

11:05:40 1 COMMISSIONER: I understand Ms Dwyer is here appearing for  
11:05:45 2 Mr Higgs. Thanks Ms Dwyer.  
3  
11:05:49 4 We're ready to proceed although we've got - the  
11:05:53 5 witness is on line now. Can you hear me Mr White?---Yes,  
11:05:57 6 Commissioner.  
11:05:57 7  
11:05:58 8 Although we don't have the technology working to show him  
11:06:04 9 documents. That will have to be done by a Royal Commission  
11:06:08 10 staff member who is with the witness on her computer. That  
11:06:11 11 might be a wee bit slower in showing documents. Otherwise  
11:06:16 12 we're ready to go. Yes Mr Winneke.  
11:06:19 13  
11:06:20 14 <SANDY WHITE, recalled:  
11:06:22 15  
11:06:24 16 MR WINNEKE: Mr White, I was going to ask you some  
11:06:26 17 questions previously about some documents that you relied  
11:06:30 18 upon, one, when it came to putting together standard  
11:06:36 19 operating procedures and various guidelines, and two, that  
11:06:41 20 you relied upon during your management, or at least - - -  
11:06:46 21  
11:06:46 22 COMMISSIONER: Can I just say we're now in private hearing  
11:06:49 23 again and the orders that pertained yesterday apply now.  
11:06:52 24 I'm just making that clear.  
11:06:55 25  
11:06:55 26 MR WINNEKE: Yes, thanks, Commissioner.  
11:06:57 27  
11:06:58 28 COMMISSIONER: Yes.  
11:06:59 29  
11:07:00 30 MR WINNEKE: Now, if I can focus your attention, Mr White,  
11:07:09 31 on your statement for a moment. Do you have a copy of that  
11:07:11 32 with you?---Yes.  
11:07:13 33  
11:07:15 34 All right. Now, I'm going to ask you not to mention the  
11:07:21 35 name of the document that you're referring to, we're  
11:07:28 36 talking about, but let's call it a guideline provided from  
11:07:39 37 the [REDACTED]. Now, if you go to paragraph 64 of your  
11:07:46 38 statement. Have you got that there? Commissioner, just  
11:07:56 39 before, whilst Mr White's doing that, it may well be, I'm  
11:08:00 40 going to go to aspects of this guideline in evidence, but  
11:08:08 41 there's an understanding that we have with the entity that  
11:08:14 42 produces this guideline that there will be no publication  
11:08:21 43 order, that there be no publication of the contents of the  
11:08:24 44 guideline and I'm not going to use the name of the  
11:08:27 45 guideline save that it's a guidelines that comes from the  
11:08:29 46 [REDACTED].  
11:08:30 47

11:08:30 1 COMMISSIONER: Yes.  
11:08:31 2  
11:08:31 3 MR WINNEKE: So I'd seek an order.  
11:08:33 4  
11:08:33 5 COMMISSIONER: The document is marked restricted anyway.  
11:08:35 6  
11:08:36 7 MR WINNEKE: I'm going to tender it in its entirety.  
11:08:39 8  
11:08:40 9 COMMISSIONER: As a confidential exhibit?  
11:08:42 10  
11:08:42 11 MR WINNEKE: As a confidential exhibit. In fact I think  
11:08:45 12 it's already been tendered.  
11:08:47 13  
11:08:47 14 COMMISSIONER: It has been tendered I think as a  
11:08:49 15 confidential exhibit.  
11:08:53 16  
11:08:54 17 MR WINNEKE: Yes, thank you Commissioner. But,  
11:08:58 18 Commissioner, the understanding that we have with the  
11:09:02 19 [REDACTED] [REDACTED] is that there will be an order that  
11:09:06 20 there be no publication of any of the contents of the order  
11:09:09 21 as presented in the hearing.  
11:09:10 22  
11:09:10 23 COMMISSIONER: Yes.  
11:09:11 24  
11:09:11 25 MR WINNEKE: I'm going to take the witness to aspects of  
11:09:14 26 the document during the course of the hearing.  
11:09:16 27  
11:09:16 28 COMMISSIONER: Yes.  
11:09:17 29  
11:09:17 30 MR WINNEKE: But the order that is sought is that there be  
11:09:19 31 no publication of any of the contents of that document.  
11:09:24 32  
11:09:24 33 COMMISSIONER: I'm just trying to find the exhibit number  
11:09:27 34 which will help.  
11:09:27 35  
11:09:28 36 MR CHETTLE: 280.  
11:09:28 37  
11:09:29 38 COMMISSIONER: 280. Thanks Mr Chettle. Yes, it's been  
11:09:32 39 tendered as a confidential exhibit, 280. I order that  
11:09:38 40 there be no publication of anything referring to this  
11:09:46 41 confidential report, or of the confidential report itself,  
11:09:50 42 or its contents.  
11:09:51 43  
11:09:52 44 MR WINNEKE: Commissioner, the contents - the understanding  
11:09:54 45 is, I'm going to ask questions about the actual contents of  
11:09:57 46 the document, the very words of the document, and those  
11:10:01 47 words, anything that's given, any evidence given about

11:10:04 1 those words is not to be published. The reason is,  
11:10:10 2 Commissioner, that this is a document which is used in the  
11:10:13 3 [REDACTED], it's an important document.  
11:10:15 4  
11:10:16 5 COMMISSIONER: Yes.  
11:10:16 6  
11:10:16 7 MR WINNEKE: It's a document which is ordinarily not  
11:10:21 8 referred to and the contents of it are not published.  
11:10:24 9  
11:10:24 10 COMMISSIONER: I understand. So the order should simply be  
11:10:27 11 then, the order should be that there be no publication of  
11:10:31 12 any reference to the document or its contents.  
11:10:33 13  
11:10:34 14 MR WINNEKE: Yes.  
11:10:34 15  
11:10:34 16 COMMISSIONER: Yes. All right, well that's the order.  
11:10:42 17  
11:10:43 18 MR WINNEKE: You've got paragraph 64?---Yes.  
11:10:46 19  
11:10:49 20 You believe that it was a document that was obtained by  
11:10:55 21 [REDACTED] who had travelled to the  
11:10:58 22 [REDACTED] to research human source management  
11:11:03 23 practices on behalf of the Informer Management Unit in  
11:11:07 24 2005, is that right?---Yes.  
11:11:09 25  
11:11:13 26 In addition to that, it's a document which you used in the  
11:11:19 27 preparation of a number of the, or at least one of the  
11:11:24 28 papers that you prepared as part of your role in the  
11:11:28 29 development of the SDU, is that right?---Yes.  
11:11:32 30  
11:11:34 31 And indeed it's a document that you had regular use to, or  
11:11:40 32 recourse to during the course of your management or at  
11:11:45 33 least your role in the management of Ms Gobbo and other  
11:11:49 34 high risk human sources in the SDU, is that correct?---I  
11:11:55 35 can't remember whether I had regular recourse to it. All I  
11:11:59 36 can say to you is that it was a very useful document to  
11:12:02 37 help me set up the SDU.  
11:12:03 38  
11:12:04 39 In your statement you make reference to the fact that it's  
11:12:07 40 used by you and you referred to it during the course of  
11:12:10 41 your time in the SDU, do you accept that?---Yes.  
11:12:14 42  
11:12:21 43 Now, if I can ask you some questions about it. Do you have  
11:12:28 44 a copy of that document on the screen in front of  
11:12:32 45 you?---No.  
11:12:33 46  
47

11:12:38 1 MR CHETTLE: Mr Winneke, he actually has the original  
11:12:41 2 document that was provided to him in the room with him.  
11:12:45 3  
11:12:45 4 MR WINNEKE: Mr Chettle, tells the Commissioner you've got  
11:12:47 5 that document with you. Could you get that?---Yes, I have  
11:12:54 6 that.  
11:12:55 7  
11:12:56 8 Now, can you open the document up to the first part of it  
11:13:03 9 and the heading is, [REDACTED]. Just go to the  
11:13:18 10 body of the document [REDACTED]?---Yes.  
11:13:24 11  
11:13:24 12 You'll see that the purpose and the scope of [REDACTED]  
11:13:30 13 [REDACTED]  
11:13:39 14 [REDACTED]  
11:13:42 15 [REDACTED]  
11:13:47 16 [REDACTED] in the [REDACTED]  
11:13:51 17 [REDACTED], right?---Yes.  
11:13:53 18  
11:13:54 19 [REDACTED]  
11:13:57 20 [REDACTED] ---That seems to be  
11:14:06 21 the case, yes.  
11:14:08 22  
11:14:08 23 And then there was, if you go to [REDACTED]  
11:14:16 24 [REDACTED]  
11:14:23 25 [REDACTED]  
11:14:27 26 [REDACTED]  
11:14:32 27 [REDACTED]  
11:14:38 28 [REDACTED] do you see that?---Yes.  
11:14:41 29  
11:14:41 30 It then says at [REDACTED]  
11:14:46 31 [REDACTED].  
11:14:52 32 Do you see that?---Yes.  
11:14:54 33  
11:14:55 34 Now, you say that you [REDACTED]  
11:15:05 35 [REDACTED]  
11:15:10 36 [REDACTED]?---I don't think so.  
11:15:15 37  
11:15:16 38 Now, have you since seen a copy of the [REDACTED]  
11:15:28 39 [REDACTED]  
11:15:30 40 [REDACTED]  
11:15:35 41 [REDACTED] ---I've got no recollection of that. As I said to you  
11:15:39 42 I had a lot of material at the time.  
11:15:40 43  
11:15:40 44 Yes?---I can't tell you whether any of these documents  
11:15:44 45 you're referring to were part of that material.  
11:15:46 46  
11:15:46 47 No, all right. So is it the case that you didn't, it's not

11:15:51 1 referred to in your materials as I understand it, but would  
11:15:57 2 it be the case that if you did have that it's likely that  
11:16:00 3 you would have referred to it?---Sorry, referred to it in  
11:16:07 4 my statement?

11:16:08 5  
11:16:08 6 Well, in your statement or in any of the papers that you  
11:16:13 7 prepared as part of the setting up of the SDU?---If there  
11:16:16 8 was material in those documents that I thought was relevant  
11:16:19 9 to those papers.

11:16:20 10  
11:16:20 11 Yes?---Then it would have been referred to?

11:16:22 12  
11:16:24 13 As a matter of, I suppose as a matter of common sense and  
11:16:30 14 conscientiousness, [REDACTED]

11:16:34 15 [REDACTED],  
11:16:38 16 [REDACTED],  
11:16:42 17 [REDACTED],  
11:16:45 18 do you agree with that?---Are you asking me if I did or I  
11:16:49 19 didn't, or just to agree it would make sense that I should  
11:16:54 20 have?

11:16:54 21  
11:16:54 22 Okay, all right. I take it you're aware - - -

11:16:58 23  
11:16:58 24 COMMISSIONER: Could I ask you this, Mr White?---Yes,  
11:17:01 25 ma'am.

11:17:01 26  
11:17:02 27 Mr Winneke has shown you that it says t [REDACTED]  
11:17:06 28 [REDACTED]  
11:17:10 29 [REDACTED], you're being asked whether you  
11:17:14 30 got a copy of the [REDACTED]  
11:17:17 31 [REDACTED] that you used so often,  
11:17:20 32 that's the question. You say you can't remember, you're  
11:17:24 33 not sure, is that the position?---That's correct,  
11:17:26 34 Commissioner. I had a lot of material presented to me at  
11:17:29 35 that time.

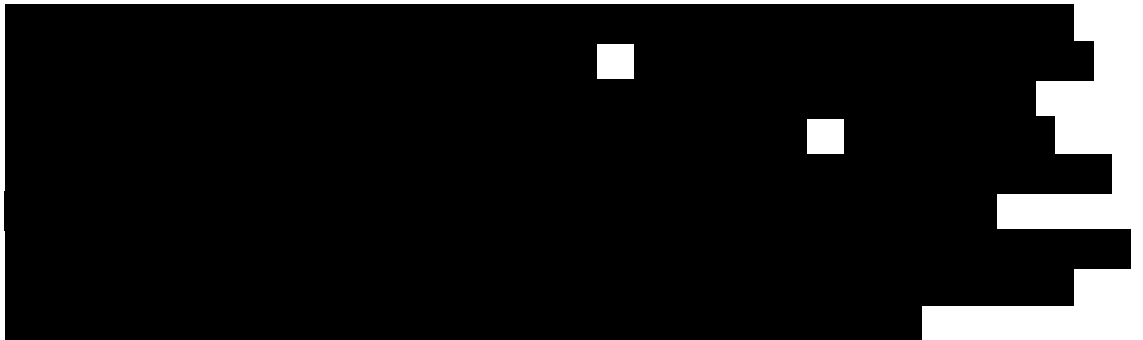
11:17:29 36  
11:17:30 37 Right. Did you know that the [REDACTED] were  
11:17:32 38 publicly available on the [REDACTED]?---No.

11:17:37 39  
11:17:40 40 MR WINNEKE: And I take it you've never had recourse to the  
11:17:45 41 [REDACTED] you've never gone to the website and looked at the  
11:17:49 42 [REDACTED] or at least tried to get a copy of the [REDACTED]  
11:17:52 43 [REDACTED]?---I wasn't aware if there was a website so I'm  
11:17:58 44 confident I didn't go to a website.

11:18:00 45  
11:18:01 46 All right, okay. What you do say is - well look, I relied  
11:18:09 47 - and in your statement you rely on this, [REDACTED]

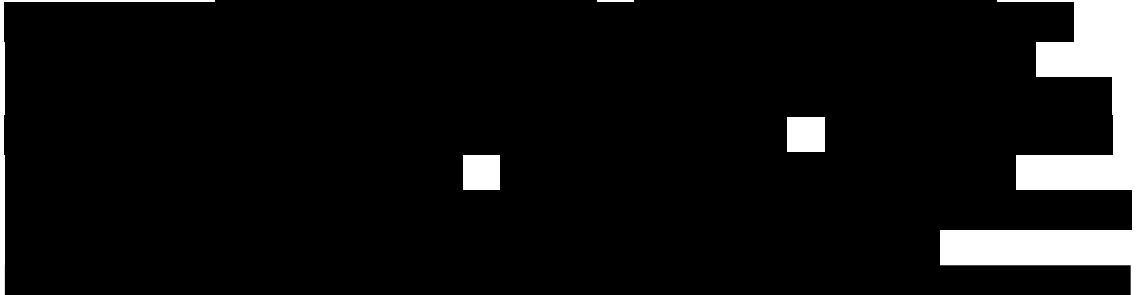


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11:23:12 37  
11:23:15 38  
11:23:19 39  
11:23:25 40  
11:23:31 41  
11:23:34 42  
11:23:38 43  
11:23:42 44  
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11:23:45 46  
11:23:48 47



Right? Now, you haven't got any markings against that but do you think you've read that provision in the manual?---I would have read the entire manual.

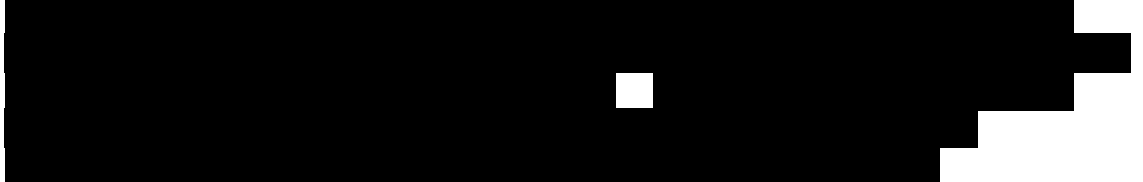
Right. If we can go to [redacted]. And this is under the heading of [redacted]



Then the [redacted] sets out those

[redacted]. Amongst those are these at

That's at [redacted]. At [redacted]



Did you have any markings against that provision in the manual?---I've got some green highlighter on this sentence: [redacted]



Any other highlights?---No.

11:23:48 1 Do you agree with all of the propositions that are set out  
11:23:51 2 there?---I do.  
11:23:51 3  
11:23:53 4 If we can go to the next page at [REDACTED] under the heading,  
11:24:00 5 [REDACTED]  
11:24:04 6 [REDACTED]  
11:24:14 7 [REDACTED]  
11:24:18 8 [REDACTED]  
11:24:21 9 [REDACTED] ---Yes.  
11:24:24 10  
11:24:25 11 What it says is: [REDACTED]  
11:24:29 12 [REDACTED]  
11:24:33 13 [REDACTED]  
11:24:36 14 [REDACTED]  
11:24:39 15 [REDACTED]  
11:24:42 16 [REDACTED]  
11:24:46 17 [REDACTED]  
11:24:47 18 [REDACTED]  
11:24:50 19 [REDACTED]  
11:24:55 20 [REDACTED]  
11:24:58 21 [REDACTED]. Are there any highlights or markings in relation to  
11:25:02 22 that particular paragraph?---No.  
11:25:04 23  
11:25:07 24 Can I ask you to go to [REDACTED]. It says this: [REDACTED]  
11:25:13 25 [REDACTED]  
11:25:18 26 [REDACTED]  
11:25:23 27 [REDACTED]  
11:25:23 28 [REDACTED]. Do you accept  
11:25:28 29 that?---Yes.  
11:25:29 30  
11:25:30 31 As a proposition?---Yes.  
11:25:34 32  
11:25:35 33 Is there any highlighting or anything in relation to that  
11:25:38 34 provision?---No.  
11:25:39 35  
11:25:42 36 At [REDACTED] it says this, referring to the [REDACTED]  
11:25:52 37 [REDACTED]  
11:25:55 38 [REDACTED]  
39 [REDACTED]  
11:26:00 40 [REDACTED]  
11:26:03 41 [REDACTED]  
11:26:06 42 [REDACTED]  
11:26:10 43 [REDACTED]  
11:26:10 44 [REDACTED]  
11:26:14 45 [REDACTED],  
11:26:18 46 but do you understand and accept the general propositions  
11:26:22 47 in that paragraph?---Yes.



11:26:33 1  
11:26:34 2 Are there any highlights on that section?---No.  
11:26:37 3  
11:26:41 4 At [REDACTED] there's a [REDACTED]  
11:26:49 5 [REDACTED]  
11:26:53 6 [REDACTED]  
11:26:57 7 [REDACTED] I take it you accept that  
11:27:01 8 proposition?---Yes.  
11:27:02 9  
11:27:02 10 That is something which you would have recognised in your  
11:27:09 11 management, I take it?---Yes.  
11:27:12 12  
11:27:13 13 And it says also that: [REDACTED]  
11:27:17 14 [REDACTED], do you understand  
11:27:27 15 that?---Sorry, I just need to read the paragraph.  
11:27:30 16  
11:27:31 17 Yes?---Yes, I do.  
11:27:54 18  
11:27:54 19 Is there any highlighting in that part?---No.  
11:27:57 20  
11:28:02 21 [REDACTED] contains a [REDACTED] to  
11:28:06 22 which you may or may not have referred but it says that:  
11:28:11 23 [REDACTED]  
11:28:15 24 [REDACTED]  
11:28:19 25 [REDACTED]  
11:28:23 26 [REDACTED]  
11:28:25 27 [REDACTED]  
11:28:28 28 [REDACTED]. Is that a section highlighted in your  
11:28:34 29 document?---No.  
11:28:34 30  
11:28:35 31 [REDACTED]  
11:28:40 32 [REDACTED]  
11:28:44 33 [REDACTED]  
11:28:50 34 [REDACTED]  
11:28:50 35 [REDACTED]. Is that highlighted in your  
11:28:55 36 document?---No.  
11:28:56 37  
11:28:58 38 I take it the next part is highlighted?---Only the last  
11:29:05 39 sentence of paragraph [REDACTED].  
11:29:09 40  
11:29:14 41 I'll read it all out: [REDACTED]  
11:29:19 42 [REDACTED]  
11:29:21 43 [REDACTED]  
11:29:24 44 [REDACTED]  
11:29:28 45 [REDACTED]  
11:29:31 46 [REDACTED]  
11:29:34 47 [REDACTED]

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47

[REDACTED]

[REDACTED]. You've highlighted the last sentence, is that right?---Yes.

Do you say that at any stage Ms Gobbo was engaged in conduct with the intention of furthering a criminal purpose?---No.

[REDACTED]

[REDACTED] et cetera. Have you highlighted any part of that definition?---So the word "or" in [REDACTED].

Yes?---Is highlighted.

Yes?---[REDACTED].

Yes?---In [REDACTED] are highlighted.

Thanks very much. [REDACTED]

[REDACTED] ?---Yes.

And that says that: [REDACTED]

[REDACTED]  
[REDACTED]. Amongst other matters it says at [REDACTED]  
[REDACTED] and [REDACTED]

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11:35:45 47

[REDACTED]

[REDACTED]. I assume you've highlighted or tabbed that provision, have you, or any of those provisions?---No.

None at all?---No.

Can I move to [REDACTED] of the guide which is moving well towards the back of the [REDACTED] [REDACTED] at the top of the COM number. Do you have that, Mr White?---I have the start of [REDACTED] entitled [REDACTED].

I just want to put a couple of [REDACTED] to you. It says under the heading [REDACTED] [REDACTED]. Then there is a reference to: [REDACTED]. But then it says this: [REDACTED].

[REDACTED] Is any part of that general [REDACTED], highlighted or tabbed?---No.

[REDACTED] says, amongst other things: [REDACTED] - perhaps I'll go back. [REDACTED]

[REDACTED] Is any of that highlighted or tabbed?---There's a tab with my writing that says, [REDACTED]

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11:38:44 47

Right, okay. [REDACTED] says: [REDACTED]  
[REDACTED]  
[REDACTED], and there's a reference to a case where:  
[REDACTED]  
[REDACTED] do you understand - are there any markings against that?---No.

Is it the case in fact if one looks at [REDACTED], I'm sorry, the document that you prepared, that you did refer to a situation where an award of damages was made to a particular person during the course of your examination or at least preparation of the paper, the initial paper?---There's nothing come to mind.

I'm sorry, I don't have it in front of me and I apologise for that, but my recollection is that there was a reference to a pay out of about [REDACTED] referred to in your executive summary. Just excuse me. In the Document Review and Develop Best Practice Human Source Management Policy. Could you just have a look at that. Have you got that with you?---It is in the room with me. Just give me one second.

Yes. It may be that document or the Findings of Dedicated Source Unit Pilot and I apologise - - - ?---You think it's in the second document?

One of the two in, either in the summary, executive summary. I apologise, Commissioner, I haven't got that.

COMMISSIONER: It's in the executive summary of the Findings of the Dedicated Source Unit pilot.

MR WINNEKE: Did you hear that?

COMMISSIONER: Prepared by the witness on 11 April. If we could have a look at that document you'll find it there, on about the fourth-last paragraph on the last page of the executive summary.

MR WINNEKE: Thank you Commissioner, you're doing my job and I apologise for that.

11:38:44 1 COMMISSIONER: No, no.  
11:38:46 2  
11:38:47 3 WITNESS: I'm sorry, was it on the third page of the  
11:38:49 4 executive summary?  
11:38:51 5  
11:38:52 6 COMMISSIONER: Page 2 it's marked but it's effectively the  
11:38:54 7 first page of the executive summary?---I see that.  
11:38:57 8  
11:38:59 9 MR WINNEKE: Can you just read that out?---Do you want me  
11:39:04 10 to read that out loud?  
11:39:06 11  
11:39:06 12 Yes thank you?---"In the same period source handlers dealt  
11:39:10 13 with management issues which included" - - -  
11:39:12 14  
11:39:12 15 MR HOLT: Can we stop that for a moment. Can I approach my  
11:39:15 16 learned friend briefly? Commissioner, there's claims made  
11:39:26 17 in relation to that paragraph that were made some months  
11:39:28 18 ago. My friend has been terrific today giving me notice of  
11:39:32 19 things, it just wasn't one I had. I wonder if the topic  
11:39:36 20 might be put off and I'll come back to it as soon as - - -  
11:39:37 21  
11:39:37 22 MR WINNEKE: I apologise to my learned friend. I must say  
11:39:38 23 that occurred to me on my feet. In any event we'll leave  
11:39:41 24 that. Is the gist of it that you recognise and you  
11:39:43 25 understood at the time there was the potential for  
11:39:46 26 significant compensatory payouts if the duty of care wasn't  
11:39:50 27 adhered to?---There was a significant payout but I don't  
11:40:00 28 know whether it was in relation to a duty of care issue.  
11:40:04 29  
11:40:04 30 All right. Nonetheless I take it you do accept that there  
11:40:08 31 was a duty of care owed, I think we mentioned that  
11:40:11 32 yesterday, and potentially if it was breached there could  
11:40:15 33 be significant payments by way of compensation?---Yes, I  
11:40:19 34 do.  
11:40:20 35  
11:40:26 36 Could I ask you to look at [REDACTED] and it says - - - ?---[REDACTED]  
11:40:46 37 [REDACTED]?  
11:40:46 38  
11:40:47 39 [REDACTED]  
11:40:52 40 [REDACTED]  
11:40:56 41 [REDACTED]  
11:41:05 42 [REDACTED]  
11:41:08 43 [REDACTED]  
11:41:13 44 [REDACTED]  
11:41:14 45 [REDACTED]  
11:41:15 46 [REDACTED]  
11:41:20 47 [REDACTED]

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11:44:13 43  
11:44:17 44  
11:44:23 45  
11:44:27 46  
11:44:33 47

[REDACTED]

Are any of those provisions highlighted in your document?---No.

[REDACTED]

. Is that a matter which is highlighted in your document?---No.

Then there's the section public interest immunity.

[REDACTED]

---Looking at it now, not really.

Effectively what it's saying is that there are

[REDACTED] Do you understand that

[REDACTED]

do you understand that?---Well, I

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do now that you've explained it.

Right. It goes on at [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]. Is

that section highlighted in your document?---No.

I take it you understand certainly from your experience, and indeed your role in [REDACTED] police officers, of the important principle of disclosing relevant material that may enable a defendant to find a way to a defence and also that PII doesn't always hold out, doesn't always hold sway?---I do understand there has to be an analysis of those competing public principles.

[REDACTED]  
[REDACTED] Is anything like that marked in your - is that marked in your guideline?---No.

Are you able to say whether there were any equivalent

[REDACTED]  
[REDACTED] which were available to you or your members in the SDU to have recourse to?---No, I don't think so.

So if there was an issue arising out of the difficult decision to make as to whether to disclose or not to disclose, how was that dealt with insofar as you were concerned?---That was a matter for the Human Source Management Unit. They had control over any disclosure applications or PII applications that related to any briefs of evidence.

Did you ever have any discussions with those people about matters of public interest immunity?---Over the years?

Yes?---At different times, yes.

Did you every have any of those discussions in relation to

11:47:28 1 Nicola Gobbo?---I don't know.  
11:47:30 2  
11:47:32 3 Do you have a belief as to whether you did or not?---I  
11:47:36 4 can't help you, Mr Winneke.  
11:47:37 5  
11:47:38 6 Right. I might come back to that in due course, but was it  
11:47:45 7 something that was discussed amongst your fellow officers  
11:47:50 8 in the SDU at any time?---Disclosure?  
11:47:55 9  
11:47:55 10 Yes?---Specifically, or PII?  
11:47:58 11  
11:47:58 12 Disclosure and PII, the competing interests?---Not that I  
11:48:04 13 recall but it may have been.  
11:48:06 14  
11:48:09 15 It was a matter, I take it, which must have been a concern  
11:48:13 16 to you on a regular basis given that you were involved in  
11:48:17 17 controlling and handling human sources?---It probably was  
11:48:27 18 but I just can't recall.  
11:48:28 19  
11:48:29 20 [REDACTED] of this [REDACTED] you had recourse to and referred to  
11:48:35 21 says: [REDACTED]  
11:48:38 22 [REDACTED]  
11:48:40 23 [REDACTED]  
11:48:45 24 [REDACTED]  
11:48:47 25 [REDACTED]  
11:48:51 26 [REDACTED]  
11:48:54 27 [REDACTED]  
11:48:57 28 [REDACTED]  
11:49:00 29 [REDACTED]  
11:49:03 30 [REDACTED]  
11:49:06 31 [REDACTED]  
11:49:10 32 [REDACTED]  
11:49:12 33 [REDACTED] Is  
11:49:17 34 that something that's, is that provision highlighted in  
11:49:20 35 your document?---No.  
11:49:21 36  
11:49:23 37 [REDACTED] says that: [REDACTED]  
11:49:26 38 [REDACTED]  
11:49:29 39 [REDACTED]  
11:49:35 40 [REDACTED]  
11:49:41 41 [REDACTED]  
11:49:45 42 [REDACTED] . I'm  
11:49:51 43 sorry, material, I apologise. [REDACTED]  
11:49:56 44 [REDACTED]  
11:50:01 45 [REDACTED]  
11:50:05 46 [REDACTED] which I referred to previously. Now, is that  
11:50:15 47 section highlighted in your guide?---No. No.



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11:52:51 42  
11:52:54 43  
11:52:54 44  
11:52:56 45  
11:53:02 46  
11:53:03 47

[REDACTED]

Is that highlighted in your guide?---No.

If we go over the page, [REDACTED]

[REDACTED]

Is that highlighted?---No.

[REDACTED]

is that highlighted?---No.

These are principles which I take it you were aware of, were you?---I think if you look at my statement I address the issue there. I'm well aware of the balancing of the competing interests and how the police department has several options to deal with that.

Right?---This takes it quite a bit further in this [REDACTED] insofar as they talk about [REDACTED] and that type of thing which we don't have. [REDACTED].

There were no [REDACTED]. There seems to be within [REDACTED] quite a heavy emphasis on [REDACTED]. [REDACTED], do you agree with that?---Yes.



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12:02:40 47

[REDACTED]

Do you understand the principles set out in that paragraph?---Yes.

And do you understand that what it's really saying is that it's simply [REDACTED]

---Sorry, are you waiting for a response?

Do you accept that effectively that's what it's saying?---I do.

Effectively that [REDACTED] should not and cannot be undermined by, in effect, [REDACTED]

---Yes.

And that applies even in a serious case?---Yes.

The last section I'd like to take you to is the bottom one [REDACTED]

. Is that something that is highlighted in your [REDACTED]

-No.

Are you aware that there were committals and trials conducted in relation to persons accused which material provided by Ms Gobbo might have been relevant?---Yes.

Are you aware of whether there was a disclosure - I withdraw that. Do you know yourself of any occasion where the role of Ms Gobbo as an informer was disclosed to a prosecuting authority?---I'm not aware.

1

12:02:40 2 Right. Can I ask you to look at an email. I think there's  
12:02:40 3 one there that can be shown to you. Have you got an email  
12:02:40 4 in front of you?---Yes.

5

12:02:40 6 That seems to be an email from you to Mr Biggin and another  
12:02:40 7 person whose name doesn't really matter - well at this  
12:02:40 8 stage it doesn't matter. That second person, whereabouts  
12:02:40 9 was he located?---I'm sorry, I was reading the emails you  
12:02:40 10 were talking about.

11

12:02:40 12 I apologise, okay?---What was the question?

12:02:40 13

12:02:40 14 MR HOLT: I'm sorry, Commissioner, can I approach my  
12:02:40 15 friend?

12:02:40 16

12:02:40 17 MR WINNEKE: I'm told that there's no problem with Andrew  
12:02:40 18 Glow. Where was he located?---Oh, he was the Acting  
12:02:40 19 Inspector, sorry, he was not the Acting Inspector, he was  
12:02:40 20 the Inspector in charge of the SDU and another unit at that  
12:02:40 21 time.

22

12:02:40 23 The date is [REDACTED] 2008 to Mr Biggin and to Mr Glow.  
12:02:40 24 "One last thing", you say this, "Forgot to mention that  
12:02:40 25 Purana briefed counsel yesterday for PII hearing today re  
12:02:42 26 intel from IRs concerning Person [REDACTED]. Sixteen IRs have been  
12:02:49 27 handed over to Purana from us that are heavily edited. No  
12:02:53 28 prizes for guessing where the intel comes from. Person [REDACTED]  
12:02:57 29 will not be giving evidence until this matter is resolved.  
12:03:00 30 Defence are obviously looking to discredit Person [REDACTED] and  
12:03:03 31 are trying to get as much information about him as  
12:03:06 32 possible. Each IR has the potential to compromise the  
12:03:10 33 source and the collection in total would definitely  
12:03:14 34 compromise the source firstly to Person [REDACTED] himself and then  
12:03:21 35 possibly to [REDACTED] as well. This matter is as much under  
12:03:27 36 control as we can make it. I will let you both know the  
12:03:29 37 result of the PII hearing when I get it", right. "FYI",  
12:03:38 38 that's for your information, to those two gentlemen. That  
12:03:43 39 appears to be in relation to a committal proceeding  
12:03:47 40 concerning [REDACTED], is that your recollection?---I  
12:03:53 41 don't have a recollection but his name is mentioned in the  
12:03:59 42 context of the emails so that sounds right.

43

12:04:02 44 I suggest to you it's in relation to a - I think it's a  
12:04:05 45 committal proceeding. In any event, a judicial proceeding  
12:04:09 46 relating to the prosecution of [REDACTED]. Can I ask you  
12:04:17 47 this: do you recall having any discussion with any person

12:04:20 1 other than Mr Biggin and Mr Glow about this particular  
12:04:25 2 public interest immunity hearing?---No.  
3  
12:04:28 4 Are you able to say whether you were involved in the  
12:04:33 5 redaction of material, the heavy editing of materials of  
12:04:40 6 the IRs which were handed over?---No, I think that would  
12:04:43 7 have been done by the Human Source Management Unit.  
8  
12:04:46 9 Are you able to say who would have done that there?---No.  
12:04:52 10 All I can tell you is that any applications for PII or the  
12:05:00 11 like were managed by them and the investigators.  
12  
12:05:04 13 Who was providing - - - ?---The investigators - sorry, the  
12:05:08 14 investigators for Purana.  
15  
12:05:10 16 Who was providing you with the information that enabled you  
12:05:18 17 to prepare that email?---I have no idea at this point in  
12:05:21 18 time.  
19  
12:05:22 20 One assumes you would have been speaking to officers at  
12:05:29 21 Purana, wouldn't you?---It could have come from Purana, it  
12:05:35 22 could have come from Human Source Management Unit, but I  
12:05:39 23 really don't know.  
24  
12:05:40 25 Were you dealing with anyone at the HSMU about this matter  
12:05:45 26 or any matters like it?---No.  
27  
12:05:47 28 Who would you, as a matter of course, deal with at the HSMU  
12:05:51 29 about disclosure matters and public interest immunity  
12:05:53 30 matters?---Sometimes they would contact, well, they would  
12:05:57 31 contact me if one of these matters had arisen if it  
12:06:01 32 involved one of our sources, and it could - they were  
12:06:06 33 staffed by I think at the time a Detective Senior Sergeant  
12:06:12 34 and several Detective Sergeants. So it could be any of  
12:06:18 35 those who would contact me.  
36  
12:06:19 37 Is it your understanding that the expectation would be that  
12:06:21 38 the counsel who's briefed would be made aware of the  
12:06:31 39 source, the human source?---I've got no idea. As I said we  
12:06:38 40 didn't participate in these issues.  
41  
12:06:40 42 Would it have been made known to the prosecution that she  
12:06:45 43 was a lawyer?---As I said, Mr Winneke, I had no involvement  
12:06:53 44 in these issues. The HSMU has all the records and they  
12:06:58 45 have complete control over any of these issues concerning  
12:07:04 46 PII or disclosure.  
47

12:07:07 1 Who dealt with it? Can you give us the names of the people  
12:07:10 2 there who would have dealt with it?---Oh, okay. At that  
12:07:13 3 time?  
4  
12:07:14 5 Yes?---So this is 2008.  
6  
12:07:20 7 [REDACTED] 2008?---No, I can't.  
12:07:21 8  
12:07:21 9 COMMISSIONER: Yes, what's the date of the email,  
12:07:22 10 Mr Winneke?  
11  
12:07:24 12 MR WINNEKE: [REDACTED] 2008.  
13  
12:07:25 14 COMMISSIONER: Thanks.  
15  
12:07:27 16 MR WINNEKE: You've got no idea who it would have been on [REDACTED]  
12:07:31 17 [REDACTED] 2008?---No.  
18  
12:07:33 19 What about at times prior to this?---So Mr - Detective  
12:07:45 20 Senior Sergeant - so initially Detective Sergeant Glen Owen  
12:07:49 21 was one of the principal founders, if you like, of the  
12:07:53 22 Human Source Management Unit and with him was another  
12:07:57 23 fellow Detective Sergeant Marty Tynan.  
24  
12:08:03 25 Right?---Over the years those positions changed and there  
12:08:05 26 was various people moved through there.  
27  
12:08:08 28 Who was in charge of that unit?---Initially it was  
12:08:13 29 Inspector Doug Calishaw.  
30  
12:08:15 31 After him?---And after him I would just be guessing.  
32  
12:08:27 33 What you say in the email is that, "Each IR has the  
12:08:31 34 potential to compromise the source and the collection in  
12:08:34 35 total and it would definitely compromise the source",  
12:08:38 36 firstly to Person [REDACTED] himself, so I take it you're referring  
12:08:41 37 to the fact that the information reports would make it  
12:08:44 38 clear to Person [REDACTED] that Nicola Gobbo had been providing  
12:08:50 39 information against him?---Yes.  
40  
12:09:01 41 Would it be fair to say that you would have had a concern  
12:09:07 42 that there was a failure in effect to cope with disclosure  
12:09:12 43 [REDACTED]  
12:09:16 44 [REDACTED]  
12:09:22 45 [REDACTED] ?---No.  
46  
12:09:22 47 You were not concerned about that?---I can't remember these

12:09:27 1 events to that detail, Mr Winneke.  
2  
12:09:32 3 Clearly you're saying in the email that it would be a  
12:09:37 4 concern to you if Person [REDACTED] understood that Ms Gobbo had  
12:09:45 5 been providing information against him, his  
12:09:52 6 lawyer?---Sorry, can you please repeat that question?  
7  
12:09:54 8 Yes. It appears from the email that you were concerned  
12:09:59 9 that if these IRs were not heavily edited, as you've  
12:10:05 10 referred to, then Person [REDACTED] would discover that Ms Gobbo,  
12:10:11 11 who was his lawyer, had been his lawyer, would find out  
12:10:14 12 that she was an informer against him?---Yes.  
13  
12:10:21 14 And you would be concerned, I suggest, that that  
12:10:25 15 information might jeopardise his conviction?---Well I don't  
12:10:32 16 know whether I thought about it to that degree at that  
12:10:37 17 time.  
18  
12:10:37 19 Certainly if it became known to him that Ms Gobbo had been  
12:10:44 20 providing information against him which had resulted in his  
12:10:49 21 being found guilty of serious offences, it would certainly  
12:10:53 22 jeopardise the police from obtaining future cooperation  
12:10:56 23 from Person [REDACTED] I assume, wouldn't it? That would have been  
12:11:00 24 a concern?---I don't know about that because, as I said to  
12:11:04 25 you, I think it was yesterday, both Senior Sergeant O'Brien  
12:11:09 26 and myself were very concerned about the fact that she'd  
12:11:13 27 involved herself in his representation.  
28  
12:11:17 29 Yes?---Notwithstanding that he got the best deal of the  
12:11:21 30 century in terms of his sentence, so how he would feel  
12:11:24 31 about that is something you would have to ask him.  
32  
12:11:28 33 You say he got the best deal of the century, do  
12:11:35 34 you?---Well, it was well-known that he was looking at [REDACTED]  
12:11:38 35 years and he got [REDACTED] years.  
36  
12:11:39 37 MR HOLT: Can we just - there's bio data.  
38  
12:11:43 39 COMMISSIONER: There's a non-publication order.  
12:11:45 40  
12:11:46 41 MR HOLT: Yes, thank you. Yes, I'm aware of that,  
12:11:47 42 Commissioner. We're still keen to make sure that there's  
12:11:51 43 little specifics available as possible.  
44  
12:12:00 45 COMMISSIONER: Sure, sure, but this is a proper area of  
12:12:00 46 investigation.  
12:12:00 47

12:12:01 1 MR HOLT: Yes. I'm just asking - I used the word vagueify  
12:12:03 2 earlier in the proceedings. I think it can just be dealt  
3 with on that basis, Commissioner. I'm just concerned to  
4 avoid what the Commissioner is aware of.  
5

12:12:04 6 MR WINNEKE: Effectively what you're saying is that as far  
12:12:06 7 as you're concerned, as far as the police are concerned,  
12:12:09 8 Person [REDACTED] got a good deal?---No, you were asking me how he  
12:12:13 9 would feel about it.  
10

12:12:14 11 Yes?---And I said to you, I said to you that you would have  
12:12:16 12 to ask him.  
13

12:12:17 14 Right?---But, but I think he believes, and everybody else  
12:12:22 15 involved in it, thought that he got a great deal.  
16

12:12:25 17 Do you think it would be of concern to him to know that his  
12:12:30 18 lawyer was an informer against him?---Yes, I do.  
19

12:12:34 20 You were obviously concerned about that at the time that  
12:12:37 21 you wrote that email?---Yes.  
22

12:12:43 23 Has it ever occurred to you that perhaps he should have  
12:12:46 24 been told at any stage?---No, I don't know whether I  
12:12:54 25 thought about that.  
26

12:12:55 27 You haven't thought about it?---I said I don't know whether  
12:12:59 28 I thought about it over the years.  
29

12:13:01 30 Well you certainly considered that at the time that she was  
12:13:05 31 - she ended up turning up and advising him, you considered  
12:13:10 32 that perhaps you should go so far as arresting her and  
12:13:14 33 prevent her from doing so?---That's right. I said to you  
12:13:18 34 that neither of us were happy with it.  
12:13:20 35

12:13:28 36 COMMISSIONER: Was there a particular role at the HMSU that  
12:13:32 37 had the responsibility of disclosure, Mr White?---There  
12:13:36 38 wasn't a formal disclosure officer, Commissioner, so the  
12:13:41 39 answer's no.  
40

12:13:42 41 All right, thank you.  
42

12:13:45 43 MR WINNEKE: The next email that you sent is the next day  
12:13:48 44 and it's sent to Mr Biggin and this one's also entitled  
12:13:54 45 "One last thing". "We had a win re the PII issue for  
12:14:01 46 Ms Gobbo's IRs re Person [REDACTED]. They have been appropriately  
12:14:10 47 sanitised and defence is satisfied". What does "sanitise"



12:14:16 1 mean?---The sanitising of an IR is a process that occurs,  
12:14:21 2 it's designed to make sure that the source of that  
12:14:23 3 information can't be identified.  
4  
12:14:26 5 So one assumes that whether or not the defence were  
12:14:28 6 satisfied, they were not made aware that Ms Gobbo had any  
12:14:35 7 involvement in the situation with respect to - or  
12:14:45 8 involvement in the provision of information in relation to  
12:14:47 9 Person ■■■, correct?---I have no idea.  
10  
12:14:51 11 COMMISSIONER: Mr Winneke, I'm not getting the documents on  
12:14:53 12 the screen but what document is this you're referring to?  
13  
12:14:58 14 MR WINNEKE: VPL.6029.0001.0016.  
15  
12:15:05 16 COMMISSIONER: This isn't still the email, is it?  
17  
12:15:08 18 MR WINNEKE: It is.  
19  
20 COMMISSIONER: It is?  
21  
12:15:09 22 MR WINNEKE: It's a consideration of the email.  
23  
12:15:11 24 COMMISSIONER: It's still the email, thank you.  
25  
12:15:16 26 MR WINNEKE: Commissioner, it's an email which is - it's  
12:15:23 27 been recently provided so it's got "confidential"  
12:15:26 28 emblazoned across it and I've read out I think virtually  
12:15:30 29 the entirety of it. I'm more than happy to show  
12:15:34 30 Mr Chettle. Can it be put up on Mr Chettle's screen? My  
12:15:46 31 learned junior will show him.  
12:15:52 32  
12:15:53 33 Mr White, these sorts of issues and the concern about  
12:15:58 34 protecting Ms Gobbo from disclosure arose very frequently  
12:16:02 35 during the course of her period as a human source, didn't  
12:16:07 36 they?---Yes.  
37  
12:16:09 38 And it was a constant concern of both hers, and indeed the  
12:16:15 39 SDU, that her involvement in acting for persons such as  
12:16:26 40 Person ■■■, at the same time as providing intelligence  
12:16:29 41 against him, did not come to light. That was a concern,  
12:16:35 42 wasn't it?---My greatest concern for her entire management  
12:16:41 43 and every single high risk source that we ran was the fear  
12:16:47 44 that they would be compromised and the consequences for  
12:16:53 45 pretty much all high risk sources, people who fall into  
12:16:56 46 that category, the consequences are they would be seriously  
12:16:59 47 hurt or killed.



1  
12:20:25 2 MR WINNEKE: I tender the email, Commissioner.  
12:20:26 3  
12:20:34 4 COMMISSIONER: It's a confidential at this stage or not?  
12:20:36 5  
12:20:36 6 MR HOLT: It is, only because but it can be made  
12:20:37 7 un-confidential very quickly, Commissioner, it's just to be  
12:20:39 8 - - -  
12:20:39 9  
12:20:39 10 COMMISSIONER: Obviously there'll be interest in that.  
12:20:43 11  
12:20:44 12 MR HOLT: I'll deal with that this afternoon.  
13  
12:20:46 14 COMMISSIONER: Thanks very much.  
12:20:46 15  
12:20:47 16 #EXHIBIT 296A - (Confidential) Email.  
12:20:50 17  
12:20:51 18 #EXHIBIT 296B - Redacted version of email.  
19  
12:20:55 20 MR WINNEKE: Whilst we're tendering materials,  
12:20:57 21 Commissioner, I don't know whether I tendered the second  
12:21:00 22 transcript of discussion between Mr White and Ms Gobbo and  
12:21:02 23 Mr Smith, I think on 21 September.  
24  
12:21:08 25 COMMISSIONER: Have all the transcripts been tendered?  
26  
12:21:10 27 MR WINNEKE: No, not all the transcripts.  
12:21:12 28  
12:21:12 29 MR HOLT: Mr Chettle tendered, I think, the world of these  
12:21:16 30 transcripts and recordings on a confidential basis.  
31  
32  
33 COMMISSIONER: Yes.  
34  
12:21:19 35 MR HOLT: Our expectation, Commissioner, was that there  
12:21:21 36 would be individual ones identified as being significant,  
12:21:25 37 so it may well still be appropriate and plainly we need to  
12:21:31 38 review that as well.  
39  
12:21:32 40 COMMISSIONER: Right. How do we describe that, Mr Winneke?  
41  
12:21:34 42 MR WINNEKE: Transcript of audio recording and audio  
12:21:37 43 recording of debriefing between Ms Gobbo and Mr White and  
12:21:40 44 Mr Smith on 21 September.  
45  
12:21:46 46 COMMISSIONER: Which year, 05?  
47

12:21:50 1 MR WINNEKE: 2005.  
2  
12:21:52 3 COMMISSIONER: 2005.  
12:21:56 4  
12:22:00 5 MR WINNEKE: For the sake of completeness,  
12:22:02 6 Commissioner - - -  
7  
12:22:03 8 COMMISSIONER: Will have that to be a confidential and  
12:22:05 9 redacted version?  
12:22:06 10  
12:22:06 11 MR HOLT: It will, Commissioner, it was one I wasn't aware  
12:22:10 12 was going to be referred to yesterday.  
12:22:12 13  
12:22:13 14 #EXHIBIT RC297A - Transcript of audio recording and audio.  
12:21:37 15 recording of debriefing between Ms Gobbo  
12:21:39 16 and Mr White and Mr Smith on 21/09/05.  
12:22:16 17  
12:22:16 18 #EXHIBIT RC297B - Unredacted version.  
19  
12:22:22 20 MR WINNEKE: There were four audio clips that were tendered  
12:22:25 21 also, Commissioner. I tender those for the sake of  
12:22:27 22 completeness.  
23  
12:22:27 24 COMMISSIONER: Four audio clips, can we describe them a  
12:22:30 25 little better than that?  
26  
12:22:32 27 MR WINNEKE: They should be described - - -  
28  
12:22:35 29 COMMISSIONER: Between Gobbo and White?  
30  
12:22:40 31 MR WINNEKE: White and **Smith** on the 16th - - -  
32  
12:22:45 33 COMMISSIONER: Remove that from the record.  
34  
12:22:47 35 MR WINNEKE: I apologise.  
36  
12:22:48 37 COMMISSIONER: Smith. On the 16th, was it?  
38  
12:22:51 39 MR WINNEKE: 16th.  
40  
12:22:52 41 COMMISSIONER: 16 September 05. Again, will they have to  
12:22:55 42 be two versions?  
12:22:56 43  
12:22:57 44 MR WINNEKE: No.  
45  
12:22:58 46 COMMISSIONER: They can be tendered as is?  
12:23:00 47

12:23:00 1 MR HOLT: They can, Commissioner. They're the clips, so  
12:23:01 2 they've got the bits of transcript, there's no difficulty  
12:23:05 3 with those, the audio is subject to the issues we discussed  
12:23:06 4 this morning.  
5  
12:23:07 6 COMMISSIONER: The audio won't be able to be put on to the  
12:23:10 7 website until we've got the issue sorted out.  
12:23:14 8  
12:23:15 9 #EXHIBIT 298 - Four audio clips.  
12:23:17 10  
12:23:17 11 COMMISSIONER: Although we could probably put up a jumbled  
12:23:20 12 version at the moment. All right. 298. Just looking at  
12:23:31 13 the time. No, we could take our half hour break now if  
12:23:35 14 that's convenient?  
12:23:36 15  
12:23:37 16 MR WINNEKE: If I could do a couple more matters,  
12:23:41 17 Commissioner.  
18  
12:23:41 19 COMMISSIONER: Sure. Yes, that's fine.  
20  
12:23:49 21 MR WINNEKE: I've asked you about a couple of documents.  
12:23:51 22 The first one was the review and develop best practice  
12:23:56 23 human source management policy. This is a document that  
12:24:00 24 you prepared after accessing various research materials,  
12:24:08 25 speaking to many people and at that stage you hadn't been  
12:24:16 26 overseas, or had you been?---I don't know but it would - if  
12:24:25 27 I had been it would be referenced in this document.  
28  
12:24:31 29 In that document there's a discussion about a [REDACTED]  
12:24:46 30 [REDACTED]. One of the concerns that you had about the  
12:24:51 31 [REDACTED], depending on whatever circumstance [REDACTED]  
12:24:58 32 [REDACTED], was that defence counsel could attempt to  
12:25:06 33 have [REDACTED] produced in court hearings, so that was  
12:25:10 34 a disadvantage of having [REDACTED] and that's at p.34  
12:25:15 35 of your review. Just have a look at that if you wouldn't  
12:25:23 36 mind  
12:25:31 37  
12:25:31 38 MR HOLT: Can I just approach my learned friend,  
12:25:32 39 Commissioner?  
40  
12:25:33 41 COMMISSIONER: Yes. Sorry, this is of the review and  
12:25:37 42 develop best practice human source management policy?  
43  
12:25:41 44 MR WINNEKE: Yes.  
12:25:48 45  
12:25:48 46 MR HOLT: Thank you, Commissioner.  
47

12:25:59 1 COMMISSIONER: It's Exhibit 276 if that's helpful to  
12:26:02 2 anybody.  
3  
12:26:03 4 MR WINNEKE: Effectively what you're saying is that it's  
12:26:05 5 disadvantageous or one of the disadvantages of having them  
12:26:09 6 is that defence counsel could get them?---I need to read  
12:26:14 7 the paragraph.  
8  
12:26:17 9 All right.  
12:26:29 10  
12:26:30 11 MR CHETTLE: What page is it?  
12  
12:26:33 13 MR WINNEKE: 34. Starts on 33 goes over to 34. Have you  
12:27:18 14 had a chance to read that?---I've just about finished.  
15  
12:27:21 16 Sorry.  
12:27:31 17  
12:27:31 18 MR HOLT: Commissioner, as much as for the witness's  
12:27:34 19 benefit as the Commission's, there are claims in respect of  
12:27:39 20 this topic generally, as the Commission will be aware. I  
12:27:40 21 know my friend's going to take care, and the witness might  
12:27:41 22 be aware of that as well.  
23  
12:27:42 24 COMMISSIONER: Yes, thank you.  
12:27:44 25  
12:27:44 26 WITNESS: Yes, Mr Winneke.  
27  
12:27:47 28 MR WINNEKE: What you're really saying is one of the  
12:27:48 29 problems - and obviously when you're answering questions  
12:27:51 30 you've got to be aware - I take it you're aware of the  
12:27:54 31 general concerns with respect to public interest immunity  
12:27:57 32 around this topic, do you follow that?---Yes, I do.  
33  
12:28:00 34 But what you're saying is the very fact of the [REDACTED]  
12:28:04 35 [REDACTED] is a disadvantage because defence counsel could  
12:28:09 36 attempt to have [REDACTED] produced in court hearings,  
12:28:13 37 do you follow that?---Yes.  
38  
12:28:17 39 What you're saying is that conceivably it would be  
12:28:24 40 disadvantageous to the safety of the human source if that  
12:28:32 41 [REDACTED] came to light?---Yes.  
42  
12:28:36 43 Or was produced?---Yes.  
44  
12:28:39 45 So that's a disadvantage. But equally it could be an  
12:28:42 46 advantage to the criminal justice system for that [REDACTED]  
12:28:47 47 [REDACTED] because it may be of benefit, one, to the court and,

12:28:53 1 two, to the defence to work out where the interests of  
12:28:55 2 justice lie in determining a public interest immunity  
12:29:00 3 claim, do you agree with that proposition?---Yes, and  
12:29:04 4 that's touched on in the advantages.  
5  
12:29:06 6 Yes?---Probably not fleshed out as accurately as you've  
12:29:12 7 just said it, but nevertheless.  
8  
12:29:15 9 How do you say it's fleshed out in the  
12:29:19 10 advantages?---[REDACTED] provide [REDACTED]  
12:29:24 11 [REDACTED] providing protection to all parties  
12:29:27 12 involved in that relationship." Its purpose, and the whole  
12:29:31 13 purpose of the source unit, was to create a highly  
12:29:35 14 accountable system of source management.  
15  
12:29:38 16 Yes?---And without going into areas that you don't want me  
12:29:43 17 to go into - - -  
18  
12:29:45 19 No, I understand that. I understand that. But it could  
12:29:47 20 never be a disadvantage simply because defence counsel  
12:29:51 21 could either attempt to get it or get it, it could only  
12:29:55 22 ever be an advantage, couldn't it?---But you just said  
12:29:59 23 yourself if it could be obtained it could compromise a  
12:30:03 24 source.  
25  
12:30:03 26 The reality - - - ?---That's the meaning of that particular  
12:30:07 27 disadvantage, if you like.  
28  
12:30:08 29 Right, okay. But what it does it is that the system is  
12:30:14 30 accountable to the criminal justice - to the system of  
12:30:22 31 justice, the process of justice, do you agree with  
12:30:25 32 that?---Yes. Yes, I do. That's why we did it.  
33  
12:30:28 34 You did it to further the system of justice; is that  
12:30:32 35 right?---I've already told you.  
36  
12:30:34 37 COMMISSIONER: Yes. His answer was yes.  
12:30:37 38  
12:30:38 39 WITNESS: I can't answer this question properly.  
40  
12:30:40 41 COMMISSIONER: The answer was yes.  
42  
12:30:43 43 MR WINNEKE: If we go to the next document you produced,  
12:30:45 44 the Dedicated Source Unit pilot, 1 November 2004 and 30  
12:30:51 45 April 2005, there's a section on acknowledgement - I'm  
12:30:54 46 sorry, the sterile corridor, pp.27 and 28?---Yes.  
47

12:31:16 1 What you say there is that, amongst other things, "Entries  
12:31:22 2 in diaries and day books, notes and documents, such as  
12:31:26 3 police reports, memos, briefing papers, impress claims, all  
12:31:30 4 provide fertile ground for defence counsel attempts to  
12:31:36 5 uncover the involvement of the source in an investigation.  
12:31:38 6 The simple service of a subpoena on the informant will  
12:31:41 7 generally capture this type of information and force the  
12:31:45 8 investigator to attempt to sensor material and then argue  
12:31:49 9 the issue in open court. Such argument, even if  
12:31:53 10 successful, will identify at least the presence of a source  
12:31:55 11 in the investigation. Through the use of the sterile  
12:32:00 12 corridor much of this material is not held by the  
12:32:04 13 investigator. Often the investigator will not have  
12:32:08 14 knowledge of how a source was deployed as regards to a  
12:32:11 15 particular investigation and thus could not reveal this  
12:32:13 16 information under cross-examination. As a consequence of  
12:32:16 17 removing this information from an investigator sources are  
12:32:19 18 protected from defence counsel examination of witnesses  
12:32:22 19 and/or police records". Do you see that?---Yes.  
20  
12:32:28 21 In effect what you're saying is that there is an advantage  
12:32:31 22 in the sterile corridor process in that the investigator  
12:32:36 23 will not have the sorts of notes, diaries, day books, et  
12:32:43 24 cetera, which might provide fertile ground for defence  
12:32:47 25 counsel attempts to uncover the involvement of a source in  
12:32:51 26 an investigation. They won't get it because it's held in a  
12:32:57 27 different unit behind a sterile corridor, do you see?  
12:33:01 28 That's what you're saying, isn't it?---Yes.  
29  
12:33:06 30 Therefore what I suggest to you is that - well, perhaps  
12:33:12 31 I'll say this: those sorts of materials could well be  
12:33:15 32 relevant in determining whether or not a person is  
12:33:21 33 receiving a fair trial and the justice system is being  
12:33:27 34 properly used to determine whether or not where the public  
12:33:30 35 interest lies?---Well that - the paragraph you've read out,  
12:33:39 36 the thinking behind that was the Police Department had been  
12:33:42 37 very sloppy in relation to how they protected the  
12:33:48 38 involvement of human sources in investigations because  
12:33:52 39 investigators were having that direct contact with sources  
12:33:57 40 and they weren't trained properly in relation to this  
12:34:03 41 issue. While it was happening the sources were getting  
12:34:06 42 compromised and the sterile corridor was a way that  
12:34:09 43 actually siloed the information. It didn't mean it wasn't  
12:34:18 44 discoverable, and certainly in Ms Gobbo's case the course  
12:34:20 45 of discovery, because investigators were well aware of what  
12:34:24 46 she was doing in terms of their investigation.  
47



12:34:26 1 In that case you say that - do you say that that was an  
12:34:32 2 example of an appropriate sterile corridor, that the  
12:34:35 3 investigators were aware of Ms Gobbo and they had notes and  
12:34:38 4 so forth of all of her involvements?---Well, you didn't  
12:34:45 5 seem to want to accept my description of the sterile  
12:34:49 6 corridor earlier in the week. It just means separation of  
12:34:51 7 the management of the investigation from the management of  
12:34:53 8 the source. It has nothing to do with whether  
12:34:57 9 investigators know the identity of the source or not, and  
12:34:59 10 as you're aware, the investigators in this particular case  
12:35:03 11 knew exactly who the source was and knew exactly what the  
12:35:07 12 source was doing.

13  
12:35:08 14 But it might be - - - ?---It was still a sterile corridor  
12:35:11 15 however because we had the day-to-day management of that  
12:35:14 16 individual and it was all done in a way that wouldn't lead  
12:35:18 17 to her being compromised by dealing with easily  
12:35:22 18 identifiable policemen.

19  
12:35:24 20 The reality is if materials are appropriately the subject  
12:35:27 21 of public interest immunity they won't be produceable, will  
12:35:31 22 they?---They're certainly still discoverable.

23  
12:35:36 24 Right?---It's an issue for the court as to whether they're  
12:35:40 25 produced or not. We weren't - - -

26  
12:35:43 27 That's correct, but what does it matter then whether the  
12:35:49 28 information about Ms Gobbo is held by the SDU or it's held  
12:35:53 29 by the detectives?---Because in this particular case it was  
12:35:59 30 only held by one detective and that was Jim O'Brien. That  
12:36:03 31 was the purpose of this particular section of this report.  
12:36:08 32 What used to happen was many investigators would write  
12:36:12 33 various things in day books and diaries and information  
12:36:15 34 reports, even briefing papers, to various command figures.  
12:36:21 35 So what would happen was there'd be a lot of information  
12:36:24 36 that could potentially compromise the source and we had all  
12:36:29 37 sorts of people in charge of that information who had no  
12:36:32 38 training or - well, no training or experience in trying to  
12:36:37 39 make sure that the source identity was protected. It  
12:36:41 40 doesn't mean it was not discoverable.

41  
12:36:45 42 Did you have any discussions with Mr O'Brien concerning the  
12:36:53 43 avoidance of disclosing material or how to avoid disclosing  
12:36:57 44 material?---No.

45  
12:37:00 46 Did you have any discussions with Mr O'Brien about  
12:37:03 47 disclosing material at all?---I would have had a discussion

12:37:10 1 with Mr O'Brien when we talked about making him the point  
12:37:14 2 of liaison. So all of the relevant material in relation to  
12:37:18 3 her was just contained within Mr O'Brien's notes.  
4  
12:37:21 5 If there was an issue that arose as to the potential  
12:37:24 6 involvement of Ms Gobbo in a trial, would you have a  
12:37:28 7 discussion with Mr O'Brien about that?---No.  
8  
12:37:32 9 Would you expect that Mr O'Brien would have a discussion  
12:37:35 10 with someone else about that?---Yes.  
11  
12:37:41 12 Who would he discuss it with?---Well he would be talking to  
12:37:46 13 the investigators, the prosecutor, the HMSU if there was  
12:37:52 14 going to be claims in relation to discovery that might be  
12:37:55 15 the subject of PII. They were all issues for Mr O'Brien  
12:37:59 16 and for the Human Source Management Unit.  
17  
12:38:03 18 Do you say you wouldn't be involved in those sorts of  
12:38:06 19 discussions at all?---No. I would probably get notified.  
12:38:10 20 I would get notified if we were still running that source.  
12:38:13 21 If these matters were occurring after she left us I may not  
12:38:17 22 have got notified. Well, actually, I wouldn't have got  
12:38:22 23 notified because I think there has been a lot of this  
12:38:25 24 material discussed since we finished our relationship with  
12:38:27 25 Ms Gobbo, we had no idea it was occurring.  
26  
12:38:31 27 All right. I note the time, Commissioner.  
28  
12:38:35 29 COMMISSIONER: You've told us how you used this [redacted] document  
12:38:42 30 frequently and we've talked about how [redacted]  
12:38:45 31 [redacted]  
12:38:49 32 [redacted] ---Yes.  
33  
12:38:50 34 Were you aware that the [redacted] system for [redacted]  
12:38:54 35 [redacted]  
12:38:59 36 [redacted]  
12:39:05 37 [redacted] ---No, Commissioner.  
38  
12:39:08 39 I take it when the SDU were set up, it was set up because  
12:39:13 40 it was hoped that there was a new broom and you were  
12:39:19 41 establishing a new best practice in the field of human  
12:39:23 42 source management; is that correct?---Yes, Commissioner.  
43  
12:39:26 44 Who in Victoria Police was responsible up the hierarchy for  
12:39:30 45 the establishment of the SDU?---There was a steering  
12:39:36 46 committee set up - so the research into informer management  
12:39:43 47 practices was created as a project within the Crime

12:39:47 1 Department and it was also created as a project within the  
12:39:50 2 intelligence department, which is unusual to have two  
12:39:53 3 projects doing the same thing. Ultimately they came up  
12:39:57 4 with the same conclusions, that we needed a Dedicated  
12:40:01 5 Source Unit to manage designated high risk human sources.  
12:40:05 6 There was a steering committee that was in place to analyse  
12:40:08 7 the findings of the reviews and then to analyse the actual  
12:40:15 8 effectiveness of the Dedicated Source Unit pilot. In terms  
12:40:19 9 of the members on that steering committee, I don't know at  
12:40:25 10 this stage. I think evidence might have been given to the  
12:40:27 11 Commission already about who was on that steering  
12:40:31 12 committee.

13  
12:40:32 14 Yes, it may have been by Mr Paterson. You don't recall who  
12:40:36 15 it was?---No, Commissioner.

16  
12:40:38 17 Thank you. All right, we'll adjourn till 1.10.

12:41:23 18  
12:41:24 19 <(THE WITNESS WITHDREW)

12:41:26 20  
21 LUNCHEON ADJOURNMENT

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13:12:31 1 UPON RESUMING AT 1.17 PM:  
13:17:30 2  
13:17:35 3 COMMISSIONER: Yes Mr White, you can hear me?---Yes,  
13:17:39 4 Commissioner.  
13:17:39 5  
13:17:40 6 Yes Mr Winneke.  
7  
13:17:42 8 <SANDY WHITE, recalled:  
13:17:42 9  
13:17:42 10 MR WINNEKE: Mr White, I think you were asked before the  
13:17:44 11 break about who the steering committee was of the project  
13:17:51 12 which, to whom you presented your paper, Review and Develop  
13:17:55 13 Best Human Source Management Police, it's referred to in  
13:17:59 14 paragraph 23 of your statement. Assistant Commissioner  
13:18:02 15 Overland, Commander Terry Purton, Commander Danye Moloney  
13:18:08 16 and Superintendent Tony Biggin, is that right?---Yes.  
13:18:11 17  
13:18:15 18 I asked you about the [REDACTED] the [REDACTED] that you  
13:18:19 19 referred to. That [REDACTED] said [REDACTED]  
13:18:22 20 [REDACTED]  
13:18:27 21 [REDACTED] which I asked you about. That's the, I just want to  
13:18:33 22 put in front of you a code called the Covert Human  
13:18:39 23 Intelligence Sources Code of Practice. Can someone put  
13:18:41 24 that in front of Mr White?---Have you got the Code,  
13:18:59 25 Mr Winneke?  
13:18:59 26  
13:19:01 27 The one I've got doesn't have a code on it. Just excuse  
13:19:06 28 me. If you can - COM.0025.0003.003, p.1?---Would you be  
13:19:47 29 able to read that out one more time, please?  
13:19:50 30  
13:19:50 31 Yes, it's COM.0025.0003.0003?---Thank you.  
13:20:51 32  
13:20:51 33 Do you see a section in that which is 3.3 "communications  
13:20:58 34 subject to legal privilege"?---Yes, I have that in front of  
13:21:29 35 me now.  
13:21:30 36  
13:21:31 37 That document, that's under the heading of "special rules  
13:21:36 38 on authorisations" and there's a section "confidential  
13:21:40 39 information" and then, that's at 3.1, and it makes it clear  
13:21:45 40 that the Act doesn't provide any special protection for  
13:21:49 41 confidential information, "Nevertheless particular care  
13:21:52 42 should be taken in cases where the subject of the operation  
13:21:55 43 or investigation might reasonably expect a high degree of  
13:22:00 44 privacy or where confidential is involved. Confidential  
13:22:05 45 information consists of matters subject to legal privilege,  
13:22:06 46 confidential personal information or confidential  
13:22:09 47 journalistic information". That sort of [REDACTED]

13:22:13 1 [REDACTED] which I took you through before, do you accept  
13:22:15 2 that?---Yes.  
13:22:16 3  
13:22:17 4 What it says at 3.4 is that: "Privilege doesn't apply to  
13:22:24 5 communications made with the intention of furthering a  
13:22:27 6 criminal purpose, whether the lawyer is acting wittingly or  
13:22:31 7 culpably. Communications will lose their protection if  
13:22:35 8 there are grounds to believe, for example, that the lawyer  
13:22:37 9 is intending to hold or use them for a criminal purpose but  
13:22:41 10 it's not lost if a professional legal advisor is properly  
13:22:46 11 advising a person who is suspected of having committed a  
13:22:50 12 criminal offence. The concept of legal privilege applies  
13:22:52 13 to the provision of professional legal advice by any  
13:22:54 14 individual, agency or organisation qualified to do so". I  
13:22:57 15 take it what you would have - it may well be that you  
13:23:01 16 didn't read this particular document [REDACTED]  
13:23:04 17 [REDACTED] ---Yes, I did read  
13:23:13 18 it [REDACTED].  
13:23:15 19  
13:23:16 20 Yes?---Obviously - and I think it's pretty clear my belief  
13:23:24 21 was that information about ongoing future crimes was not  
13:23:28 22 the subject of legal professional privilege.  
13:23:31 23  
13:23:31 24 Yes, I follow that. I think your understanding of  
13:23:37 25 confidential communications, back then and perhaps now,  
13:23:42 26 isn't all together clear but what your view was or is,  
13:23:48 27 ultimately as far as you were concerned those  
13:23:52 28 communications about ongoing criminal activities wouldn't  
13:23:56 29 be either confidential communications or communications  
13:24:00 30 which would be the subject of legal privilege?---That was  
13:24:05 31 my belief, yes.  
13:24:06 32  
13:24:06 33 I follow that. Paragraph 3.6 says that: "In general an  
13:24:12 34 application for the use or conduct of a source which is  
13:24:16 35 likely to result in the acquisition of legally privileged  
13:24:20 36 information should only be made in exceptional and  
13:24:22 37 compelling circumstance. Full regard should be had to the  
13:24:26 38 particular proportionality issues such a use or conduct of"  
13:24:33 39 - start again. "Proportionality issues such a use or  
13:24:36 40 conduct of a source raises. The application should include  
13:24:40 41 in addition to the reasons why it's considered necessary  
13:24:42 42 for the use or conduct of a source to be used an assessment  
13:24:46 43 of how likely it is that information subject to LP will be  
13:24:49 44 acquired. It should clearly state whether the purpose or  
13:24:54 45 one of the purposes of the use or conduct of the source is  
13:24:57 46 to obtain legally privileged information". And then 3.7:  
13:25:06 47 "The assessment will be taken into account by the

13:25:10 1 authorising officer in deciding whether the proposed use or  
13:25:12 2 conduct of a source is necessary and proportionate under  
13:25:17 3 s.29 of the 2000 Act. It may require regular reporting to  
13:25:21 4 be able to decide whether it should continue. In those  
13:25:24 5 cases where legally privileged information has been  
13:25:26 6 acquired or retained the matter should be reported to the  
13:25:30 7 relevant Commissioner or Inspector during his next  
13:25:33 8 inspection and the material should be made available to him  
13:25:36 9 if requested. A substantial proportion of the  
13:25:39 10 communications between a lawyer and his clients may be  
13:25:42 11 subject to legal privilege, therefore any case where a  
13:25:45 12 lawyer is the subject of an investigation or operation  
13:25:48 13 should be notified to the relevant Commissioner or  
13:25:51 14 Inspector during his next inspection and any material which  
13:25:56 15 has been retained should be made available to him if  
13:25:59 16 requested". And then: "Where there is any doubt as to the  
13:26:02 17 handling of dissemination of information which may be  
18 subject to LP advice should be sought from a legal advisor  
13:26:09 19 within the relevant public authority before any further  
13:26:10 20 dissemination of the material takes place and similar  
13:26:14 21 advice should also be sought where there is any doubt over  
13:26:19 22 whether information is not subject to LP due to the 'in  
13:26:20 23 furtherance of a criminal purpose exception'. The  
13:26:24 24 retention of legally privileged information or its  
13:26:27 25 dissemination to an outside body should be accompanied by a  
13:26:31 26 clear warning that it is subject to legal privilege. It  
27 should be safeguarded by taking reasonable steps to ensure  
13:26:36 28 there is no possibility of it becoming available or its  
13:26:39 29 contents becoming known to any person whose possession of  
13:26:44 30 it might prejudice any criminal or civil proceeding  
13:26:44 31 relating to the information. Any dissemination of legally  
13:26:48 32 privileged material to an outside body should be notified  
13:26:50 33 to the relevant Commissioner or Inspector during his next  
13:26:53 34 inspection", and there are then provisions which relate to  
13:26:58 35 communications involving confidential personal information  
13:27:02 36 and confidential journalistic material. Now, those  
13:27:07 37 guidelines appear to be pretty sensible guidelines. I take  
13:27:13 38 it you would accept that proposition?---Yes.  
13:27:16 39  
13:27:20 40 You would, obviously you're not a lawyer and you're not  
13:27:24 41 legally trained I take it?---No.  
13:27:26 42  
13:27:29 43 It may well be that as far as you're concerned it may be  
13:27:34 44 difficult for you in some circumstances to really determine  
13:27:38 45 whether information which Ms Gobbo provided or might  
13:27:42 46 provide would in fact be legally privileged or not be  
13:27:45 47 legally privileged, do you accept that?---Yes, I think my

13:27:55 1 view of that was that, pretty, maybe an over simplistic  
13:28:01 2 one, it was simply if it related to ongoing and future  
13:28:04 3 clients I didn't think it was privileged.  
13:28:06 4  
13:28:06 5 I understand that. I'm not being critical. What I'm  
13:28:09 6 simply saying is that guideline had it been available to  
13:28:12 7 you perhaps would have highlighted to you, and indeed  
13:28:15 8 anyone who was considering whether or not a lawyer would be  
13:28:20 9 an appropriate source, it would have highlighted the  
13:28:22 10 proposition that considerable care would need to be  
13:28:26 11 taken?---Yes, it would have.  
13:28:27 12  
13:28:28 13 And I take it you would say, perhaps ruefully with the  
13:28:35 14 benefit of hindsight, perhaps that is something that should  
13:28:39 15 have been closely looked at in the early stages of this  
13:28:42 16 operation?---Yes.  
13:28:42 17  
13:28:44 18 Do you accept that if there was to be any ongoing use of a  
13:28:50 19 human source who was a lawyer, then there should be a very  
13:28:54 20 clear guideline that suggests that clear legal advice  
13:28:59 21 should be obtained about the use of such a  
13:29:03 22 person?---Definitely.  
13:29:04 23  
13:29:06 24 Now, again, without being critical of you, you were  
13:29:19 25 certainly in, you were concerned about at least the  
13:29:28 26 possibility of there being a problem in circumstances where  
13:29:34 27 Person ■ had provided information, sorry, Ms Gobbo had  
13:29:39 28 provided information with respect to Person ■ which had  
13:29:42 29 enabled police to arrest him and subsequently charge him  
13:29:48 30 and then Ms Gobbo turns up to act for him?---Yes.  
13:29:52 31  
13:29:53 32 It didn't seem right to you, I assume?---Yes.  
13:29:57 33  
13:30:01 34 Your gut reaction was that there was something wrong with  
13:30:03 35 it?---Yes, that's right.  
13:30:05 36  
13:30:07 37 As I understand it you had had some discussions with the  
13:30:13 38 investigative officer, Mr O'Brien, beforehand about this  
13:30:18 39 very issue?---I did talk to him about this issue  
13:30:22 40 beforehand, yes.  
13:30:24 41  
13:30:26 42 What was the resolution, what was the decision taken about  
13:30:32 43 that issue between you and Mr O'Brien if the eventuality  
13:30:37 44 which you were concerned about came about, that is Ms Gobbo  
13:30:41 45 did turn up and did appear for ■?---I can't recall what  
13:30:48 46 the resolution was and my diary doesn't help me in that  
13:30:51 47 respect.

13:30:51 1  
13:30:51 2 Yes?---But the record will show that we raised the issue  
13:30:56 3 with her on a number of occasions and we were trying to  
13:30:59 4 talk her out of it, we were trying to provide excuses for  
13:31:02 5 her that we felt would have been reasonable for her to give  
13:31:06 6 to [REDACTED]. Of course what has happened showed she  
13:31:14 7 didn't think any of those excuses were viable and turned up  
13:31:18 8 anyway despite our advice.  
13:31:21 9  
13:31:23 10 Your gut feeling was that it was simply wrong, and indeed  
13:31:27 11 you at least considered the possibility of taking fairly  
13:31:31 12 drastic action, and dismissed it, that is arresting  
13:31:37 13 her?---Yes.  
13:31:37 14  
13:31:37 15 If I can move then to the policies that were put in place  
13:31:44 16 initially with respect to the Chief Commissioner's  
13:31:47 17 instruction. Now that's the instruction which in effect  
13:31:52 18 sets out the Victoria Police policy with respect about  
13:31:55 19 informer management, is that right?---Yes.  
13:31:58 20  
13:31:59 21 This is 0305?---Yes.  
13:32:03 22  
13:32:04 23 The policy was originally issued as CCI 7 of 03 and  
13:32:10 24 reissued on 22 September 2004 and was then reissued on 20  
13:32:14 25 September 2005 pending a further review of the  
13:32:18 26 effectiveness of the policy. Now, I'm not suggesting at  
13:32:22 27 this stage now in 2019 you're fully over that policy but  
13:32:27 28 certainly in 2005 you would have been on top of that  
13:32:31 29 policy?---Yes.  
13:32:32 30  
13:32:33 31 That policy, indeed I think you had something to do with  
13:32:36 32 the development of it, is that right?---I had some input  
13:32:40 33 into all sorts of policies and SOPs with source management,  
13:32:48 34 particularly in a high risk area.  
13:32:49 35  
13:32:50 36 With regard to the general policing policy, the Chief  
13:32:54 37 Commissioner's instruction we're talking about, is it the  
13:33:00 38 case you had some involvement in its preparation?---No, the  
13:33:03 39 document was prepared I think by the HSMU, but they  
13:33:09 40 certainly did consult with me around some of the issues and  
13:33:12 41 I think they paid some attention to what I had to say.  
13:33:15 42  
13:33:16 43 What it does is to set out the various responsibilities of  
13:33:20 44 the people involved in the management of informers and if  
13:33:23 45 you go through it it talks about informer management files.  
13:33:35 46 If you can follow it through with me. What's on the  
13:33:43 47 file?---What page are we on?



13:33:45 1  
13:33:45 2 On the second page.  
13:33:47 3  
13:33:47 4 MR HOLT: Can I just approach Mr Winneke. Sorry,  
13:34:01 5 Commissioner, this is a document over which - this was  
13:34:04 6 attached to Mr Paterson's statement, over which claims were  
13:34:10 7 made some months ago. I'm just concerned to make sure we  
13:34:11 8 don't accidentally go anywhere which would hold us up this  
13:34:14 9 afternoon.  
13:34:14 10  
13:34:15 11 MR WINNEKE: I'll try not to do that.  
13:34:17 12  
13:34:17 13 MR HOLT: Thank you Commissioner. I'm happy to work with  
13:34:19 14 my friend as we go to avoid delay.  
13:34:19 15  
13:34:19 16 COMMISSIONER: If you have the VPL number that would help  
13:34:21 17 because it means I can look at it.  
13:34:23 18  
13:34:24 19 MR WINNEKE: VPL.0002.0001.2232. I think in its redacted  
13:34:32 20 form it can be put up on the screen, all screens?---I  
13:34:40 21 haven't got the redacted version in front of me yet.  
13:34:43 22  
13:34:43 23 Don't worry about that because I won't take you at this  
13:34:46 24 stage to anything that's blacked out. If you can have a  
13:34:50 25 version of the policy that would be useful. Have you got  
13:34:52 26 that?---I'm just waiting for it to load.  
27  
13:35:15 28 Just whilst it's loading, can I ask you this. Albeit this  
13:35:20 29 doesn't specifically relate to the SDU, it is a policy  
13:35:25 30 which the SDU is bound by I take it?---Yes.  
13:35:29 31  
13:35:31 32 It applies across the board both to low risk and high risk  
13:35:35 33 human sources?---Yes.  
13:35:36 34  
13:35:38 35 And what it says at point 9 is that various new forms have  
13:35:43 36 been introduced and they include informer registration,  
13:35:51 37 reactivation, application form parts A to D, ICRs,  
13:35:56 38 Acknowledgement of Responsibility forms and informer  
13:36:01 39 deactivation forms, right?---Yes.  
13:36:07 40  
13:36:08 41 It talks about there being an Officer-in-charge, that is a  
13:36:12 42 police member who is the immediate supervisor of the  
13:36:15 43 controller. Now in the initial stages your immediate  
13:36:20 44 supervisor was not [REDACTED] but I think you said  
13:36:26 45 yesterday it was [REDACTED] - I've forgotten his name,  
13:36:34 46 can you tell me?---The Officer-in-charge was [REDACTED]  
13:36:38 47 Calishaw.

13:36:39 1  
13:36:39 2 I'm sorry?---He was in charge of both the SDU and what was  
13:36:46 3 then known as the IMU, now known as the HSMU.  
13:36:52 4  
13:36:52 5 Then if we go over the page, there's a reference to the  
13:37:06 6 responsibilities of the handlers and co-handlers?---At what  
13:37:14 7 page are you on?  
13:37:16 8  
13:37:16 9 I'm looking at, I think, p.4?---34?  
13:37:26 10  
13:37:26 11 Four. Handlers and co-handlers?---Yes.  
13:37:30 12  
13:37:34 13 And it sets out responsibilities of handlers and  
13:37:37 14 co-handlers and then at 12 sets out the responsibilities of  
13:37:41 15 controllers?---Yes.  
13:37:42 16  
13:37:56 17 Without being able to or wanting to go into detail into the  
13:38:00 18 administrative functions, can I say this: that ultimately  
13:38:05 19 the responsibility of the controller is to have oversight  
13:38:09 20 over the documentation that's produced in the relationship  
13:38:15 21 between the handler and the source, would that be fair to  
13:38:18 22 say?---Yes.  
13:38:19 23  
13:38:20 24 And to be satisfied that all of those documents are  
13:38:29 25 appropriately completed and submitted as they ought to  
13:38:32 26 be?---Yes.  
13:38:32 27  
13:39:05 28 One of the responsibilities of the controller was to ensure  
13:39:12 29 that the Acknowledgement of Responsibility form was  
13:39:15 30 completed, do you accept that?---Yes.  
13:39:18 31  
13:39:21 32 Now, I think we've asked you about this before, the  
13:39:25 33 Acknowledgement of Responsibility form at that stage you've  
13:39:28 34 said was in a fairly primitive state, it contained a number  
13:39:32 35 of questions focusing upon non-commission of criminal  
13:39:38 36 activities by and large?---Yes.  
13:39:41 37  
13:39:41 38 Essentially it's an important document but in the early  
13:39:46 39 stages, and at the stage that Ms Gobbo was initially  
13:39:48 40 engaged, you felt that it didn't have any great application  
13:39:53 41 to her because as far as you were concerned she wasn't the  
13:39:57 42 usual informer?---Yeah, that's correct. It's also - - -  
13:40:03 43  
13:40:03 44 Go on?---As you're aware - I don't think I can say what I  
13:40:12 45 was going to say.  
13:40:14 46  
13:40:14 47 All right, all right. But as a general proposition it is

13:40:18 1 fundamentally important to ensure that sources are aware of  
13:40:24 2 the boundaries, what they can and can't do?---Yes.  
13:40:28 3  
13:40:30 4 In the case of a lawyer, certainly you would accept now  
13:40:32 5 that what a lawyer could not do would be to provide LPP  
13:40:40 6 information?---Well, I certainly would say that now and I  
13:40:43 7 said it then numerous times to her.  
13:40:46 8  
13:40:46 9 I understand that. It would have been worthwhile having  
13:40:49 10 that in a written document?---It is recorded for posterity,  
13:40:56 11 which was allowable as per policy.  
13:41:00 12  
13:41:01 13 Equally it would have been useful, perhaps with the benefit  
13:41:04 14 of hindsight, to have a section which said she could not  
13:41:09 15 provide information about people for whom she had acted or  
13:41:13 16 was going to act or might act in the future?---I think with  
13:41:21 17 the benefit of hindsight, and I don't know how that form  
13:41:25 18 exists today, but it was quite a limited form and I think  
13:41:33 19 it would have been definitely beneficial to have been able  
13:41:39 20 to add any sort of parameters that were relevant on to that  
13:41:45 21 form and have it acknowledged, yes.  
13:41:47 22  
13:41:47 23 I mean the reality is it would be important to have a  
13:41:50 24 document which was flexible and could be adjusted to meet  
13:41:53 25 the needs of a particular human source?---Yes.  
13:41:56 26  
13:41:57 27 And the sort of information that they were  
13:42:00 28 providing?---Yes.  
13:42:00 29  
13:42:01 30 And certainly that's what you would suggest should occur in  
13:42:04 31 any, certainly going forward that's what you would suggest  
13:42:07 32 I take it?---Absolutely.  
13:42:09 33  
13:42:13 34 The OIC had responsibilities and the OIC was responsible  
13:42:19 35 for the supervision of the handler and the controller, this  
13:42:22 36 is at 13, including to provide advice and guidance to the  
13:42:25 37 handler and the controller and evaluate information to be  
13:42:28 38 forwarded to the local informer registry and to act as a  
13:42:33 39 point of contact between the LIR and the handler and  
13:42:37 40 controller. Those were the guidelines at that stage?---Can  
13:42:42 41 I point out the LIR is the Local Informer Registrar.  
13:42:46 42  
13:42:46 43 Yes?---It's an individual, not an office.  
13:42:49 44  
13:42:49 45 Yes, I follow that. I follow that. In this case how  
13:42:59 46 frequently would you have spoken to the Officer-in-charge  
13:43:01 47 of you in the period, say, from September of 2005 through

13:43:06 1 to April of 2006?---I'd only be guessing, Mr Winneke. As I  
13:43:20 2 said, he was in charge of the Human Source Management Unit  
13:43:28 3 and definitely spent a lot more time there than he did at  
13:43:32 4 the SDU.  
13:43:33 5  
13:43:34 6 At that stage were you located in the same building?---I  
13:43:38 7 think so.  
13:43:39 8  
13:43:43 9 If you needed him could you go and speak to him?---Yes.  
13:43:46 10  
13:43:53 11 In practical terms what did the evaluation of information  
13:43:59 12 to be forwarded to the LIR involve at that time?---That  
13:44:07 13 would have, I think that would relate to the registration  
13:44:12 14 form, the initial form, and to the risk assessment or any  
13:44:16 15 risk assessment certainly prepared.  
13:44:20 16  
13:44:23 17 Only those documents?---I think so. He may have seen the  
13:44:39 18 profile that might have been attached to the registration  
13:44:42 19 form but I can't think of any other document that he would  
13:44:46 20 see unless he chose to search it out.  
13:44:49 21  
13:44:50 22 I know you say you can't recall looking back now, but are  
13:44:55 23 you able to provide an educated view to this court as to  
13:45:02 24 what - sorry, this Commission - as to what exactly the  
13:45:07 25 oversight and guidance that he might have provided to you,  
13:45:14 26 what form would that have taken?---Well look, I can't  
13:45:23 27 remember. If there were issues with the paperwork  
13:45:25 28 obviously he would get back to me about that and raise his  
13:45:28 29 concerns and we would have a discussion about it. I'm not  
13:45:36 30 quite sure what you're asking.  
13:45:37 31  
13:45:37 32 I mean what was the content of his advice and guidance as a  
13:45:42 33 general proposition. That's what I'm asking. Did you  
13:45:47 34 discuss, for example, the risk assessment that was prepared  
13:45:50 35 in November of 2005?---We probably did. I can't recall it,  
13:45:55 36 but we probably did.  
13:45:56 37  
13:45:56 38 As a matter of probabilities you would have?---Yes.  
13:45:59 39  
13:46:01 40 The Local Informer Registrar, the LIR, the responsibilities  
13:46:06 41 are set out there. They speak for themselves, I don't need  
13:46:12 42 to go into those. But as far as you were concerned did  
13:46:16 43 that person have any practical oversight or  
13:46:20 44 responsibilities to assess whether or not the registration  
13:46:26 45 of Ms Gobbo was appropriate?---So I think what happened in  
13:46:35 46 relation to the policy surrounding the reporting lines of  
13:46:39 47 the SDU, or then the DSU, was that the - because of the

13:46:46 1 high risk nature of all the sources at the SDU our LSR was  
13:46:54 2 actually the CSR, so in order to try and break this down  
13:46:59 3 and give you some clarity, the Officer-in-charge was  
13:47:07 4 Inspector Doug Calishaw and he probably performed the LSR  
13:47:15 5 role as well and then from him the relevant paperwork would  
13:47:23 6 go to the Central Source Registrar, the CSR, and that, I  
13:47:28 7 believe, was Acting Commander Thomas.  
13:47:35 8  
13:47:36 9 Right. Go on, go on?---And I have to say to you I'm not  
13:47:41 10 100 per cent sure of this but in any event the CS - because  
13:47:46 11 of the high risk, the reporting chain was one rank higher  
13:47:50 12 for the source unit than it was for the general Police  
13:47:54 13 Force.  
13:47:54 14  
13:47:55 15 Okay?---The Central Source Registrar would see the  
13:47:58 16 registration application and whatever documents were  
13:48:00 17 attached to that such as profiles, and he would see the  
13:48:06 18 risk assessment. And I think I said to you yesterday I  
13:48:09 19 wasn't sure when her official registration started but  
13:48:13 20 policy requires that nobody's officially registered until  
13:48:19 21 the Central Source Registrar has accepted the risk  
13:48:22 22 assessment of - I'm only talking about the SDU here.  
13:48:27 23  
13:48:27 24 Yes?---So he accepts the risk on behalf of Victoria Police  
13:48:30 25 and then there's an active registration from there.  
13:48:33 26  
13:48:34 27 What I'm trying to establish is this: who would you say  
13:48:38 28 would bear the ultimate responsibility for the registration  
13:48:42 29 of Ms Gobbo?---It would have to be the Central Source  
13:48:48 30 Registrar.  
13:48:48 31  
13:48:48 32 In this case Acting Commander Thomas?---As I said, I can't  
13:48:54 33 be 100 per cent sure about this, it may well have been  
13:48:59 34 that, just thinking about this, Mr Thomas might have been  
13:49:04 35 the LSR and then the next level up, which I think would  
13:49:08 36 have been Commander Danye Moloney, he might have been the  
13:49:11 37 Central Source Registrar. I fear I'm confusing you here  
13:49:16 38 and the answers will be on the record held by HSMU as to  
13:49:22 39 who held what role.  
13:49:23 40  
13:49:23 41 But ultimately what you're saying is whoever it was who was  
13:49:27 42 the Central Source Registrar, the person who ultimately  
13:49:30 43 signs off on it, that person would be ultimately  
13:49:33 44 responsible for the decision to register Ms Gobbo?---Yes.  
13:49:36 45  
13:49:38 46 Now of course they would be reliant upon information  
13:49:42 47 provided upstream from the people who are underneath them,

13:49:48 1 I assume?---Yes.  
13:49:49 2  
13:50:06 3 There's a section which is entitled "initial process where  
13:50:13 4 potential informer is identified", do you see that point at  
13:50:23 5 21?---Yes.  
13:50:24 6  
13:50:27 7 And if the potential informer - just excuse me. It says:  
13:50:35 8 "Where a member has been identified, a person they believe  
13:50:40 9 meets the requirements of registration as an informer the  
13:50:42 10 member must carry out certain things and the member must  
13:50:45 11 conduct the initial assessment". Does this apply to the  
13:50:49 12 SDU or are there different processes?---No, it applies  
13:50:54 13 equally to the SDU.  
13:50:55 14  
13:50:56 15 So these matters, risk to informer, risk to information,  
13:51:02 16 risk to handler, risk to Victoria Police, risk to public,  
13:51:06 17 those are the matters which needed to be considered?---Yes.  
13:51:09 18  
13:51:09 19 And which section do you think would have applied to the  
13:51:13 20 risk to the criminal justice system, would that fall into  
13:51:17 21 any of those categories?---Probably in hindsight I think it  
13:51:28 22 would apply to the risk to Victoria Police and the  
13:51:31 23 reputation of Victoria Police.  
13:51:32 24  
13:51:33 25 And perhaps the risk to the public, impact on the  
13:51:38 26 community, harm to public, confidence issues, perhaps  
13:51:41 27 confidence in the criminal justice system and so  
13:51:43 28 forth?---Yes.  
13:51:43 29  
13:51:44 30 Clearly those sorts of issues, like the [REDACTED] I've been  
13:51:47 31 talking about before, should have been included I take it  
13:51:50 32 in this sort of policy guideline, shouldn't it?---Yes.  
13:51:56 33  
13:51:58 34 Then the initial process sets out various responsibilities  
13:52:05 35 of various people, including the IMU, responsibilities of  
13:52:10 36 the Officer-in-charge and it talks about, point 25, if we  
13:52:17 37 go down, this is the process of registration. It talks  
13:52:21 38 about the responsibilities of various participants. OIC at  
13:52:26 39 25, evaluate any identified risks. Consider potential  
13:52:30 40 risks. Risk management strategies, et cetera. Duty of  
13:52:36 41 care issues, those sorts of things are set out. So the  
13:52:38 42 Officer-in-charge certainly had a responsibility to  
13:52:41 43 evaluate identified risks?---Yes.  
13:52:46 44  
13:52:46 45 And consider potential risk. So that in your case would be  
13:52:50 46 Mr Calishaw?---Yes.  
13:52:52 47

13:52:53 1 "Once the OIC is satisfied that the informer is to be  
13:52:56 2 registered they must deliver the following documents in  
13:53:01 3 accordance with the relevant security classification to the  
13:53:04 4 LIR and they're the informer registration activation  
13:53:10 5 application, identity documents and any other supporting  
13:53:13 6 documents", do you see that?---Yes.  
13:53:16 7  
13:53:20 8 Was it necessary prior to registration for there to be a  
13:53:25 9 risk assessment completed?---Yes.  
13:53:29 10  
13:53:30 11 And so if the risk assessment in this case was, I think it  
13:53:34 12 was in October of 2005, can we assume therefore that  
13:53:37 13 Ms Gobbo wouldn't have been, indeed November I think it  
13:53:41 14 was, she wouldn't have been registered before that  
13:53:44 15 time?---Not officially.  
13:53:45 16  
13:53:45 17 Not officially, no, okay. Do you believe that it was  
13:53:55 18 appropriate to be receiving information or tasking her  
13:53:59 19 prior to official registration?---The receiving of  
13:54:04 20 information is unavoidable and certainly as part of the  
13:54:08 21 assessment process there will always be information that  
13:54:11 22 will be received. I don't believe tasking should occur  
13:54:17 23 before registration.  
13:54:20 24  
13:54:23 25 Do you know whether she was tasked before  
13:54:28 26 registration?---No.  
13:54:28 27  
13:54:35 28 At least the tick box forms of the ICR suggest she was  
13:54:41 29 tasked at least in early October 2005, and indeed from  
13:54:53 30 September and October it appears that she was tasked. So  
13:54:57 31 that might suggest that there was a breakdown in the  
13:55:00 32 process if that's the case?---You would have to look at the  
13:55:07 33 contact report and identify the taskings before - I  
13:55:13 34 wouldn't rely on that box and I think the, the term tasking  
13:55:18 35 in the early days was a little bit misunderstood and it  
13:55:21 36 certainly wasn't as black and white as it became over time.  
13:55:26 37  
13:55:26 38 All right?---Tasking may be just to keep your eyes and ears  
13:55:33 39 open which you can argue that's not really tasking.  
13:55:35 40  
13:55:35 41 There does seem to be a degree of flexibility about this  
13:55:39 42 process, at least there was in those days, do you accept  
13:55:41 43 that proposition?---I do, and you appreciate that that was  
13:55:45 44 right at the commencement of a whole lot of new processes  
13:55:49 45 around trying to make source management more accountable  
13:55:52 46 and things were being created on the run.  
13:55:56 47

13:55:56 1 I follow that. Then there's the responsibilities of a  
13:56:01 2 Local Informer Registrar and they set out also the  
13:56:06 3 requirement to evaluate any identified risks, assess the  
13:56:10 4 suitability of the informer, consider potential risks and  
13:56:14 5 risk management strategies, et cetera. Those are clear  
13:56:19 6 responsibilities that are set out in that case. Now, do  
13:56:25 7 you say really this policy doesn't contain what was the  
13:56:31 8 case because you say it was the Central Source Registrar  
13:56:35 9 who was the person responsible ultimately for the  
13:56:37 10 registration?---Yes, but the Local Informer Registrar also  
13:56:46 11 has responsibility to be satisfied that the risk assessment  
13:56:51 12 is correct.  
13:56:53 13  
13:56:53 14 Okay?---So we didn't just leap from the OIC to the Central  
13:57:00 15 Source Registrar. It went the OIC, the LIR and then the  
13:57:03 16 CSR.  
13:57:03 17  
13:57:04 18 The reality is there was a system of oversight that was in  
13:57:08 19 place but that system of oversight that was in place, with  
13:57:13 20 the benefit of hindsight didn't pick up the risk that was  
13:57:16 21 existent here?---No, and there was also the fact that the  
13:57:24 22 Human Source Management Unit, they receive every  
13:57:28 23 registration and every risk assessment and all the other  
13:57:31 24 documents. They're also in a position to quality control  
13:57:36 25 all the documents. So that risk that Ms Gobbo would talk  
13:57:43 26 about information that was privileged was not identified by  
13:57:49 27 anybody and I don't think we ever thought for a minute she  
13:57:52 28 would ever do that.  
13:57:53 29  
13:57:53 30 In any event, do you think all of these people upstream  
13:57:57 31 from you would have been aware that she was a  
13:58:01 32 lawyer?---Yes.  
13:58:01 33  
13:58:05 34 Then there is a notation, at least there's references to  
13:58:11 35 request for informer assistance, so that's the initiating  
13:58:14 36 process, right. And then if we go to 48, responsibilities  
13:58:22 37 of the IMU, LIR, OIC, and these do you say were policies  
13:58:31 38 which were in place at the time?---I'm sorry, you've lost  
13:58:41 39 me, 48, are we looking at - - -  
13:58:43 40  
13:58:44 41 48, responsibilities of the IMU.  
13:58:48 42  
13:58:49 43 COMMISSIONER: It seems to have been redacted.  
13:58:54 44  
13:58:58 45 MR WINNEKE: No, it seems there's a blackout on that.  
13:59:02 46  
13:59:02 47 COMMISSIONER: Yes.




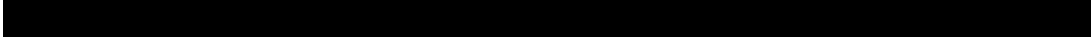
13:59:03 1  
13:59:03 2 MR WINNEKE: Yes, okay. If I can go to paragraph 82, audit  
13:59:24 3 and compliance?---Yes.  
13:59:35 4  
13:59:36 5 What was your understanding of the auditing process in  
13:59:42 6 2005, 2006 with respect to a human source managed by the  
13:59:50 7 SDU?---Well the informer management file, which was  
13:59:58 8 retained by the Human Source Management Unit, I think the  
14:00:03 9 audit process required, sorry, the policy required that  
14:00:08 10 each file be reviewed monthly.  
14:00:15 11  
14:00:15 12 By whom?---I think it was the LSR.  
14:00:26 13  
14:00:26 14 Certainly it had to be reviewed by you: "A monthly review  
14:00:29 15 of the informer relationship and the information provided  
14:00:32 16 must be conducted by the designated controller. Such a  
14:00:36 17 review to ensure all IRs are attached to the file and such  
14:00:42 18 a review and any recommendations to be endorsed on the  
14:00:42 19 informer management file"?---That's right.  
14:00:45 20  
14:01:08 21 "LIR conduct quarterly inspections review of all  
14:01:08 22 IMFs"?---Yes.  
23  
14:01:08 24 Do you know whether quarterly inspections of Ms Gobbo's  
14:01:08 25 IMFs were conducted?---I presume they were. That will be  
14:01:12 26 documented on the actual file which HMSU held.  
27  
14:01:18 28 In what form did that order take place or that inspection  
14:01:21 29 review take place?---I'm not sure, I think his role was the  
14:01:32 30 LIR. I'd only be guessing, Mr Winneke.  
14:01:36 31  
14:01:37 32 Did the LIR come to your premises and pick up your files  
14:01:44 33 and physically go through them, or how did it take place?  
14:01:46 34 What was the - - - ?---I know that - I can't recall the LIR  
14:01:50 35 specifically doing that. He certainly had access to all  
14:01:53 36 the records because they were held at HMSU and he was the  
14:01:57 37 officer-in-charge there.  
38  
14:01:59 39 Right?---But I do know Superintendent Biggin at one point  
14:02:05 40 was asked to do an independent review of the file.  
41  
14:02:08 42 Do you know - - - ?---That was outside - - -  
43  
14:02:12 44 Sorry, go on?---That was outside - so Superintendent Biggin  
14:02:17 45 was not part of the command chain at that particular point  
14:02:20 46 in time and I know that the CSR, I think, which was  
14:02:26 47 Superintendent Mark Porter, asked him to do an independent

14:02:29 1 review and he did actually come to our premises and look at  
14:02:34 2 the files and talk to myself and the handlers.  
3  
14:02:43 4 Do you know why it came about that he asked for the review  
14:02:47 5 to be carried out?---No.  
6  
14:02:53 7 Do you understand that he asked for an independent review  
14:02:56 8 to be carried out?---Yes.  
9  
14:03:01 10 It could scarcely be said that Mr Biggin was an independent  
14:03:05 11 reviewer because he was part of the investigative team,  
14:03:08 12 wasn't he?---No.  
13  
14:03:12 14 Mr Biggin was involved in the MDID initially, wasn't  
14:03:20 15 he?---Yes.  
16  
14:03:21 17 Do you know whether Mr Biggin was aware that Ms Gobbo was  
14:03:29 18 the human source providing significant information in  
14:03:32 19 relation to the investigation, investigation Posse?---I'm  
14:03:38 20 not sure when Mr Biggin found out. It was some time after  
14:03:43 21 we had her registered.  
22  
14:03:46 23 Did you have any discussions with Mr Biggin prior to his  
14:03:48 24 review?---Not that I recall and there's no notation of that  
14:03:55 25 in my diary.  
26  
14:03:58 27 Were you present when Mr Biggin came in and conducted the  
14:04:01 28 review?---Yes, I think I was.  
29  
14:04:07 30 Did he express any concern to you about the fact that  
14:04:11 31 Ms Gobbo was an informer providing information about people  
14:04:15 32 for whom she was acting?---Not that I can recall.  
33  
14:04:22 34 Would you have raised this issue with him?---I may well  
14:04:32 35 have.  
36  
14:04:33 37 I assume you would have raised with him the particular  
14:04:36 38 concern that you had about Ms Gobbo defying you and  
14:04:42 39 advising, or at least attempting to advise Person [REDACTED] on his  
14:04:46 40 arrest, you would have advised him of that I take it?---I  
14:04:51 41 may have, Mr Winneke, but I don't have a recollection of  
14:04:54 42 that.  
43  
14:04:54 44 Would you be able to say in all probability you would have  
14:04:57 45 if it was something that concerned you sufficiently to  
14:05:00 46 consider arresting her?---I just have no recollection.  
47

14:05:03 1 You're not even prepared to say as a matter of probability  
14:05:08 2 you would have told him about that?---It would be a guess,  
14:05:11 3 Mr Winneke.  
4  
14:05:12 5 Are you able to make an educated guess?---I know - you seem  
14:05:15 6 to want me to, you seem determined to want me to say that.  
14:05:19 7 I would just be guessing. I might have, I might not have.  
8  
14:05:22 9 But you see, what you say is you were sufficiently  
14:05:25 10 concerned, one, to talk about it to Mr O'Brien beforehand,  
14:05:30 11 and then when it did occur, despite your desire that it not  
14:05:36 12 occur, you actually considered arresting her. It just  
14:05:39 13 seems unbelievable that you wouldn't have raised it with  
14:05:42 14 Mr Biggin who came along to have a look at her file in  
14:05:45 15 particular?---What was the date that he had a look at the  
14:05:47 16 file?  
17  
14:05:48 18 Just excuse me. [REDACTED]. It had only just  
14:05:53 19 occurred?---The incident with [REDACTED] Person?  
20  
14:05:57 21 Yes?---In that case I think I probably would have told him,  
14:06:02 22 absolutely.  
23  
14:06:07 24 The SOP is the document that you had a particular  
14:06:09 25 involvement in in setting up, in effect, the guidelines  
14:06:18 26 which your unit operated under; is that right?---Yes, it  
14:06:21 27 is.  
28  
14:06:35 29 That document, I take it, you put together using the  
14:06:42 30 assistance of the documents that you had obtained,  
14:06:44 31 including the [REDACTED] that we've spoken about this morning;  
14:06:51 32 is that correct?---Yes.  
33  
14:07:06 34 It sets out - have you got the document in front of  
14:07:09 35 you?---We're just trying to access it now.  
36  
14:07:15 37 IBAC.0 - oh yes, there it is?---Are you able to give us a  
14:07:25 38 number, please?  
39  
14:07:26 40 Yes, certainly. IBAC.0010.0001.0689?---I have it now in  
14:07:39 41 front of me. It's come up on the computer monitor. It  
14:07:45 42 must be working again.  
43  
14:07:46 44 That's good, okay. There's a Charter there which sets out  
14:07:56 45 the Charter of the DSU and the idea was that it provide a  
14:08:02 46 secure and ethical environment for the cultivation,  
14:08:06 47 recruitment, operational management of human source and

14:08:10 1 intelligence.  
2  
14:08:33 3 COMMISSIONER: I don't think this document's been tendered  
14:08:36 4 yet. Did you want to tender it?  
5  
14:08:38 6 MR WINNEKE: I tender it, Commissioner.  
7  
14:08:39 8 COMMISSIONER: Right.  
9  
14:08:42 10 MR WINNEKE: If I haven't tendered the Chief Commissioner's  
14:08:47 11 instruction I tender that as well.  
12  
14:08:49 13 COMMISSIONER: We'll just check if that's tendered. This  
14:08:52 14 document, the Dedicated Source Unit standard operating  
14:08:57 15 procedures will be Exhibit 299.  
16  
14:08:59 17 #EXHIBIT 299A - (Confidential) Dedicated Source Unit  
14:08:56 18 Standard operating procedures.  
19  
14:09:04 20 #EXHIBIT 299B - Redacted version.  
21  
14:09:42 22 MR WINNEKE: The document sets out - in fact it makes a  
14:09:46 23 couple of references to integrity and ethics and so forth,  
14:09:51 24 indeed it's got an introduction, talks about the - if we go  
14:09:56 25 to p.7, potential lack of integrity, the use of sources,  
14:10:01 26 possibly the highest risk area, et cetera. You were keen  
14:10:04 27 to ensure that there was references to ethics and integrity  
14:10:08 28 and the importance of those values in your document,  
14:10:13 29 correct?---Correct.  
30  
14:10:21 31 Then it says on p.8: "In order to preserve the  
14:10:34 32 confidentiality of the human source and the integrity of  
14:10:36 33 any resulting investigations handlers must not have direct  
14:10:39 34 involvement in the actioning of intelligence", correct?---I  
14:10:47 35 can't see that. I'm on the first half of that page by the  
14:10:50 36 look of it.  
37  
14:10:52 38 About where that red sticker is?---Oh, sorry. "Handlers  
14:11:01 39 must not have direct involvement", yes.  
40  
14:11:04 41 Okay. It says: "When considering whether the DSU will  
14:11:14 42 manage a particular relationship the member of the DSU will  
14:11:18 43 in all cases complete a risk assessment considering the  
44 following questions: Is the source strategically and  
14:11:20 45 technically viable, high risk, high value?", those matters  
14:11:24 46 are set out?---Yes.  
47

14:11:29 1 Effectively what this is, is a policy set up in accordance  
14:11:34 2 with the Chief Commissioner's orders; is that right?---Yes.  
14:11:41 3 So the Chief Commissioner's orders - well, they're an  
14:11:46 4 interim policy, if you like, until its incorporated as  
14:11:51 5 permanent policy. This document is a lesser document that  
14:11:57 6 focuses primarily on the risk. The risk is for the unit  
14:12:02 7 and also how it operates on a day-to-day basis. It's not  
14:12:08 8 policy per se. It's something subordinate to policy I  
14:12:13 9 guess.  
10  
14:12:14 11 There are definitions, including information, which sets  
14:12:16 12 out that information is any document, text, image, footage,  
14:12:21 13 sound, et cetera. That's a difference concept to  
14:12:23 14 intelligence though, isn't it?---Can I just be shown that  
14:12:41 15 definition?  
16  
14:12:42 17 Yes?---Sorry, your question was is that a separate concept  
14:12:45 18 to intelligence?  
19  
14:12:46 20 To intelligence, yes. Isn't intelligence something - you  
14:12:50 21 receive a lot of information but the idea is to process  
14:12:52 22 that information and to disseminate the intelligence that  
14:12:56 23 you get from that information?---That's right.  
24  
14:12:59 25 If it's corroborated and if it's felt to be useful and  
14:13:03 26 valid information?---That's right.  
27  
14:13:08 28 It is disseminated as intelligence. It's a different  
14:13:11 29 concept I suggest?---I follow your explanation and I think  
14:13:17 30 that's right. It's unfortunate that the organisation  
14:13:23 31 disseminates intelligence on what's called an information  
14:13:28 32 report.  
33  
14:13:29 34 Then it sets out the various roles of the people involved.  
14:13:33 35 Your role is set out or was set out at p.11, correct? The  
14:13:44 36 role of the [REDACTED] that will be responsible for  
14:13:48 37 the day-to-day management of the DSU as well as performing  
14:13:53 38 the duties as a controller, right?---Yes.  
39  
14:13:55 40 Then it says refer to p.36. If we can go to p.36 we see  
14:13:59 41 what your responsibilities are. Those responsibilities are  
14:14:19 42 to actively and intrusively supervise the informer/handler  
14:14:24 43 relationship?---I'm not on that page yet.  
44  
14:14:28 45 It starts at 35 and goes over to 36?---Yes.  
46  
14:14:37 47 In effect what those responsibilities set out there are

14:14:40 1 more or less in the same form as the guideline that the  
14:14:47 2 Chief Commissioner promulgated?---They should be, yes.  
3  
14:14:51 4 Similar. Insofar as the ethical obligations of the  
14:15:05 5 controller are concerned, and indeed any member of Victoria  
14:15:08 6 Police but in particular the controller in this sort of  
14:15:14 7 organisation, as I understand it Victoria Police had for  
14:15:20 8 quite some time issued a simple directive with respect to  
14:15:26 9 ensuring that police officers did the right things on all  
14:15:29 10 occasions. So faced with any decision making process of  
14:15:36 11 some significance they were to ask themselves what was  
14:15:39 12 known as a self-test, do you understand that?---I recall  
14:15:45 13 the self-test, I can't remember exactly what it stands for  
14:15:52 14 now.  
15  
14:15:53 16 As I understand it it's an acronym. The idea was that any  
14:15:59 17 decision had to withstand scrutiny, it had to be ethical,  
14:16:03 18 it had to be lawful and it had to be fair?---Yes.  
19  
14:16:08 20 Do you understand that's a fairly universal test that  
14:16:10 21 applies to policing authorities but it certainly applied to  
14:16:15 22 police officers in 2005, do you accept that?---Yes, I do.  
23  
14:16:21 24 And is that something which was drummed into all police  
14:16:27 25 officers who carried out policing duties?---Yes, it was.  
26  
14:16:36 27 What I want to do is ask you about - just excuse me - the  
14:16:50 28 question of legal professional privilege, claiming  
14:16:55 29 privilege. This is at p.40. In the policy document that  
14:17:12 30 you established it says: "The claim of privilege relating  
14:17:15 31 to informers is based on public interest immunity, i.e. it  
14:17:19 32 would not be in the public interest to disclose such  
14:17:22 33 details as an informer's life or well-being may be  
14:17:30 34 jeopardised. Additionally, it is not in the public  
14:17:32 35 interest that police sources of the information for the  
14:17:35 36 (indistinct) dry up if informer's identities are disclosed.  
14:17:40 37 The public interest must be weighed against the public  
14:17:44 38 interest in the right of an accused to have fair trial".  
14:17:49 39   
14:17:54 40 ,  
14:18:00 41 but it does find its way into your guideline and that's the  
14:18:04 42 extent to which it does, I suggest?---Yes.  
43  
14:18:06 44 Right. "The courts have determined that the identity of an  
14:18:11 45 informer or any other issue upon which privilege is being  
14:18:15 46 claimed may be disclosed only where it is shown that  
14:18:17 47 disclosure will enable the innocence of an accused to be

14:18:20 1 demonstrated. This does not mean however that members have  
14:18:23 2 an automatic right to refuse to disclose the identity of an  
14:18:30 3 informer or claim privilege on any other issue. Members  
14:18:31 4 being questioned in regards to informer issues should  
14:18:35 5 respond initially by indicating that as a matter of" - - -  
14:18:40 6 ?---Can I - - -  
7  
14:18:41 8 Yes. I'm reading from a document which has been redacted,  
14:18:46 9 Mr White, if you're concerned about that. Is that what  
14:18:49 10 your concern is?  
11  
14:18:57 12 COMMISSIONER: Sorry, Mr White, can you hear Mr Winneke's  
14:19:00 13 question?---I can, Commissioner, but I would have thought  
14:19:06 14 this was subject to PII.  
15  
14:19:10 16 MR WINNEKE: Well it has been, Mr White?---I'm sorry, were  
14:19:17 17 you reading out the paragraph in quotation marks?  
18  
14:19:21 19 Yes?---I thought that would be PII.  
20  
14:19:23 20  
14:19:24 21 MR HOLT: Commissioner, I've got an appropriate person who  
14:19:26 22 can check quickly. It is a document that was reviewed but  
14:19:30 23 at relatively short notice. Just to ensure that the  
14:19:35 24 witness isn't uncomfortable we'll review it quickly. And  
14:19:35 25 that evidence has previously been given. There's no  
14:19:38 26 difficulty with it from Victoria Police's perspective from  
14:19:42 27 a PII aspect.  
28  
14:19:46 29 COMMISSIONER: So it's okay to answer the question?---Thank  
14:19:48 30 you, Commissioner. Yes, sorry, Mr Winneke, could you ask  
14:19:49 31 it again.  
32  
14:19:49 32  
14:19:51 33 MR WINNEKE: Effectively the position is it's not a confirm  
14:19:53 34 or deny?---Yes.  
35  
14:19:54 36 And should this be insufficient the court directs the  
14:19:57 37 witness to answer the questions, and then the matter should  
14:20:00 38 be stood down in order to obtain legal advice?---Yes.  
39  
14:20:06 40 In this case the member should contact the  
14:20:08 41 officer-in-charge of the DSU immediately and seek advice,  
14:20:12 42 right?---Yes.  
43  
14:20:14 44 What that seems to suggest is that it's the  
14:20:17 45 officer-in-charge of the DSU who would have  
14:20:21 46 responsibilities with respect to public interest  
14:20:28 47 immunity?---Well what would happen in that particular case

14:20:30 1 is that the officer-in-charge would contact the Human  
14:20:37 2 Source Management Unit and bring it to their attention.  
14:20:39 3 Then they would take over.  
4  
14:20:41 5 Why wouldn't it simply say that the person should contact  
14:20:45 6 directly the person who's relevant, why contact the  
14:20:49 7 officer-in-charge of DSU?---I think it would be highly  
14:20:53 8 relevant to the officer-in-charge of the DSU as it would  
14:20:56 9 have been one of the sources under the management of the  
14:21:00 10 DSU. It's a line of command issue.  
11  
14:21:04 12 And then, "The member should contact the officer-in-charge  
14:21:05 13 of the DSU immediately and seek advice"?---Yes.  
14  
14:21:07 15 What you say what that policy really means is contact the  
14:21:10 16 DSU and seek advice not from the officer-in-charge, but the  
14:21:14 17 DSU would refer you to the HMSU?---Well the DSU wouldn't  
14:21:20 18 refer you, the officer-in-charge would then talk to the  
14:21:23 19 HMSU about it.  
20  
14:21:26 21 Right?---It's just a line of command process, Mr Winneke.  
22  
14:21:28 23 What that suggests is that you have an intimate involvement  
14:21:32 24 in any claim of public interest immunity?---I certainly  
14:21:36 25 have an awareness of it, yes. I don't have responsibility  
14:21:39 26 for how it's handled.  
27  
14:21:41 28 You may not have ultimate responsibility but if there is a  
14:21:44 29 claim in relation to a particular person you must be  
14:21:47 30 involved and you must have a discussion with, you say, the  
14:21:51 31 HMSU?---I'm not sure I'm following. You do understand that  
14:21:57 32 this paragraph you're reading is referring to the members  
14:22:02 33 under my command and to sources that are under our control.  
34  
14:22:07 35 Well is it the case - - - ?---If there was an issue about  
14:22:11 36 that that had been brought to their attention, then they  
14:22:17 37 would come and tell me and then I would then refer it on to  
14:22:19 38 the HMSU. That's what that is saying.  
39  
14:22:22 40 So it is the case - would it be that members of the DSU/SDU  
14:22:27 41 would be called to give evidence?---No, no. Bear in mind  
14:22:29 42 this policy was written before it was established. You're  
14:22:33 43 reading the very first piece of policy about the union.  
44  
14:22:40 45 Then it says: "Members must carefully consider the  
14:22:42 46 evidence they will give prior to being cross-examined.  
14:22:46 47 Members must also be aware of where the cross-examination



14:22:50 1 is heading and attempt to forestall cross-examination on  
14:22:55 2 the identity of the informer before the member is  
14:22:58 3 confronted with the direct question". What do you mean by  
14:23:03 4 "attempt to forestall cross-examination"?---What used to  
14:23:06 5 happen, and bear in mind, as I said, this was written  
14:23:11 6 before the unit was up and running and I don't think any  
14:23:15 7 source handler appeared in court once the unit was up and  
14:23:20 8 running, so it may have been written thinking that perhaps  
14:23:26 9 the source handlers were going to be involved in evidence,  
14:23:31 10 which is not the case. But in any event what used to  
14:23:34 11 happen was defence counsel would often cross-examine police  
14:23:37 12 witnesses incrementally, getting them to the point where  
14:23:42 13 the question would arise, "Was an informer involved in this  
14:23:48 14 investigation" and the members would not see that coming  
14:23:53 15 and so what this is trying to say is to be aware of that  
14:23:57 16 fact, that these sorts of questions can come along and you  
14:24:00 17 will find yourself in a position where you have to confirm,  
14:24:04 18 sorry, where you're asked specifically, "Was an informer  
14:24:08 19 involved?" Of course what would happen at that point is  
14:24:11 20 the policeman would then say, "I have to claim privilege in  
14:24:18 21 relation to that", or PII, sorry, which is exactly the same  
14:24:22 22 as saying, "There was an informer". And so this might be  
14:24:27 23 clumsily worded but that was really what the intent of it  
14:24:30 24 was.

25  
14:24:31 26 Well, it may well be that this policy developed - this is a  
14:24:38 27 policy which is updated in 2004. Do you say that this  
14:25:05 28 policy developed and changed over time and so in later  
14:25:09 29 times there was a different iteration of this policy which  
14:25:13 30 wouldn't have contained these instructions?---Oh, I would  
14:25:16 31 think - I can't guarantee you that that was changed. I  
14:25:20 32 think it should have changed because there was no  
14:25:23 33 expectation the source handlers would be giving evidence.  
14:25:26 34 So it should have changed.

35  
14:25:28 36 What about this provision: "It's imperative that in all  
14:25:36 37 cases where an informer was involved advice should be  
38 sought from the prosecutor well in advance of that member  
14:25:38 39 giving evidence. This will give the prosecutor an  
14:25:41 40 opportunity to object to a particular line of questioning  
14:25:43 41 and will also enable him or her to research and prepare  
14:25:46 42 submissions for use in legal argument that may develop"?  
14:25:52 43 What about that? Is that the case where all cases where an  
14:25:56 44 informer was involved advice should be sought from the  
14:25:58 45 prosecutor well in advance of a member giving evidence?---I  
14:26:06 46 think that was the general sort of instruction at the time,  
14:26:08 47 yes. Once again, I'd like to point out that it doesn't

14:26:12 1 really apply to source handlers.  
2  
14:26:15 3 What it does say is that in all cases where an informer is  
14:26:18 4 involved advice should be sought from the  
14:26:20 5 prosecutor?---Yes.  
6  
14:26:23 7 Are you able to point to any cases involving Ms Gobbo where  
14:26:27 8 advice was sought from a prosecutor well in advance of any  
14:26:31 9 member giving evidence?---Well that's a question you'll  
14:26:35 10 need to aim at the investigators because I was not involved  
14:26:40 11 in the preparation of briefs or the giving of evidence.  
12  
14:26:43 13 COMMISSIONER: Does that mean that you're not aware of any  
14:26:45 14 cases?---Yes, Commissioner, I have no knowledge of that.  
15  
14:26:49 16 I understand, thank you.  
17  
14:26:56 18 MR WINNEKE: Can I just ask a hypothetical question then at  
14:26:58 19 this stage. As far as we know you were concerned about the  
14:27:04 20 situation that arose in the case of Person [REDACTED] and what had  
14:27:10 21 occurred, you had a gut reaction that it was simply wrong,  
14:27:16 22 okay?---Yes.  
23  
14:27:18 24 Let's just assume that you were sufficiently concerned. In  
14:27:23 25 that case an advice should be sought and potentially it  
14:27:28 26 should be disclosed to Person [REDACTED] that his barrister was in  
14:27:35 27 fact the person who had him charged, right, and you had a  
14:27:42 28 gut feeling that there was something wrong and it may well  
14:27:45 29 be that the system of justice could be possibly being  
14:27:49 30 perverted, right? Just hypothetically let's accept that as  
14:27:54 31 a proposition, okay?---Yes.  
32  
14:27:58 33 You knew that as the [REDACTED]  
34  
14:28:05 35 [REDACTED] been put into train whereby  
14:28:11 36 advice could be sought and the prosecutor could have become  
14:28:18 37 involved and a court given the opportunity to determine the  
14:28:22 38 question?---In this case it's the responsibility of the  
14:28:27 39 investigator who deals with the prosecutor. I as a  
14:28:30 40 controller and the handlers, we never had any involvement  
14:28:34 41 with prosecutors.  
42  
14:28:35 43 Okay?---Or the defence counsel.  
44  
14:28:37 45 Okay, okay. Now, what you say is, "It's not my  
14:28:40 46 responsibility"?---Yes.  
47

14:28:43 1 So despite the fact that you've got a gut feeling that you  
14:28:46 2 know something is occurring, even if you assume the  
14:28:51 3 proposition that that's the feeling that you had, you would  
14:28:55 4 have done nothing?---I think that's exactly what occurred.  
5  
14:29:03 6 So if the same thing happened today, bearing in mind the  
14:29:08 7 policy guideline or the policy structure that existed, you  
14:29:14 8 would still do nothing?---Well I think it's very clear,  
14:29:22 9 Mr Winneke, with the benefit of hindsight that there were  
14:29:27 10 failings in how we managed Ms Gobbo.  
11  
14:29:30 12 No, no, no?---And there is no way that I would do the same  
14:29:33 13 thing again in the same set of circumstances.  
14  
14:29:36 15 Mr White, please understand what I'm saying. I'm not  
14:29:39 16 suggesting - what I'm saying is just accept for the moment  
14:29:42 17 that the feeling that you had at the time was sufficient  
14:29:45 18 for you to be concerned enough to say, "Well look, I think  
14:29:48 19 there is an issue of disclosure that needs to be  
14:29:51 20 ventilated". How would you - - - ?---I don't think - I  
14:29:55 21 don't think I actively thought about disclosure.  
22  
14:29:58 23 No, no, no, you're missing the point. I'm not suggesting  
14:30:00 24 that you did. What I'm trying to establish is how if the  
14:30:04 25 system, if the processes that existed at that time operated  
14:30:07 26 properly it could have got to the stage where a court would  
14:30:11 27 have the opportunity to determine it?---Well that - - -  
28  
14:30:16 29 What I'm suggesting is would it operate this way: let's  
14:30:20 30 assume that hypothetically you were sufficiently concerned  
14:30:24 31 to think the court should be informed or the court should  
14:30:27 32 be involved in this, right?---Hypothetically.  
33  
14:30:30 34 Yeah, hypothetically. What would you do?---Hypothetically  
14:30:38 35 if I'd had that awareness I probably would have sought some  
14:30:42 36 legal advice about it.  
37  
14:30:43 38 Who would you have sought it from?---I'm not sure. I  
14:30:54 39 probably would have started with the Human Source  
14:30:57 40 Management Unit because that was their responsibility.  
41  
14:31:02 42 You might have spoken to Mr Calishaw about it?---Possibly.  
43  
14:31:08 44 What you want to do, I suspect, if you were concerned about  
14:31:12 45 it would be to have the matter raised to such an extent  
14:31:15 46 that it got to a lawyer, I assume, wouldn't  
14:31:20 47 it?---Mr Winneke, you don't understand the way the police

14:31:24 1 hierarchy works. Pretty much any concerns I've got I can't  
14:31:29 2 leap frog over my Inspector, so I would go and talk to my  
14:31:33 3 Inspector first.  
4  
14:31:34 5 Right?---He was also the manager of the Informer Management  
14:31:38 6 Unit which had total responsibility for those sorts of  
14:31:44 7 issues that might come up arising from disclosure or PII  
14:31:49 8 claims.  
9  
14:31:50 10 Right?---I know they've got their own processes for seeking  
14:31:57 11 legal advice or briefing out legal counsel. That has  
14:32:02 12 nothing to do with me.  
13  
14:32:07 14 Ultimately what you say is if you were sufficiently  
14:32:10 15 concerned about it you would have approached your immediate  
14:32:13 16 superior officer and said, "I've got real concerns about  
14:32:18 17 this, I think we should get some legal advice"?---Yes.  
18  
14:32:23 19 Would you document your concerns?---I would.  
20  
14:32:27 21 If something wasn't done about it by your immediate  
14:32:32 22 superior would you go no further?---We're really talking  
14:32:37 23 hypotheticals, aren't we?  
24  
14:32:39 25 It's a hypothetical?---So hypothetically I've got a  
14:32:45 26 concern, if it's great enough that I take to my Inspector.  
27  
14:32:49 28 Yes?---And you're saying hypothetically if your Inspector  
14:32:52 29 says, "Well, that's not an issue, forget about it", you  
14:32:56 30 would like to know whether I would then take it further  
14:32:59 31 than that?  
32  
14:33:00 33 Well could you as a police officer who exercising the  
14:33:03 34 self-test, could you go further?---There'd be nothing  
14:33:09 35 stopping me going further.  
36  
14:33:11 37 Right?---At that point I'm not gang-planking my Inspector  
14:33:16 38 by going over his head without his knowledge. If I was  
14:33:18 39 sufficiently concerned about it, once I've raised it with  
14:33:22 40 him if I was still dissatisfied I could have taken it  
14:33:25 41 further, hypothetically.  
42  
14:33:28 43 Yes, all right.  
44  
14:33:30 45 COMMISSIONER: Right. That might be good time to break for  
14:33:33 46 the day. Two things. In the short break, Mr Holt, it  
14:33:38 47 seems that I had misunderstood the position and it didn't

14:33:43 1 relate to emails, the documents that were identified in  
14:33:48 2 April, it related to other documents I think. I think  
14:33:51 3 that's the position.  
14:33:52 4  
14:33:52 5 MR HOLT: I think that is the position, Commissioner.  
6  
14:33:55 7 COMMISSIONER: That might save you some time.  
14:33:57 8  
14:33:58 9 MR HOLT: I'm grateful, thank you.  
14:33:59 10  
14:33:59 11 COMMISSIONER: The next thing is I noted on the Commission  
14:34:01 12 website that we still don't have Mr Paterson's redacted  
14:34:07 13 statement up, although it was tendered in March.  
14:34:10 14  
14:34:11 15 MR HOLT: I'm sorry, Commissioner, I'll follow that up.  
16  
14:34:13 17 COMMISSIONER: Yes. I don't know where the problem lies  
14:34:16 18 but it really should be remedied.  
14:34:18 19  
14:34:18 20 MR HOLT: I don't know where it lies either, Commissioner,  
14:34:20 21 but I'll find out.  
22  
14:34:22 23 COMMISSIONER: It was tendered in March.  
14:34:23 24  
14:34:24 25 MR HOLT: I know there have been communications but I'm  
14:34:28 26 simply not aware of the detail but I'll make myself aware  
14:34:30 27 of those, Commissioner.  
14:34:30 28  
14:34:31 29 COMMISSIONER: All right. We'll adjourn now until 10  
14:34:33 30 o'clock on Monday and hopefully the technology fairy will  
14:34:36 31 have sorted everything out by then. Yes.  
14:35:02 32  
14:35:02 33 <(THE WITNESS WITHDREW)  
14:35:08 34  
14:35:10 35 ADJOURNED UNTIL MONDAY 5 AUGUST 2019  
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