember
09:51:55 28 what it meant but certainly I know in my mind that - what
09:52:02 29 the boundaries of that were. I mean, and I'm certainly
09:52:04 30 conceding that we wanted her to maintain a relationship.
31

09:52:09 32 Yes. Again, let me ask you to go to the next two pages
09:52:13 33 along, p.53. Do you see that page? I'm going to try and
09:52:20 34 do this - where I go to page references, Mr Smith, if it's
09:52:25 35 helpful to you I'm going to divide it up between point 1 to
09:52:31 36 point 9, and if I say point 2 that means about two tenths
09:52:36 37 of the way down the page, do you understand that?---I think
09:52:39 38 so. We'll see how we go.
39

09:52:41 40 We'll see how we go. At point 2 of the page there, so
09:52:42 41 about two tenths of the way down, under the heading [REDACTED],
09:52:46 42 you'll see, [REDACTED] just rang and wants to meet human source
09:52:51 43 tonight at 9.30 at [REDACTED] restaurant, [REDACTED]
09:52:57 44 Street, Brunswick"?---H'mm.
45

09:52:59 46 About point 5 of the page, that's halfway down, you'll see
09:53:01 47 it says, "Advised human source to meet with [REDACTED] but

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09:53:04 1 not to take documents for discussion, leave this for
09:53:07 2 further meeting as per previous plan". It's fair to say,
09:53:12 3 isn't it - and this reflects, I might say, a discussion
09:53:16 4 with you - it's fair to say that you encouraged Ms Gobbo to
09:53:20 5 go to [REDACTED] restaurant with [REDACTED]?---Yes.
6
09:53:27 7 And then at p.58 at the second paragraph, do you see it
09:53:39 8 says, [REDACTED] had chocolates delivered to Ms Gobbo for
09:53:45 9 birthday and is seeing him tonight at 8 o'clock at
09:53:51 10 [REDACTED] restaurant" again?---That's right.
11
09:53:57 12 It's starting to be suggestive, isn't it, of an incipient
09:54:02 13 [REDACTED] relationship, at least from [REDACTED]
09:54:05 14 perspective?---That was going to be my answer. I
09:54:08 15 understand it was from [REDACTED] perspective.
16
09:54:14 17 I'm never also going to suggest to you that Ms Gobbo had
09:54:17 18 romantic feelings for [REDACTED]. What I do suggest is that
09:54:22 19 as the narrative unfolded [REDACTED] had [REDACTED]
09:54:30 20 about Ms Gobbo, do you accept that?---I think that's right.
21
09:54:35 22 I'm right also to say, aren't I, that although SDU said,
09:54:43 23 "Look, we're not encouraging you to have a sexual
09:54:48 24 relationship", SDU did nothing to convey to Ms Gobbo that
09:54:54 25 she should stop [REDACTED] from developing these [REDACTED]
09:55:01 26 [REDACTED] about her?---No, we didn't do that and I suppose
09:55:08 27 because I felt - when you're dealing with a source they
09:55:13 28 need to, and they're dealing with a person, a third party,
09:55:17 29 they're the ones in the position to know how to develop
09:55:20 30 that relationship so the information's forthcoming.
31
09:55:24 32 Yes. Look, I'll just give you a couple of examples. At
09:55:28 33 ICR 14 p.100 - now I might say for clarification, Mr Smith,
09:55:40 34 this isn't an ICR that you prepared?---No.
35
09:55:42 36 But do you see it's dated 26 December 2005?---Yes.
37
09:55:49 38 At about point 4 of the page, the fourth dot down, do you
09:55:53 39 see, "Source has been invited to [REDACTED] at
09:56:00 40 [REDACTED]". I withdraw that. That's not the one I
09:56:05 41 intended to go to?---Yes.
42
43 It's under the heading "Update from [REDACTED]?---Yes.
44
09:56:07 45 Do you see the fifth dot point, [REDACTED] attempted to
09:56:13 46 kiss the source at the conclusion of the meeting"?---Yes.
47

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09:56:15 1 There's quite a long period when you - you seem to be
09:56:18 2 involved, if you like, in the early stages of engagement
09:56:22 3 with Ms Gobbo as a handler?---M'hmm.
4

09:56:27 5 Up to around the arrest of [REDACTED]?---Yes.
6

09:56:35 7 And a little bit after that. But then you essentially drop
09:56:38 8 out of the picture for quite a while, don't you?---I was
09:56:43 9 given a break.
10

09:56:44 11 I mean by that more than a year or so?---It was that
09:56:50 12 looking at the ICRs, as I have a few months ago.
13

09:56:54 14 I think you - I'm not saying you didn't have any engagement
09:56:58 15 over that period, you seemed to step in a couple of times,
09:57:01 16 presumably when one of the other handlers is on leave, is
09:57:04 17 that why you would have stepped in for brief
09:57:08 18 intervals?---Generally that's right, yes.
19

09:57:10 20 You then commence a serious engagement, in the sense of
09:57:13 21 ongoing for months at a time, about the same time that the
09:57:19 22 police are attempting to persuade Ms Gobbo to give evidence
09:57:23 23 against Mr Dale. You recall that series of events I
09:57:27 24 assume?---Yeah, I remember quite a bit of that.
25

09:57:31 26 But is it the case that when you're not having as much to
09:57:35 27 do with Ms Gobbo over this period, going back to say around
09:57:39 28 this time, that you read - Mr Woods might have asked you
09:57:45 29 this and I apologise if he did, but do you read the ICRs of
09:57:49 30 other handlers?---No.
31

09:57:51 32 Right?---Because I'm a handler, I'm handling other things.
33

09:57:58 34 Do you ever have any sort of round table discussions
09:58:02 35 amongst the handlers if you're about to go back in for a
09:58:05 36 period of time whereby you get a verbal update from the
09:58:10 37 handler who's going to not be the handler for a little
09:58:13 38 while?---Well there's two parts to answer that question.
09:58:17 39 Yes, to that question. You definitely do get a hand over.
09:58:22 40 And also, you know, the regular - I can't remember if they
09:58:26 41 were weekly or fortnightly meetings within the office about
09:58:30 42 all sources, an overarching, you know, update of what was
09:58:38 43 recent activity.
44

09:58:39 45 Okay?---Unless I was on leave or unless I was doing other
09:58:45 46 duties somewhere.
47

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09:58:47 1 If you were coming back in, did you run your eye over some
09:58:50 2 of the ICRs that had been prepared during your absence to
09:58:54 3 get up to speed, so to speak?---You would certainly try to
09:58:59 4 but the main thing was to talk to the previous handler.
5
09:59:02 6 Okay. Anyway, p.110 ICR 15, this is your ICR. At about
09:59:14 7 point 4 on the page, that is the second paragraph under the
09:59:18 8 heading [REDACTED], do you see it says, [REDACTED] - this
09:59:25 9 is Ms Gobbo reporting to you - "believes that he's under
09:59:31 10 surveillance. Doesn't want to talk to human source on the
09:59:33 11 phone because he does not want to implicate human source in
09:59:36 12 anything he is doing as he [REDACTED] human source too much", do
09:59:40 13 you see that?---Yes.
14
09:59:41 15 There's lots of these references?---M'hmm.
16
09:59:44 17 I won't take you to them all. But it's plain, I suggest,
09:59:47 18 that you became aware that [REDACTED], in the lead up to the
09:59:54 19 arrest of [REDACTED] on [REDACTED] 2006, developed [REDACTED]
10:00:00 20 [REDACTED] for Ms Gobbo?---On what she told us, yes.
21
10:00:08 22 Well you don't have any reason to doubt that, do you?---No.
23
10:00:18 24 If we jump to the "cock tease" reference which is on p.241,
10:00:35 25 do you see - you were taken to this by Mr Woods - but
10:00:38 26 you'll see a couple of lines down from the entry [REDACTED]
10:00:41 27 2006 - do you see that reference?---I see that phrase
10:00:44 28 there.
29
10:00:44 30 That wouldn't have come as a surprise to you, I suggest, to
10:00:48 31 see - for Ms Gobbo to describe how she was dealing with
10:00:53 32 [REDACTED] in those terms?---Sorry, is your question was I
10:01:03 33 surprised that she would use that term?
34
10:01:06 35 Yes. Or describe her approach to [REDACTED] as the cock
10:01:10 36 tease approach?---I guess a little bit because I never
10:01:17 37 heard - this is not my contact report, but I'm sure what's
10:01:22 38 in this contact report is correct. If I had heard that
10:01:25 39 term I would have done exactly the same thing and put the
10:01:30 40 verbatim phrase in because it's a bit, it's not in line
10:01:35 41 with you know our sort of, the way we do things. If she
10:01:39 42 says that it's probably what she did, yeah. But what's in
10:01:45 43 her mind what that really means, I don't know.
44
10:01:47 45 But is it not an apt description of a female who is in a
10:01:55 46 position where a person has romantic feelings for her but
10:01:59 47 she doesn't want to have sex with him, to perhaps fall into

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10:02:06 1 an approach that could be described in those terms?---It
10:02:13 2 could be but, as I say, you'd have to ask her what was in
10:02:18 3 her head about that. You know, it's a phrase that is quite
10:02:22 4 distasteful and I guess people would have different ideas
10:02:27 5 of what that might mean.

6
10:02:29 7 But relevantly - let's leave aside an undue focus on that
10:02:34 8 phrase?---M'hmm.

9
10:02:36 10 I think you've said you agree that you knew that Ms Gobbo
10:02:40 11 was telling you that [REDACTED], over the lead up to
10:02:45 12 [REDACTED] arrest on [REDACTED] 2006, had [REDACTED]
10:02:51 13 [REDACTED] for Ms Gobbo?---Yeah, he had [REDACTED] for her for
10:02:55 14 sure.

15
10:02:57 16 And you had no reason to doubt that information that
10:02:59 17 Ms Gobbo was giving you?---No.

18
10:03:05 19 I suggest that none of the SDU handlers, Mr Chettle will
10:03:11 20 correct me if I'm wrong, ever suggested that Ms Gobbo
10:03:16 21 should discourage the existence of [REDACTED] by
10:03:21 22 [REDACTED] towards her?---M'mm.

23
10:03:26 24 What do you say to that?---Yeah, I'm thinking about that.
10:03:32 25 Putting it in those terms, no, but as I say, my memory is
10:03:37 26 she was told not to do anything that she - not to do
10:03:42 27 anything relationship-wise that she wouldn't normally do.

28
10:03:45 29 I accept that?---(Indistinct).

30
10:03:49 31 Yes. That was really essentially telling her that she
10:03:52 32 shouldn't start a sexual relationship with [REDACTED] or, if
10:03:57 33 she did, that was her own business?---That's right, and,
10:04:00 34 you know, it was, I guess, a bit awkward I found it
10:04:09 35 personally when that subject came up, but she did on
10:04:12 36 occasions, mostly in a judgment sense.

37
10:04:14 38 Let me put another proposition for you to consider. It was
10:04:16 39 in the interests of the police for [REDACTED] to have these
10:04:21 40 [REDACTED] towards Ms Gobbo?---No, I don't agree it
10:04:31 41 was in their interests. I mean it did occur but as long as
10:04:35 42 she maintained some sort of contact with him that was all
10:04:39 43 that was required really from our point of view.

44
10:04:42 45 Well think about - - - ?---It did happen. It did happen.
10:04:46 46 I suppose it worked to our advantage but, you know, we
10:04:50 47 didn't go looking for it, trying to make it happen

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10:04:53 1 I'm suggesting to you that it was in the interests of the
10:04:55 2 police for ██████████ to have ██████████ for Ms Gobbo
10:04:59 3 because it would make ██████████ more inclined to give
10:05:02 4 information about his ██████████ activities to
10:05:10 5 Ms Gobbo?---M'mm.

6
10:05:10 7 Pretty obvious, isn't it?---As I say - yeah, I know, I
10:05:15 8 understand the question. We tasked the source with
10:05:19 9 maintaining the relationship in what we, in my words, were
10:05:24 10 an appropriate way. And if he felt that way, which I think
10:05:27 11 he did, you know, we can't help it, we have to go with the
10:05:32 12 flow when that occurs.

13
10:05:34 14 But I don't think you should be suggesting to the
10:05:36 15 Commissioner, should you, that you were somehow resistant
10:05:39 16 to this flow. It was in the interests of the police, I
10:05:43 17 suggest, for this - - - ?---Okay, okay. Yeah, no, probably
10:05:47 18 not. No.

19
10:05:49 20 Hang on - - - ?---We were resistant to it? No, probably
10:05:53 21 not.

22
10:05:53 23 You weren't resistant to it but I'm asking a different
10:05:56 24 question. You weren't resistant to it because you knew
10:05:58 25 that it would encourage ██████████ to give information about
10:06:03 26 ██████████ activities to Ms Gobbo if he had these
10:06:07 27 developing ██████████ for her?---That's not how I
10:06:13 28 thought about it, no.

29
10:06:15 30 You do at least agree, don't you, that none of the ICRs
10:06:18 31 record any handler telling Ms Gobbo that she shouldn't have
10:06:24 32 this - she should somehow discourage this ██████████
10:06:31 33 connection with ██████████?---I guess I can't speak for the
10:06:36 34 others unless I check, but I don't think I did.

35
10:06:40 36 Isn't another advantage of ██████████ have these ██████████
10:06:43 37 ██████████ for Ms Gobbo, is that if she then
10:06:48 38 appeared for him on his arrest at the police station and
10:06:52 39 gave advice about what ██████████ should do, ██████████ was
10:06:56 40 likely to trust Ms Gobbo?---I don't know. I didn't
10:07:06 41 consider that. I think the source was always trying to act
10:07:10 42 in the client's best interests regardless. I know it's a
10:07:17 43 simplistic situation but - - -

44
10:07:19 45 That's a different point. Try to focus on my question if
10:07:23 46 you would. What I'm suggesting to you is that one reason
10:07:26 47 the police didn't discourage this, we could call it

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10:07:31 1 [REDACTED] relationship, between Ms Gobbo and
10:07:34 2 [REDACTED] is that it would mean when he was arrested that
10:07:42 3 he would likely trust her advice?---No.
4
10:07:44 5 You don't accept that?---No, I don't.
6
10:07:49 7 Why don't you accept it?---Because it was just not in my
10:07:53 8 mind at all. That was - I didn't think of it. It's sort
10:08:01 9 of a bit distasteful to me now when you bring it up. I
10:08:05 10 didn't, no.
11
10:08:06 12 Do you accept that when there's discussion within SDU with
10:08:15 13 Ms Gobbo about how you're going to approach the arrest of
10:08:24 14 [REDACTED]?---M'mm.
15
10:08:27 16 That it's made clear by Ms Gobbo to the police, to the SDU
10:08:33 17 handlers, that there's only one person who [REDACTED]'s
10:08:38 18 going to call on his arrest, and that's Ms Gobbo?---That's
10:08:43 19 right. I think many people are in that same position.
20
10:08:47 21 You mean many of the other criminals?---Yeah, yes.
22
10:08:51 23 Because she knew a lot of them through other social
10:08:54 24 connections, is that what you mean?---Well, yeah, that's
10:09:00 25 mostly what I mean but, yeah, because of her reputation
10:09:03 26 and, yes, being connected socially or otherwise, otherwise
10:09:08 27 as was part of the reason for her motivation.
28
10:09:11 29 I want to take you to the days leading up to the arrest in
10:09:18 30 a little detail if I might, and for that purpose can I ask
10:09:21 31 the operator to bring up the statement of Dale Flynn,
10:09:27 32 that's VPL.0014.0042.0001.
33
10:09:37 34 COMMISSIONER: That's the one that's already been tendered?
10:09:41 35
10:09:41 36 MR COLLINSON: I don't believe it's been tendered yet,
10:09:43 37 Commissioner. Mr Flynn lies ahead.
38
10:09:45 39 COMMISSIONER: Yes, some of them have given evidence and
10:09:47 40 are coming back. But he hasn't given at all yet.
10:09:51 41
10:09:51 42 MR COLLINSON: Yes, that's right.
43
10:09:52 44 COMMISSIONER: Yes.
10:09:54 45
10:09:54 46 MR COLLINSON: Mr Smith, I assume you have not seen this
10:09:56 47 statement before?---I have not.

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1
10:09:59 2 And equally am I correct to assume you have not looked at
10:10:03 3 Mr White's statement or were you perhaps shown that after
10:10:07 4 you finalised your own?---I was given the opportunity to
10:10:11 5 read it and I haven't.
6
10:10:13 7 I see. A copy was made available to you of Mr White's
10:10:16 8 statement?---Yes, some time ago so I don't know at what
10:10:20 9 point of completion that was, but anyway I still haven't
10:10:24 10 read it.
11
10:10:25 12 Do you know whether when you finalised your first statement
10:10:31 13 and signed it had you been given a copy of Mr White's
10:10:36 14 statement at that point in time?---I don't think so. I
10:10:42 15 can't remember.
16
10:10:44 17 If the operator could go, please, to p.0007. You'll see at
10:10:57 18 paragraph 39 it says, and this is Mr Flynn's intended
10:11:05 19 evidence but you understand he hasn't given evidence yet,
10:11:09 20 Mr Smith?---Yes.
21
10:11:10 22 He says, "The information provided to me by O'Brien and
10:11:15 23 Griffin on [REDACTED]" - well, on those dates - "was that
10:11:17 24 [REDACTED]" - that's a different pseudonym so just ignore
10:11:20 25 that"?---Yes.
26
10:11:21 26 Was [REDACTED] at those premises at that particular
10:11:22 27 address. He says, "It did not enter my mind that this was
10:11:26 28 information that the police could or should not act upon.
10:11:35 29 It was information that a serious crime was being
10:11:38 30 committed". I think it's correct to say that that suburb
10:11:42 31 had been identified by Ms Gobbo to the SDU handlers, is
10:11:45 32 that something you recollect?---I recollect it wasn't me,
10:11:51 33 it was another handler I believe, but that's right.
10:11:56 34
35
10:12:01 36 Paragraph 40 then continues, "Over [REDACTED] period on [REDACTED]
10:12:06 37 [REDACTED] I drove to that suburb to see if I could locate the
10:12:11 38 [REDACTED]. I thought it might be [REDACTED]", and then he gives
10:12:16 39 a description as to some feature of that?---H'mm m'mm.
40
10:12:24 41 And again I suggestion that description in line 2 beginning
10:12:26 42 [REDACTED] and then continuing, that came from Ms Gobbo as
10:12:29 43 well?---I didn't obtain the information but I guess -
10:12:38 44 that's my answer.
45
10:12:39 46 All right?---I know there was some information given that
10:12:42 47 was in bits and pieces and that's why Mr Flynn drove

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10:12:48 1 around.
2
10:12:49 3 Yes?---But the specifics of what she said at the time, I
10:12:56 4 can't remember.
5
10:12:56 6 I understand?---Mainly because it wasn't me.
7
10:12:59 8 I understand that. I think we find those details in ICR 27
10:13:02 9 which you didn't do. But do you have a general
10:13:05 10 recollection that some information about the general
10:13:09 11 location of [REDACTED] - - - ?---Yes.
12
10:13:11 13 - - - assisted the police to locate it?---Yes.
14
10:13:19 15 Mr Flynn then says in paragraph 40 that he drives over
10:13:22 16 there, admirably it being the weekend, and hears some
10:13:32 17 noises and takes the registration number of a car, you'll
10:13:34 18 see that in the last line?---Yes.
19
10:13:36 20 And then on the following Monday he gets that number
10:13:40 21 checked and, bingo, it's a car registered to someone
10:13:45 22 associated with [REDACTED]?---M'hmm.
23
10:13:48 24 That was sort of the breakthrough, wasn't it?---It appears
10:13:51 25 that way, yes.
26
10:13:52 27 And then there's surveillance, he says he puts State
10:13:59 28 Surveillance on it, and then he goes to a briefing on [REDACTED]
10:14:03 29 [REDACTED] That's a briefing you'll see - again it's terribly
10:14:12 30 because all the pseudonyms keep changing, but I can tell
10:14:16 31 you that the pseudonym in line 2 [REDACTED], if I'm allowed to
10:14:19 32 say this?---Yes.
33
10:14:19 34 Is in fact Mr White, do you - - - ?---I understand what
10:14:41 35 you're saying. That makes sense in this context, that
10:14:44 36 you're talking about Mr White.
37
10:14:47 38 Then this is [REDACTED], and so it continues, Mr White meets
10:14:56 39 or has a briefing with Mr Flynn and Mr Kelly and then he
10:15:02 40 says in line 4, "It appears from my diary entry that we
10:15:06 41 discussed several issues including a strategy for the
10:15:08 42 interview of [REDACTED] following his arrest"?---M'hmm.
43
10:15:18 44 So it would appear that Mr White is attending a meeting
10:15:22 45 with Purana to talk about a strategy for the interview of
10:15:28 46 [REDACTED] do you see that?---Yes.
47

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10:15:33 1 I suggest that at least one reason Mr White is there to
10:15:38 2 assist in that way is because of some information provided
10:15:40 3 by Ms Gobbo about how to approach [REDACTED] to get him to
10:15:46 4 roll following his arrest?---I think that's likely but I
10:15:56 5 wasn't there.
6
10:15:57 7 Yes, I understand. Then it continues over the page, IN the
10:16:04 8 last line, "However, I do recall discussions leading up to
10:16:07 9 [REDACTED]'s arrest about two matters that we thought might
10:16:11 10 persuade him to start assisting police following his
10:16:15 11 arrest. We had planned to put to him that he would get a
10:16:18 12 significantly reduced gaol sentence for assisting", and
10:16:22 13 then there's another matter in grey there concerning some
10:16:25 14 [REDACTED] which was also the second factor, do you
10:16:30 15 see that, last line?---I'm sorry. I see the mention about
10:16:36 16 [REDACTED]
17
10:16:37 18 Can I ask a dumb question again? If it's in grey am I
10:16:41 19 allowed to mention it if we're in closed session? No,
10:16:46 20 apparently not.
21
10:16:48 22 COMMISSIONER: I think you can. Yes, you can. There are
10:16:51 23 non-publication orders in place.
10:16:53 24
10:16:53 25 MR COLLINSON: I will then. I'll try to not do it very
10:16:59 26 often. In paragraph 43 there's some more - - -
27
10:17:05 28 COMMISSIONER: It might depend on what's in grey but
10:17:07 29 usually you can I think.
10:17:10 30
10:17:10 31 MR HOLT: Yes, Commissioner, usually you can. Most of it
10:17:14 32 is biodata but that's the purpose of the order the
10:17:15 33 Commissioner's made. So there's no difficulty with that.
10:17:15 34 It's that link that Mr Chettle was concerned about which
10:17:17 35 was the issue, not grey generally.
10:17:21 36
10:17:21 37 MR COLLINSON: I see, so it's bio data, all right.
38
10:17:25 39 COMMISSIONER: These haven't been ruled on yet by the way.
10:17:27 40
10:17:27 41 MR HOLT: No, I understand that, Commissioner.
42
10:17:29 43 COMMISSIONER: This is just Victoria Police's initial
10:17:31 44 claims.
10:17:31 45
10:17:31 46 MR HOLT: I'm not entirely sure about whether the one on
10:17:34 47 the screen is the right one at present, I'm just trying to

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10:17:36 1 find that out, Commissioner. I know a lot's happened in
10:17:39 2 the last 24 hours, but no, we understand that,
10:17:42 3 Commissioner.
4
10:17:42 5 COMMISSIONER: Thank you.
10:17:43 6
10:17:43 7 MR COLLINSON: Right. I think I can then jump to paragraph
10:17:46 8 45, Mr Smith, and you'll see that the surveillance on that
10:17:54 9 property - - -
10
10:17:55 11 COMMISSIONER: That's okay, you can say that one.
10:17:59 12
10:18:00 13 MR COLLINSON: The [REDACTED] property, captured [REDACTED]
10:18:03 14 coming and going from the property, so that confirmed what
10:18:06 15 was indicated by the car registration details, didn't
10:18:08 16 it?---I don't know who was coming and going but obviously
10:18:14 17 the investigation's progressing.
18
10:18:17 19 I took you to the reference to Mr White attending a meeting
10:18:22 20 about all of this on [REDACTED]. He obviously was made
10:18:29 21 aware, I suggest, of the discovery of [REDACTED]?---He must
10:18:36 22 have been. I think I was at some stage but I can't
10:18:40 23 remember when.
24
10:18:41 25 Yes. I then want to take you, if I might, to [REDACTED] and
10:18:55 26 although Mr Woods stole my thunder by going to this
10:19:01 27 transcript I want to start a little earlier in the piece.
10:19:06 28 This is the meeting that the handlers have with Ms Gobbo on
10:19:14 29 [REDACTED] 2006. It's VPL.0005.0097.0011. You were taken to
10:19:34 30 this by Mr Woods but you can see your name there?---Yes.
31
10:19:41 32 You can also see I think - well I think you might recollect
10:19:47 33 that Mr White is there and Mr Green is there, along with
10:19:50 34 Ms Gobbo?---Mr Green's there as well, yeah, okay.
35
10:19:56 36 If the operator could go, please, and I don't know which is
10:20:00 37 easiest but it's p.185 but the doc ID page is .0195.
10:20:10 38 You'll see at about point 4 of the page, that's four tenths
10:20:16 39 of the way down, that you introduce [REDACTED] at this stage of
10:20:20 40 the discussions?---Yes.
41
10:20:34 42 In particular you introduce the issue of [REDACTED]'s
10:20:39 43 adjournment, do you see that?---Yeah, I introduce it at
10:20:46 44 that meeting but obviously it had been discussed earlier.
45
10:20:49 46 At this point the [REDACTED] of [REDACTED] for the earlier [REDACTED]
10:20:55 47 [REDACTED], the existing [REDACTED] charges, was scheduled for [REDACTED]

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10:20:59 1 2006?---That sounds right, yeah. Yeah, I remember that
10:21:06 2 part, yeah.
3
10:21:11 4 At this stage the [REDACTED] for the new offence has been
10:21:14 5 identified by the police?---On the day, yeah, it must have
10:21:24 6 been.
7
10:21:25 8 I think it's also right to say, is it, it's not clear from
10:21:29 9 the transcript, that Ms Gobbo is aware that the location of
10:21:32 10 the [REDACTED] has been identified?---I can't remember
10:21:36 11 that.
12
10:21:37 13 All right. The reason, I suggest, that you bring up this
10:21:46 14 question of [REDACTED] adjournment of [REDACTED]
10:21:50 15 scheduled for [REDACTED] 2006 is that you don't want to find
10:21:54 16 yourself in a position where he gets incarcerated too early
10:22:04 17 so that he is not in a position to be caught and perhaps
10:22:09 18 implicate the Mokbels or other criminal associates in the
10:22:13 19 [REDACTED] activity?---No.
20
10:22:19 21 Isn't that the problem, that there's a potential timing
10:22:23 22 problem for the police if - - - ?---That is true, that
10:22:28 23 there would have been a timing problem and I think - I'm
10:22:34 24 sure at some stage Purana were aware of that. But the
10:22:37 25 reasons for the adjournment were, from the source's point
10:22:45 26 of view or the source's side of things, she was, I believe,
10:22:48 27 under pressure from another person to get that matter
10:22:51 28 adjourned and I believe - let me get the right number -
10:22:56 29 [REDACTED] - [REDACTED]
30
10:22:58 31 Yes, [REDACTED] ---In fact himself wanted an adjournment.
32
10:23:02 33 Yes. All of that's true. But I want to also suggest to
10:23:07 34 you that the police wanted an adjournment as well?---I
10:23:11 35 think Purana may have but I was mindful not to - we didn't
10:23:16 36 want to be involved in - I think at one stage there's a
10:23:21 37 number of discussions about this. Maybe I'm jumping ahead.
10:23:25 38 I'll wait until you get to it perhaps.
39
10:23:29 40 I might go back if necessary but could the operator go to
10:23:32 41 p.227 and towards the bottom of that page. Do you see it
10:23:43 42 says - you make a comment, "Like I said"?---Yeah, exactly,
10:23:46 43 that's true. And either myself or Mr White, probably
10:23:57 44 Mr White, had discussions with Mr O'Brien about that I'm
10:24:02 45 sure.
46
10:24:02 47 Yes. I'm not suggesting that the only people that wanted

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10:24:08 1 the adjournment were Victoria Police, you understand that,
10:24:12 2 don't you?---Yeah, in fact that wasn't the impetus for it.
3
10:24:17 4 All I'm suggesting to you is that, amongst others, the
10:24:21 5 police wanted the trial for ██████████ 2006 to be
10:24:27 6 adjourned?---I'm sure Purana would see it as a bonus if
10:24:31 7 that occurred, yes.
8
10:24:32 9 Isn't that exactly what you're saying in the sentence there
10:24:36 10 where you said, "Like I said, ██████████ adjournment would
10:24:40 11 be advantageous to the cops, no fuckin' doubt about
10:24:44 12 that"?---That's right. Perhaps you can tell from the way I
10:24:46 13 say that, that that's a secondary - you know, as a result
10:24:49 14 of the other people wanting it.
15
10:24:52 16 Isn't the preceding discussion all about discussions about
10:24:56 17 how that might be achieved up to that page, 227?---Yeah, I
10:25:02 18 know there was a lot of discussion, and when I read over it
10:25:05 19 I couldn't believe we spent so much time on it, that the
10:25:12 20 source was quite concerned about it. More so than us.
21
10:25:16 22 Sorry, I missed that?---More so than us I think.
23
10:25:20 24 And eventually I think Mr O'Brien or Purana contact the DPP
10:25:27 25 to tell them there's a bigger picture and they should in
10:25:31 26 fact make the application for an adjournment?---There was
10:25:35 27 something of that nature done and that, of course, that was
10:25:39 28 up to Purana and I actually don't know the details of that.
29
10:25:42 30 Yes?---I don't think.
31
10:25:45 32 Can I just take you back to p.198. You'll see Mr White is
10:25:58 33 speaking there in the first paragraph. He says, "I know, I
10:26:02 34 know. The question is okay, well, when are they going to
10:26:05 35 do something? What are they going to do? How long's it
10:26:09 36 going to last for? We want this adjournment because we
10:26:13 37 want to take away that pressure of them having to do
10:26:16 38 something in the next, what have we got now?" Ms Gobbo
10:26:20 39 says, "Ten days". Mr whites says, "Ten days. You've been
10:26:23 40 involved in enough briefs. I know you think that we can do
10:26:28 41 a lot of things and every barrister thinks we can do a lot
10:26:28 42 more than the reality of what we can do". So it's clear,
10:26:31 43 isn't it, that Mr White is indicating at this meeting that
10:26:34 44 the police want the adjournment?---No - scroll back up a
10:26:43 45 little bit please just to the initial thing. Because I
10:26:50 46 think Mr White - it's unclear to me from that because he's
10:26:53 47 saying, "The question is, okay, well", and then he goes on.

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10:26:57 1 So I'm not - is that like an open hypothetical type
10:27:02 2 question? I'm not sure.
3
10:27:04 4 Let's read on?---When he says "we might able to" who's he
10:27:05 5 talking about? Is it, you know, asking this hypothetical
10:27:08 6 question about an adjournment? I guess - I can't recall
10:27:11 7 that particular bit. You'd have to ask Mr White.
8
10:27:15 9 You were at this meeting though, weren't you?---Yes, yes.
10
10:27:17 11 And even though you haven't looked at many audio
10:27:21 12 transcripts it seems you've read this one?---Yes.
13
10:27:25 14 Is this the only one you've read?---I've skimmed through
10:27:32 15 some others. This is probably the one I read in most
10:27:34 16 detail and I haven't even done all that.
17
10:27:37 18 Why did you read this one in such detail?---Because I
10:27:44 19 anticipated that [REDACTED] would be the topic of
10:27:46 20 conversation.
21
10:27:47 22 All right. Nothing more specific than that?---No.
23
10:27:51 24 You see, all of the police statements, and perhaps you've
10:27:55 25 seen some of them, you seem to have seen or at least been
10:28:01 26 given Mr White's, everyone seems to be anxious to emphasise
10:28:07 27 that it was Ms Gobbo's idea to turn up at the arrest of
10:28:10 28 [REDACTED] on [REDACTED] and the police were resisting
10:28:13 29 it?---Yes.
30
10:28:14 31 And you've said the same thing in your statement?---Yes.
32
10:28:18 33 And yet I suggest to you this transcript properly read
10:28:22 34 plainly demonstrates that the police were quite happy for
10:28:26 35 Ms Gobbo to turn up to the arrest of [REDACTED] on [REDACTED],
10:28:31 36 which was two days away from this meeting. What's your
10:28:37 37 view about the transcript?---Which bit of the transcript
10:28:45 38 are we talking about right now because I'm - this part of
10:28:51 39 the adjournment - - -
40
10:28:52 41 I haven't got there yet. I'm going to come that that a
10:28:56 42 little later?---I see, I see. At some stage - okay, yeah.
10:28:58 43 I thought I was misinterpreting something I was meant to be
10:29:01 44 looking at.
45
10:29:02 46 No. Do you want me to repeat the question?---No, I
10:29:04 47 understand the question. At some point it was a fait

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10:29:08 1 accompli it was going to happen.
2
10:29:11 3 When you say at some point, I'm suggesting by the end of
10:29:11 4 this meeting it's completely apparent to the police that
10:29:13 5 Ms Gobbo's going to turn up on the arrest of [REDACTED]?---I think
10:29:20 6 it probably was, yeah.
7
10:29:21 8 And I suggest to you the police accept that Ms Gobbo is
10:29:26 9 going to do that?---I think by that time we felt it was
10:29:36 10 inevitable, yes.
11
10:29:37 12 I suggest to you the objections that were put up in the
10:29:40 13 course of this meeting by the police to Ms Gobbo coming
10:29:43 14 along were effectively abandoned in the course of the
10:29:48 15 discussion?---I don't know about abandoned. I don't think
10:29:57 16 we, you know, back then, many years ago, I don't think we
10:30:05 17 dealt deep enough about the matter.
18
10:30:07 19 We'll come back to that. Going back to p.198, just lower
10:30:12 20 down that page, do you see - further down, yes. Do you see
10:30:21 21 Mr White begins a passage, "Very easy for barristers to
10:30:25 22 say"?---M'hmm.
23
10:30:26 24 Then about four lines Mr Smith says, "Yeah, I think it's a
10:30:31 25 bad plan to have [REDACTED] doing his plea and getting
10:30:35 26 locked up now. That might take a couple of weeks I
10:30:40 27 suppose". He's describing there, isn't he, that from the
10:30:47 28 point of view of the police it's a bad idea to have
10:30:51 29 [REDACTED] locked up just as the [REDACTED] been
10:30:57 30 discovered for this new criminal activity?---That may be
10:31:09 31 what he's talking about but it's unclear to me.
32
10:31:13 33 Let's keep going. Page 199. Do you see at the top of the
10:31:21 34 page there Mr White continues, "Well see, it's not good
10:31:24 35 that he actually does only have those ten days of
10:31:28 36 freedom"?---Yes.
37
10:31:28 38 "That would mean that the investigators would want to try
10:31:31 39 and arrest him in ten days. Now if they can in time, at a
10:31:35 40 time that's" - and then he continues, "All the pieces are
10:31:41 41 there, great". There's some interruptions. Then down the
10:31:44 42 bottom of the page he says, "I know what you're saying,
10:31:47 43 why, but it's not just [REDACTED] in [REDACTED], there's other
10:31:50 44 things happening as well which I can't talk about, but it's
10:31:53 45 all happening around some things you told us to put
10:31:56 46 [REDACTED] in that position where we, he would want to
10:32:05 47 help", do you see that?---Yes.

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1
10:32:09 2 What Mr White is there identifying, I suggest, is this
10:32:13 3 isn't all about just arresting ██████████ in ██████████ before
10:32:19 4 ██████████ 2006, it's about the police having enough time to
10:32:24 5 persuade ██████████ to cooperate with the police and perhaps
10:32:30 6 record meetings with the Mokbels so as to implicate the
10:32:34 7 Mokbels as well?---I probably agree with the timing about
10:32:41 8 his other court case but as far as the time required for
10:32:46 9 him to decide whether to assist police or not, I don't
10:32:50 10 think so. I think it was always a belief that would be
10:32:53 11 decided straight away one way or the other.
12
10:32:57 13 Reflect on what I'm putting to you, please,
10:33:00 14 Mr Smith?---Yes.
15
10:33:00 16 It might be that he decides to cooperate on the day of his
10:33:03 17 arrest?---Yes.
18
10:33:06 19 But even the day of his arrest hasn't yet been specified on
10:33:10 20 ██████████ has it?---It's unknown. It's unknown to us and
10:33:15 21 Purana decided that, yeah.
22
10:33:16 23 But even assuming you do the arrest prior to ██████████ and
10:33:20 24 even assuming ██████████ decides to cooperate on that very
10:33:23 25 same day, you're still going to need more time, aren't you,
10:33:28 26 for ██████████ or potentially more time, for ██████████ to
10:33:32 27 set up meetings with the Mokbels in order that he can
10:33:36 28 implicate them?---I don't know what was in the mind of
10:33:41 29 Purana as to how, if he was cooperative, how he was to be
10:33:46 30 used. In fact I still don't know a lot of the details of
10:33:48 31 what he did so I don't know about the time frame of that.
10:33:51 32 I thought it would be almost immediate.
33
10:33:57 34 What do you say to the Commissioner Mr White is referring
10:34:00 35 to when he says in that passage I read out, "There's other
10:34:06 36 things happening as well which I can't talk about but it's
10:34:10 37 all happening around some things you told us to put
10:34:13 38 ██████████ in that position where he would want to help",
10:34:17 39 what do you say - - - ?---I don't know. I don't know.
10:34:22 40 There's certainly - I can imagine what some of the things
10:34:26 41 we could talk about would be you know what Purana's
10:34:30 42 actually doing about the actual location and what have you,
10:34:35 43 as per the things that are in Mr Flynn's statement. I
10:34:38 44 can't work out what that would mean.
45
10:34:42 46 All right. Let's continue. He continues, "It's not just a
10:34:45 47 matter of let's get ██████████ in ██████████ and then, bang,

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10:34:49 1 they're going to go off and they think they've got what
10:34:51 2 they need, because they're well aware that if all they've
10:34:54 3 got is ██████████ for ██████████, it's probably not going
10:34:58 4 to be enough to throw him over the edge"?--M'mm.
5
10:35:01 6 Plainly, I suggest, that is Mr White articulating, although
10:35:06 7 in a veiled way, that they need enough time to have enough
10:35:11 8 evidence against ██████████ and the Mokbels that he will not
10:35:18 9 just plead guilty for his own conduct, but implicate the
10:35:26 10 Mokbels?--Yeah. I'm still not sure what he's talking
10:35:29 11 about. If he's in ██████████ he's ██████████. Unless they're
10:35:33 12 talking about - I can only speculate. I don't know. It
10:35:35 13 seems odd to me. I can't remember it.
14
10:35:37 15 All right. Let's continue. Ms Gobbo says, "Not probably
10:35:41 16 it won't be". Mr White says, "They're well aware of that
10:35:45 17 and that's again why we don't want to have this time
10:35:49 18 frame". Mr Green says, "That's not their plan either".
10:35:53 19 Ms Gobbo then says, "The whole aim of it is, from my point
10:35:58 20 of view, for what it's worth, was the Mokbels"?--M'mm.
21
10:36:01 22 Then further down, "Unless it's going to include them why
10:36:05 23 pinch ██████████ why bother? He won't say a word",
10:36:11 24 see?--I see that.
25
10:36:13 26 Mr White says, "I think the idea is to try and have him in
10:36:17 27 a position where he'll want to help". Mr White means want
10:36:21 28 to help in a case against the Mokbels, doesn't
10:36:26 29 he?--Against others being involved with the Mokbels, yes.
30
10:36:31 31 See, the problem was ██████████ was about to go to trial on
10:36:37 32 his ██████████ charges but he hadn't rolled against the
10:36:40 33 Mokbels in relation to those, had he?--No.
34
10:36:44 35 And the police at this point had no assurance that if he
10:36:49 36 was arrested for ██████████ criminal ██████████ that he
10:36:54 37 would, for that ██████████, implicate the Mokbels
10:36:59 38 either?--Correct.
39
10:37:00 40 It was a big problem, wasn't it? I mean there's not much
10:37:04 41 point in nabbing ██████████. The whole purpose of this
10:37:08 42 exercise was to use ██████████ as a vehicle to capture the
10:37:13 43 Mokbels and have them charged?--Yeah, I mean this was a
10:37:17 44 plan that may or may not have worked and it did.
45
10:37:21 46 Yes?--That was the idea. I must admit some of this I
10:37:24 47 really can't understand some of the - what Mr White's

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10:37:33 1 talking about, even though I was present, talking about if
10:37:36 2 [REDACTED] is caught [REDACTED], to me I thought that would be
10:37:42 3 enough.
4

10:37:44 5 What, to implicate him?---Yeah.
6

10:37:47 7 If he's caught [REDACTED] that's not necessarily going to
10:37:51 8 be enough to implicate the Mokbels, is it?---No, no, that
10:37:54 9 would be then up to [REDACTED] whether he did that.
10

10:37:58 11 And the police - - -?---That would be his [REDACTED] charge for
10:38:01 12 a very serious [REDACTED] matter.
13

10:38:02 14 Yes. The whole plan of the police was to encourage
10:38:07 15 [REDACTED] to go the extra step and not just admit his own
10:38:13 16 culpability, but to implicate the Mokbels?---(Indistinct)
10:38:22 17 [REDACTED], that's right.
18

10:38:23 19 No, to record a meeting with the Mokbels, or some of them,
10:38:30 20 but otherwise cooperate with the police to the extent of
10:38:33 21 gathering evidence against the Mokbels rather than just
10:38:37 22 himself. That was the point of the plan?---That's right,
10:38:40 23 yes.
24

10:38:42 25 Ms Gobbo then continues, "Yeah, and part of that must mean
10:38:46 26 having some evidence in relation to them". Now she means
10:38:49 27 the Mokbels there, doesn't she?---I think so, yes.
28

10:38:54 29 And having evidence in relation to them, "If you don't have
10:38:56 30 it already, which you probably don't, but, or not in a
10:38:59 31 sufficient form means my, my translation of it is letting
10:39:04 32 [REDACTED] go for a little while, meaning it has to be, this
10:39:08 33 plea has to be adjourned because it's not going to happen
10:39:11 34 in ten days, or maybe it will. Maybe, I mean, I don't know
10:39:14 35 what's going on, so maybe it will". Ms Gobbo is starting
10:39:17 36 to appreciate, isn't she, in the course of this discussion
10:39:21 37 precisely or more clearly why it is that the police want to
10:39:24 38 have the [REDACTED] trial scheduled for [REDACTED] 2006
10:39:32 39 adjourned?---I suppose that may be what it means, it
10:39:40 40 probably is. As I explained earlier, how that adjournment
10:39:45 41 discussion came about, that was ultimately - Purana decided
10:39:47 42 to do that. Yeah, I'm sorry, what's the specific question?
43

10:39:52 44 But is there any particular reason why you're reluctant to
10:39:59 45 concede, or perhaps you have, I forget, that the police
10:40:01 46 wanted to have an adjournment of the [REDACTED] trial
10:40:05 47 scheduled for [REDACTED] 2006 in order to give them more time to

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10:40:09 1 set up the arrest of [REDACTED] and for [REDACTED] to then
10:40:14 2 implicate the Mokbels? I mean do you accept that?---Yeah,
10:40:18 3 I do. I'm not reluctant to accept that, I do accept that.
10:40:23 4 What I'm saying is the chain of how that happened was not
10:40:28 5 instigated to the police, but at some stage Purana said
10:40:30 6 that would be advantageous and did that, whatever they did.
7
10:40:34 8 Let's go over the page to 201. You then say - this is you
10:40:38 9 speaking - "It probably won't". Then you say again - let
10:40:45 10 me go with Mr Green. "Would [REDACTED] would [REDACTED]
10:40:50 11 work proactively with the, like if he got pinched would he
10:40:53 12 go and", Ms Gobbo then says, "Deliver". You then say, "To
10:41:00 13 certain things after that"?---Yes.
14
10:41:02 15 Mr Green says, "Or whatever, whatever you're supposed do
10:41:05 16 with it". Ms Gobbo says, "I don't know". Mr Green says,
10:41:10 17 "To [REDACTED]". Ms Gobbo says, "I don't know, I
10:41:13 18 don't know if you'd be able to achieve that". Mr White
10:41:16 19 says a few lines down, [REDACTED] is like, he is a big key,
10:41:20 20 he can shortcut this whole thing". "He's a what?", says
10:41:26 21 Ms Gobbo. "He's a big key to the". "Of course he is",
10:41:30 22 says Ms Gobbo. "Finishing this investigation or it can
10:41:33 23 still drag on more months and months and months"?---M'hmm.
24
10:41:40 25 It's clear from all those passages what I'm putting to you,
10:41:41 26 isn't it, that you're having a discussion with Ms Gobbo
10:41:44 27 about adjourning a trial because the police need more time
10:41:47 28 to arrange for [REDACTED] to implicate the Mokbels?---I
10:41:53 29 don't think that's what that says. I think that's
10:41:55 30 speculation about post arrest what [REDACTED] might do.
31
10:42:00 32 All right. Anyway, if you can go to p.229. Mr White says
10:42:23 33 at the top of the page, "Yeah, the harder, the harder it
10:42:27 34 gets but I mean they have been told Purana wants the
10:42:29 35 adjournment because there's a much bigger
10:42:34 36 picture"?---M'hmm.
37
10:42:34 38 That's a reference to the DPP, isn't it, being approached
10:42:39 39 by Purana in relation to the adjournment?---I believe it
10:42:41 40 is.
41
10:42:41 42 Further down it says, Mr White says, "So Coghlan's happy?"
10:42:47 43 He's the head of the DPP I think - everyone laughed when I
10:42:51 44 didn't seem sure of that the other day?---I believe that's
10:42:57 45 right at the time.
46
10:42:58 47 Okay?---Clearly Mr White has had, you know knows more about

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10:43:07 1 this on this day because I didn't actually know what Purana
10:43:08 2 had done about that.
3
10:43:09 4 I want to go to a different topic now and I can move more
10:43:14 5 quickly through this because Mr Woods did this. Can you go
10:43:17 6 to p.254 please. Towards the bottom of that page Ms Gobbo
10:43:31 7 raises a question, "What happens at the end?" Do you see
10:43:37 8 that?---Yes.
9
10:43:39 10 Mr White says, "For you?" Ms Gobbo says, [REDACTED] There
10:43:45 11 seems to be some confusion because Mr White then says, "For
10:43:49 12 [REDACTED] And so on?---Yes.
13
10:43:51 14 Mr White says, "What, when he gets arrested?" Then you
10:43:55 15 say, "In what sense?" Ms Gobbo says, "M'mm". "Good
10:44:01 16 question, talk about it. How do you see it?" Then there's
10:44:06 17 a discussion about the issues that might arise from
10:44:14 18 [REDACTED] being represented by Ms Gobbo on his arrest and
10:44:20 19 over the page at 256 do you see halfway down Mr White says,
10:44:28 20 "And the first thing he's going to do, we would assume, is
10:44:31 21 that he would ring you"?---Yes.
22
10:44:33 23 And Ms Gobbo says, "He'll ring no one else but me".
10:44:37 24 ?---Yes.
25
10:44:37 26 I suggest to you that the reason Mr White says the first
10:44:43 27 thing he's going to do is ring Ms Gobbo, is that it's
10:44:47 28 readily apparent from the months of engagement between
10:44:51 29 Ms Gobbo and [REDACTED] and also the fact that she's a
10:44:55 30 barrister, that when [REDACTED] is going to be arrested he's
10:45:01 31 obviously going to call Ms Gobbo?---That's right.
32
10:45:13 33 At 257 Mr White then continues an issue which Mr Woods took
10:45:23 34 you to where, to be fair to the handlers, it would seem
10:45:27 35 that the handlers are wanting to raise an ethical or moral
10:45:33 36 issue about Ms Gobbo attending in the circumstances that
10:45:38 37 have arisen?---Yes.
38
10:45:40 39 And references in this transcript suggest that this topic
10:45:46 40 had been discussed at least amongst the handlers prior this
10:45:51 41 meeting on [REDACTED]; is that right?---It must have been but
10:45:57 42 I don't recall it.
43
10:46:00 44 You don't have any recollection of any discussions about it
10:46:02 45 prior to the meeting?---Amongst the handlers?
46
10:46:06 47 Yes?---I don't but it must have been discussed.

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1
10:46:12 2 Yes, all right. And then over at 258 Mr White at the top
10:46:17 3 of the page identifies the core problem?---Yes.
10:46:20 4
10:46:20 5 "If you represent him whilst at the same time you've been
10:46:24 6 instrumental in his apprehension" - now perhaps I'll pause
10:46:28 7 at this moment just to touch upon a debate that you had
10:46:32 8 with Mr Woods in relation to the ethical or moral position
10:46:40 9 that pertained at this time. I think you were suggesting
10:46:43 10 yesterday at times that you didn't quite see - I'm probably
10:46:48 11 putting it unfairly to you, but you didn't quite see what
10:46:51 12 the difficulty is if a barrister is acting for someone on
10:46:58 13 offence A, if the barrister becomes aware of fresh criminal
10:47:01 14 activity that has nothing to do with offence A, why can't
10:47:05 15 they report that to the police? Is that a point of view
10:47:08 16 you recall uttering yesterday?---Yes.
17
10:47:17 18 Leaving aside the issues that Mr Woods raised, isn't the
10:47:20 19 particular problem that arose here, that should have been
10:47:28 20 obvious, that how could Ms Gobbo represent [REDACTED] when
10:47:37 21 her plan, and the police's plan, is to persuade [REDACTED]
10:47:45 22 to be an instrument for the arrest of the Mokbels?---Yes, I
10:47:56 23 think it's in this meeting you've just been referring to,
10:48:01 24 that transcript, it's clear that we did discuss that.
25
10:48:04 26 Yes?---As I said earlier, I don't think we understood the
10:48:09 27 implications enough at the time, even though we said those
10:48:12 28 words, we didn't - it's liked we scratched the surface and
10:48:15 29 should have drilled down harder and did not.
30
10:48:18 31 Because you understand what lawyers are supposed to do is
10:48:21 32 solely dedicate themselves to the best interests of the
10:48:25 33 client and nobody else and that's what's meant by the
10:48:29 34 conflict of interest issue?---Okay.
35
10:48:32 36 Now, over at p.259 you'll see Ms Gobbo, Mr White says at
10:48:41 37 the top of the page, "Yeah, it's a problem more for you
10:48:44 38 than us". Ms Gobbo says, "You don't care". And Mr White
10:48:51 39 says, "Well". Then Ms Gobbo continues, "Like you care
10:48:55 40 about what I'm thinking but you don't care about from his
10:48:58 41 point of view, true?" Mr White says, "We care about the
10:49:01 42 position that we are putting you in. Granted you're the
10:49:05 43 master of your own destiny". Ms Gobbo then says, "I told
10:49:10 44 you, remember, talking about this right at the beginning,
10:49:13 45 that this would end up being a real problem and I knew it
10:49:15 46 would be. What can I do? I mean". Isn't she referring to
10:49:19 47 the fact that things had gone so far by this point that

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10:49:27 1 everyone was really stuck in a position that Ms Gobbo would
10:49:31 2 have to go down to give advice to [REDACTED] on his arrest,
10:49:37 3 and I say that because there was only one person, one
10:49:40 4 lawyer whom [REDACTED] was going to trust at this point and
10:49:44 5 that was Ms Gobbo?---Mostly, yes. I mean I don't know
10:49:54 6 whether it was floated or, I think it was at some stage,
10:49:57 7 about her not being available, i.e. being overseas. But I
10:50:04 8 don't think she was amenable to that.

9
10:50:06 10 All right?---Yes, but certainly I agree with your comment,
10:50:09 11 in retrospect, yeah, it had gone too far. It had come to a
10:50:16 12 point where we were sort of stuck with it.

13
10:50:19 14 Over at p.260 Mr Green starts - there's a discussion now
10:50:23 15 about the mechanics of how this arrest process might work
10:50:27 16 and he says, "I'm just trying to work through my head.
10:50:31 17 You'd have the initial, he'd be put on tape, obviously,
10:50:36 18 afforded, ring the solicitor, blah blah blah. Interview
10:50:38 19 suspended, you go in and say, 'Look, [REDACTED] say no
10:50:43 20 comment'." Ms Gobbo says, "No, I'm not going to say that".
10:50:46 21 Then further down at the bottom of the page, "In the normal
10:50:50 22 course of events with anyone else it would depend upon what
10:50:53 23 I was told by the police". You say, "Yeah, you would talk
10:50:56 24 about probably, as you got there, what have you got this,
10:50:58 25 on him sort of thing". Do you see that?---Yes.

26
10:51:03 27 What's being referred to there by you and Ms Gobbo, I
10:51:06 28 suggest, is the fact that in the normal course of events a
10:51:09 29 barrister or solicitor might advise their client to talk to
10:51:12 30 the police but that might, that would of course heavily
10:51:16 31 turn upon the strength of the evidentiary case that the
10:51:20 32 police had against the accused or person
10:51:24 33 arrested?---Probably that would be right, yeah.

34
10:51:31 35 Then over at p.262, I don't think I need to read that out
10:51:34 36 but you'll see Ms Gobbo gives some advice as to how the
10:51:43 37 police should put [REDACTED] in a state of mind whereby he
10:51:51 38 will roll and assist the police in relation to the
10:52:02 39 Mokbels?---Yes.

40
10:52:03 41 She talks about the fact that you've got to make him think
10:52:06 42 he's in a bad place even before he gets back to St Kilda
10:52:09 43 Road?---Yes.

44
10:52:10 45 There's more advice from her about that. At p.266, point 5
10:52:20 46 of the page, Ms Gobbo repeats, "He won't speak to anyone
10:52:27 47 else", just affirming that fundamental problem?---Yes.

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1
10:52:40 2 Then there's more discussion about that and at p.270
10:52:44 3 there's advice about what [REDACTED] to give him?---Yes.
4
10:52:53 5 Then over at p.273 Mr White makes reference to this
10:53:01 6 conflict of interest area?---Yes.
7
10:53:06 8 And Mr Woods again took you to this, but down the foot of
10:53:09 9 the page I think Ms Gobbo put it pretty pithily, "The
10:53:14 10 general ethics of all of this is fucked". Do you remember
10:53:19 11 that?---I can see that there, yes.
12
10:53:23 13 In other words she was telling you, wasn't she, really that
10:53:25 14 it just was all unethical that she be the advisor to
10:53:32 15 [REDACTED] on his arrest?---You'd have to ask her what she
10:53:40 16 meant by that but on the surface that would appear what it
10:53:43 17 is.
18
10:53:44 19 Then over on p.276 at the foot of the page - sorry, the top
10:53:51 20 of the page Ms Gobbo says, "I feel extremely guilty where
10:53:54 21 [REDACTED] is concerned, and I did on Sunday afternoon, but
10:53:59 22 that's partly because he was really, just laid it all on
10:54:03 23 the table about how fucked everything was and how fucked
10:54:06 24 his future was and I actually felt sorry for him when I
10:54:10 25 walked away "?---Yes.
26
10:54:11 27 I don't think you took that ICR that previous Sunday but
10:54:15 28 there are indeed references to Ms Gobbo talking to the
10:54:20 29 handler about her feelings of guilt when she realises that
10:54:24 30 she has provided information which has led to the
10:54:26 31 identification of the [REDACTED] that [REDACTED] was
10:54:30 32 [REDACTED]?---That's right.
33
10:54:34 34 Do you recollect that?---Yes.
35
10:54:35 36 And then p.277, point 7 of the page, you say, "Because
10:54:42 37 we've been dealing with you for some time and we round
10:54:45 38 table these ethical type questions". That's one of the
10:54:49 39 references I had in mind earlier?---Okay, there you go.
40
10:54:54 41 Does that suggest you have some type of internal discussion
10:54:58 42 or perhaps with Purana about - - - ?---Oh.
43
10:55:02 44 - - - whether ethical issues would arise with Ms Gobbo
10:55:05 45 coming to the police station on his arrest?---I don't think
10:55:08 46 it would have been with Purana but, as I said earlier, it
10:55:13 47 must have happened within the SDU.

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1
10:55:15 2 Yes. Then page - - - ?---That does indicate that.
3
10:55:18 4 Yes. Page 278, Mr Green says - perhaps I should start at
10:55:28 5 the foot of the page of 277. Ms Gobbo says, "Yeah, look,
10:55:32 6 it's hard, it is, but each of them is different. [REDACTED]
10:55:35 7 is hard". Mr Green says, "I suppose you balance it out
10:55:40 8 with the damage that [REDACTED] is doing essentially as part
10:55:43 9 of building up this criminal enterprise", see that?---I see
10:55:49 10 that, yes.
11
10:55:53 12 It's plain, I suggest, that Mr Green is wanting to provide
10:55:57 13 some reassurance to Ms Gobbo that from a broader
10:56:01 14 perspective she is doing the right thing?---I think that's
10:56:07 15 the thrust of that, yep.
16
10:56:10 17 Then Ms Gobbo says, "Yeah, but I can't solve, I can't solve
10:56:13 18 the problems of the world". You say, "No, only the bits
10:56:16 19 you know about". Mr Green says, "That's right". Ms Gobbo
10:56:23 20 says, "No, the problem, because I was being, you know, not
10:56:26 21 that I was being told all sorts of things for years and
10:56:29 22 years and putting them together because I spent far too
10:56:32 23 much time thinking about things than anything else. The
10:56:35 24 problem was being used by people to, you know, manipulate
10:56:38 25 all sorts of systems or not so much criminal justice
10:56:43 26 systems, but really being used by people, that's part of
10:56:46 27 it, was a guilty conscience I guess. But it's not from
10:56:51 28 doing anything illegal myself but from knowing about these
10:56:54 29 and not knowing about them".
30
10:56:57 31 COMMISSIONER: "Not doing anything about them."
10:56:59 32
10:56:59 33 MR COLLINSON: I'm sorry, "not doing anything about them",
10:57:02 34 yes?---Yes.
35
10:57:03 36 That was a familiar theme, I suggest, from Ms Gobbo about
10:57:07 37 her motives for engaging or becoming a human source in the
10:57:11 38 first place, yes?---Yes.
39
10:57:17 40 Then she continues with, [REDACTED] has just gone one way, in one
10:57:20 41 direction, because he's now decided that, I mean I'm almost
10:57:24 42 or probably bordering or conspiring with him where you
10:57:28 43 know, when I sit down and have these conversations with him
10:57:31 44 and he's telling me about how much [REDACTED] and how
10:57:33 45 much this and that. Why am I the equivalent of an aider
10:57:40 46 and abettor?" I'm not sure that's a correct legal
10:57:44 47 construction. But you then say over at 279 - I'm sorry,

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10:57:48 1 Mr Green says, "What are you doing to assist?" Then
10:57:51 2 Ms Gobbo says, well", forget about assisting, but I'm
10:57:55 3 encouraging him, I'm inciting him, I'm conspiring with
10:58:00 4 him". Mr White says, "You're not inciting him". There's
10:58:05 5 some reassurance from the police that Ms Gobbo, by
10:58:08 6 obtaining information from [REDACTED] over the previous few
10:58:11 7 months, is not engaging in criminal activity, do you agree
10:58:14 8 with that?---I think - can you just repeat the question
10:58:22 9 again, I'm sorry?
10
10:58:23 11 The statements by Mr Green and Mr White at the top of
10:58:27 12 p.279?---Yes.
13
10:58:28 14 Are reassuring Ms Gobbo that her activity of obtaining
10:58:32 15 information from [REDACTED] over the previous months about
10:58:35 16 his [REDACTED] is not criminal activity?---That's
10:58:40 17 right, and if I may, I think that was - I understand the
10:58:46 18 legal terminology and what have you that's been used there
10:58:49 19 but I think it's also some emotional support for what she
10:58:53 20 was saying.
21
10:58:53 22 Ms Gobbo says further down the page, "Yeah, but I'm not
10:58:57 23 saying that. I'm inquiring about as how's this is going,
10:59:01 24 how's that going? How else am I supposed to get things out
10:59:05 25 of him?" Really she's expressing there, isn't she, the
10:59:09 26 fact that engaging in this social relationship with him, as
10:59:15 27 indeed transpired, was really the vehicle available to her
10:59:23 28 to get information from [REDACTED] about his current [REDACTED]
10:59:29 29 [REDACTED]?---That's right.
30
10:59:31 31 And normally, I don't know, I'm not a criminal lawyer, but
10:59:36 32 normally I expect you wouldn't have criminals sit down with
10:59:40 33 their criminal barrister on a particular offence and start
10:59:43 34 telling the criminal barrister about current criminal
10:59:47 35 activity that the person's engaging in, you wouldn't expect
10:59:50 36 that, would you?---I don't know.
37
10:59:53 38 All right. Not much trust of barristers any more. But in
10:59:59 39 any event that's the key I was putting to you earlier.
11:00:01 40 Isn't that the reason that SDU encouraged the social
11:00:06 41 relationship between Ms Gobbo and [REDACTED] just because
11:00:10 42 that was the proper way or the most - not proper, but most
11:00:15 43 efficient way to gain information from him about his
11:00:18 44 current criminal activity?---Yeah, we encouraged her to
11:00:23 45 have a relationship with him that would glean information
11:00:28 46 but that's the case with any source and a potential target,
11:00:31 47 they have to interact with them in some fashion. And often

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11:00:35 1 it is through social interaction.
2
11:00:39 3 If I could jump a few pages now to p.295. There's
11:00:43 4 discussion about various things. But do you see at point 5
11:00:47 5 on this page Ms Gobbo says, "Anyway, my original question,
11:00:53 6 how many people the night [REDACTED] is arrested, who am I
11:00:57 7 going to find there who's going to know about this"?---Yes.
8
11:01:02 9 She's plainly saying, isn't she, that she's going to be
11:01:06 10 there at the police station?---Yes.
11
11:01:13 12 Then there's a discussion, Mr Green says, "Because one of
11:01:20 13 us will be around". She asks, "Why are you going to be
11:01:24 14 around?" You say, "See how [REDACTED] goes"?---Yes.
15
11:01:29 16 She then says, "But isn't someone there going to say why
11:01:32 17 are you there?" Mr Green says, "They'll be too fucking
11:01:36 18 busy". Mr White then says, "The other thing is we want to
11:01:40 19 make sure that it is not going to be said that that can be
11:01:45 20 attributed to you"?---M'hmm.
21
11:01:48 22 Then there's some discussion about other people who know
11:01:50 23 she's an informer?---Yes
24
11:01:51 25 Do you see you mention Stuart, which is
11:01:55 26 Mr Bateson?---That'd be right.
27
11:01:56 28 And down the foot of the page Mr White mentions Mr Jim
11:02:03 29 O'Brien?---Yes.
30
11:02:06 31 Both of whom know that Ms Gobbo is an informer?---They do.
32
11:02:09 33 Then over at 297 Ms Gobbo says - she obviously knows
11:02:14 34 Mr O'Brien, doesn't she?---She must, yeah.
35
11:02:20 36 Down the bottom of 297, "What does Jim think of, what does
11:02:25 37 he think from the point of view of knowing that [REDACTED]
11:02:28 38 and might I say for the sake of making it really messy,
11:02:32 39 [REDACTED] and [REDACTED] probably [REDACTED], are not going to ring
11:02:38 40 anybody else but me, that's just I mean - what does Jim
11:02:41 41 think about this?" You reply, "You know what you said
11:02:47 42 before about", and "What would we know about", and then you
11:02:52 43 continue really, "Well you know what you said before about
11:02:52 44 what we would know about [REDACTED] and what he's doing
11:02:58 45 right now without you", Ms Gobbo, "M'mm"?---M'mm.
46
11:03:02 47 You say, "Something like that. I don't follow that,

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11:03:06 1 sorry". Then you continue, "He'll be thinking the same
11:03:14 2 thing, they would have been struggling without it". Do you
11:03:18 3 actually know what it is - Ms Gobbo didn't seem to
11:03:21 4 understand what you were talking about there?---I think I
11:03:22 5 got that wrong. No, I don't. I think I got it wrong
11:03:28 6 there. Can you scroll up a little bit please just for a
11:03:32 7 few lines?
8
11:03:32 9 Yes?---No, I seem to be talking cryptically.
10
11:03:41 11 The only thing I can - if it helps, the only thing I can
11:03:47 12 think of that [REDACTED] is doing without Ms Gobbo at the moment
11:03:50 13 is [REDACTED]. Does that assist?---No, I don't
11:03:55 14 think so. I think that's obvious. Wasn't the question
11:04:01 15 from the source about Mr O'Brien? Was that - have I heard
16 that correctly?
17
11:04:08 18 That's where the discussion - - - ?---Is that where it
11:04:12 19 starts?
20
11:04:13 21 Yes, that's where it started. That's a mystery to
11:04:17 22 you?---Like I think I'm talking, basically saying I don't
11:04:19 23 want to say anything that they may be doing. Like we're
11:04:22 24 not going to pass on anything that we knew Purana was
11:04:25 25 doing. I think that's it but - - -
26
11:04:27 27 I see?---It may be something of that nature.
28
11:04:29 29 I see. So, "What he's doing right now without you", "he"
11:04:35 30 is a reference to Mr O'Brien?---I think so, yes.
31
11:04:37 32 Over at 299 Ms Gobbo says, she continues the question, she
11:04:45 33 says, "But I'm saying what does he, does he think there's -
11:04:49 34 would someone like him think that there's some massive
11:04:53 35 conflict or not?" She's talking about Mr O'Brien, isn't
11:04:58 36 she?---I think so there, yes.
37
11:05:00 38 You say, "No, no, this is us. This was us"?---M'hmm,
11:05:06 39 that's right, yeah.
40
11:05:07 41 What does that mean? Does that say this conflict issue,
11:05:11 42 are you saying that it was an issue that only concerned the
11:05:18 43 handlers, that Mr O'Brien wasn't involved in discussions
11:05:20 44 about it?---That's my understanding. I can't - unless
11:05:25 45 Mr White did at the round table reference earlier and the
11:05:32 46 one I said was likely to have happened anyway. That would
11:05:36 47 be from the SDU. Mr O'Brien is clearly not part of it.

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1
11:05:40 2 Yes. Then it continues at the foot of the page, Mr Green
11:05:43 3 says, "Oh no, no, all he wants to know". And you say,
11:05:46 4 "Don't care what he thinks". "All he wants to do is be
11:05:51 5 saying thank you to me"?--Okay, I think that's a sort of a
11:06:05 6 smart-alec type comment, isn't it?
7
11:06:08 8 Yes, I think it is. Page 307. I've nearly finished this
11:06:12 9 transcript. Mr White there says at about - "And you know,
11:06:17 10 you would have noticed that as opposed to the early days
11:06:20 11 when we told you nothing and there was no feed back at all,
11:06:24 12 you know, we're sort of a lot more open now". That's being
11:06:31 13 said by Mr White, isn't it, to encourage the notion in
11:06:34 14 Ms Gobbo's mind she's sort of part of the team working with
11:06:37 15 the police?---That's right.
16
11:06:46 17 Then over at p.335, do you see at the top of the page -
11:07:02 18 well, maybe it's actually the bottom of 334?---Oh, yes.
19
11:07:09 20 Ms Gobbo makes a reference to her going away on
11:07:12 21 holiday?---Yes.
22
11:07:12 23 And Mr White says, "Is that why you asked when [REDACTED] is
11:07:16 24 likely to get locked up?" She replies, "Yeah". He says,
11:07:22 25 "Okay. I can't be away when it happens", Ms Gobbo says.
11:07:25 26 Mr White says, "No, I know, we talked about this the last
11:07:29 27 time I saw you"?---Yes.
28
11:07:31 29 That suggests, doesn't it, that Mr White is accepting that
11:07:37 30 Ms Gobbo will be present at the arrest of [REDACTED] I
11:07:45 31 think that's a reference to maybe, that prompted me to
11:07:48 32 believe that that event - well, that made me form the
11:07:55 33 belief that it had been talked about her not being around
11:07:57 34 and that she wouldn't be doing that. To answer your
11:08:01 35 question, that's right.
36
11:08:02 37 And over at 336 there's a discussion about, on the same
11:08:08 38 theme, Mr White says, "What sort of window have you got?"
11:08:12 39 Ms Gobbo says, "A week". Mr White says, "No, to go away
11:08:18 40 in". Ms Gobbo says, "About two weeks but from about [REDACTED]
11:08:22 41 [REDACTED] Mr Green says, "So we want him pinched before [REDACTED]
11:08:28 42 [REDACTED] Ms Gobbo says, "Long before the [REDACTED] or after about
11:08:31 43 the - or well after". Mr Green is there accepting, isn't
11:08:36 44 he, when he says, "We want him pinched before [REDACTED], that
11:08:41 45 it's to be on the basis that Ms Gobbo will be contacted by
11:08:45 46 [REDACTED] for advice about what to do?---I think he's
11:08:50 47 agreeing with what she's saying, but keeping in mind we had

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11:08:54 1 zero influence on whenever that was going to happen. We
11:08:57 2 had no idea.
3
11:08:59 4 Yes, but my point is really that Mr Green is accepting
11:09:03 5 implicitly, isn't he, that Ms Gobbo is going to turn up to
11:09:08 6 advise [REDACTED] on his arrest?---He may be. He may just
11:09:16 7 be reaffirming what she says because, you know, sometimes
11:09:21 8 you want to clarify what's in the source's head about the
11:09:24 9 timing of things. I conceded earlier that she was going to
11:09:30 10 turn up.
11
11:09:32 12 So although, to be fair to the police, an ethical conflict
11:09:40 13 issue is raised, I suggest to you that at the end of the
11:09:43 14 interview the police have accepted at this meeting that
11:09:46 15 Ms Gobbo is going to turn up to advise [REDACTED] on his
11:09:50 16 arrest?---We believed that was going to happen, yes.
17
11:09:56 18 When I say "accepted", I meant that deliberately. The
11:09:59 19 police, after having this discussion, are not raising any
11:10:06 20 objection towards the end of the discussion or after the
11:10:08 21 discussion about Ms Gobbo turning up to advise [REDACTED]
11:10:11 22 are they?---No, we're not, no.
23
11:10:18 24 So isn't it implicit from not raising an objection that
11:10:22 25 Ms Gobbo would assume that the police have accepted that
11:10:25 26 she can do that?---You'd have to ask her what was in her
11:10:33 27 head, yeah.
28
11:10:34 29 I'm talking about the police here though. Isn't it
11:10:37 30 implicit from the police at the end of the discussion not
11:10:39 31 objecting to her turning up that she would logically draw
11:10:44 32 the conclusion that the police have accepted that she
11:10:47 33 can?---She may well have done. I mean we brought up the
11:10:53 34 issues at the time. As I said earlier, we didn't drill
11:11:02 35 down enough into them so that may have been a conclusion,
11:11:07 36 yeah.
37
11:11:07 38 Right. Can I ask that Mr Smith be shown Mr White's
11:11:19 39 statement, that's COM.0019.0004.0 001. The particular page
11:11:36 40 is .0045?---If I can add, I've just been thinking about
11:11:47 41 that, I'm not taking anything back but I think the source
11:11:53 42 would have turned up no matter what we said.
43
11:11:57 44 All right. Just waiting for Mr White's statement. There's
11:12:23 45 perhaps a delay with that, Commissioner, so perhaps this is
11:12:27 46 an appropriate moment for a mid-morning break.
47

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11:12:30 1 COMMISSIONER: All right then.
2
3 (Short adjournment.)
4
11:31:10 5 COMMISSIONER: Mr Smith, you can hear me?---Yes, I can,
11:31:14 6 Commissioner.
11:31:14 7
11:31:14 8 Yes. Thanks Mr Collinson.
11:31:16 9
11:31:17 10 MR COLLINSON: Just a few more questions on [REDACTED]
11:31:21 11 Mr Smith. I think we've got Mr White's statement. If the
11:31:26 12 operator could go to p.0045, or p.45. You'll remember I
11:31:41 13 asked you at the outset some questions about that original
11:31:46 14 statement in your first witness statement saying that
11:31:52 15 Ms Gobbo insisted on going down to represent [REDACTED] Do
11:32:02 16 you remember that sentence?---Yes. I think so, yeah.
11:32:06 17
11:32:07 18 Mr White, commencing at paragraph 189, addresses this topic
11:32:17 19 both in general and specific terms?---Yes.
11:32:20 20
11:32:21 21 Is it possible, Mr Smith, that you got your interpretation
11:32:27 22 of the events prior to Ms Gobbo attending at St Kilda Road
11:32:34 23 on [REDACTED] from Mr White's statement?---Um, I don't think
11:32:40 24 so because I certainly haven't, I read it, I know it's got
11:32:45 25 a number of pages, quite a number, and I have read it. I'm
11:32:49 26 reading what's on the screen now though.
11:32:52 27
11:32:53 28 Let me get this clear. Was your evidence earlier that you
11:32:57 29 were given to the statement but you've never read it?---I
11:33:00 30 think I was given access to the statement.
11:33:02 31
11:33:03 32 But you never looked?---No, I didn't. Likewise with
11:33:06 33 Mr White's evidence, I haven't, I wasn't in a position to
11:33:11 34 listen to it or even - I asked, I got advice as to whether
11:33:16 35 I should and I was told don't bother, so I did not.
11:33:20 36
11:33:21 37 You'll see in paragraph 189 Mr White addresses the general
11:33:26 38 topic of Ms Gobbo representing clients where she had a
11:33:30 39 conflict of interest?---Yes, yeah, paragraph 189, yep.
11:33:37 40
11:33:38 41 Have you read this paragraph before, ever?---I don't
11:33:41 42 believe so, no.
11:33:42 43
11:33:43 44 You'll see he says in line 3, "Often times she would simply
11:33:50 45 ignore that advice"?---There have been times yeah, that's
11:33:58 46 right, yeah.
11:33:59 47

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11:33:59 1 And then in the last sentence he says, "Having said that we
11:34:04 2 did make efforts to try and stop her involvement in such
11:34:07 3 matters", do you see that?---Yes.

11:34:10 4
11:34:10 5 Do you agree with me that in relation to her attendance on
11:34:15 6 [REDACTED] 2006 at St Kilda Road police station you didn't
11:34:20 7 try to stop her doing that?---Well I think we did but, but
11:34:29 8 at a certain point we stopped trying to because we knew it
11:34:34 9 was going to happen, yeah, and we should have done more.

11:34:37 10
11:34:37 11 Paragraph 190 - when you were first asked about this, I
11:34:42 12 think you might have said, and correct me if I'm wrong,
11:34:44 13 when you had this idea that Ms Gobbo insisted on going down
11:34:49 14 to St Kilda Road, and I was taking you to the [REDACTED]
11:34:54 15 meeting, that it was perhaps earlier that Ms Gobbo - that
11:34:59 16 efforts were made to stop her from doing that?---Yes.

11:35:03 17
11:35:04 18 And what do you think you were referring to when you said
11:35:06 19 that?---I was referring to something that stuck in my mind
11:35:16 20 that Mr White had told me back then and it was a
11:35:23 21 particular, particular phrase or quote, or piece of
11:35:28 22 conversation about it and I remember him saying it,
11:35:30 23 repeating it.

11:35:31 24
11:35:31 25 Right?---When the subject of, you know, this Commission
11:35:34 26 came up.

11:35:36 27
11:35:36 28 I see. So you're saying that prior to embarking on
11:35:43 29 preparing your witness statement you were obviously having
11:35:47 30 conversations from time to time with Mr White about the
11:35:49 31 Royal Commission?---That's right, I mean this was from back
11:35:54 32 in November last year when we were first, I was told it was
11:35:59 33 happening, and then, and we had discussions about, you
11:36:04 34 know, what might happen and he then, at around that time, I
11:36:10 35 can't remember exactly, but around that time he repeated
11:36:13 36 this particular phrase, I remember him saying back then
11:36:18 37 when we were at the SDU.

11:36:20 38
11:36:20 39 What you're saying to the Commissioner as I would
11:36:23 40 understand it, is that prior to preparing your witness
11:36:26 41 statement you had some discussions with Mr White where
11:36:29 42 Mr White told you that he made clear to Ms Gobbo that she
11:36:33 43 shouldn't attend at St Kilda Road on the arrest of [REDACTED]
11:36:37 44 [REDACTED]-Something like that. He repeated something to me
11:36:40 45 back then that he had always said when we were back at the
11:36:50 46 SDU.

11:36:50 47

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11:36:51 1 Did you have an independent recollection of that statement,
11:36:53 2 that earlier statement that he was referring to?---No, I
11:36:58 3 didn't, but I don't even know if I was present. But he
11:37:02 4 said it, you know.
11:37:04 5
11:37:04 6 Is it fair to say then that your original assertion in your
11:37:08 7 first witness statement that Ms Gobbo insisted on going
11:37:12 8 down against the advice of the police, that was based
11:37:16 9 really upon your discussion with Mr White that you've just
11:37:19 10 referred to?---At least partly, yeah.
11:37:23 11
11:37:24 12 Anything else?---I can't remember right now. There was a
11:37:31 13 lot of material. I may have read something in my contact
11:37:35 14 reports but I can't remember right now.
11:37:37 15
11:37:37 16 If you look at paragraph 190, do you see there's a
11:37:40 17 reference to a conversation that Mr White says he had with
11:37:44 18 Ms Gobbo on 28 October 2005 in the presence of you?---Yes,
11:37:50 19 I see that.
11:37:51 20
11:37:55 21 There's some quotes set out there. Is this an event that
11:38:00 22 you have any independent recollection of?---No.
11:38:03 23
11:38:05 24 Have you had an opportunity to read paragraph 190 to
11:38:08 25 yourself though?---From what's on the screen now, yes.
11:38:11 26
11:38:14 27 That was pretty early in the piece anyway, wasn't it, 28
11:38:18 28 October 2005 was - - - ?---Yes.
11:38:21 29
11:38:21 30 Many, many months before the actual arrest of [REDACTED] wasn't
11:38:30 31 it?---Yes.
11:38:30 32
11:38:33 33 I fear I may have said the correct surname of [REDACTED] and that
11:38:40 34 might need to be corrected. I think I strayed. That's
11:38:45 35 just - maybe I didn't.
11:38:51 36
11:38:52 37 COMMISSIONER: We can do a search and if you did?---Excuse
11:39:04 38 me for a second.
11:39:11 39
11:39:11 40 MR COLLINSON: All right. I can leave that statement now
11:39:15 41 and if I can go to the ICRs, please. ICR 28, p.250. If we
11:39:35 42 look at the previous page, 249, you can see, Mr Smith, that
11:39:39 43 this is a contact on p.250 that you had with
11:39:47 44 Ms Gobbo?---Yes.
11:39:48 45
11:39:49 46 And it occurred on [REDACTED], which was a few days before
11:39:54 47 the arrest of [REDACTED]---Yes.

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11:39:57 1
11:40:03 2 Going over to p.250, at about point 3 of the page do you
11:40:09 3 see Ms Gobbo gives some advice on what might cause [REDACTED]
11:40:19 4 [REDACTED] to roll on the Mokbels?---Yes.
11:40:26 5
11:40:29 6 Over at the top of p.251 you'll see the reference to
11:40:35 7 Mr O'Brien?---Yes.
11:40:38 8
11:40:38 9 Is the Commissioner correct to infer that you passed on
11:40:42 10 that information to Mr O'Brien?---Yes.
11:40:44 11
11:40:50 12 Do you agree that Ms Gobbo was well positioned to judge
11:40:56 13 what would be the factors or considerations that would
11:41:01 14 cause [REDACTED] to roll on the Mokbels?---Yes, because he
11:41:08 15 had complained, I think he had complained several occasions
11:41:14 16 to her about them.
11:41:15 17
11:41:15 18 She knew [REDACTED] very well, didn't she, by this
11:41:19 19 stage?---I think so, yeah.
11:41:21 20
11:41:22 21 Do you see at page - going back to p.250, in the next
11:41:27 22 paragraph, there's more advice from Ms Gobbo and then it
11:41:34 23 has a sentence in the second-last line, "Believes will
11:41:37 24 listen to Gobbo advice when arrested"?---H'mm.
11:41:41 25
11:41:46 26 You don't raise any objection, or there's no notation here
11:41:51 27 suggesting you raising any kind of objection to the
11:41:56 28 implicit message from Ms Gobbo that she will be advising
11:42:00 29 [REDACTED] when he's arrested?---No.
11:42:02 30
11:42:04 31 Is it the case that you wouldn't have said anything at this
11:42:09 32 point to deter Ms Gobbo from undertaking that role?---I
11:42:16 33 think it was almost decided.
11:42:18 34
11:42:19 35 Well, just to be clear, this is [REDACTED], so the transcript
11:42:22 36 I took you through in detail earlier was [REDACTED]. So that
11:42:27 37 still lies ahead, do you see?---Yes, that's right, yeah.
11:42:30 38
11:42:33 39 There's a reference - - - ?---I think there had been a, I
11:42:36 40 think there had been other discussions before this though.
11:42:40 41
11:42:41 42 Between whom saying what?---Between Mr White and her.
11:42:49 43
11:42:49 44 What, where Mr White was telling her not to do it?---Yes, I
11:42:53 45 think those, I think those discussions had already
11:42:56 46 happened, yeah.
11:42:56 47

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11:42:57 1 And you're basing that evidence, aren't you, on what
11:43:00 2 Mr White tells you?---Yeah.
11:43:01 3
11:43:03 4 I mean, you don't have an independent recollection of
11:43:06 5 Mr White telling you that around this time?---I can't
11:43:12 6 remember when he said it, but it was around, it was
11:43:15 7 certainly back in the SDU days yeah, probably not around
11:43:18 8 this time.
11:43:19 9
11:43:19 10 My question is you don't, as you give evidence now in the
11:43:22 11 witness box, you don't actually yourself recollect Mr White
11:43:28 12 telling you that prior to the [REDACTED] meeting he told
11:43:35 13 Ms Gobbo not to appear at the police station for [REDACTED]
11:43:39 14 [REDACTED] I can't remember when I heard that.
11:43:42 15
11:43:42 16 Right?---Can I unequivocally say that? No, I cannot.
17
11:43:52 18 The next paragraph at 250, do you see there's a reference
11:43:53 19 there in the last line, [REDACTED] once said he would [REDACTED]
11:43:57 20 human source [REDACTED] for them. This has never
11:44:02 21 eventuated"?---Yes.
11:44:02 22
11:44:04 23 You recall Mr Woods I think touched on this question of
11:44:09 24 whether [REDACTED] ever gave [REDACTED] to Ms Gobbo to hold
11:44:16 25 for [REDACTED] do you recall being asked about that?---No.
11:44:23 26
11:44:25 27 Have I got the wrong witness? Anyway, I think Mr Woods
11:44:31 28 touched on it - - - ?---Okay.
11:44:33 29
11:44:33 30 You made an answer, I can't give you the transcript
11:44:36 31 reference but it will reveal it, but I seem to recall you
11:44:40 32 saying something to the effect, well, hang on this is
11:44:43 33 Ms Gobbo telling the handlers about [REDACTED] raising this
11:44:49 34 issue. Do you remember making that point when you gave
11:44:52 35 answers?---I do. Was that about the [REDACTED] was it?
11:44:56 36
11:44:57 37 Yes, that was about whether [REDACTED] has given Ms Gobbo
11:45:01 38 some [REDACTED] to hold for him?---Okay.
11:45:03 39
11:45:03 40 Does that ring a bell from yesterday?---Well yeah, yeah.
11:45:08 41
11:45:08 42 Okay. You'll see, this is a bit earlier in point of time
11:45:13 43 because this is [REDACTED]---Yes.
11:45:15 44
11:45:16 45 Where Ms Gobbo's reporting that [REDACTED] had been
11:45:20 46 suggesting he would give Ms Gobbo [REDACTED] but it's never
11:45:25 47 eventuated, do you see that?---H'mm, yes.

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11:45:28 1
11:45:28 2 He's arrested [REDACTED] later, isn't he?---Yep.
11:45:32 3
11:45:35 4 I mean, do you have any recollection of this narrative?
11:45:42 5 This is before being asked questions about it by Mr Woods
11:45:45 6 yesterday, about Ms Gobbo giving these reports about [REDACTED]
11:45:50 7 [REDACTED] talking about or giving [REDACTED] to Ms Gobbo?---No, but I
11:45:57 8 mean it's clear that that's what occurred because I wrote
11:46:01 9 it down there.
11:46:02 10
11:46:02 11 But at all times Ms Gobbo denied that that had occurred,
11:46:05 12 didn't she?---That, what, denied she had ever been [REDACTED]
11:46:14 13 [REDACTED]?
11:46:14 14
11:46:15 15 By [REDACTED] to hold for him?---I believe that's right,
11:46:18 16 yeah.
11:46:18 17
11:46:18 18 Do you yourself doubt that evidence from Ms Gobbo?---I have
11:46:26 19 no way of knowing. Yeah, I have no way of knowing.
11:46:32 20
11:46:32 21 Is it fair to say looking through these detailed contacts
11:46:39 22 over many years, that generally Ms Gobbo was a reliable
11:46:45 23 source of information to the handlers?---Yes, that's true.
11:46:52 24 With the proviso of course that as a handler you're never
11:46:56 25 100 per cent comfortable with any source.
11:47:00 26
11:47:01 27 Yes?---She answered your questions, yes.
11:47:03 28
11:47:04 29 She was a bit of a different source to your typical source
11:47:07 30 though, wasn't she, because she was a barrister?---Yes.
11:47:10 31
11:47:11 32 And I'm really just asking whether you have any
11:47:14 33 recollection of Ms Gobbo giving information where SDU later
11:47:18 34 established it was incorrect?---I don't think so.
11:47:31 35
11:47:35 36 COMMISSIONER: Are you okay, Mr Smith, did you want a
11:47:39 37 break?---No, I've just got this tickle in my throat, I
11:47:42 38 apologise.
11:47:42 39
11:47:43 40 That's okay, that's okay. Let me know if you need a
11:47:46 41 break?---No, I'll be fine. Thank you, Commissioner.
11:47:49 42
11:47:49 43 MR COLLINSON: Just over on p.252, do you see there's a
11:48:04 44 discussion, if one looks at about point 2 on that page, at
11:48:10 45 the top of the page, do you see it says, "Controller White
11:48:13 46 and Smith confer with Operation Purana, O'Brien and
11:48:17 47 Flynn"?---Yes.

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11:48:17 1
11:48:17 2 "Discuss tactics for post arrest based on HS information
11:48:22 3 regarding cooperation and possible recruitment of target
11:48:26 4 [REDACTED] --Yes.
11:48:26 5
11:48:31 6 Right. I'm just having my attention drawn to something,
11:48:37 7 just don't worry about that for the moment. Do you see it
11:48:40 8 continues, "Points to be included in IV plan by
11:48:45 9 O'Brien"?---Yes.
11:48:45 10
11:48:46 11 This tends to suggest on a plain reading, doesn't it, that
11:48:52 12 Ms Gobbo's advice as to how to go about causing [REDACTED]
11:49:00 13 to roll appears to have been utilised by Purana?---Yes, I
11:49:11 14 think it was by Mr O'Brien. It says interview there, I
11:49:19 15 believe it was when he spoke to him about whether, deciding
11:49:23 16 whether to cooperate or not.
11:49:27 17
11:49:27 18 This is [REDACTED] so it's prior to the arrest of [REDACTED]
11:49:31 19 [REDACTED] --Yes, I understand that, yep.
11:49:33 20
11:49:34 21 Was this a meeting that you had with Mr O'Brien and
11:49:38 22 Mr White?---It must have been, yeah. Yeah, it was.
11:49:46 23
11:49:50 24 And is it fair to infer that the information provided by
11:49:55 25 Ms Gobbo on the preceding page, 250, would have formed part
11:50:00 26 of the discussion with Mr O'Brien?---Yes.
11:50:03 27
11:50:13 28 All right. And then the arrest takes place and I don't
11:50:19 29 think I need to dwell on any of those matters. After the
11:50:29 30 arrest the next meeting between the handlers and Ms Gobbo
11:50:38 31 seems to take place on [REDACTED] 2006, and if I could ask for
11:50:44 32 that to be brought up. It's VPL.0005.0087.0397. You'll
11:51:05 33 see that this is a meeting, Mr Smith, between you, Mr White
11:51:12 34 and Ms Gobbo, just the three of you?---I think also up the
11:51:19 35 top there it indicates Mr Anderson came as well.
11:51:25 36
11:51:25 37 Thank you for that, yes. And then over at p.0399, I don't
11:51:37 38 have page numbers on my copy and if you scroll down -
11:51:44 39 further down, please, down the bottom. You'll see,
11:51:50 40 Mr White, there's some discussion about [REDACTED] because
11:51:54 41 he's incarcerated at this time, isn't he?---Yes.
11:51:57 42
11:51:57 43 And he's undertaken that assistance for the police, he's
11:52:01 44 recorded conversations he's had with [REDACTED] and
11:52:07 45 others?---I don't know he did what with when, but he had
11:52:15 46 cooperated.
11:52:15 47

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SMITH XXN - IN CAMERA

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11:52:15 1 You'll see Ms Gobbo says the state of the relationship at
11:52:19 2 this point is he thinks he's going to [REDACTED] Ms Gobbo. And
11:52:23 3 she says, "It's your fault"?---H'mm, yes.

11:52:28 4
11:52:29 5 That's a fairly pithy summary of the [REDACTED] attachment
11:52:37 6 that [REDACTED] had for Ms Gobbo at this stage, isn't
11:52:41 7 it?---It could just be a throwaway line, it looks pretty
11:52:45 8 flippant to me.

11:52:45 9
11:52:46 10 Then if I could take you, please, to p.0624. Towards the
11:53:34 11 top of the page Ms Gobbo's talking about her ongoing
11:53:39 12 dealings with [REDACTED] and she says, "I'm going to talk to
11:53:43 13 him on Sunday cause it's the last thing I want. I mean I
11:53:47 14 live in fear because I" and then Mr White then says further
11:53:53 15 down, "He knows that he's put you in a position, doesn't
11:53:56 16 he?" Ms Gobbo replies, "Yes, he does". That was a
11:54:00 17 reference to the fact that from [REDACTED] relatively
11:54:09 18 limited comprehension at this point, he knows that Ms Gobbo
11:54:17 19 attended to give him advice on [REDACTED] of course, doesn't
11:54:22 20 he?---Yes.

11:54:23 21
11:54:25 22 And he's also been told, hasn't he, by Ms Gobbo that she
11:54:32 23 failed to [REDACTED] that [REDACTED] had been
11:54:38 24 arrested?---I think she told him that but that's certainly
11:54:44 25 what happened, yeah.

11:54:44 26
11:54:46 27 And we know that in the period, in the days after [REDACTED]
11:54:50 28 as I said earlier, I think, I don't think you deny, do you,
11:54:54 29 that [REDACTED] recorded conversations and meetings with
11:54:59 30 [REDACTED] and others?---I'm sure he did. I was never, I
11:55:05 31 never knew the details.

11:55:06 32
11:55:07 33 So that if [REDACTED] found out that Ms Gobbo had attended
11:55:12 34 at the police station and hadn't [REDACTED], her
11:55:17 35 life would be seriously at risk, wouldn't it?---That's
11:55:20 36 right.

11:55:20 37
11:55:21 38 And effectively Ms Gobbo from now on was in the hands of
11:55:26 39 [REDACTED] because he was in a position to, if he fell out
11:55:31 40 with Ms Gobbo, to tell [REDACTED] or others who would tell
11:55:36 41 [REDACTED] that she hadn't warned [REDACTED] of [REDACTED]
11:55:41 42 [REDACTED] arrest?---I don't think it was ever felt that he
11:55:47 43 would, because he was giving evidence against them.

11:55:50 44
11:55:50 45 Yes. Well he I think the ICRs reveal actually slips it out
11:55:56 46 at one stage in discussions with [REDACTED] do you have any
11:56:00 47 recollection of that? I think that's an ICR you wouldn't

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11:56:03 1 have been part of?---Yeah, there was some things about
11:56:08 2 [REDACTED] and [REDACTED] that I, there's some interaction we were
11:56:13 3 told second-hand, yeah.
11:56:14 4
11:56:15 5 There's always a risk, isn't there, that for whatever
11:56:19 6 reason [REDACTED] might let the Cat out of the bag that
11:56:23 7 Ms Gobbo had attended to advise him and then [REDACTED]
11:56:26 8 [REDACTED] ---Probably back then I didn't, I didn't
11:56:31 9 consider that he would do that.
11:56:33 10
11:56:33 11 There's always a risk, isn't there? He's a criminal and He
11:56:38 12 would act in his own interests and circumstances might
11:56:40 13 arise where it's in his interests to do that?---Yes, I
11:56:46 14 suppose so.
11:56:46 15
11:56:47 16 And certainly Ms Gobbo on numerous occasions, didn't she,
11:56:51 17 express fear that this kind of event might occur?---Yes,
11:56:58 18 she was concerned about it, yeah.
11:57:00 19
11:57:01 20 Or if it didn't come from [REDACTED] that it might be
11:57:04 21 disclosed in the transcripts of interview that Ms Gobbo was
11:57:08 22 present?---That's right.
11:57:08 23
11:57:10 24 I took you in detail through the [REDACTED] transcript.
11:57:14 25 Nobody, it would appear, seems to have thought of this
11:57:19 26 problem when, as I suggest it was concluded that Ms Gobbo
11:57:24 27 would attend at the police station to advise [REDACTED] Do
11:57:33 28 you have any recollection of this being discussed as a
11:57:37 29 risk?---I think we would have discussed the fallout. I
11:57:42 30 don't have an independent recollection of it, no.
11:57:44 31
11:57:44 32 Mr White then continues, "We know he's put you in a
11:57:48 33 position, doesn't he?" Ms Gobbo says, "Yes, he does", I
11:57:52 34 think I read that out. Down the foot of the page Mr White
11:57:55 35 continues, "He's not going to want to put you in that
36 position where you're blown out of the water for helping
11:58:00 37 bring down the Mokbels, he's taken the burden for that
11:58:02 38 himself". Ms Gobbo says, "He has. Apparently he said to
11:58:06 39 Dale before" - that's a reference to Dale Flynn, isn't
11:58:11 40 it?---I believe it would be, yeah.
11:58:12 41
11:58:12 42 "He said, 'No, Dale told me that he said to him, he saw him
11:58:16 43 during the week that you've got to look after her'". So
11:58:19 44 he's telling Mr Flynn that Mr Flynn has to do his best to
11:58:23 45 look after Ms Gobbo in these circumstances, yes?---Yes.
11:58:28 46
11:58:29 47 And Mr White then continues, "Well he's been consistent

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11:58:34 1 because he said that on the night too". Then further down
11:58:37 2 Ms Gobbo says, "And honestly, I go back to that night
11:58:40 3 thinking, you know, when I came back to St Kilda Road I
11:58:43 4 didn't, nobody gave me any warning, I walked into that room
11:58:47 5 and it's laid on me. Would I have done any different? Um,
11:58:52 6 no, maybe not, but my God, I would have thought about it or
11:58:57 7 thought about a way to get around it. Not as in to excuse
11:58:57 8 myself from ██████████ but to hatch a way of not being so",
11:59:02 9 and then she doesn't finish the sentence but she must mean
11:59:07 10 something like obvious, do you see that?---Yes, yes.

11:59:10 11
11:59:12 12 Ms Gobbo was there expressing regret, really, wasn't she,
11:59:17 13 that she had undertaken this role attending at St Kilda
11:59:21 14 Road on his arrest?---Because of the, the interface we
11:59:31 15 spoke about with ██████████, yes.

11:59:34 16
11:59:35 17 Because of the risk to her life that had been created as a
11:59:38 18 result of undertaking that function?---That's what she's
11:59:45 19 talking about, yes.

11:59:46 20
11:59:46 21 And then .0703. Right. Just about halfway down you'll see
12:00:30 22 Ms Gobbo says, "Because I'm really there to make sure that
12:00:38 23 he doesn't, that he sticks to his end of the deal", she's
12:00:43 24 referring to ██████████ "Or am I there because now I'm tied
12:00:46 25 in with a mess with him and I need him to keep his trap
12:00:46 26 shut, otherwise I'll end up being killed". And you reply,
12:00:50 27 "H'mm". And Ms Gobbo says, "It's a real mess". And you
12:00:54 28 reply again, "H'mm". She says, "I mean I told, I told him
12:00:58 29 to not say anything to ██████████ tomorrow because ██████████'s got a
12:01:03 30 big trap" and that again is a reference to this risk that's
12:01:09 31 being created as a result of Ms Gobbo undertaking this
12:01:12 32 function?---Definitely.

12:01:13 33
12:01:18 34 Well, I mean looking at it with the benefit of hindsight,
12:01:21 35 it really was a mess, wasn't it, for the police to
12:01:27 36 effectively allow Ms Gobbo to attend at St Kilda Road on ██████████
12:01:33 37 ██████████---I wouldn't put it in those terms. Yes, there was
12:01:41 38 a risk and we managed that risk as best we could. As far
12:01:48 39 as I was concerned it never actually eventuated, but I
12:01:53 40 understand why you're saying it.

41
12:01:57 42 I mean you had a duty of care to - - - ?---That's right,
12:02:01 43 that's right.

12:02:01 44
12:02:02 45 - - - all sources and there really wasn't any discussion it
12:02:05 46 seems with Ms Gobbo about this quite astonishing risk that
12:02:13 47 she assumed as a result of doing this?---I'm not saying we

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12:02:17 1 were unaware of it, I'm sure we were. You know I can't
12:02:21 2 remember the discussions at the time about it.
12:02:24 3
12:02:24 4 Do you think you were aware of the risk but didn't discuss
12:02:27 5 it with her?---If we were aware of the risk I'm sure we
12:02:35 6 would have discussed it.
12:02:36 7
12:02:36 8 But you don't have any specific recollection of doing
12:02:39 9 so?---No, I don't now, no.
12:02:42 10
12:02:43 11 Commissioner, I think these have all been tendered.
12:02:46 12
12:02:46 13 COMMISSIONER: The transcripts have all been tendered, they
12:02:49 14 have, but what we've been doing though is tendering the
12:02:53 15 ones that they have been referred to separately so they can
12:02:56 16 be PIIed and made public.
12:02:59 17
12:02:59 18 MR COLLINSON: Yes. I'm happy to, perhaps at the right
12:03:02 19 interval - I can give the page references now if that's of
12:03:07 20 assistance to tender those pages. So the pages are .0397
12:03:23 21 to .0399, .0624 to .0625, and .0703 to .0704. Just those
12:03:51 22 pages.
12:03:55 23
12:03:56 24 #EXHIBIT RC499A - (Confidential) SDU transcripts with
12:03:58 25 Nicola Gobbo, pp.0397-0399, 0624-0625
12:04:08 26 and 0703-0704.
12:04:21 27
12:04:22 28 #EXHIBIT RC499B - (Redacted version.)
12:04:23 29
12:04:24 30 I just want to ask you some closing questions on a couple
12:04:26 31 of topics I think briefly. In relation to Dale, that is
12:04:35 32 Paul Dale the ex police officer who was investigated and
12:04:42 33 then charged with the murder of the Hodsons?---Yes.
12:04:48 34
12:04:48 35 You were involved in the front line, so to speak, Mr Smith,
12:04:55 36 in contact with Ms Gobbo from, it seems, October 9, 2008 to
12:05:07 37 December 22, 2008 and in particular that embraces the
12:05:12 38 period when Ms Gobbo wore a wire, I think to use the
12:05:21 39 vernacular, with Mr Dale, and then agreed to be a witness
12:05:25 40 against Mr Dale. Do you remember generally that - -
12:05:28 41 -?---Yes.
12:05:28 42
12:05:30 43 - - - course of events?---Yes, I do, yes.
12:05:32 44
12:05:33 45 It would seem that, as I said earlier, you disappear no
12:05:43 46 doubt doing worthwhile activities, you have a lot to do
12:05:46 47 with Ms Gobbo early in the piece up to about May 2006 and

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12:05:52 1 then not a lot until the conclusion, being the time when
12:05:59 2 most of the attention was focused on this issue concerning
12:06:05 3 Paul Dale. Does that generally accord with your
12:06:08 4 recollection?---Yeah. You're not implying anything with
12:06:14 5 the timing of that, are you?
12:06:16 6
12:06:16 7 No, I'm not, I'm not suggesting, I'm just saying factually
12:06:21 8 that's the case?---Yes, that's right.
12:06:22 9
12:06:22 10 I'm not suggesting you were doing anything - - - ?---No.
12:06:25 11
12:06:26 12 - - - untoward or not doing anything worthwhile elsewhere
12:06:29 13 for the police. But my questioning was to say this: when
12:06:36 14 one looks at the ICRs commencing with ICR 43 when Ms Gobbo
12:06:48 15 assumed the different ID reference through to 49, one sees
12:06:56 16 quite a few references to calls that she has with you,
12:07:01 17 discussions with you, where her state of psychological
12:07:06 18 health seems to have severely declined compared to the
12:07:12 19 state of her health in that regard at the beginning of her
12:07:15 20 role as an informer. Is that a recollection that you
12:07:19 21 have?---Going to the material, I always made reference to
12:07:25 22 any health issues. I was quite mindful of them. So, your
12:07:32 23 specific question was the deterioration in her
12:07:35 24 psychological health?
12:07:36 25
12:07:37 26 Yes?---I think she had quite a few health issues. I don't
12:07:41 27 think I'd agree with the deterioration in the psychological
12:07:44 28 aspect.
12:07:45 29
12:07:45 30 There's - - - ?---From my recollection. There was
12:07:48 31 certainly issues, yes.
12:07:49 32
12:07:50 33 I mean there's a number of references apparently involving
12:07:54 34 discussions with you where she mentions thoughts of
12:08:01 35 suicide?---There was, there was a couple of those and of
12:08:05 36 course they're recorded in a fair bit of detail because of
12:08:08 37 the seriousness of that subject.
12:08:09 38
12:08:10 39 I'm not suggesting, don't get me wrong, Mr Smith, I'm not
12:08:14 40 suggesting that in your dealings with Ms Gobbo you didn't
12:08:18 41 take questions of her health seriously. Do you understand
12:08:21 42 that? I'm not suggesting - - - ?---Okay. It was always
12:08:28 43 uppermost in my mind the medical side of things and make
12:08:34 44 sure that medical professionals were involved whenever they
12:08:39 45 needed to be.
12:08:39 46
12:08:40 47 I think when you came back on the scene you, I think, I

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12:08:47 1 seem to at least myself see in the ICRs a suggestion that
12:08:51 2 you personally adopted a view that really she should move
12:08:55 3 on with her life and stop being a source any more. Do you
12:08:58 4 recollect having that point of view?---I think I may have
12:09:04 5 suggested it to her.
12:09:05 6
12:09:07 7 There are those suggestions?---Not in those words but,
12:09:12 8 yeah. I'm sure it was a topic in the office about, if I
12:09:16 9 can use the term, winding down.
12:09:18 10
12:09:18 11 Anyway, you recall her speaking of suicide risk to you and
12:09:25 12 I think you recall taking that very seriously. Am I right
12:09:29 13 so far?---Yeah, I was quite concerned about it, the fact
12:09:34 14 that the topic was even raised.
12:09:36 15
12:09:36 16 Yes. At the very same time, however, a process commences
12:09:44 17 whereby Operation Petra approached Ms Gobbo for her to be a
12:09:54 18 witness in a prosecution of Mr Dale. Do you agree with
12:09:59 19 that general timing?---If you say that's right, I know it
12:10:06 20 was about that time.
12:10:07 21
12:10:11 22 Ms Gobbo, do you recollect, was initially very reluctant to
12:10:19 23 be a witness?---Yes.
12:10:23 24
12:10:25 25 And I think initially agreed to wear a wire with Mr Dale on
12:10:32 26 the basis that she hadn't yet committed to being a
12:10:35 27 witness?---I can't remember. I thought she would, I
12:10:42 28 understand that if she did that she would become a witness.
12:10:46 29 But I'd have to look at the material and what it says, I
12:10:49 30 can't remember.
12:10:50 31
12:10:51 32 I don't want to trap you with this, I certainly don't mean
12:10:53 33 to?---No, no.
12:10:54 34
12:10:54 35 Would you agree if the ICRs say so, or say something, and
12:11:00 36 it's your ICRs, you obviously don't challenge what's in
12:11:03 37 there?---No, no. No, I wouldn't, but if there's an
12:11:07 38 interpretation maybe, but if it's a factual thing like
12:11:13 39 that, timing and what have you, no.
12:11:14 40
12:11:15 41 As it unfolds you and Mr White become very concerned, don't
12:11:19 42 you, at the prospect of Ms Gobbo becoming a witness against
12:11:27 43 Mr Dale?---Yeah, I think the reading of the ICRs indicate
12:11:32 44 that we went up and down a little bit and then realised
12:11:36 45 that that would be a very bad idea.
12:11:38 46
12:11:38 47 Yes. At one point one of the ICRs actually records that

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12:11:44 1 Mr Overland, who has this view that Ms Gobbo should be a
12:11:48 2 witness, understands the consequences and there's actually
12:11:52 3 an ICR that records you saying?---Yes.
12:11:56 4
12:11:56 5 You don't think he does?---Yes.
12:11:58 6
12:11:59 7 You recollect that note?---Yes, I do.
12:12:01 8
12:12:04 9 You know, you're in a hierarchy so obey orders so
12:12:09 10 Mr Overland effectively tells you that that's the decision
12:12:12 11 that's been made to encourage Ms Gobbo to be a
12:12:15 12 witness?---Yes.
12:12:15 13
12:12:18 14 And you and Mr White I think, but particularly Mr White,
12:12:24 15 encourage Ms Gobbo to undertake that role?--Well I think
12:12:33 16 we made it, made a fully informed decision did we not?
12:12:41 17
12:12:42 18 That's why I use the word encourage. I don't think I want
12:12:49 19 to suggest to you that you dictated to her that she had to
12:12:51 20 do it?---No.
12:12:52 21
12:12:52 22 But I think under pressure from Mr Overland and Petra, I
12:12:56 23 think it's fair to say, isn't that, that SDU encouraged
12:12:59 24 Ms Gobbo to undertake that role?---I'm probably being a bit
12:13:07 25 pedantic, I don't think I did that. Ultimately she did do
12:13:12 26 it whilst it goes as directed.
12:13:13 27
12:13:13 28 My question is, this is just leading up to this?---Yes.
12:13:17 29
12:13:17 30 COMMISSIONER: Just before you ask - Mr Collinson, just
12:13:19 31 before you ask the question, I'm just wondering could this
12:13:22 32 be in open hearing?
12:13:24 33
12:13:24 34 MR COLLINSON: It could. I'm just wondering whether - I
12:13:27 35 don't think there's anything else - yes. There's nothing
12:13:30 36 else that - - -
12:13:31 37
12:13:31 38 COMMISSIONER: All right, we'll be in open hearing now and
12:13:34 39 just be conscious of the fact that we are in open hearing.
12:13:37 40 Sorry to interrupt you.
12:13:38 41
12:13:38 42 MR COLLINSON: No, it's quite appropriate.
43
44 ---
45
46
47

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These claims are not yet resolved.

1 PROCEEDINGS IN CAMERA:

2
14:02:42 3 MS DWYER: If we move first to 25 July 2008 at 18:57.
14:03:00 4 We'll just wait for that to be brought up. My apologies.
14:03:33 5 I seem to have thrown a spanner in the works by going off
14:03:36 6 script. It reads, "RS called Flynn. Was at football and
14:04:37 7 could not talk. RS concerned re ACC inclusion was an
14:04:42 8 offence, as was RS concerned that current targets of active
14:04:46 9 investigations, including John Higgs and Paul Dale, were
14:04:49 10 included in this unsanitised statement. RS cannot believe
14:04:56 11 it was released. RS again mentioned it being instrumental
14:04:59 12 in its production as RS edited it before signing. RS angry
14:05:05 13 at handler being in a supermarket, rather than taking notes
14:05:08 14 of this conversation". Now this is not your entry,
14:05:15 15 Mr Smith?---No, I know whose it is, yeah.
16
14:05:17 17 The reason why I'm asking you about it is because you
14:05:22 18 seemed to have quite a bit of contact with Officer Burton
14:05:30 19 from the ACC?---Yes.
20
14:05:36 21 Can you shed any light on what this unsanitised statement
14:05:41 22 is as it's referred to in this entry?---I'm trying to work
14:05:48 23 it out. Can we scroll up, will that give me - is there
14:05:58 24 further talk about it there? Just hold it there for a sec.
14:06:07 25 please. It seems to be talking about - there's a note of
14:06:28 26 that at 18:48 as well, but it's not becoming any clearer to
14:06:32 27 me.
28
14:06:41 29 Have you finished reading that entry at 18:48?---Yes, I
14:06:48 30 think so, yep.
31
14:06:50 32 If we move down to 19:29. If you can read that entry with
14:07:04 33 particular focus on "discussed statement including" and
14:07:11 34 there's a number of names?---Yes.
35
14:07:12 36 "And ACC disclosure inclusions, briefed Flynn re
14:07:18 37 same"?---Yes.
38
14:07:20 39 You can read as much of that entry as is required to have
14:07:23 40 context?---Yeah, I've read it all.
41
14:07:46 42 I'll ask you the question again. Are you able to shed any
14:07:49 43 light on what the statement is that is being referred to in
14:07:55 44 these entries on 25 July 2008?---That's this date, is it?
14:08:03 45 Yeah.
46
14:08:03 47 Yes?---No. I mean no, I don't.

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SMITH XXN - IN CAMERA

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1
14:08:16 2 COMMISSIONER: All right then.
14:08:17 3
14:08:17 4 MS DWYER: Thank you. If we move back then. I asked you
14:08:28 5 some questions about a telephone intercept that was in
14:08:35 6 place in January of 2008?---Yes.
7
14:08:41 8 There were discussions between you and Burton. Do you know
14:08:48 9 who had put that telephone intercept in place?---You mean
14:08:57 10 what agency or - - -
11
14:08:59 12 Yes, which agency?---Actually no, I don't. I may have back
14:09:14 13 then.
14
14:09:30 15 Returning to the entry on 21 January 2008 at 17:05. This
14:09:46 16 is the entry where Ms Gobbo was asked about a number of -
14:09:54 17 or two particular people associated with Mr Higgs?---Yes.
18
14:09:58 19 And I asked you - - - ?---Three. Oh, sorry, two in
14:10:02 20 relation to him, yes.
21
14:10:03 22 Yes, there is a third that we can leave to one side for
14:10:08 23 now?---Okay, yes.
24
14:10:11 25 I asked you whether that request for information must have
14:10:17 26 come from outside of the SDU. We're now in private
14:10:24 27 hearing. Can you answer that question again,
14:10:30 28 please?---Well the answer is no, there could be at least
14:10:33 29 one other reason for me to ask that. No, I can give you a
14:10:39 30 couple of reasons actually. And I'm free to talk about
14:10:43 31 that now I understand.
14:10:45 32
14:10:46 33 MR HOLT: Commissioner, anticipating what the answer might
14:10:48 34 be, we're content for it to be explored but I may then need
14:10:52 35 to seek a non-publication order but I don't want to prevent
14:10:56 36 it from being - - -
37
14:10:56 38 COMMISSIONER: That's Mr Holt who's appearing for Victoria
14:10:58 39 Police. So he's content for you to answer it but says he
14:11:02 40 might seek a non-publication order in respect of it?---I
14:11:05 41 understand.
42
14:11:07 43 Mr Chettle, your counsel, is not wanting to say anything,
14:11:12 44 is that right?
14:11:12 45
14:11:13 46 MR CHETTLE: No, I don't want to say anything,
14:11:15 47 Commissioner.

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SMITH XXN - IN CAMERA

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14:11:16 1
14:11:16 2 WITNESS: Well it could be that Mr Richards was interested
14:11:23 3 [REDACTED]
14:11:34 4 [REDACTED]
14:11:42 5 [REDACTED] They're two
14:11:50 6 other explanations that come to me right now. There may be
14:11:54 7 others that I can't think of right now, not having worked
14:11:57 8 there for some time.
9
14:11:58 10 COMMISSIONER: Is that speculation or are you - - -?---Yes,
14:12:01 11 it is, because I was asked what was the reason and I think
14:12:06 12 the next question was, one of those, is sort of a - to add
14:12:11 13 further to the answer to that question, yes.
14:12:14 14
14:12:14 15 MR HOLT: I do seek a non-publication order in respect of
14:12:16 16 that, Commissioner, simply because the content may risk an
14:12:19 17 identification and then we will make inquiries and if our
14:12:22 18 position changes, we would obviously advise the Commission
14:12:25 19 so there are as few non-publications - - -
20
14:12:31 21 COMMISSIONER: Let's see if there's any more
14:12:33 22 cross-examination.
14:12:33 23
14:12:33 24 MR HOLT: I'm sorry, Commissioner, I thought the topic had
14:12:35 25 finished. I apologise.
26
14:12:37 27 COMMISSIONER: Have you finished, Ms Dwyer? Is that all
14:12:39 28 you're going to ask?
14:12:39 29
14:12:39 30 MS DWYER: The only follow-up question is I take it from
14:12:41 31 your answer that you don't know whether or not this inquiry
14:12:45 32 was linked with Operation Agamas?---That's right.
33
14:12:54 34 That's all, thank you, Commissioner.
35
14:12:56 36 COMMISSIONER: Does anyone want to say anything against a
14:12:59 37 non-publication order?
14:13:01 38
14:13:01 39 MR WOODS: No, I don't, Commissioner.
40
14:13:03 41 COMMISSIONER: Is there any problem with the name Operation
14:13:06 42 Agamas being mentioned?
14:13:10 43
14:13:10 44 MR HOLT: No, no problem with that at all, Commissioner.
45
14:13:12 46 COMMISSIONER: The non-publication order will apply to the
14:13:25 47 witness's answer in line 22 from '[REDACTED]' down to

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14:13:42 1 [REDACTED] in line 24.
14:13:45 2
14:13:45 3 MR HOLT: Yes, Commissioner, thank you.
4
14:13:47 5 COMMISSIONER: So there'll be a non-publication order in
14:13:49 6 respect of that material. I think that's probably all that
14:13:57 7 needs to be said then at this stage.
14:13:58 8
14:13:58 9 MR HOLT: Thank you, Commissioner. As I say we'll ensure
14:14:00 10 that that's not an over non-publication, but thank you.
11
14:14:08 12 COMMISSIONER: Thanks Ms Dwyer.
14:14:09 13
14:14:10 14 MS DWYER: I just have one final topic to cover.
15
14:14:14 16 COMMISSIONER: Yes.
14:14:15 17
14:14:17 18 MS DWYER: You agree that there were numerous conversations
14:14:21 19 that you personally had with Ms Gobbo about Mr Higgs, don't
14:14:26 20 you, Mr Smith?---I can't remember how many there were but
14:14:35 21 any that I had I recorded in the ICRs. As to the amount, I
14:14:41 22 can't remember.
23
14:14:44 24 Do you accept that the name "Mr Higgs" appears 349 times in
14:14:55 25 the 3838 ICRs?---I guess - who says that? Is that Mr - - -
26
14:15:09 27 Counsel assisting the Commission have tallied that up?---I
14:15:13 28 see.
29
14:15:14 30 COMMISSIONER: In a computer search I think, rather than
14:15:17 31 thumbing through and counting?---Right. Has the computer
14:15:23 32 lied? If that's the statistics it must be right, I guess,
14:15:27 33 if that's just referring to contact reports?
14:15:35 34
14:15:35 35 MS DWYER: Yes, that's in the ICRs?---Okay.
36
14:15:36 37 And 146 times in the 2958 ICRs?---Yes, okay.
38
14:15:44 39 And certainly there's a period in early 2008 where you
14:15:49 40 personally had a lot of contact with Ms Gobbo about
14:15:54 41 Mr Higgs, you don't dispute the records in that
14:15:57 42 regard?---Absolutely not. That'd be right.
43
14:15:59 44 Thank you, Commissioner.
45
14:16:02 46 COMMISSIONER: Yes, thanks, Ms Dwyer. Then we've got
14:16:05 47 Mr Wareham. Yes, Mr Wareham has an application. Again

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14:16:11 1 it's of fairly short compass, your cross-examination?
14:16:16 2
14:16:17 3 MR WAREHAM: Yes, Commissioner.
4
14:16:18 5 COMMISSIONER: You've spoken to counsel assisting. Counsel
14:16:21 6 assisting has no objection?
14:16:22 7
14:16:22 8 MR WOODS: No, none at all. I understand the nature of the
14:16:25 9 questions and they're appropriate in my view.
10
14:16:26 11 COMMISSIONER: Any submissions against leave being granted
14:16:30 12 to cross-examine?
14:16:32 13
14:16:32 14 MR HOLT: No, Commissioner.
14:16:34 15
14:16:35 16 MR WOODS: I think they're appropriate to be dealt with in
14:16:38 17 open hearing too, these questions.
18
19 MR WAREHAM: Yes, Commissioner, I've provided a copy to my
14:16:38 20 learned friend Mr Woods.
14:16:38 21
14:16:38 22 COMMISSIONER: We'll move back into open hearing and I'll
14:16:42 23 give you leave to cross-examine.
14:16:44 24
14:16:45 25 MR WAREHAM: Thank you, Commissioner.
14:16:48 26
27 - - -
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