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These claims are not yet resolved.

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Tuesday, 21 January 2020

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Ms R. Enbom SC Mr S. Frauenfelder
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDPP	Mr D. Holding
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for AFP	Ms I. Minnett
Counsel for Chief Commissioner of Police	Mr A. Coleman SC Mr P. Silver
Counsel for Simon Overland	Mr J. Gleeson QC Ms C. Coleman
Counsel for Paul Mullett and Noel Ashby	Ms R. Shann

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09:42:17 1 COMMISSIONER: Yes, Mr Winneke. I'll just note your
09:42:19 2 appearance, together with Ms Tittensor and Mr Woods.
09:42:23 3
09:42:23 4 MR WINNEKE: Yes, Commissioner.
09:42:24 5
09:42:24 6 COMMISSIONER: Mr Nathwani for Ms Gobbo. Mr Coleman and
09:42:29 7 Mr Silver for Mr Ashton. Ms Enbom and Mr Frauenfelder for
09:42:37 8 Victoria Police. Mr McDermott for the State. Mr Chettle
09:42:42 9 and Ms Thies for certain SDU handlers. Ms O'Gorman for the
09:42:49 10 DPP. Mr Holding and Ms Astrid Haban-Beer for the
09:42:54 11 Commonwealth DPP. Ms Minnett for the Australian Federal
09:42:59 12 Police. Ms Shann for Paul Mullett and Noel Ashby. And
09:43:03 13 Mr Gleeson and Ms Coleman for Mr Overland, who is now in
09:43:07 14 the witness box. Of course, Mr Overland, you're still on
09:43:11 15 your oath.
09:43:12 16
09:43:13 17 <SIMON JAMES OVERLAND, recalled:
09:43:15 18
19 COMMISSIONER: Yes, Mr Winneke.
20
09:43:16 21 MR WINNEKE: Commissioner, I understand that Ms Shann has
09:43:17 22 an application to make with respect to cross-examining
09:43:19 23 Mr Overland. She's provided me with a brief outline of
09:43:24 24 areas of cross-examination and has indicated to me that she
09:43:29 25 would be no more than 15 minutes or thereabouts. I have no
09:43:35 26 objection to that, and the areas that she proposes to
09:43:39 27 examine Mr Overland on appear to be of relevance.
09:43:43 28
09:43:44 29 COMMISSIONER: I've looked at that material. So,
09:43:49 30 Ms Shann - - -
09:43:50 31
09:43:51 32 MS SHANN: Yes, thank you.
09:43:52 33
09:43:54 34 COMMISSIONER: - - - at the appropriate time, it seems you
09:43:56 35 should be given leave to cross-examine, unless anyone wants
09:44:00 36 to be heard to the contrary.
09:44:02 37
09:44:02 38 MR GLEESON: Commissioner, I don't oppose it, but could I
09:44:05 39 seek access to a copy of the list of matters that were
09:44:08 40 provided to Mr Winneke as proposed cross-examination areas,
09:44:10 41 please?
09:44:11 42
09:44:11 43 COMMISSIONER: What do you say to that, Mr Winneke?
09:44:13 44
09:44:13 45 MR WINNEKE: I'm happy to speak to Mr Gleeson about that at
09:44:16 46 an appropriate time, Commissioner. I haven't got in front
09:44:21 47 of me a list of matters, but I can discuss it with

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09:44:23 1 Mr Gleeson if he wants to.
09:44:26 2
09:44:26 3 COMMISSIONER: All right. If that's not satisfactory, I'm
09:44:28 4 sure, Mr Gleeson, you'll let me know.
5
09:44:31 6 MR GLEESON: Thanks, Commissioner.
09:44:32 7
09:44:33 8 MR WINNEKE: Commissioner - - -
09:44:33 9
09:44:33 10 COMMISSIONER: To make that clear, I then give leave to
09:44:38 11 Ms Shann to cross-examine, on that limited basis,
09:44:42 12 Mr Overland when the appropriate time comes. Thank you.
09:44:46 13
09:44:47 14 MR WINNEKE: Mr Overland has now made a supplementary
09:44:52 15 statement, Commissioner, concerning his diaries and has
09:44:59 16 provided some explanations as to the evidence - or some of
09:45:01 17 the evidence that he gave prior to Christmas. Mr Gleeson
09:45:07 18 has indicated to me that he wishes to lead a couple of
09:45:11 19 things from Mr Overland about that statement and tender it
09:45:14 20 and that seems to me to be the appropriate course,
09:45:17 21 Commissioner, I'll let him do that.
22
09:45:19 23 MR GLEESON: Thanks, Commissioner.
09:45:20 24
09:45:20 25 COMMISSIONER: Yes, Mr Gleeson.
26
09:45:22 27 MR GLEESON: Mr Overland, you gave evidence, over a number
09:45:24 28 of days, prior to Christmas last year?---I did.
09:45:27 29
09:45:27 30 And that concluded on Friday the 20th?---That's right.
09:45:31 31
09:45:31 32 On Friday the 20th, the legal representatives for Victoria
09:45:37 33 Police informed various other legal representatives of
09:45:39 34 parties involved in the Commission that certain diaries of
09:45:43 35 yours had been located and that information was
09:45:46 36 communicated to you?---It was.
09:45:47 37
09:45:47 38 And when did you learn of that?---At lunchtime on Friday,
09:45:54 39 but I recall having an earlier conversation with you, I
09:45:58 40 think on the Tuesday morning, after my first day of
09:46:00 41 evidence, where you indicated, I think, my former staff
09:46:03 42 officer had indicated he recalled diaries when he packed up
09:46:07 43 my office and you told me that.
09:46:09 44
09:46:14 45 To be clear about this, these diaries, which, of course,
09:46:17 46 you've now reviewed, when were they last in your
09:46:21 47 possession, custody or control?---Well, they obviously seem

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09:46:26 1 to have been in my office as Chief Commissioner. I can
09:46:29 2 only assume they were moved into that office from my office
09:46:32 3 when I was Deputy Commissioner. I have no specific
09:46:35 4 recollection, but I assume I would have last seen them or
09:46:38 5 dealt with them in mid-2008, when I stopped the last diary,
09:46:42 6 when I stopped keeping the last diary.

09:46:44 7
09:46:45 8 What is your understanding, having been told now by the
09:46:48 9 Victoria Police about what occurred during that lead-up to
09:46:52 10 Christmas in respect of the diaries, what is your
09:46:55 11 understanding of how and where they were found?---My
09:46:57 12 understanding is as set out in my statement and I think
09:47:01 13 advised by senior counsel for Victoria Police, that
09:47:05 14 essentially I think there was some - a lack of record of
09:47:15 15 the fact that the diaries existed, there was some record of
09:47:17 16 diaries being issued, a lack of record of diaries being
09:47:19 17 archived and, as I understand it, a physical search found
09:47:24 18 them in a place in a box that bore no relevance to anything
09:47:28 19 in particular.

09:47:28 20
09:47:29 21 To be clear about this, did you know where they were?---No.

09:47:31 22
09:47:31 23 Were you involved in any way in the search?---No.

09:47:34 24
09:47:37 25 How is it, now having had the diaries brought to your
09:47:40 26 attention, how is it that you say your memory was that you
09:47:46 27 had no diaries?---Well, again, I've tried to set that out
09:47:52 28 at some length in my statement. I remember keeping a diary
09:47:56 29 during my career, particularly with the AFP, I remember not
09:47:59 30 keeping a diary towards the end of my time with the AFP,
09:48:02 31 because by then I was in very senior corporate roles and
09:48:06 32 there was no sense or requirement to keep a diary. I
09:48:09 33 didn't remember restarting a diary when I came to Victoria
09:48:12 34 Police. As I've set out in my statement, on my account, I
09:48:16 35 think I've been involved in nine different inquiries, this
09:48:19 36 is the tenth, since I left Victoria Police in 2011.
09:48:23 37 Diaries weren't referenced at any stage during any of those
09:48:28 38 inquiries, all of which were conducted by bodies that had
39 coercive powers and the cooperation of Victoria Police and
09:48:32 40 the material could have and should have been provided if
09:48:34 41 called for. At the start of this process, my solicitors
09:48:38 42 called for material that would include diaries. I believe
09:48:42 43 that was first in March of last year. My understanding is
09:48:46 44 they made multiple requests for information of this nature
09:48:50 45 and no information was produced, so it was on that basis
09:48:54 46 that I assumed - I proceeded on the basis that I hadn't
09:48:58 47 kept a diary whilst I was in Victoria Police.

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09:49:01 1
09:49:01 2 You left Victoria Police in June of 2011?---Mid-2011.
09:49:06 3
09:49:06 4 And the last entry in the diaries is May 2008?---Yes,
09:49:11 5 having looked at the diaries now, yes.
09:49:13 6
09:49:13 7 Do you have your supplementary statement with you?---I do.
09:49:16 8
09:49:17 9 Could you turn to paragraph 10, please?---Yes.
09:49:19 10
09:49:21 11 You'll see there that you refer to now being aware, by
09:49:26 12 email on the evening of Monday the 16th, which was the
09:49:30 13 evening of the first day of your evidence?---Yes.
09:49:33 14
09:49:33 15 "Solicitors for Victoria Police informed my solicitors that
09:49:38 16 'Task Force Landow has just become aware that three diaries
09:49:42 17 have been recorded as being issued under Simon's name at
09:49:46 18 the Chief Commissioner's office. These diaries had been
09:49:48 19 sent to archiving following my resignation from Victoria
09:49:51 20 Police and no further details of where, how, who placed
09:49:54 21 these was provided in the search. Further, it was noticed
09:49:56 22 that it was not clear whether the diaries were ever used.
09:49:59 23 These matters were brought to the attention of my
09:50:02 24 solicitors by the solicitors for Victoria Police so that
09:50:04 25 they could seek my instructions on the diaries. However,
09:50:06 26 my cross-examination by counsel assisting had commenced and
09:50:09 27 my solicitors did not raise these matters with me.'"
09:50:13 28 You've given evidence about the fact that we had a brief
09:50:15 29 discussion during the morning of the Tuesday?---That's
09:50:19 30 right.
09:50:19 31
09:50:20 32 And could you just explain paragraph 10, the last two
09:50:23 33 sentences there, please?---Whilst we had a very brief
09:50:27 34 discussion, none of this more detailed information was made
09:50:30 35 known to me at that time. It wasn't until, I think, the
09:50:33 36 Friday afternoon, when the explanation was provided to the
09:50:36 37 Commission, that I became aware of that information.
09:50:38 38
09:50:38 39 So after that brief discussion that you and I had on the
09:50:42 40 morning of the Tuesday, did you have any further
09:50:44 41 communication with anyone about the diaries issue, so to
09:50:47 42 speak, until the Friday?---No.
09:50:49 43
09:50:49 44 Just finally, Mr Overland, did your role at Victoria Police
09:50:53 45 require you to keep a diary at any time?---No, it didn't.
09:50:56 46
09:50:57 47 Thank you.

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09:50:57 1
09:50:58 2 COMMISSIONER: Did you want to tender that statement?
3
09:51:01 4 MR GLEESON: I'm sorry, yes, Commissioner, the
09:51:04 5 supplementary statement of Simon James Overland signed
09:51:12 6 17 January 2020.
09:51:19 7
09:51:22 8
09:51:23 9 #EXHIBIT RC981A - (Confidential) Supplementary statement of
09:51:06 10 Simon James Overland signed 17/1/2020.
11
09:51:27 12 #EXHIBIT RC981B - (Redacted version.)
09:51:27 13
14
09:51:30 15 COMMISSIONER: Yes, Mr Winneke.
09:51:31 16
17 MR WINNEKE: Thanks, Commissioner.
18
09:51:32 19 Just on that, in that statement, you say, "These matters
09:51:37 20 were brought to the attention of my solicitors by the
09:51:40 21 solicitors for Victoria Police so that they could seek my
09:51:43 22 instructions on the diaries. However, my cross-examination
09:51:46 23 by counsel assisting had commenced and my solicitors did
09:51:49 24 not raise these matters with me." Now, were you seeking to
09:51:55 25 suggest that at no stage during the course of your
09:51:58 26 cross-examination were you aware that there had been a
09:52:01 27 suggestion that these diaries existed?---No, it's as I've
09:52:05 28 set out. My solicitors didn't speak to me about it, I
09:52:08 29 didn't have any of this detail. I had a very brief
09:52:11 30 conversation, as I set out, with senior counsel on the
09:52:13 31 Tuesday morning.
09:52:13 32
09:52:14 33 Mr Gleeson asked you if you knew anything about it, and you
09:52:17 34 said you knew nothing about it?---Correct.
09:52:19 35
09:52:20 36 Did it cause you to think, "Perhaps there might be
09:52:23 37 diaries"?---Well, to be honest, no. Because of the
09:52:27 38 circumstances I've set out, I assumed, having asked for
09:52:31 39 them and having asked for them repeatedly, if there had
09:52:36 40 been diaries, they would have been produced.
09:52:37 41
09:52:37 42 Is it the case that at the commencement of this
09:52:43 43 Royal Commission, you were unsure as to whether or not you
09:52:46 44 did have diaries?---I didn't think I had diaries, but I
09:52:51 45 remember a discussion with my solicitors about the sort of
09:52:54 46 information that we should request and we quite explicitly
09:52:58 47 decided that we should make a request that would include

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09:53:01 1 any diaries, should they exist.
09:53:03 2
09:53:03 3 It's just that you say - I think you say in paragraph 17,
09:53:12 4 "My recollection that I had not kept a handwritten diary
09:53:15 5 while with Victoria Police was solidified during my
09:53:19 6 preparation for this Commission in early 2019", but in the
09:53:33 7 same paragraph you say, "My solicitors, in correspondence
09:53:40 8 with the solicitors for Victoria Police, made numerous
09:53:42 9 requests for materials, including documents authored by me.
09:53:45 10 My solicitors made these requests on my instructions that I
09:53:48 11 was unsure whether such material existed but nonetheless
09:53:52 12 sought to confirm as such"?--Yes.
09:53:54 13
09:53:54 14 So was your state of mind, "Look, I'm not sure whether I
09:53:57 15 kept a diary or not"?--I didn't think I'd kept a diary,
09:54:00 16 but I think, as I've said previously, Mr Winneke, in terms
09:54:04 17 of - you know, you remember doing things, you remember not
09:54:09 18 doing things. The exact time at which you stopped doing
09:54:11 19 those things is sometimes very difficult to place. So I do
09:54:15 20 remember keeping diaries during the course of my career and
09:54:17 21 I remember stopping.
09:54:18 22
09:54:19 23 Right?--Now, I thought I'd stopped whilst with the AFP and
09:54:24 24 I did, for a period of time, stop when I was with the AFP,
09:54:29 25 as I set out earlier in answering questions from
09:54:33 26 Mr Gleeson. I didn't specifically recall restarting in
09:54:35 27 Victoria Police, but I conceded I may have, it was a
09:54:38 28 possibility, and that was the basis on which we, in
09:54:41 29 discussions with my solicitors, made the request for
09:54:44 30 material that would include any diaries, should they exist.
09:54:47 31
09:54:47 32 Did you actually have your solicitors ask for
09:54:52 33 diaries?--Well, I remember having a conversation with my
09:54:56 34 solicitor specifically about diaries. I left it to them as
09:55:00 35 to how they communicated that request to Victoria Police.
09:55:03 36
09:55:03 37 Right. What you also say is, "Look, I've been involved in
09:55:09 38 nine separate inquiries", in relation to the period of time
09:55:12 39 that you were Assistant Commissioner, Deputy Commissioner
09:55:16 40 and Chief Commissioner of Police, that is a period of 2003
09:55:19 41 through to 2009?--H'mm.
09:55:21 42
09:55:21 43 When was the first of those inquiries?--Well, I was with
09:55:27 44 Victoria Police until May 2011. The first of those
09:55:32 45 inquiries was in 2011.
09:55:34 46
09:55:35 47 So is it the case that in each of those inquiries

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09:55:38 1 subsequent to 2011, there has been - none of those
09:55:44 2 inquiries have had the benefit of your diaries, the diaries
09:55:46 3 that existed?---Well, I can only assume that's right. If
09:55:50 4 they did, it was never made known to me that they had those
09:55:54 5 diaries and in all of those inquiries, or most of those
09:55:57 6 inquiries, I had very limited material available to me
09:55:59 7 because of the - in leaving Victoria Police, I literally
09:56:03 8 walked out the door and I left everything behind, I didn't
09:56:06 9 have any material like diaries or notes or anything to
09:56:10 10 reference from.

09:56:10 11
09:56:10 12 One would assume in 2011, given that it was only a couple
09:56:16 13 of years - or three years previously that you'd ceased
09:56:20 14 using a diary, you must have had a recollection then that
09:56:25 15 you had kept a diary?---I think the point I'm making is I
09:56:29 16 was not asked about diaries during the course of any of
17 those inquiries, no diaries were ever produced, they were
09:56:32 18 never referenced.

09:56:33 19
09:56:34 20 But why wouldn't you have said, "Look, I've got diaries.
09:56:36 21 Can I have a look at the diaries?" It may well be that
09:56:40 22 you - whoever it might be, whether it be the Ombudsman or
09:56:43 23 the OPI or whoever it might be who's conducting the
09:56:46 24 inquiries, "You should have a look at my diaries because
09:56:49 25 those diaries will be of great assistance." Surely that
09:56:50 26 must have come up?---No, it didn't. The point I'd make
09:56:52 27 about a number of those inquiries is they were very
09:56:56 28 wide-ranging. I remember the Ombudsman - it became clear
09:57:00 29 to me during one of his inquiries that he had literally
09:57:05 30 trawled through all of my emails in some detail. So I
09:57:06 31 don't know what information they had access to. The point
09:57:10 32 I was making is that in none of those inquiries did the
09:57:15 33 issue of the diaries come up, so I was none the wiser in
09:57:20 34 terms of their existence.

09:57:22 35
09:57:22 36 You were quite definite when I asked you if you kept a
09:57:25 37 diary? You said, "No, I didn't". There was no uncertainty
09:57:29 38 about whether or not you kept a diary?---No because, as I
09:57:31 39 said, having, I think, on six different occasions asked for
09:57:37 40 material that would include diaries and none being
09:57:40 41 produced, I was convinced they didn't exist.

09:57:44 42
09:57:48 43 Can I ask you this: it seems that in - you know in 2009
09:57:57 44 there were proceedings against Mr Mullet and Mr Ashton?---I
09:58:09 45 don't remember specifically when, but yes, I recall those.

09:58:13 46
09:58:13 47 And there were arguments about subpoenas which had been

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09:58:21 1 issued by Mullet and Ashby in those proceedings. They were
09:58:27 2 proceedings in the Magistrates' Court in about May of 2009
09:58:33 3 and in relation to one of those proceedings, Mr Ashby
09:58:42 4 issued a subpoena in which he was seeking notes and
09:58:46 5 diaries, et cetera. Perhaps if we have a look at this
09:58:52 6 document, Commissioner - RCMPI.0021.0002.0001. Were you
09:59:02 7 aware that diaries had been called for in that proceeding?
09:59:09 8 You would have been asked about it, wouldn't you?---I don't
09:59:12 9 have any recollection of it, no.
09:59:13 10
09:59:17 11 And those charges concerned conduct which had occurred in -
09:59:20 12 allegedly occurred in 2007, during the course of the Briars
09:59:27 13 investigation. Am I right about that?--Well, it concerned
09:59:31 14 information coming from Briars, but I think it was an OPI
09:59:35 15 investigation named Operation Diana, as I recall.
09:59:38 16
09:59:38 17 And if a subpoena had been issued asking for your diary,
09:59:43 18 it's likely that you would have been asked about that,
09:59:46 19 wouldn't you?--Well, I don't have any recollection of
09:59:50 20 being asked about it.
09:59:51 21
09:59:51 22 But as a matter of course, if someone is seeking your
09:59:56 23 diary, the obvious thing to do would be to ask you whether
09:59:59 24 you have got a diary. Someone who is dealing with the
10:00:01 25 issue of the subpoena - the questions raised in the
10:00:04 26 subpoena would probably come to you and say, "Look, where's
10:00:08 27 your diaries? Have you got your diaries"?---I would assume
10:00:11 28 that would be the normal course, yes.
10:00:12 29
10:00:13 30 It seems that Mr Walsh has prepared an affidavit on 8 May
10:00:16 31 2009. If we go to paragraph 53 of the affidavit, we see
10:00:22 32 that - paragraph 53, the previous page, if we go to the
10:00:28 33 previous page - "The Ashby subpoena issued on behalf of
10:00:32 34 Noel Ashby seeks access to six general categories of
10:00:35 35 material. There are no materials", et cetera. If we go
10:00:40 36 over the page - obviously, if we go to subparagraph C, he
10:00:46 37 says this, "None of the Chief Commissioner Nixon, Chief
10:00:51 38 Commissioner Overland or Assistant Commissioner Cornelius
10:00:52 39 use a handwritten diary. I'm informed and believe that,
10:00:54 40 with the exception of the handwritten notes, in respect of
10:00:57 41 which edited releases occurred, there are no electronic
10:01:01 42 scheduler entries which would satisfy the request". Can I
10:01:06 43 suggest to you it's likely that Mr Walsh, in preparing that
10:01:11 44 affidavit, would have spoken to you and asked you whether
10:01:13 45 or not you kept a diary for the relevant period, back in
10:01:16 46 2007?--He may well have done, but I don't recall whether
10:01:19 47 he did.

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10:01:21 1
10:01:25 2 You say that you, as appears to be the case, kept a diary,
10:01:35 3 and it seems to be a reasonably detailed diary, from your
10:01:39 4 commencement at Victoria Police as Assistant Commissioner
10:01:43 5 of Crime in February 2003 you kept a diary and right
10:01:49 6 through to 6 October 2006, because we've got those two
10:01:54 7 diaries?---Yes.
10:01:55 8
10:01:56 9 And then it appears that we don't have a diary which covers
10:02:05 10 the period from 6 October 2006 through to 13 November 2007,
10:02:12 11 but you say, "Well, look, it's quite conceivable that I did
10:02:16 12 keep a diary during that period"?---No, I don't, actually.
10:02:19 13 I don't have any specific recollection about whether I did
10:02:22 14 or I didn't.
10:02:23 15
10:02:23 16 Right?---I can only assume if I did, it would still be with
10:02:26 17 Victoria Police somewhere.
10:02:27 18
10:02:27 19 Right. Do you not say in your statement that you may have
10:02:34 20 kept a diary in that period?---I think I do say that and,
10:02:38 21 as I say, I may have, but I don't specifically recall it
10:02:42 22 and, as I said, if I did, it would still be with Victoria
10:02:45 23 Police.
10:02:45 24
10:02:45 25 Can you think of a reason why you would have stopped
10:02:48 26 keeping a diary in October of 2006 and then recommenced
10:02:55 27 keeping a diary in 2007?---Again, I don't have a specific
10:03:04 28 recollection, but in general terms, at various stages in my
10:03:10 29 career I found keeping a diary more and more challenging
10:03:14 30 and the benefit of keeping a diary more and more limited
10:03:18 31 because of the nature of the role that I was in. I think
10:03:24 32 in mid-2006 I became Deputy Commissioner, so my role
10:03:28 33 changed again. It was much - even more operationally
10:03:31 34 removed than as Assistant Commissioner of Crime and I think
10:03:35 35 you can see that in the entries, they trail off and they
10:03:37 36 become little more than a record of going to this meeting,
10:03:41 37 going to that meeting. I assume I stopped at some point
10:03:45 38 for some reason. I really can't now throw a lot of light
10:03:49 39 on it. I obviously started again at some point and then
10:03:52 40 stopped again, but I think the third diary, the entries in
10:03:56 41 that are little more than a record of meetings gone to and
10:03:59 42 not much more than that, and it appears then again I've
10:04:04 43 stopped.
10:04:04 44
10:04:05 45 Did you change offices, or something like that, around
10:04:10 46 October of 2006?---I don't think so. I mean, on becoming
10:04:24 47 Deputy Commissioner, I moved from the St Kilda Road complex

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10:04:28 1 to the Victorian Police Centre, but I think I'd have done
10:04:32 2 that reasonably soon after being promoted.
10:04:35 3
10:04:37 4 And you were promoted in about June of 2006?---I think it's
10:04:41 5 about June of 2006, yes.
10:04:42 6
10:04:42 7 But nonetheless, you kept taking a diary until October of
10:04:46 8 2006?---I did.
10:04:47 9
10:04:47 10 And there's a diary which was issued to you on or about
10:04:51 11 13 November 2007, when you were Deputy Commissioner
10:04:57 12 still?---Right.
10:04:58 13
10:04:58 14 And you're taking a diary in that period of time, through
10:05:02 15 to May of 2008?---Yes.
10:05:04 16
10:05:06 17 It can't be the case that once you changed jobs from
10:05:09 18 Assistant Commissioner of Crime to Deputy Commissioner,
10:05:13 19 that therefore there was no need for you to continue taking
10:05:18 20 a diary, because it appears that you did continue taking a
10:05:20 21 diary after that appointment and certainly during periods
10:05:24 22 of that appointment in 2007 and 8?---There was never a
10:05:28 23 requirement for me to keep a diary. There was a
10:05:31 24 requirement for me to keep appropriate records and I did
10:05:34 25 that at all time. Look, I don't know Mr Winneke. I don't
10:05:38 26 have a specific recollection about this.
10:05:40 27
10:05:40 28 Yes?---I mean, the diaries are the diaries and clearly it
10:05:45 29 looks like at a point I stopped keeping a diary and then I
10:05:50 30 restarted for a relatively brief period of time and then I
10:05:53 31 stopped again.
10:05:54 32
10:05:54 33 I mean, to be fair, it appears - certainly in your first
10:05:58 34 diary I think there are 304 pages generally of these PB13
10:06:02 35 things. Your diary stops at p.288, the second diary, so it
10:06:08 36 may well be that you did make a decision at that point that
10:06:12 37 you weren't going to finish off that diary, because one
10:06:15 38 assumes that if you were going to keep taking diaries, you
10:06:17 39 would have filled up the end of that diary, one assumes, is
10:06:20 40 that right?---I would assume so. Again, I note that. I
10:06:23 41 can't really explain it other than what I've already said.
10:06:26 42
10:06:27 43 Yes, all right. And there's nothing in that - if we have a
10:06:33 44 look at that diary, we see that the last entry is on 6
10:06:36 45 October and there's a discussion about - I'm not going to
10:06:39 46 go into it - Victoria Police intelligence model, strategic
10:06:45 47 reports at a divisional level, and there are some notes

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10:06:49 1 about that. Is there anything in that - if you have a look
10:06:53 2 at that diary, is there anything in that entry which might
10:06:56 3 give you any idea as to why you stopped taking a
10:07:11 4 diary?---Only, as I said, that in this diary, the entries
10:07:15 5 just become - they're quite different from my first diary,
10:07:20 6 they become quite sparse, they're not really - I don't
10:07:23 7 think they're of much value, to be honest, because I think
10:07:26 8 there are a variety of other means by which I could keep
10:07:29 9 records or be transparent about what I was doing; through
10:07:34 10 my electronic diary, through, you know, meetings that I
10:07:37 11 went to with minutes, agendas and minutes. You know, there
10:07:41 12 are a variety of other means by which records were kept and
10:07:46 13 the use of these diaries, I think, had diminished quite
10:07:50 14 significantly, given the role that I was in.

10:07:52 15
10:07:53 16 One thing a diary does do is enable you to keep a
10:07:58 17 contemporaneous record of meetings that you have, do you
10:08:03 18 agree?---Yes, but I also make the point there was an
10:08:05 19 electronic record of all of that, so, in a way, these
10:08:09 20 diaries were just duplicating in some ways what was a more
10:08:14 21 comprehensive record, which would have been the electronic
10:08:18 22 diary that was being run.

10:08:19 23
10:08:20 24 Take, for example, the situation when you're Deputy
10:08:25 25 Commissioner and you're on the Briars Task Force and you're
10:08:28 26 on the Petra Task Force. Where are the records which
10:08:36 27 indicate that you have made particular decisions, some of
10:08:40 28 which might be quite significant decisions, or given
10:08:45 29 certain directions?---Well, again, the records around those
10:08:51 30 Task Forces would primarily be around their establishment
10:08:54 31 and there would be records of those held in Victoria
10:08:57 32 Police.

10:08:57 33
10:08:58 34 Yes?---In terms of directions, again I make the point that
10:09:04 35 the steering committees weren't so much directing, they
10:09:08 36 were being briefed and receiving information.

10:09:10 37
10:09:10 38 But making decisions?---Well, not a lot of decisions. Most
10:09:16 39 of the operational decisions were being run by the people
10:09:19 40 running those investigations, but there were records kept
10:09:21 41 of those meetings.

10:09:22 42
10:09:23 43 If, for example, we take one significant decision which was
10:09:28 44 made, and that was to make a statement - get a statement
10:09:35 45 from Ms Gobbo. Obviously a decision was made about that,
10:09:39 46 and I've asked you questions about that before, but that's
10:09:43 47 a decision that you made. Now, where is the record of that

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10:09:47 1 decision, of you making that decision and noting it down,
10:09:50 2 that this was the decision and these are the
10:09:53 3 reasons?---Well, it flowed in the investigation. It then
10:09:59 4 flowed into the investigation; that's what then occurred.
10:10:01 5
10:10:01 6 But that doesn't answer my question. You say, "I didn't
10:10:05 7 have to keep a diary but I had to keep appropriate records
10:10:08 8 of things that I did", which I assume justified decisions
10:10:15 9 that you made, important decisions, right, you accept
10:10:19 10 that?---Yes.
10:10:19 11
10:10:19 12 You accepted previously that the decision transitioning
10:10:23 13 Ms Gobbo from an informer to a witness was going to have
10:10:26 14 life-changing consequences for her and potentially could
10:10:33 15 put her at huge risk. Now, that's a significant decision.
10:10:37 16 Where are the appropriate records, which you were required
10:10:41 17 to keep, with respect to that decision which you
10:10:44 18 made?---Well, again, I think you are characterising the
10:10:48 19 decision in a way that it didn't actually occur.
10:10:50 20
10:10:51 21 Right?---There were discussions - certainly discussions
10:10:54 22 about the prospect of Ms Gobbo becoming a witness over a
10:10:58 23 period of time. My recollection is that the investigators
10:11:04 24 had a series of conversations with her about that and
10:11:07 25 initially she agreed to become a witness. So the records
10:11:11 26 are part of the investigation, part of that process.
10:11:14 27
10:11:14 28 So do you say then that it wasn't - you didn't make a
10:11:18 29 decision, it wasn't your decision to make?---No, I've said
10:11:22 30 that as the senior Victorian police officer on the steering
10:11:27 31 committee, I accept my accountability for the fact that a
10:11:32 32 decision was made to ask her to testify, that she was asked
10:11:37 33 about that, that she initially agreed and then there's a
10:11:40 34 whole series of things that flowed from that. So I accept
10:11:43 35 my accountability around what flowed from that, but I think
10:11:47 36 you've tried to characterise my decision as a stop/go sort
10:11:51 37 of thing and I just don't accept that that's the way it
10:11:54 38 worked.
10:11:54 39
10:11:55 40 But you accept that there was a decision made to transition
10:11:59 41 her?---I do, yes.
10:12:01 42
10:12:01 43 But there is no record of that decision being made?---The
10:12:05 44 record is part of the investigation, it's kept as part of
10:12:08 45 the investigation.
10:12:08 46
10:12:10 47 What you simply say is the record is the fact that she made

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10:12:13 1 a statement?---Correct, and the statements of the officers
10:12:17 2 who were involved in doing that and so on and so forth.
10:12:22 3
10:12:22 4 So if this Commission wanted to know who made the decision,
10:12:26 5 where do we look to find those records?---Well, the records
10:12:30 6 are part of the investigation brief, they're part of the
10:12:38 7 situation reports that were brought to the steering
10:12:41 8 committee when we met, they'd be part of diaries, they'd be
10:12:45 9 part of the officers involved. There was no - and, you
10:12:48 10 know, I've told this Commission the circumstances in which
10:12:56 11 that decision was made, so I'm not trying to avoid my
10:12:59 12 responsibilities around that.
10:13:00 13
10:13:01 14 All right. Another decision, for example, you recall that
10:13:04 15 there was a decision made to cover George William's tax
10:13:14 16 bill. Do you recall a decision made to that effect when
10:13:17 17 there was a process being undertaken to try and get Carl
10:13:21 18 Williams to make a statement?---I recall that we decided to
10:13:23 19 approach the Australian Taxation Office about that as part
10:13:27 20 of a process of trying to get Williams to cooperate, yes, I
10:13:30 21 do.
10:13:31 22
10:13:31 23 He apparently had a bill of about three quarters of a
10:13:36 24 million dollars, we understand, or thereabouts?---I don't
10:13:38 25 recall the amount now, but I accept that if that's what
10:13:41 26 you're telling me.
10:13:42 27
10:13:42 28 If we go to the steering committee updates for Petra, will
10:13:46 29 we find a record somewhere of the decision made to approach
10:13:50 30 the ATO with a view to the Victorian taxpayer covering
10:13:54 31 Mr Williams' tax bill?---I don't know whether it was the
10:13:58 32 Victorian taxpayer covering the debt - - -
33
10:14:01 34 All right, the Australian taxpayer?--- - - - I think it was
10:14:03 35 a question of whether the debt was forgiven. Again, I
10:14:06 36 don't know. I haven't seen any of that material for quite
10:14:08 37 some time. But I do remember - I think there are records
10:14:12 38 in existence around discussions had with the Tax Office at
10:14:16 39 around that time.
10:14:17 40
10:14:17 41 You see, when we look at these - the Petra records, at the
10:14:26 42 outset there were some minutes taken in some of the early
10:14:31 43 meetings and I think your Chief of Staff, or at least - I
10:14:37 44 think [REDACTED], a police officer, took some fairly
10:14:42 45 desultory notes earlier on, but that petered out after a
10:14:46 46 while. Was that a conscious decision? Was there a
10:14:48 47 conscious decision made not to keep clear minutes of these

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10:14:51 1 meetings?---I don't believe so. I mean, there were records
10:14:54 2 of the meetings provided in the reports. There was always
10:14:57 3 a written report - my recollection is there was always a
10:15:00 4 written report that came to each of the meetings.
10:15:03 5
10:15:03 6 There was an agenda, wasn't there, or at least a report
10:15:09 7 which comes out to the meeting which sets out - in fact,
10:15:12 8 not an agenda, a report, which recorded events which had
10:15:16 9 occurred?---Yep, and I think what was planned to occur.
10:15:20 10
10:15:20 11 And what was planned to occur, but then there was no record
10:15:23 12 at all, certainly at latter stages, of what was actually
10:15:27 13 discussed, decisions made or directions given during the
10:15:35 14 course of these meetings; no minutes were taken?---Because,
10:15:38 15 again, primarily there weren't directions being given,
10:15:41 16 there were matters of updates being provided. If there
10:15:44 17 were specific actions coming out of that, then they were
10:15:47 18 documented in other ways.
10:15:48 19
10:15:48 20 One assumes that senior police officers coming together to
10:15:54 21 hear updates from detectives are doing so for a purpose,
10:15:59 22 not simply to sit there and listen and then do nothing.
10:16:02 23 One assumes that there's a reason for doing all this?---The
10:16:06 24 reason was to be briefed on the progress of those
10:16:09 25 investigations and if there were things that needed to be
10:16:11 26 done, they were done. I mean, a lot of the time it was
10:16:14 27 logistics and staffing issues and budget issues, and
10:16:18 28 exciting things like that, that would come out of those.
10:16:23 29
10:16:23 30 But it wasn't just that?---No, it wasn't. I said a lot of
10:16:24 31 the time they were the sort of issues that got raised.
10:16:27 32 Every now and again there might be more particular issues,
10:16:31 33 but that was more the exception than the rule.
10:16:33 34
10:16:34 35 But no minutes kept?---No, but other records would have
10:16:37 36 been made about those things.
10:16:38 37
10:16:57 38 Now, your diaries suggest, certainly in the latter stages,
10:17:15 39 that they were filled out subsequent to the events, they
10:17:19 40 weren't contemporaneous records, because if you have a look
10:17:22 41 at the first line in a number of the records, I think in -
10:17:26 42 certainly in the last one, you set out the time that you
10:17:32 43 start and the time that you finish during the day and then
10:17:36 44 thereafter - after that first line, there are events filled
10:17:39 45 out. Does that suggest that you weren't keeping the diary
10:17:43 46 contemporaneously?---Yes, it does and I've again said that
10:17:47 47 in my statement. I mean, I think part of the difficulty I

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10:17:50 1 found in keeping diaries is a very busy life involved in
10:17:54 2 lots of different things, lots of different meetings, it
10:17:57 3 wasn't always appropriate to sit and make contemporaneous
10:18:00 4 notes of things that were happening, you needed to give
10:18:03 5 those people, those issues, those meetings, your full
10:18:07 6 attention and it became an issue of retrospectively trying
10:18:11 7 to, often at the end of a long day or days, work out what
10:18:15 8 it might be useful to record or not record.
10:18:18 9
10:18:18 10 So you'd set aside time in your day to attend to your
10:18:23 11 diary?---From time to time I would or you'd do it after
10:18:25 12 hours or whenever you could find time.
10:18:28 13
10:18:29 14 Commissioner, I might tender that affidavit that I asked
10:18:33 15 Mr Overland about - that's the Kieran Walsh affidavit dated
10:18:37 16 8 May 2009.
10:18:39 17
10:18:39 18 COMMISSIONER: 8 May was it?
10:18:40 19
10:18:41 20 MR WINNEKE: 8 May 2009.
10:18:42 21
10:18:43 22 #EXHIBIT RC982A - (Confidential) Affidavit of Kieran Walsh
10:18:48 23 dated 8/5/09.
24
10:18:53 25 #EXHIBIT RC982B - (Redacted version.)
10:18:53 26
10:18:53 27 I wonder if I could just have that diary back again. I
10:19:05 28 just want to ask you a few things, if I may, Mr Overland,
10:19:10 29 about some of the matters that you record in your diary and
10:19:14 30 some of the matters that you've referred to in your
10:19:17 31 statement. In your initial statement, at paragraph 68,
10:19:34 32 what you say is that you didn't know that Ms Gobbo was
10:19:38 33 acting for ^{PII} [REDACTED] in early 2004, when he
10:19:44 34 decided to cooperate, is that right?---I do recall saying
10:19:47 35 that, yes.
10:19:48 36
10:19:49 37 Do you maintain that now having seen your diaries or
10:19:53 38 not?---No, as I said in my statement, I now accept that I
10:19:57 39 think - well, certainly - I'm just trying to find the
10:20:02 40 relevant part, but I certainly think sort of April of that
10:20:05 41 year I would have known that.
10:20:06 42
10:20:07 43 Right. And, indeed, it may be that in an earlier period of
10:20:16 44 time, back in ^{PII} [REDACTED] of 2003, it may be that you were
10:20:21 45 aware that Ms Gobbo was potentially acting for one or other
10:20:26 46 of these people, the people who had been arrested in
10:20:31 47 relation to the murder of [REDACTED]?---Well, that's

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10:20:36 1 possible, yes, that is possible, but my diary is not clear
10:20:42 2 on that.
10:20:42 3
10:20:42 4 No. I think your diary records information about you
10:20:49 5 becoming aware of Mr Williams having a discussion with
10:20:54 6 Ms Gobbo, is that right?---That's what my diary seems to
10:20:58 7 record, yes.
10:20:59 8
10:21:06 9 I think your diary suggests that there was a discussion -
10:21:18 10 as I understand it, your recollection is that there was an
10:21:23 11 investigator who overheard Mr Williams speaking to Nicola
10:21:27 12 Gobbo, is that right?---Look, I want to be careful here
10:21:33 13 because I don't want to upset Victoria Police, but my
10:21:35 14 construction of that now is that was possibly picked up via
10:21:40 15 electronic surveillance, I think that's my take on it.
10:21:44 16
10:21:44 17 Right. And that's something that - have you recorded that
10:21:47 18 in your diary?---Well, I've recorded the fact that there
10:21:51 19 was a conversation between them.
10:21:54 20
10:21:54 21 Yes?---My assumption and, again, I don't know and I don't
10:21:59 22 have specific information, but my assumption is that was
10:22:02 23 possibly picked up via electronic means.
10:22:05 24
10:22:06 25 Right. One assumes that Mr Williams' telephone was being
10:22:14 26 listened to, is that right?---It would have been at that
10:22:16 27 time, without specifically recalling, but I'm pretty sure
10:22:20 28 it would have been being intercepted at that time, yes.
10:22:23 29
10:22:23 30 And that is on [REDACTED] 2003?---Yes.
10:22:29 31
10:22:30 32 Mr Williams, at that stage, hadn't been charged, albeit he
10:22:33 33 may have been a suspect?---At that stage, no, he hadn't
10:22:37 34 been charged, but he was well and truly a suspect.
10:22:40 35
10:22:40 36 Indeed, he wasn't charged until after you got the statement
10:22:45 37 from the [REDACTED] ---Well, he was charged
10:22:51 38 initially with threatening to kill a police officer.
10:22:54 39
10:22:54 40 That was on about 17 November 2003?---That's right.
10:22:58 41
10:22:59 42 With respect to Mr Bateson?---That's right.
43
10:23:01 44 He was arrested at about that time?---Yes.
10:23:05 45
10:23:05 46 And there are notes in your diary generally concerning
10:23:07 47 that?---And then I think he was also charged with

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10:23:10 1 PII [REDACTED] in about mid-2004, I think, and then
10:23:14 2 subsequent - - -
10:23:14 3
10:23:15 4 With respect to PII [REDACTED]?-- PII [REDACTED], and then
10:23:19 5 subsequently charged with the murder of [REDACTED]
10:23:25 6
10:23:26 7 In about August of 2004?--August of 2004, I think, yes.
10:23:29 8
10:23:29 9 16 August?--I think that's right, yes.
10:23:31 10
10:23:32 11 MS ENBOM: Can I interrupt. I have no objection to the use
10:23:35 12 of "[REDACTED]", which is something we have
10:23:38 13 been using now for some time, but there is an objection to
10:23:43 14 the use of that in connection with the victim of the
10:23:46 15 murder, because it then enables people - because those two
10:23:50 16 things are particulars that might lead to the
10:23:55 17 identification of [REDACTED]. This is a
10:23:58 18 matter I think I raised during Ms Nixon's evidence last
10:24:05 19 year. The reference to "[REDACTED]" is in line 18 on
10:24:11 20 p.11970.
10:24:30 21
10:24:30 22 COMMISSIONER: So what are you wanting to take out?
10:24:32 23
10:24:33 24 MS ENBOM: Take out the reference to "[REDACTED]" and then
10:24:35 25 the two references that I've just made to him as well.
10:24:38 26
10:24:38 27 COMMISSIONER: Just that particular name - - -
10:24:40 28
10:24:40 29 MS ENBOM: Yes.
10:24:40 30
10:24:41 31 COMMISSIONER: - - - needs to be removed?
10:24:42 32
10:24:43 33 MS ENBOM: Yes.
10:24:43 34
10:24:43 35 COMMISSIONER: Are you content with that, Mr Winneke?
10:24:45 36
10:24:45 37 MR WINNEKE: Commissioner, I must say it seems to me that
10:24:48 38 that name has been used I think repeatedly, certainly late
10:24:52 39 last year, in connection with PII [REDACTED]. I
10:24:58 40 wonder whether the horse has bolted there. If it hasn't
10:25:02 41 been, I stand to be corrected, but I think it has been.
10:25:06 42
10:25:06 43 MS ENBOM: I don't think the horse has bolted. I read the
10:25:10 44 transcript of Mr Winneke's cross-examination of Mr Overland
10:25:12 45 last year and the connection was not so specific.
10:25:18 46
10:25:18 47 MR WINNEKE: If the horse hasn't bolted, Commissioner, I'm

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10:25:21 1 content at this stage, subject to anything that we may
10:25:24 2 later do, to have that name removed.
10:25:27 3
10:25:27 4 COMMISSIONER: Yes, I think perhaps it's - given the orders
10:25:30 5 that are in place, I think, over which I have got no
10:25:36 6 control at the moment, I think we probably better do it.
10:25:40 7 So remove from the transcript and the live streaming, if
10:25:42 8 it's not too late, 11970, line 18, the mention of the name
10:25:49 9 there and also where it's mentioned - that name is
10:25:53 10 mentioned in the submissions just made by Ms Enbom.
10:25:58 11
10:25:59 12 MS ENBOM: Thank you, Commissioner.
10:26:04 13
10:26:07 14 MR WINNEKE: One assumes that this record which was made
10:26:15 15 gave you to understand that Mr Williams was speaking to
10:26:19 16 Ms Gobbo about matters connected to the murder that we've
10:26:24 17 just been discussing?---That's right.
10:26:26 18
10:26:30 19 And I think I asked you about this earlier on, but did you
10:26:36 20 understand that subsequently the way in which the case was
10:26:40 21 put against Williams was that he had, in effect,
10:26:47 22 masterminded the murder, he was, if you like, the
10:26:54 23 puppeteer - I think that expression was used in addresses
10:26:57 24 ultimately when the matter went to trial?---Yes.
10:27:01 25
10:27:01 26 And it seems that - and Ms Gobbo, indeed, albeit she wasn't
10:27:05 27 a witness, she was referred to regularly during the course
10:27:08 28 of the trial as being a person whose involvement was
10:27:12 29 relevant to the facts in that proceeding?---Well, I don't
10:27:16 30 think I knew that, but - - -
10:27:17 31
10:27:18 32 Whether or not you knew it, it would have been apparent to
10:27:20 33 you that Williams was speaking to Gobbo and what you say is
10:27:28 34 that you understood, and it's recorded in your notes, that
10:27:34 35 there was to be a bail application to test the strength of
10:27:38 36 the evidence?---Yes.
10:27:39 37
10:27:40 38 So that would be factually relevant, wouldn't it, to the
10:27:43 39 case against Carl Williams?---Yes.
10:27:46 40
10:27:47 41 And you've got Nicola Gobbo being involved factually at
10:27:51 42 that stage with these events?---Yes.
10:27:54 43
10:27:55 44 And you would be concerned to know what involvement she
10:28:02 45 does have with Williams and what's going on?---In what way?
10:28:07 46
10:28:08 47 Well, if the case ultimately is that Williams is the

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10:28:13 1 puppeteer and the case is put by the police - or at least
10:28:18 2 by the Crown to the jury that Williams is managing this
10:28:21 3 process, he hasn't been charged, and yet he's speaking to a
10:28:25 4 barrister, suggesting a bail application be done to test
10:28:28 5 the strength of the evidence, that would be a matter of
10:28:31 6 some interest to you, wouldn't it?---Yes.
10:28:32 7
10:28:33 8 Gobbo's involvement in the matter?--Well, of more interest
10:28:36 9 was Carl Williams' interest in testing the strength of the
10:28:40 10 case, I assume, against the two people who had been
10:28:43 11 charged, but incidentally to try and work out what risk he
10:28:46 12 might have been at.
10:28:47 13
10:28:47 14 In effect - he hasn't been charged, he hasn't been spoken
10:28:51 15 to but, on one view, what he is doing is manipulating the
10:28:55 16 legal system to find out, you know, whether or not he's - -
10:29:00 17 - ?---Yes.
10:29:01 18
10:29:01 19 And he's used Gobbo to do that?--Well, he's had a
10:29:05 20 conversation with her about that, yes.
10:29:06 21
10:29:07 22 About that?---Yes.
10:29:08 23
10:29:12 24 Can I suggest to you that you would have been, at that
10:29:15 25 stage, very keen to know exactly what Gobbo's relationship
10:29:19 26 was with Carl Williams?---No. I think, again - I think
10:29:26 27 there's a risk of applying hindsight to all of this and
10:29:31 28 giving Ms Gobbo, at that stage, a status that she just
10:29:34 29 simply didn't have or deserve.
10:29:37 30
10:29:38 31 Why do you say that?--She was one of a number of
10:29:43 32 barristers or lawyers who were involved in - or involved
10:29:48 33 with various people who were the subject of investigation.
10:29:51 34
10:29:52 35 Right. Can I suggest that it would have been, at that
10:30:01 36 stage, of interest to you to know what Gobbo was doing, who
10:30:07 37 she was seeing?---No. I was much more interested in Carl
10:30:13 38 Williams.
10:30:13 39
10:30:14 40 At that stage do you say you weren't aware that Purana
10:30:20 41 detectives were looking at her and creating a profile of
10:30:25 42 her?---No, I wasn't.
10:30:26 43
10:30:38 44 Did you ask to be - is it likely that you would have been
10:30:43 45 asked to be kept up to speed about what was going on with
10:30:46 46 respect to the bail applications and who was appearing for
10:30:51 47 whom, who was advising who?---I'd have, I assume, been

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10:30:56 1 updated on the bail applications. I don't believe I was
10:31:00 2 told who was representing who, that that would have
10:31:04 3 necessarily been reported back or was reported back.
10:31:07 4
10:31:12 5 All right. Now, what you do say also is that you weren't
10:31:20 6 aware, until around 6 April, that Gobbo was in fact acting
10:31:24 7 for the ^{PII} [REDACTED], is that right?---Well, it
10:31:32 8 seems clear to me, from an entry I've seen in my diary,
10:31:36 9 that I must have been aware at that point, yes.
10:31:39 10
10:31:41 11 You don't concede that you were aware earlier?---I could
10:31:45 12 have been.
10:31:45 13
10:31:45 14 Right?---I can't say either way. I could have been aware
10:31:48 15 earlier.
10:31:48 16
10:31:49 17 In your statement, you're suggesting that it was at about
10:31:53 18 that time that you were informed?---I think clearly I knew
10:31:57 19 then, because of the reference in the diary and in the
10:32:01 20 statement.
10:32:01 21
10:32:01 22 Right. And you say, "Well, look, because it's not referred
10:32:05 23 to earlier in my statement, I'm not prepared to concede
10:32:08 24 that I was aware of it"?---Well, I just don't know.
10:32:11 25
10:32:12 26 Is that because you would concede that the reality is your
10:32:17 27 diary doesn't record everything that you're told?---No, it
10:32:20 28 doesn't.
10:32:20 29
10:32:20 30 Right. So if Mr Purton says in his diary that there's a
10:32:29 31 progress - a Purana progress meeting on 1 March of 2004 and
10:32:41 32 in that diary he says that - perhaps if we can put this up,
10:32:51 33 Mr Purton's diary on 1 March 2004, at 15:30, Thursday - I
10:32:59 34 withdraw that. There's a meeting, I think, at 15:20. If
10:33:21 35 we go back to the previous page. It won't tell us the
10:33:31 36 date, but I think by process of elimination, we can find
10:33:36 37 that it's the 1st of March. Purana progress report
10:33:42 38 meeting, Rodney Earl given 30K by Carl Williams, do you see
10:33:47 39 that?---Yes.
10:33:48 40
10:33:48 41 17:30, Thursday, Nicola Gobbo visited, and I think there's
10:33:54 42 evidence that that's ^{PII} [REDACTED], wants to meet, bring
10:34:00 43 Melway's. Theo Magazis no longer representing, referred to
10:34:07 44 another solicitor and then it says "shonky". "Nicola
10:34:13 45 shifting house due to stress of current situation" - with
10:34:18 46 respect to Veniamin, I think. "Would represent ^{PII} [REDACTED] for
10:34:23 47 plea only." That's a record of a meeting at 15:30 on 1

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10:34:33 1 March and your diary, at VPL.0005.0264.0548, if we have a
10:34:49 2 look at your diary of that date, we can see that - if we
10:34:59 3 can put that up. It's simply Operation Purana weekly
10:35:17 4 briefing, p.203, do you see that?---Yes, I do.
10:35:20 5
10:35:22 6 On one view, what that demonstrates is that, if you accept
10:35:26 7 that that was a briefing note in someone else's diary,
10:35:32 8 there's a number of items of information which are
10:35:34 9 discussed, one of which concerns Nicola Gobbo acting for
10:35:40 10 this particular person. You're there, you get that
10:35:45 11 information, but you don't record it in your diary?---No.
10:35:48 12
10:35:48 13 You would say there's nothing strange about that, you
10:35:52 14 accept that?---Yes.
10:35:52 15
10:35:53 16 But what I put to you is that it's information that you
10:35:57 17 were aware of at the time?---I accept that, yes.
10:35:59 18
10:36:05 19 So insofar as you say, "Well, look, when I read my diary
10:36:09 20 and I discover that it seems that I get that information
10:36:14 21 around 6 April", well that's probably not right, you get it
10:36:20 22 earlier?---Yeah, I accept I possibly did. Yes, I accept,
10:36:24 23 on the basis of the entry that you just put to me, I
10:36:27 24 probably got it at that meeting.
10:36:28 25
10:36:28 26 And, indeed, in your first statement, where you say that
10:36:31 27 you didn't know at all, that's clearly wrong?---Well, I
10:36:34 28 have accepted that it is wrong, but again, made at a time
10:36:38 29 when I didn't have access to any of this information.
10:36:41 30
10:36:43 31 I follow that. So your diaries are clearly of some use,
10:36:45 32 but they're not the be-all and end-all?---No.
10:36:49 33
10:36:49 34 Because what we've really got to do is go and look at other
10:36:53 35 people's diaries, who might take more copious notes of a
10:36:57 36 particular meeting, and if those people are writing about
10:37:00 37 certain things that are discussed during a meeting at which
10:37:03 38 you're present, the likelihood is that you're made aware of
10:37:07 39 those things?---Yes, I agree.
10:37:08 40
10:37:17 41 On 5 April 2004, if we have a look at Mr Purton's diary,
10:37:25 42 there's - VPL.0005.0146.0001, at p.59 - there's a reference
10:37:36 43 to another meeting with SO, Gavan Ryan, Andy Allen,
10:37:43 44 et cetera, re Purana issues and if we go down to the
10:37:49 45 bottom, we see that - again there's a reference to a name
10:38:04 46 which is blacked out, "Spoke to Gobbo on the phone. Ball
10:38:09 47 in your court." So, again, a meeting that you're at,

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10:38:16 1 discussions about Gobbo acting for a particular person, not
10:38:21 2 noted in your diary, but likely that you're aware of
10:38:25 3 it?---I accept that.
10:38:27 4
10:38:38 5 Now, if we have a look at Mr Purton's diary of 8 April, if
10:39:20 6 we could go to that. There's a reference to a meeting,
10:39:23 7 Purana meeting, Thursday the 8th. Again you're present.
10:39:31 8 Strategy Gobbo completely indemnifying and again I think
10:39:37 9 there's a reference to [REDACTED]. So there's
10:39:43 10 discussion about a strategy. Do you see that?---Yes, I do.
10:39:49 11
10:39:50 12 And there's a Driver precedent, "Geoff Flatman previous
10:39:54 13 matter. Andy Allen spoke to Gobbo last night",
10:39:58 14 right?---Yes.
10:39:58 15
10:39:59 16 That's - I think we've discussed this recently. There was
10:40:02 17 a meeting between Ms Gobbo and Andy Allen and I think [REDACTED]
10:40:10 18 [REDACTED], who was the solicitor for [REDACTED], at a
10:40:13 19 café, do you recall that, in South Melbourne?---In South
10:40:17 20 Melbourne, yes.
10:40:17 21
10:40:18 22 No, in chambers I think it was - in court, or wherever it
10:40:22 23 was, but there was a discussion about it. And that's on
10:40:27 24 the 7th and this is a reference to a meeting on the 8th,
10:40:33 25 "Andy Allen spoke to Gobbo last night", so that's a
10:40:36 26 reference to the earlier discussion?---Yes.
10:40:38 27
10:40:39 28 Now, your diary makes reference to "tactics re [REDACTED]
10:40:45 29 [REDACTED]", so a fairly concise diary entry, but no
10:40:52 30 reference to Ms Gobbo?---No.
10:40:53 31
10:40:54 32 But clearly you're aware of her involvement because you've
10:40:57 33 been told about it?---I accept that.
10:40:59 34
10:41:00 35 Right. And again, there's a reference to - and I took you
10:41:11 36 to this previously - evidence that Andy Allen again met
10:41:15 37 with Ms Gobbo on 9 April, that is the following day, at the
10:41:21 38 Wallflower café. You recall I asked you about that and I
10:41:24 39 think you make reference to that in your supplementary
10:41:27 40 statement?---I do, yes.
10:41:28 41
10:41:29 42 And in that meeting, there appears to be a number of things
10:41:34 43 discussed at the meeting. If we can put that up. Clearly
10:41:43 44 you're not at the meeting, but I just want to have this
10:41:49 45 diary entry put up; it's Mr Allen's diary entry for 9
10:41:59 46 April. Whilst it's going up, can I suggest to you that you
10:42:02 47 would have been aware, whether before or afterwards, that

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10:42:10 1 she was going to speak to Mr Allen on 9 April. Is it
10:42:20 2 likely that it's something that you would have been made
10:42:23 3 aware of?---Not necessarily. I don't recall - I don't
10:42:28 4 recall being made aware of that. I'm not sure why I would
10:42:32 5 have been made aware of that. I do have an entry on 12
10:42:35 6 April, that I've referred to in my statement, so clearly
10:42:38 7 there was some reporting back of some of the outcomes of
10:42:42 8 that meeting.
10:42:42 9
10:42:43 10 You'll see Mr Allen records at 1.30 there's a phone call
10:42:47 11 with - I don't know whether it's to or from - but Nicola
10:42:51 12 Gobbo to meet her, Clarendon Street, and there's a note
10:42:57 13 with respect to - re issues regarding the ^{PII} [REDACTED]
10:43:03 14 and then he attends the café, speaks to her, issues are
10:43:09 15 canvassed regarding ^{PII} [REDACTED] and her acting for him.
10:43:15 16 "Advised that Mr Swindells is to visit next week" and then
10:43:22 17 there is a discussion about issues with respect to the
10:43:30 18 media.
10:43:35 19
10:43:35 20 MS ENBOM: I'm sorry to interrupt, Commissioner. The
10:43:37 21 document on the screen, may that be taken down? It
10:43:40 22 contains suppressed names and it's visible to people in the
10:43:44 23 gallery.
10:43:45 24
10:43:45 25 COMMISSIONER: Yes, certainly. Thanks, Ms Enbom. It can
10:43:47 26 remain on the witness' one. Do you need it on yours?
10:43:53 27
10:43:53 28 MR WINNEKE: I've got a.
29
30 COMMISSIONER: You've got a hard copy
31
10:43:55 32 MR WINNEKE: So long as Mr Overland can see it?---I could,
10:43:58 33 but it's just disappeared.
10:44:00 34
10:44:00 35 COMMISSIONER: So if Mr Overland and I could see it, thank
10:44:02 36 you.
10:44:03 37
10:44:05 38 MR WINNEKE: So one of the things that was discussed was
10:44:08 39 there were apparently issues with respect to her acting for
10:44:11 40 him. Now, did you understand that there was an issue about
10:44:14 41 that?---I don't have a recollection of that, no.
10:44:24 42
10:44:25 43 Right. And there's also a suggestion that Gobbo advised
10:44:39 44 that she would speak to a person who may know about
10:44:47 45 information from Purana being released to the media. Now,
10:44:53 46 is that something that you would have been made aware
10:44:58 47 of?---I may have been, but again, I don't specifically

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10:45:03 1 recall whether I was or I wasn't.
10:45:05 2
10:45:05 3 The reality is you would certainly have been concerned
10:45:09 4 about any leak at all coming from Purana?---Yes.
10:45:14 5
10:45:15 6 That's something that you would have been concerned
10:45:17 7 about?---Yes, I would have been.
10:45:18 8
10:45:18 9 And you would have discussed it, can I suggest, with
10:45:21 10 Mr Allen?---I may well have done. I don't recall whether I
10:45:24 11 did or I didn't.
10:45:25 12
10:45:25 13 Is it likely that you would have?---I would hope that we
10:45:29 14 did have a discussion about it if that was information that
10:45:31 15 was made known to him.
10:45:32 16
10:45:33 17 And the fact that Ms Gobbo might be able to assist you in
10:45:35 18 that regard. If, for example, you're having a discussion
10:45:38 19 about his meeting with her and she's suggesting that she
10:45:41 20 might be able to help him with that, it stands to reason
10:45:44 21 that that would have been discussed with you, wouldn't
10:45:46 22 it?---It may have been, but again, I don't have a
10:45:49 23 recollection of it.
10:45:49 24
10:45:49 25 I understand you don't have a recollection of it, and
10:45:52 26 there's no note in your diary about it, we know that?---No.
10:45:54 27
10:45:55 28 But that doesn't suggest that it wasn't discussed?---All I
10:45:58 29 can say is I don't have a recollection of it. It may have
10:46:01 30 happened, it may not have happened, I don't know.
10:46:03 31
10:46:04 32 Perhaps if I can put it this way: it doesn't confirm that
10:46:07 33 it was not discussed, it may have been discussed and you
10:46:09 34 simply don't know?---It may have been, yes.
10:46:10 35
10:46:10 36 And the likelihood is that those sorts of things would have
10:46:12 37 been discussed with you?---I would hope so. If it was a
10:46:16 38 suggestion that information was being leaked from Purana, I
10:46:18 39 would want to know about it.
10:46:20 40
10:46:25 41 And the issue around Ms Gobbo acting for this [REDACTED]
10:46:31 42 [REDACTED] was because, can I suggest, you would have been
10:46:36 43 aware that there was a concern about Gobbo acting and
10:46:43 44 advising him in circumstances where she was associated with
10:46:46 45 Williams?---Yes.
10:46:48 46
10:46:48 47 And Mokbel?---Well, certainly Williams. I don't recall

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10:46:57 1 about Mokbel at that time, I don't - it may have been, it
10:47:02 2 may not have been, I don't specifically recall.
10:47:04 3
10:47:04 4 And ^{PII} [REDACTED] You know who that is?---I
10:47:08 5 do. Look, again it's difficult - it's difficult to recall
10:47:15 6 when I was aware of particular information about particular
10:47:18 7 people.
10:47:18 8
10:47:18 9 Right. What you say is look, it's likely - this is what
10:47:28 10 you say in your supplementary statement - it's likely that
10:47:32 11 your diary entry of the 12th of April is a reference to
10:47:42 12 what I was suggesting to you in your evidence, that is the
10:47:47 13 concern about Mr Williams having access to someone on the
10:47:52 14 inside?---Yes, of VicRoads.
10:47:56 15
10:47:57 16 Yes, VicRoads?---Yes.
10:47:58 17
10:47:59 18 And concern about finding out her address?---Yes.
10:48:01 19
10:48:04 20 Certainly that doesn't appear to have been the subject of a
10:48:07 21 discussion that Mr Allen had with Ms Gobbo in his notes on
10:48:12 22 9 April?---No, it doesn't.
10:48:14 23
10:48:19 24 And it may well be that that's information that you get
10:48:23 25 from a completely different source and it's got nothing to
10:48:26 26 do with what Mr Allen is discussing with Ms Gobbo?---Again,
10:48:32 27 I have no specific recollection as to where that
10:48:36 28 information came from.
10:48:37 29
10:48:37 30 Your notes don't really help you there in that regard, do
10:48:40 31 they?---No.
10:48:41 32
10:48:41 33 Equally, it's not clear whether it's Ms Gobbo's concern
10:48:47 34 about her own safety or another concern, from your notes,
10:48:51 35 is it?---I took it that it was her concern, but I accept
10:49:00 36 you could possibly read it differently, yes.
10:49:03 37
10:49:04 38 Well, I mean, the note is pretty - it's fairly concise, but
10:49:09 39 it doesn't really give much information about whose concern
10:49:14 40 it is?---Well, I read it as being her concern, but it's not
10:49:20 41 absolutely clear.
10:49:23 42
10:49:36 43 If we have a look at Mr Allen's diary of 29 June 2004.
10:49:53 44 He's on duty. There's a Purana - he's in charge of Purana
10:50:00 45 at 7.30, do you see that?---Yes.
10:50:03 46
10:50:03 47 Then if we go through his diary down to about 13:50,

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10:50:08 1 there's a discussion with Detective Senior Sergeant Bezzina
10:50:14 2 regarding the situation report re Operation Loris and
10:50:19 3 interview of Nicola Gobbo, Mokbel times three, Dave
10:50:26 4 McCulloch - or "D. McCulloch", do you see that?---I do.
10:50:30 5
10:50:32 6 Also briefed re ESD, evaluation of McCulloch, and it's not
10:50:44 7 clear what it says there. But is that something that you
10:50:48 8 would have been made aware of at the meeting? If we go to
10:50:55 9 your diary of 28 June, then 29 June - have you got your
10:51:03 10 diary - - - ?---I don't have it.
10:51:05 11
10:51:38 12 Do you see on the 28th - the redactions make it difficult,
10:51:46 13 just excuse me. At 3.14 on 28 June there's a meeting or a
10:52:16 14 call with Greg Carroll who is the Assistant Ombudsman, do
10:52:20 15 you see that?---Yes.
10:52:21 16
10:52:22 17 And there's a reference to needing to question the Kayak
10:52:29 18 Task Force, do you see that?---Yes, I do.
10:52:31 19
10:52:33 20 Also talk to Miechel and Dale first, and then Strawhorn, do
10:52:39 21 you see that?---Yes.
10:52:40 22
10:52:41 23 And if we go over the page, "Use of coercive powers.
10:52:47 24 Question the relation between Fitzgerald inquiry and
10:52:52 25 Homicide investigation", do you see that?---Yes.
10:52:54 26
10:52:55 27 "Operational and legal, need to obtain legal
10:53:00 28 advice"?---Yep.
10:53:00 29
10:53:00 30 Do you recall what that was about?--Not specifically but I
10:53:09 31 think it was - I'm trying to work out the interface between
10:53:16 32 the inquiry that Mr Fitzgerald had been commissioned by the
10:53:21 33 Ombudsman in his capacity, I think, as an oversight body
10:53:24 34 for Victoria Police into IR 44.
10:53:28 35
10:53:28 36 Yes?---Which is that IR that was circulating in the
10:53:31 37 criminal underworld in relation to Terrence Hodson's
10:53:36 38 informing and the Homicide investigation and I do remember,
10:53:39 39 I think Mr Carroll had charge of that from the Ombudsman's
10:53:42 40 point of view for a period of time and we were, I was or we
10:53:47 41 were trying to work out how to facilitate the progress of
10:53:51 42 the Fitzgerald inquiry but also the ongoing Homicide
10:53:56 43 investigation that was under way and the relationship
10:53:58 44 between those two things.
10:53:59 45
10:53:59 46 Righto. And then I think at 4.15 there's a note of a
10:54:06 47 meeting with John Whitmore, "Pre meeting tomorrow at

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10:54:10 1 3.20 pm before meeting regarding Operation Loris. Legal
10:54:17 2 advice. Consider operational issues", do you see that?---I
10:54:20 3 do.
10:54:20 4
10:54:21 5 And then at 4.30, that's been blacked out, but it says,
10:54:25 6 "Ken Lay re Ombudsman inquiry. Received copy of" - not
10:54:34 7 clear, but "my statement"? Would that be right, you'd made
10:54:38 8 a statement I think around that time, had you, for the
10:54:41 9 purpose of the inquiry? I think we took you to it
10:54:44 10 previously?---Possibly, yes, I don't - yes, possibly.
10:54:47 11
10:54:47 12 "Legal advice to be obtained through his office", it says,
10:54:51 13 in your note. The advice would be obtained through Ken
10:54:55 14 Lay's office or the Ombudsman's office?---I think, and
10:55:01 15 again I stand to be corrected, that Ken may have been the
10:55:04 16 Chief Commissioner's Chief of Staff at that time.
10:55:07 17
10:55:07 18 Right?---So I think it's a reference to getting advice
10:55:10 19 through the Chief Commissioner's office which I think would
10:55:13 20 have been appropriate because it would relate to the
10:55:15 21 dealings between Victoria Police and the Ombudsman.
10:55:18 22
10:55:18 23 Yes?---So it would effectively be Victoria Police's advice.
10:55:25 24 I think that's what it means.
10:55:26 25
10:55:28 26 The next entry, albeit it's blacked out here, is a
10:55:29 27 reference to Gayle Sherwell?---Yes.
10:55:32 28
10:55:32 29 Do you know who she is?---I do.
10:55:34 30
10:55:35 31 Who's she?---She was our injury management expert in the
10:55:40 32 Crime Department when I was the Assistant Commissioner
10:55:43 33 Crime.
10:55:43 34
10:55:43 35 Right. What, she would speak to particular police officers
10:55:48 36 who were suffering from injuries?---Correct, and manage
10:55:53 37 them, particularly if they were on worker's compensation
10:55:56 38 and they were away from work, she would maintain contact
10:56:00 39 and liaison with them and try and facilitate their recovery
10:56:05 40 and return to work.
10:56:05 41
10:56:06 42 Was she a medical practitioner or health practitioner or a
10:56:09 43 lawyer?---No, I think these people are - there's a
10:56:12 44 specialty in injury management, I think she was a
10:56:15 45 specialist injury management consultant.
10:56:18 46
10:56:18 47 Not a health practitioner?---I don't believe so. I don't

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10:56:21 1 know whether she had nursing in her background, but in the
10:56:24 2 time I dealt with her that was her role.
10:56:25 3
10:56:25 4 If we then go down to later on that morning there's a
10:56:31 5 meeting with Luke Cornelius. At that stage he was head of
10:56:35 6 Legal, was he? He was Mr McRae's predecessor, wasn't
10:56:43 7 he?---He was in that role for a period of time, whether it
10:56:47 8 was then, I don't recall.
10:56:47 9
10:56:48 10 We understand Mr McRae came on board I think in about 2006.
10:56:52 11 We're talking about 2004 here?---All right. I accept
10:56:54 12 that's the role he was in but I don't specifically recall.
10:56:57 13
10:56:58 14 And then there are a number of discussions with him, but if
10:57:02 15 we go over to the following page we see, "Questions in
10:57:05 16 relation to interplay between Ombudsman's office and
10:57:08 17 criminal investigation, legal issues, draft questions
10:57:11 18 forwarded for comment"?---Yep.
10:57:13 19
10:57:13 20 So is it fair to say that if there were legal matters of
10:57:18 21 concern to you, then you might raise those with
10:57:22 22 Mr Cornelius for him to deal with or attend to?---I suspect
10:57:28 23 looking at that now what's happened here is that would have
10:57:34 24 been referred to Luke from the Chief Commissioner's office,
10:57:39 25 but he would understand my interest in it, so I assume
10:57:42 26 we've had some discussion about the issues, the legal
10:57:45 27 issues that he's been asked to pursue by the Chief
10:57:48 28 Commissioner, or by her office.
10:57:49 29
10:58:00 30 Now then if we go to the 29th, there's the meeting at
10:58:15 31 3.20 pm, which is the meeting which you'd anticipated the
10:58:23 32 previous day, you recall that? There was a discussion with
10:58:25 33 Mr Whitmore, and so you have a discussion with John
10:58:32 34 Whitmore and Charlie Bezzina?---Yes.
10:58:35 35
10:58:35 36 Regarding the pre Loris Ombudsman's meeting,
10:58:39 37 correct?---Yes.
10:58:39 38
10:58:40 39 So then if you go to 4 pm, then you've got the Ombudsman's
10:58:45 40 meeting?---Yes.
10:58:46 41
10:58:46 42 So there's been a bit of preparation and discussion about
10:58:50 43 that meeting. One of the things, can I suggest, would have
10:58:55 44 been discussed is the fact that Mr Bezzina had certain
10:59:04 45 investigative events in mind, including interviewing
10:59:11 46 people, one of whom was Nicola Gobbo, right?---Yes.
10:59:14 47

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10:59:15 1 Because I took you to the diary entry of Andy Allen on the
10:59:18 2 29th, and there's a reference to Bezzina and his
10:59:24 3 interviewing or proposed interviews of Nicola Gobbo, Mokbel
10:59:29 4 times three and McCulloch, right?---I understand that. I
10:59:35 5 don't recall whether those were matters that were covered
10:59:37 6 in this pre meeting or the meeting subsequently with the
10:59:40 7 Ombudsman.
10:59:40 8
10:59:40 9 Right. There's no note in your diary about whether or not
10:59:44 10 it was discussed that Gobbo was going to be interviewed by
10:59:48 11 Bezzina?---No.
10:59:50 12
10:59:50 13 But can I suggest to you that the evidence is that Gobbo
10:59:54 14 was interviewed by Bezzina on 1 July 2004, that is a couple
10:59:59 15 of days after this meeting?---Okay, I accept that.
11:00:01 16
11:00:01 17 And it had been planned that that would occur. Prior to
11:00:08 18 that obviously, because we've seen the entry in Andy
11:00:11 19 Allen's diary, and it stands to reason there would have
11:00:13 20 been planning?---Yes.
11:00:14 21
11:00:14 22 Can I suggest to you that you would have been made aware
11:00:17 23 that one of the things that was going to occur was that
11:00:20 24 Gobbo was going to be interviewed?---I may well have been.
11:00:24 25
11:00:24 26 Do you have a recollection that she was interviewed about
11:00:27 27 her knowledge of how it came to be known that Terry Hodson
11:00:35 28 was an informer?---I do recall that she would have been or
11:00:39 29 was spoken to at some point because I recall - again, and
11:00:43 30 it's difficult to remember time frames, but I do recall a
11:00:48 31 suggestion that she either had knowledge or was somehow
11:00:52 32 involved in the passage of IR 44 into the criminal
11:00:55 33 underworld.
11:00:55 34
11:00:55 35 And that was something that clearly your investigators were
11:01:00 36 interested in?---Yes.
11:01:01 37
11:01:02 38 And an implication you would have interested in that
11:01:06 39 also?---Yes.
11:01:07 40
11:01:07 41 How did this IR get into the public domain or how did the
11:01:10 42 information get into the public domain?---Yes.
11:01:12 43
11:01:17 44 Is it likely - and we know that Bezzina would be updating
11:01:24 45 you on a regular basis about his investigations?---Yes.
11:01:27 46
11:01:28 47 And we know that Bezzina and Davey did interview Gobbo on 1

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11:01:33 1 July?---Yes.
11:01:33 2
11:01:34 3 And asked her a number of questions and she provided
11:01:37 4 information about how she came to be aware that Hodson was
11:01:47 5 an informer?---I accept that, yes.
11:01:49 6
11:01:49 7 By analysis of briefs. I think she said that she'd
11:01:53 8 analysed briefs of a person called Waheed, another person
11:01:57 9 by the name of Pidoto and by analysis it became apparent to
11:02:02 10 her that Hodson was an informer?---Yes.
11:02:06 11
11:02:07 12 That's information that got to you?---I assume - yes, I
11:02:09 13 recall being made aware of that at some point, yes.
11:02:12 14
11:02:12 15 And also in the interview Bezzina had discussed with her
11:02:16 16 some of the people for whom she acted, including Tony
11:02:20 17 Mokbel?---I accept that happened, yes.
11:02:24 18
11:02:24 19 And their knowledge of IR 44 and the information within
11:02:28 20 it?---Again, I remember Mokbel was implicated in that. I
11:02:34 21 think there was a, I think a copy of the IR was
11:02:38 22 subsequently found in Queensland.
11:02:40 23
11:02:40 24 Yes?---And I think this person, I'm not sure whether
11:02:44 25 they've got a pseudonym or not, but anyway, a person in
11:02:49 26 Queensland and there was a fax number or there was some
11:02:52 27 detail on it that I think in some way tied back to
11:02:55 28 Mr Mokbel, that's my recollection.
11:02:57 29
11:02:57 30 And also in the interview Bezzina and Davey were told by
11:03:04 31 Gobbo, words to this effect, that she was getting sick as
11:03:08 32 acting as a criminal lawyer and - do you recall hearing
11:03:13 33 about that? For these types of criminals?---I don't
11:03:23 34 specifically recall hearing about it. I may have.
11:03:26 35
11:03:28 36 And it was suggested by Mr Bezzina to Ms Gobbo that they
11:03:34 37 would be prepared to receive information from her on an
11:03:41 38 anonymous basis?---I don't believe I was aware of that.
11:03:43 39
11:03:43 40 You don't believe you were aware of that?---No.
11:03:49 41
11:03:49 42 I take it you had meetings subsequent to that with
11:03:54 43 Mr Bezzina, subsequent to 1 July?---I assume I would have,
11:03:58 44 yes.
11:03:59 45
11:04:01 46 You no doubt would have been briefed on his activities in
11:04:06 47 the previous days, including, for example, his discussions

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11:04:10 1 with Nicola Gobbo?---I presume, yes.
11:04:15 2
11:04:26 3 Again, I mean if we have a look at your diary I think on 7
11:04:30 4 July there's another meeting, Operation Loris briefing,
11:04:40 5 Greg Carroll, Kieran Walsh, John Whitmore and Charlie
11:04:45 6 Bezzina as per briefing note?---Yes.
11:04:48 7
11:04:54 8 So no doubt that meeting would have referred to matters
11:04:58 9 that were in the briefing note?---That's what my record
11:05:02 10 indicates, yes.
11:05:03 11
11:05:03 12 As to everything that was discussed, whether it's all
11:05:08 13 encompassed by the briefing note or there were other
11:05:12 14 matters, it's not something that you can recall now?---No.
11:05:17 15 No, it's not.
11:05:18 16
11:05:25 17 Now, can we have a look at your diary, p.33 of your diary,
11:05:31 18 VPL.0005.0264.0087. 0005.0264.0087. What you see there is
11:05:55 19 a note that you've taken about [REDACTED]'s statements in
11:05:59 20 relation to those murders there, do you see that?---Yes, I
11:06:04 21 do.
11:06:04 22
11:06:05 23 And there's a note to the effect that Williams would be
11:06:10 24 charged with respect to [REDACTED] and Williams and [REDACTED]
11:06:16 25 in relation to [REDACTED]?---Yep. I see that.
11:06:23 26
11:06:24 27 If we then go - - -
11:06:25 28
11:06:25 29 MS ENBOM: Can we please take out the reference to the
11:06:27 30 victim, thank you.
11:06:29 31
11:06:29 32 COMMISSIONER: Yes, all right then. Remove the names line
11:06:44 33 30, the first name to appear, and then on line 31, the two
11:06:53 34 names, is that right?
11:06:55 35
11:06:55 36 MS ENBOM: Yes, it is, Commissioner.
11:06:59 37
11:06:59 38 MR WINNEKE: So you're being kept up-to-date with respect
11:07:01 39 to the process concerning [REDACTED] and the statements and
11:07:15 40 so forth, do you see that?---In general terms, yes.
11:07:17 41
11:07:17 42 General terms. And I think we've discussed, I'm not going
11:07:22 43 to go back to what occurred, I think on [REDACTED] there's
11:07:27 44 notes about, or at least there's references to the
11:07:32 45 statement process and I think I put to you a note of
11:07:37 46 Mr Purton to the effect that Ms Gobbo - - - ?---Yes.
11:07:42 47

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11:07:42 1 - - - stressed her view?---I remember that.
11:07:44 2
11:07:45 3 That the statement was ridiculous?---Yes.
11:07:46 4
11:07:47 5 And I think you make a note in your diary on PII [REDACTED]?---I
11:07:50 6 do, yep.
11:07:51 7
11:07:51 8 Of a less sort of dramatic nature to that?---Yep.
11:08:00 9
11:08:00 10 I think your note says - - - ?---Clarify claims re that
11:08:07 11 person, yep.
11:08:07 12
11:08:08 13 Yes. Nonetheless you would have been told about - - -
11:08:10 14 ?---I accept I was, yes.
11:08:11 15
11:08:12 16 Then if we go to - "Checked by Gobbo, clarify claims re
11:08:18 17 [REDACTED], and that will have to be removed. All right.
11:08:27 18 That's what you've recorded in your diary?---That's what
11:08:30 19 I've recorded.
11:08:30 20
11:08:31 21 Then if we go to your diary at p.46, there's a note to the
11:08:38 22 effect, if we can put this up - it's there. There's a note
11:08:47 23 of a meeting, a Purana meeting, do you see that?---I do.
11:08:51 24
11:08:52 25 And there's discussion - and there's reference to the
11:09:08 26 manner in which - PII [REDACTED] direct presentment to Supreme
11:09:17 27 Court, do you see that?---I'm struggling - yeah, I think
11:09:23 28 so. Some of the watermark is over the top of that so it's
11:09:27 29 a little bit difficult to read.
11:09:29 30
11:09:29 31 There's a note, Carl Williams calling George via Theo
11:09:39 32 Magazis, legal professional privilege?---Yep.
11:09:40 33
11:09:41 34 Do I take it, or are you able to recall what that note or
11:09:45 35 suggest what that note is about?---Sorry, can you just
11:09:51 36 remind me the date of this?
11:09:53 37
11:09:53 38 This is 9 August 2004?---So I assume - - -
11:10:00 39
11:10:00 40 He's in custody?---He's in custody and he's making calls to
11:10:04 41 a solicitor but is using that as a means of communicating
11:10:07 42 with his father.
11:10:07 43
11:10:08 44 Yes?---I think that's what it relates to.
11:10:10 45
11:10:10 46 And then "Monday, direct presentment to Supreme Court,
11:10:16 47 notice of trials served on Monday. To appear Tuesday.

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11:10:22 1 Launch prosecutions directly" with respect to Carl Williams
11:10:27 2 and [PII] ?---Yep, I see that.
11:10:31 3
11:10:31 4 And then "Monday, arrest [PII]"?---Yes.
11:10:36 5
11:10:36 6 Regarding - you'll see the murders there?---Yes.
11:10:39 7
11:10:39 8 The double homicide?---Yep.
11:10:41 9
11:10:41 10 And acts in preparation and there's a normal process with
11:10:48 11 respect to him, that is he's charged and he goes through
11:10:51 12 the Magistrates' Court process, committal,
11:10:54 13 et cetera?---Yes.
11:10:55 14
11:10:55 15 At least that's what was anticipated at that stage?---That
11:10:59 16 seems to be the plan, yes.
11:11:00 17
11:11:00 18 You've taken notes of that, right. Now at that stage
11:11:05 19 clearly you're aware that Ms Gobbo is acting for [PII]
11:11:09 20 [PII] ?---Yes.
11:11:11 21
11:11:16 22 Now, can I ask you about - I'll move away from that - can I
11:11:28 23 ask you about, move on to your notes with respect to
11:11:34 24 Operation Posse. Before I do, one can go through the
11:11:45 25 Purana updates, the weekly updates, and one assumes that if
11:11:51 26 you're at a meeting, you get those updates?---Yes.
11:11:55 27
11:11:56 28 If you're not at a meeting but you attend the following
11:12:02 29 week, you might get an update from the previous week that
11:12:05 30 you missed out on, would that be fair to say or not?---I
11:12:08 31 don't recall. I think I probably just got the update for
11:12:11 32 that meeting but I don't specifically recall.
11:12:14 33
11:12:14 34 At that stage in 2004 and into 2005, you are Assistant
11:12:22 35 Commissioner of Crime, you've got a reasonably close
11:12:27 36 interest in what's going on with respect to Purana
11:12:31 37 investigations?---Yes.
11:12:33 38
11:12:34 39 Posse itself, if we follow - and I'm not going to take you
11:12:37 40 to all of these, if I can do this in a general way - if we
11:12:41 41 follow it through it starts out with Tony Mokbel and the
11:12:45 42 idea is, or with the Mokbel family, and the idea is to
11:12:49 43 establish an information, a core of information about him.
11:12:53 44 That's really how Operation Posse starts, isn't
11:12:56 45 it?---That's right, and I think it started in early 2005 or
11:12:59 46 discussions about it started around then.
11:13:03 47

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11:13:08 1 Late 2004, early 2005. I think there's references to Posse
11:13:13 2 I think in November 2004. If we go to Operation Purana
11:13:17 3 update 0100, and I might be putting Mr Skim on the point
11:13:23 4 here, .0012.0162. Put it this way, there's suggestions of
11:13:45 5 an operation with respect to Mokbel around mid-2004 in
11:13:50 6 Purton's notes. Around that time. You don't take any - -
11:13:56 7 - ?---No, I don't. I don't specifically recall but I
11:14:00 8 accept that Mokbel was always a person of interest from
11:14:04 9 very early on in Purana.
11:14:06 10
11:14:07 11 Yes?---But as I said earlier, the focus of the early parts
11:14:11 12 of Purana was on the homicides.
11:14:13 13
11:14:13 14 Yes. But Posse itself, the name Posse was associated with
11:14:18 15 an investigation focusing upon the Mokbels?---Right. I
11:14:23 16 accept that.
11:14:23 17
11:14:24 18 And if we see this entry here, about midway down you'll see
11:14:28 19 "Intel cell have been preparing and updating profiles on
11:14:33 20 the Mokbel family" and that's called Operation
11:14:36 21 Posse?---Yep, I see that.
11:14:37 22
11:14:39 23 So one assumes that if you're attending operational
11:14:42 24 meetings at about this time, you're getting briefed on
11:14:46 25 these matters?---Yes.
11:14:46 26
11:14:46 27 And albeit we mightn't find in your notes details of all of
11:14:50 28 these things, you get these records and you're told in
11:14:55 29 broad what's going on?---Correct.
11:14:57 30
11:14:58 31 And if we follow Posse through, we can see that there are
11:15:03 32 references to Posse throughout the latter part of 2004 and
11:15:08 33 then into 2005 and then on 16 May 2005 there's a draft
11:15:17 34 assessment for Operation Posse and that was submitted for
11:15:22 35 consideration. You recall I took you previously to a
11:15:25 36 document which was quite a detailed document setting out
11:15:28 37 the various bits of information that had been accumulated,
11:15:33 38 I think by Mr Spargo, and put into that document?---Yep.
11:15:36 39
11:15:38 40 So Posse is focused on the Mokbels?---Yes.
11:15:41 41
11:15:41 42 Right. And then there's a bit of a hiatus, but then it
11:15:47 43 reappears in the draft updates in September of 2005, 25
11:15:53 44 September 2005, because at that stage there was a hearing
11:15:57 45 in the Supreme Court regarding restraint of moneys
11:16:02 46 belonging to the Mokbels in the account of another person,
11:16:09 47 I think supposedly a person by the name of

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11:16:11 1 Navarolli?---That name rings a bell.
11:16:13 2
11:16:13 3 That rings a bell and you would have been aware of that,
11:16:15 4 one assumes, at the time?---I assume so, yes.
5
11:16:16 6 If it's referred to in - - - ?---If it's in the notes I
11:16:18 7 would have been aware of it, yes.
11:16:19 8
11:16:22 9 This is obviously around the time that Ms Gobbo is coming
11:16:28 10 into the SDU?---Yes.
11:16:30 11
11:16:30 12 Right. I think I asked you previously about an entry in
11:16:54 13 the Purana updates about, "Defence barrister Nicola Gobbo
11:16:58 14 attempted to make contact with Operation Purana members
11:17:01 15 offering information. Her motives for this are yet to be
11:17:05 16 established". You recall I put that to you previously?---I
11:17:09 17 don't actually, Mr Winneke, but I - - -
11:17:11 18
11:17:12 19 There it is. That's on 6 June 2005?---Right, okay.
11:17:17 20
11:17:18 21 And you know, because there's reference in the updates
11:17:23 22 about Operation Pedal?---I don't recall what that operation
11:17:30 23 was about now.
11:17:31 24
11:17:31 25 That's in relation to I think Solicitor 2, right?---Right.
11:17:37 26
11:17:43 27 If we have a look at Mr Purton's diary of 6 June, which is
11:17:51 28 the same day as that update, we see a reference to Nicola
11:17:56 29 Gobbo to meet with Stuart Bateson and clearly that would
11:18:02 30 be, I take it, you would have been aware that that would
11:18:06 31 have been associated with the entry in Operation Purana,
11:18:13 32 the update about Gobbo attempting to make contact?---I
11:18:17 33 assume so, yes.
11:18:18 34
11:18:19 35 Right. If we go to your diary of the same day - perhaps
11:18:27 36 before we move off that, you'll see Solicitor 2, ACC crew,
11:18:33 37 Solicitor 2 money laundering, Jupiters Casino in Brisbane,
11:18:39 38 extra-territorial warrants, et cetera. Do you see that?
11:18:51 39 It's about halfway through that record?---Yes, sorry, I see
11:18:57 40 that now, yes.
11:18:57 41
11:19:05 42 The note about Ms Gobbo making contact with Bateson, do you
11:19:10 43 see that?---I do, yep.
11:19:11 44
11:19:17 45 Do you see where the cursor is there?---Yes, I see it, yep.
11:19:21 46
11:19:21 47 Whilst if we look at your diary, we would simply see at

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11:19:25 1 p.158 the same meeting, it's at 12.30 pm, Purana update, no
11:19:35 2 information recorded?—No.
11:19:36 3
11:19:36 4 But that's not to say you're not told about it because if
11:19:39 5 we look at someone else's diary it's quite apparent that
11:19:42 6 that was discussed in the meeting?—And it's in the paper
11:19:45 7 that came to the meeting.
11:19:46 8
11:19:47 9 Correct. So your diary wouldn't reveal that you were aware
11:19:54 10 that Ms Gobbo was wanting to approach Stuart Bateson and
11:19:57 11 yet you would have been aware of that, can I suggest?—On
11:20:00 12 the basis of that, yes.
11:20:01 13
11:20:08 14 Not long after that what we know is that - well Operation
11:20:14 15 Quills was going on and there was interest in Mr Mokbel
11:20:22 16 associated with Operation Quills, and the Commission's also
11:20:30 17 aware that Ms Gobbo was briefed to appear for a person by
11:20:33 18 the name of Bickley [REDACTED] ?—I know who
11:20:40 19 Bickley is, yep.
11:20:41 20
11:20:41 21 And then one thing lead to another and ultimately Ms Gobbo
11:20:46 22 comes into the police SDU Unit and is speaking to
11:20:53 23 them?—Yes.
11:20:53 24
11:20:53 25 Right. The evidence is that on 7 September there was a
11:20:58 26 request by Acting Superintendent Hill, who is of the MDID,
11:21:02 27 to assist regarding assessment and he wants to talk about,
11:21:07 28 she wants to talk about association with the Mokbel crew
11:21:11 29 and then there's a meeting on 8 September between the SDU
11:21:16 30 and the MDID and there's a briefing to the SDU about
11:21:24 31 Ms Gobbo's potential approach and then there's a note in
11:21:30 32 the source management log of 9 September 2005 to the effect
11:21:36 33 that the MDID can't meet until Tuesday next week, right, so
11:21:42 34 that's on 9 September. And it's anticipated that Ms Gobbo
11:21:47 35 was then going to speak to the SDU the following week,
11:21:50 36 right?—Right.
11:21:51 37
11:21:51 38 Now in the meantime, on 12 September 2005, you speak to
11:21:58 39 Mr O'Brien?—Yes.
11:22:00 40
11:22:03 41 And I put to you previously that you had a discussion with
11:22:11 42 Mr O'Brien about Gobbo's approached and the fact that she
11:22:19 43 presented opportunities with respect to Operation
11:22:21 44 Quills?—I remember you putting that to me, yes.
11:22:23 45
11:22:25 46 Which was at that stage an MDID operation?—Right.
11:22:30 47

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11:22:31 1 Now, your diary indicates that you have a discussion with
11:22:36 2 Mr O'Brien on 12 September?---Yes.
11:22:40 3
11:22:40 4 At 2 pm?---Yes.
11:22:42 5
11:22:42 6 And it says "Purana update" and you get the update from Jim
11:22:48 7 O'Brien?---Yes.
11:22:49 8
11:22:49 9 At that stage he wasn't in charge of Operation Purana, but
11:22:56 10 immediately after that he became the head of Operation
11:23:00 11 Purana and indeed it seems that there'd been moves in the
11:23:04 12 days before to get him over to Purana, as officially the
11:23:08 13 head of that operation?---Right, yep.
11:23:10 14
11:23:10 15 And on that date his evidence is that he believes that you
11:23:14 16 informed him on that date that you wanted him to head up
11:23:17 17 the operation?---Okay, I accept that.
11:23:19 18
11:23:20 19 So he then becomes the permanent head of Purana on that
11:23:26 20 date?---I accept that.
11:23:27 21
11:23:27 22 Or thereabouts?---Yep.
11:23:28 23
11:23:32 24 And his diary records that he "spoke to AC Overland re Task
11:23:41 25 Force Purana, update per sheet". Now, there's also a note
11:23:49 26 to this effect, "Discussion regarding solicitor Nicola
11:23:52 27 Gobbo and opportunities re Operation Quills". That's what
11:24:00 28 he says in his notes or that's what he records in his
11:24:04 29 notes?---Yes.
11:24:04 30
11:24:04 31 Right. And indeed in his statement - in fact perhaps if we
11:24:14 32 can have a look at his notes VPL.0005.0153.0016. Do you
11:25:07 33 see that there?---I do.
11:25:15 34
11:25:16 35 "Spoke to AC Overland regarding Task Force Purana update
11:25:20 36 per sheet. Discussion regarding solicitor Nicola Gobbo and
11:25:24 37 opportunities re Operation Quills. Consider ACC hearings.
11:25:30 38 Discussed recent AFP investigation regarding Mokbel and AC
11:25:37 39 query re Mokbel State charges, brief and time frames", do
11:25:42 40 you see that?---I do.
11:25:43 41
11:25:48 42 What that indicates is that there's a discussion between
11:25:52 43 you and he and you ask him questions about the State
11:25:56 44 charges and time frames, et cetera?---Yes.
11:25:58 45
11:25:58 46 Do you accept that those discussions were had with you on
11:26:03 47 that day?---Well I've always said I don't recall having

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11:26:07 1 those discussions and my recollection was that I didn't
11:26:11 2 become aware of Ms Gobbo's registration as an informer
11:26:16 3 until later.
11:26:17 4
11:26:17 5 That's what you say in your supplementary statement, isn't
11:26:20 6 it?---That's right, yes.
11:26:21 7
11:26:21 8 But that note quite clearly suggests there was a discussion
11:26:26 9 with you about Nicola Gobbo and opportunities that she
11:26:29 10 provided?---Yes, it does.
11:26:31 11
11:26:31 12 And indeed if Mr O'Brien is to be accepted, in his
11:26:35 13 statement he says that, at paragraph 290, "I believe that
11:26:42 14 the following persons in Victoria Police are aware prior to
11:26:45 15 the end of 2012 that Ms Gobbo was providing information or
11:26:48 16 assisting Victoria Police: Assistant Commissioner
11:26:51 17 Overland, who was informed of Ms Gobbo's role around the
11:26:55 18 time she became a registered informer. My first notation
11:26:58 19 of this was on 12 September 2005 at 1.57 pm and I provided
11:27:02 20 a Task Force update to the Assistant Commissioner". Right.
11:27:09 21 Now at that time you'd already arranged for Gobbo to be
11:27:13 22 assessed by the SDU, right?---I understand that.
11:27:17 23
11:27:17 24 And he would have told you that?---Well, as I've said, I
11:27:22 25 don't recall the meeting, I don't recall that conversation.
11:27:26 26 It's not consistent with my general recollection around
11:27:29 27 when I found out and now that I've had the benefit of
11:27:33 28 looking at my diaries, there are entries there that
11:27:38 29 indicate to me that I wasn't made aware at that meeting.
11:27:42 30
11:27:43 31 Mr O'Brien was asked questions about this in his evidence
11:27:57 32 and he gave some evidence about it and I'll ask you some
11:28:01 33 questions about it and see what you have to say about it.
11:28:06 34 In his statement at paragraph 48 he says, "On 12 September
11:28:10 35 2005 at 1.57 I attended Assistant Commissioner Overland's
11:28:15 36 office at 412 St Kilda Road, Melbourne. At that time I had
11:28:20 37 a regular meeting with Overland every Monday at 2 pm. The
11:28:23 38 scheduling of this regular meeting changed over time and my
11:28:26 39 diaries record when they occurred. At the meeting on 12
11:28:30 40 September I provided Overland with a Purana Task Force
11:28:33 41 update as per the weekly written sheet and had a discussion
11:28:37 42 with him relating to Ms Gobbo. While I didn't record it in
11:28:40 43 my diary I believe that Assistant Commissioner Overland
11:28:44 44 asked me to assume formal management of the Purana Task
11:28:46 45 Force at this meeting". And his evidence at p.5513 was
11:28:56 46 this: "A number of days after that on 12 September you've
11:29:04 47 got one of your regular weekly meetings with Mr Overland,

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11:29:07 1 is that right? That's correct. Was there anyone else
11:29:11 2 involved in that meeting, that first meeting? No, I don't
11:29:13 3 believe so. If we can put your diary back up on the
11:29:17 4 screen. Can you say, before we get to this, can you say
11:29:20 5 whose idea it was in the first place to register Ms Gobbo
11:29:23 6 as an informer?" And he says, "Not really, I mean I think
11:29:27 7 it was Mansell going to court and coming back and my view
11:29:30 8 was if she was going to be an informer, I didn't want the
11:29:32 9 risk in my office so I suppose it was me at the end of the
11:29:35 10 day". And he's asked did he have any concerns about how
11:29:41 11 that might work, "Not at that early stage, no. You were
11:29:46 12 aware that the person that she was, that the police would
11:29:49 13 be wanting information about from her was Tony Mokbel?
11:29:54 14 That's correct. You were aware that Tony Mokbel was her
11:29:57 15 client? She'd certainly represented him, yes. Did that
11:30:01 16 not scream conflict to you", it was put to him. He said,
11:30:04 17 "It was a conflict for her. I was more interested in what
11:30:07 18 was still going on and what criminal acts were being
11:30:10 19 committed". He was asked, "Did you foresee the possibility
11:30:12 20 that it might create some great difficulties for police?"
11:30:15 21 He said, "Yes. The reason you did?" And he said, "Yeah,
11:30:23 22 well the reason, I wanted her out of the MDID", and into
11:30:28 23 the hands of the SDU one assumes. If we can go on to the
11:30:34 24 conversation. If we go over to p.5514. Sorry, the
11:30:40 25 meeting. "You have a meeting with Mr Overland around about
11:30:42 26 2 o'clock on 12 September? Yes. You speak to him about a
11:30:47 27 Task Force Purana update as per the sheet? Yes. You note
11:30:51 28 discussions there, 'discussion re solicitor Nicola Gobbo an
11:30:55 29 opportunities re Quills'? Yes. What did you discuss with
11:30:58 30 him?" He says, "I don't recall but it obviously would have
11:31:01 31 been in relation probably the cross-over between Quills, as
11:31:04 32 you mentioned earlier, and Operation Orbital at the AFP
11:31:08 33 possibly. By this stage you'd been making moves to have
11:31:13 34 her registered as an informer? Yes. By this stage there's
11:31:16 35 moves afoot to deploy you to Purana on a full-time basis?
11:31:21 36 Yes. Is it likely that during this conversation with
11:31:28 37 Mr Overland you would have discussed the nature of the
11:31:30 38 information that Ms Gobbo had passed on to Mansell and
11:31:35 39 Rowe? Quite possibly, yes. That 'she seems to be willing
11:31:38 40 to come on board and tell us all about Tony Mokbel'? Quite
11:31:42 41 possibly, yes. Would you put it higher than that being
11:31:45 42 quite possibly? I'd imagine that's what the discussion
11:31:50 43 would have resolved around, it was discussing the
11:31:54 44 informer". Ms Tittensor said, "Of course it would have, it
45 necessarily would have, wouldn't it? As I say, as I've
46 noted there, I can't take it much further than that. It
11:31:58 47 was obvious that I was discussing with Mr Overland her

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11:32:00 1 coming on board as an informer". Now, effectively - that's
11:32:07 2 his evidence?---Yes.
11:32:08 3
11:32:08 4 That that's what he was discussing with you?---Yes.
11:32:10 5
11:32:10 6 Do you take issue with that and do you say that that's not
11:32:14 7 what occurred?---All I can say is, as I've maintained for
11:32:20 8 some time, that my recollection was that I found out about
11:32:24 9 Ms Gobbo's role as a registered informer after she was
11:32:28 10 registered and there are now entries in my diary, now that
11:32:33 11 I've had the benefit of looking at those, that actually
11:32:37 12 indicate to me that it's much more likely that I wasn't
11:32:40 13 told about that until 26 September.
11:32:45 14
11:32:45 15 What is it that makes it much more likely that you weren't
11:32:48 16 told?---Because I have made an entry on 26 September where
11:32:53 17 there was a regular Purana update at 2 o'clock on that day.
11:32:58 18 That's the first reference to the number 3838. On the
11:33:03 19 following day - and I expressed some views about needing to
11:33:08 20 manage this source very carefully and a reference to Terry
11:33:11 21 Purton. On the following day at 3.45 I meet with Terry
11:33:15 22 Purton regarding debrief of 3838. And then there's some
11:33:20 23 detail that I record, so I'm not sure why I need to be told
11:33:26 24 about what it is 3838 has to say on 27 September if I
11:33:32 25 already know about it. So I get a briefing on that and
11:33:35 26 then I have a discussion with Terry about what needs to be
11:33:39 27 done in order to manage that source, which is again
11:33:43 28 consistent with the evidence I've given for a long time now
11:33:46 29 about appreciating the sensitivity of the source and
11:33:49 30 understanding the risks and understanding that we needed to
11:33:53 31 be very careful in the way she was managed, and then
11:33:56 32 there's a later entry on 29 September at 8.45 am, which I'm
11:34:03 33 sure you'll ask me about, when I had a meeting with the
11:34:08 34 Chief Commissioner and my diary records, among other
11:34:10 35 things, so I think the meeting was about other things, but
11:34:13 36 my diary records among other things, "Reference Purana re
11:34:18 37 3838", so again I take from that that I told the Chief
11:34:21 38 Commissioner about the registration, all of which is
11:34:24 39 consistent with my long held view or my long held
11:34:28 40 recollection as to when I found out and my immediate
11:34:31 41 reaction to that news.
11:34:34 42
11:34:34 43 Can I suggest this to you, that as at 9 September she
11:34:42 44 hadn't, sorry, 12 September, she hadn't had the first
11:34:46 45 assessment on 16 September and so she didn't have a number
11:34:50 46 at that stage, right?---Yep.
11:34:52 47

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11:34:53 1 The assessment hadn't taken place at that stage, so there
11:34:56 2 hadn't been a decision made to register her?---Yes.
11:35:00 3
11:35:00 4 Do you accept that?---I accept that.
11:35:01 5
11:35:04 6 And the note suggests that that is what is being planned
11:35:09 7 and - when I say it's being planned, the note suggests that
11:35:15 8 there's a discussion with you about the opportunities that
11:35:18 9 she may provide but nothing's been solidified at that
11:35:22 10 stage?---I accept that.
11:35:23 11
11:35:23 12 You accept that?---Yep.
11:35:24 13
11:35:24 14 And it's quite clear from, I suggest, from Mr O'Brien's
11:35:31 15 note, what was discussed with you?---I accept that is
11:35:36 16 Mr O'Brien's note and that's his evidence.
11:35:38 17
11:35:38 18 Contemporaneous note?---But I also - well I'm not going - I
11:35:44 19 can rehash what I've just said, but it's not consistent
11:35:47 20 with my long held recollection. My long held recollection
11:35:50 21 is consistent with the diary entries that I've just read to
11:35:53 22 you.
11:35:53 23
11:35:53 24 Your recollection was you didn't have any diaries, but all
11:35:55 25 of a sudden we know that you do?---I understand that.
11:35:58 26
11:35:58 27 Right. And when we see your diaries, we see on a regular
11:36:03 28 basis there's information recorded in other people's notes
11:36:07 29 which simply isn't recorded in your diary?---I accept that.
11:36:10 30
11:36:10 31 And you accept the general proposition that if it's
11:36:12 32 recorded in other people's diaries and not in yours, you're
11:36:15 33 prepared to accept as a general proposition that that
11:36:21 34 information was discussed but you didn't make a note of
11:36:24 35 it?---I accept that, but if - - -
11:36:26 36
11:36:26 37 But not in respect of this?---Well because there's entries
11:36:28 38 in my diary that are contradictory.
11:36:30 39
11:36:31 40 There's an entry in your diary which is consistent with
11:36:34 41 Mr O'Brien's diary to the extent that you had a discussion
11:36:37 42 with him at the same time?---I accept we had a meeting,
11:36:40 43 yes.
11:36:40 44
11:36:40 45 I note the time, Commissioner.
11:36:41 46
11:36:42 47 COMMISSIONER: Yes. We'll take a rather belated morning

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11:36:45 1 break.
2
3 (Short adjournment.)
4
12:05:10 5 COMMISSIONER: Just before you get back into things, a
12:05:12 6 couple of housekeeping matters. The last two exhibits
12:05:17 7 tendered, Exhibit 981, the supplementary statement, and the
12:05:21 8 Kieran Wlash affidavit, they'll both have an exhibit number
12:05:24 9 A and B for the redacted and unredacted versions. Also,
12:05:30 10 the ACIC has applied for and been given standing leave to
12:05:35 11 appear in respect of the remaining witnesses, including
12:05:39 12 this witness, and Mr Sol Solomon has also applied for leave
12:05:47 13 to appear in respect of Mr Overland's evidence, which will
12:05:53 14 mean that he'll be able to get the transcript. So assuming
12:05:57 15 that there's no objection to that, I will grant that
12:06:01 16 application for leave to appear also. Yes, thank you,
12:06:06 17 Mr Winneke.
18
12:06:08 19 MR WINNEKE: Thank you, Commissioner.
20
12:06:18 21 Your diary entry of 19 September 2005 at p.192 suggests
12:06:30 22 that you have a meeting with - you have a Purana update
12:06:36 23 meeting?---Yes.
24
12:06:40 25 I'll come to that in a moment, but I just want to remind
12:06:44 26 you of the evidence about what has occurred in between 12
12:06:50 27 and 19 September. Ms Gobbo, as per the arrangement, has
12:06:58 28 her first meeting with the SDU on 16 September 2005 and at
12:07:04 29 that meeting, she provided a significant amount of
12:07:10 30 information regarding Mokbel, a person who we know as
12:07:15 31 [REDACTED] - you know who that is?---I did. I'm just trying
12:07:22 32 to refresh my memory. Yes, thank you.
33
12:07:29 34 A person by the name of Lanteri?---Yes.
35
12:07:33 36 And Operation Quills. It was noted that Ms Gobbo, in the
12:07:38 37 meeting, was known to all of the Mokbel
12:07:42 38 brothers?---(Witness nods.)
39
12:07:43 40 And a number of matters were raised in the meeting between
12:07:48 41 the SDU and Ms Gobbo and there were, in effect, SDU
12:07:59 42 discussions with Ms Gobbo about how best to get Mokbel and
12:08:03 43 a number of ways were discussed. One of them was that
12:08:07 44 Mokbel may be susceptible to [REDACTED] and he
12:08:11 45 might trust Ms Gobbo if she [REDACTED] him to [REDACTED]
12:08:17 46 [REDACTED]?---Right.
47

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12:08:21 1 Because there was a suggestion that he was at that stage
12:08:24 2 seeking to bribe an MDID member with a view to ascertaining
12:08:30 3 evidence against him in Operation Quills and also to steal
12:08:36 4 tape recordings regarding Operation Kayak?---Yes.
5
12:08:40 6 And I think you've referred to that because you make
12:08:42 7 mention of putting tapes into safekeeping, with your
12:08:49 8 notes?---Yes.
9
12:08:50 10 And there was also discussion about Ms Gobbo ^{PII} [REDACTED]
12:08:54 11 [REDACTED] who might be able to - a ruse, that it
12:09:00 12 might be open for [REDACTED] to [REDACTED] for
12:09:05 13 Mr Mokbel, so that was something that was discussed. And
12:09:09 14 as a consequence of that meeting, the assessment was that
12:09:12 15 at least Ms Gobbo would be regarded as - would be able to
12:09:16 16 provide information of high value, at least of high value,
12:09:20 17 in relation to current intelligence on the Mokbel family
12:09:23 18 and associates?---Right.
19
12:09:32 20 Three days later, you have a meeting with Mr O'Brien and if
12:09:40 21 we have a look at Mr O'Brien's summary, diary summary, VPL
12:09:46 22 .0005.0126.0001, if we have a look at 19 September 2005, so
12:09:56 23 if we can scroll through that document to 19 September
12:10:09 24 2005, there's a meeting on the 18th floor. It doesn't
12:10:13 25 involve you, but this is in the morning, at 9.12 in the
12:10:16 26 morning, SID 18th floor meeting with Detective Acting
12:10:28 27 Superintendent Hill, Sandy White, Mr Smith, another SDU
12:10:34 28 person, and another Mansell, regarding the meeting with
12:10:37 29 solicitor Gobbo on 16 September, "Full brief to be
12:10:41 30 conducted with the same over one week period. Stated
12:10:44 31 current cook for Mokbel is Mark Lanteri. Two opportunity
12:10:49 32 for [REDACTED] to same on [REDACTED] of [REDACTED] or
12:10:53 33 [REDACTED]." Do you see that?---I do.
34
12:10:58 35 That information clearly has found its way from the SDU
12:11:00 36 over to Detective Superintendent Hill, who is then at the
12:11:04 37 MDID, and Mr O'Brien, who, by this stage, is the head of
12:11:09 38 Purana, or at least the Detective the head of Purana, and
12:11:14 39 then he attends your office, according to his note, at 5
12:11:20 40 minutes past 10 on the 14th floor and briefs you regarding
12:11:24 41 Purana and the information regarding Lanteri and there's a
12:11:28 42 discussion about covert operations regarding [REDACTED]
12:11:36 43 [REDACTED] Do you see that?---Yes.
44
12:11:37 45 So if we follow it through, it's pretty clear on the
12:11:39 46 evidence that there's a meeting with Ms Gobbo on the 16th
12:11:43 47 and the evidence goes to O'Brien and it comes to you, it

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12:11:46 1 appears, on the evidence that we've got, on the morning of
12:11:49 2 19 September, right. Do you accept that?---Do I accept
12:11:57 3 that's the entry? Yes.
4
12:11:58 5 If we have a look at your diary of 19 September, you've got
12:12:04 6 a note - just excuse me - you commenced at, I think,
12:12:19 7 10.20 am, is that right?---10.30 I think it is.
8
12:12:22 9 10.30. If we just have a look at your diary. It looks
12:12:32 10 like 10.20. We can put it up if you like. That's
12:12:37 11 VPL.0005.0264.0247. Your diary doesn't mention any note of
12:13:12 12 a discussion with O'Brien at that point in time, do you
12:13:16 13 accept that?---I think my diary has me starting after the
12:13:18 14 time at which the meeting is supposed to have occurred.
15
12:13:21 16 That's what your diary says. So if we have a look at that
12:13:28 17 diary, it appears to be that you commenced at either - -
12:13:33 18 -?---I think it's 10.30. My writing is bad, but I think it
12:13:36 19 is 10.30.
20
12:13:38 21 It seems that something is overwritten, but in any event,
12:13:40 22 what you say is, "My diary says that I commenced at that
12:13:43 23 time and therefore on the basis of that diary entry, I
12:13:48 24 would not have had that discussion with Mr O'Brien", is
12:13:51 25 that what you say?---Yes.
26
12:13:56 27 Do you know - at that stage were you writing your diary
12:14:05 28 contemporaneously or were you writing entries into your
12:14:08 29 diary at a later stage or what's the situation?---I don't
12:14:10 30 recall.
31
12:14:11 32 In any event, it appears that Mr O'Brien says he's had a
12:14:15 33 discussion with you at that time and you say, "Because my
12:14:18 34 diary says I commenced at either 10.20 or 10.30, that can't
12:14:23 35 be the case"?---Yes.
36
12:14:25 37 Right. In any event, there is an update that day, isn't
12:14:31 38 there, for Purana?---There seems to be an entry there at
12:14:35 39 2 o'clock, Purana update.
40
12:14:38 41 2 o'clock. In your diary, there are a number of matters.
12:14:42 42 If we go over the page, you've actually recorded some
12:14:44 43 information in your diary and the first part of it relates
12:14:49 44 to [REDACTED], do you see that?---Yes.
45
12:14:57 46 And entered a guilty plea. I won't read out the name. And
12:15:01 47 then there's a reference to a trial involving that

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12:15:05 1 particular person - or at least the murder of that
12:15:07 2 person?---Yep.
3
12:15:10 4 There's a video connection with respect to - do you know
12:15:17 5 who that witness is? Is that a reference to [REDACTED]
12:15:21 6 [REDACTED]?---I think it is, yes.
7
12:15:22 8 And Stuart Bateson is to visit him the following day,
12:15:27 9 right?---I think so, I think that's what it is.
10
12:15:29 11 And then there's a reference to Austrack?---Yes.
12
12:15:37 13 And they had met with solicitor number 2 and
12:15:42 14 Mr Mokbel?---Yes.
15
12:15:43 16 And then there's a report to the Law Institute, do you see
12:15:49 17 that?---Yep.
18
12:15:50 19 And that's with respect to Solicitor 2, I take it?---I
12:15:55 20 assume so.
21
12:15:56 22 So the likelihood is that you're making a report in
12:15:59 23 relation to Solicitor 2 to the Law Institute because you
12:16:02 24 consider that her conduct as a legal practitioner should be
12:16:08 25 investigated?---I assume so, yes.
26
12:16:13 27 And then there are references to other matters. Then if we
12:16:19 28 go further down, we see Mark Lanteri cooking for
12:16:30 29 Mokbel?---Yep.
30
12:16:30 31 And then I think your note says "collate
12:16:35 32 information"?---Yep.
33
12:16:35 34 And, "Need to discuss the future direction for the Mokbel
12:16:39 35 investigation next week"?---Yep.
36
12:16:42 37 I suggest to you that that information that you've got
12:16:45 38 there is information which has its provenance in Ms Gobbo
12:16:52 39 and it's information which is information that she's
12:16:58 40 provided to the handlers, who have provided it to
12:17:03 41 Mr O'Brien, he's discussed it with you and can I suggest
12:17:07 42 you would have been aware that that information came from
12:17:10 43 Ms Gobbo?---Well, I don't recall now. I mean, there's
12:17:14 44 clearly a reference to the name Mark Lanteri and the role,
12:17:18 45 but I can't now say whether I knew the source of that
12:17:22 46 information or not.
47

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12:17:22 1 And you say, "Look, because I don't refer to Ms Gobbo, I
12:17:26 2 haven't referred to her on the 12th of September", despite
12:17:31 3 the note that Mr O'Brien makes, "I don't refer to her name
12:17:38 4 there"?---No, I don't.
5
12:17:43 6 "And I apparently wasn't there when Mr O'Brien says he
12:17:46 7 spoke to me in the morning, therefore I can't have been
12:17:49 8 told - it's not likely that I was told that Ms Gobbo was
12:17:52 9 the source of that information", that's your position, is
12:17:56 10 it?---It is.
11
12:17:57 12 Can I suggest to you that the evidence would suggest that
12:17:59 13 you were aware at that stage where that information came
12:18:03 14 from?---I understand the suggestion. I have no
12:18:07 15 recollection of that and I note that it's inconsistent with
12:18:10 16 what I subsequently did when I did find out that she was
12:18:14 17 registered.
18
12:18:14 19 Can I suggest that it's contrary to your assertion that
12:18:20 20 it's inconsistent, can I suggest that it's consistent with
12:18:24 21 your diary entries and when you add those diary entries to
12:18:29 22 the entries of other investigators, it's entirely
12:18:33 23 consistent with the fact that you're getting briefed by
12:18:35 24 Mr O'Brien, the person who you've just appointed as the
12:18:40 25 head of Purana and who's keeping you updated with what's
12:18:43 26 going on?
27
12:18:45 28 MR GLEESON: Just a point of clarification, Commissioner.
12:18:47 29 Is Mr Winneke saying that it's entirely consistent, his
12:18:49 30 phrase, entirely consistent that he was told something at
12:18:51 31 work by O'Brien at 10.05 when his diary says he started at
12:19:00 32 10.30, that's entirely consistent?
33
12:19:04 34 MR WINNEKE: Perhaps I'll withdraw the "entirely
12:19:07 35 consistent". Mr Overland, is it conceivable that you have
12:19:14 36 a discussion with Mr O'Brien before you sit down and put an
12:19:17 37 entry in your diary, at which point you note the
12:19:24 38 commencement of your work in the office? Is that
12:19:30 39 possible?---Well, is it possible? I guess it's possible,
12:19:36 40 but I can't then explain why I've got an entry saying I
12:19:40 41 started duty 25 minutes after I'm supposed to have a
12:19:44 42 meeting with him.
43
12:19:45 44 If you have a look at that entry, it seems it has been
12:19:48 45 overwritten, so whatever time has been recorded, there
12:19:50 46 seems to be, at least in the mind of the person who is
12:19:52 47 writing it, some uncertainty as to the time you commenced.

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12:19:57 1 Do you want to have a look at the actual thing?---No, I've
12:20:00 2 seen it on the screen. I just think that's just in the
12:20:02 3 realm of speculation. I read it as 10.30, that's what I
12:20:06 4 believe I've written, that's because I assume I started
12:20:12 5 duty at 10.30 on that morning.
6
12:20:15 7 In any event, you would discount evidence - or at least
12:20:17 8 Mr O'Brien's diary and you would say because of that, it's
12:20:23 9 unlikely that you would have got that information from
12:20:25 10 O'Brien?---All I can say, with the benefit of looking at my
12:20:29 11 diary, is that I have an entry that said I started work
12:20:32 12 that day at 10.30. That's inconsistent with the evidence
12:20:35 13 that is in Mr O'Brien's diary. I can't take it any further
12:20:38 14 than that.
15
12:20:39 16 I follow that. And if Mr O'Brien's diary indicates that
12:20:42 17 very shortly after, if not immediately after he gets the
12:20:45 18 briefing, he goes to your office to have a discussion with
12:20:48 19 you, would it not be open - perhaps I withdraw that. Would
12:20:57 20 you not be prepared to concede that you have a discussion
12:21:03 21 with Mr O'Brien at about that time and - - -?---If that's
12:21:06 22 the chain of events, then it does seem open to conclude
12:21:09 23 that, but I don't believe that's what happened.
24
12:21:16 25 In any event, you would say whether or not you're informed
12:21:24 26 in the morning, the fact that you don't note the name in
12:21:27 27 the afternoon indicates that you weren't told where the
12:21:32 28 information came from?---Look, I can't say positively
12:21:37 29 either way now, I can't. I don't have a recollection of
12:21:40 30 it. All I can say is the evidence I've already given,
12:21:46 31 which is what I did subsequently, when clearly I am told
12:21:49 32 that she's registered as a human source, is different to
12:21:54 33 these entries, that's as far as I can take it, Mr Winneke.
34
12:21:57 35 I follow that. As a police officer, a Detective, you would
12:22:02 36 have an inquiring mind, I assume? You need to, don't
12:22:09 37 you?---Yes. Yes, you do.
38
12:22:10 39 If you're told Mark Lanteri is cooking for Mokbel, wouldn't
12:22:14 40 you say, "How do we know that"?---I may or I may not have.
12:22:18 41 I were told lots of information. I didn't go burrowing
12:22:21 42 into how we knew every piece of information that was
12:22:24 43 presented to me. I mean, obviously it's significant if we
12:22:27 44 knew who the current cook was because that opens up lines
12:22:30 45 of inquiry.
46
12:22:31 47 You want to know where the information comes from, is it

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12:22:34 1 good information?---Possibly, maybe, maybe not. I mean, it
 12:22:39 2 depends how it is put. I had lots of information being put
 12:22:42 3 to me. I wouldn't forensically examine my investigators
 12:22:46 4 about every piece of information they were providing to me.
 5
 12:22:50 6 All right. Can I suggest to you that as a matter of
 12:22:57 7 commonsense, if there's a discussion, given what has
 12:23:02 8 occurred in the lead-up to this meeting, if there's a
 12:23:05 9 discussion about Mokbel's current cook, it's inconceivable
 12:23:09 10 that there wouldn't have been also a discussion about where
 12:23:11 11 the information came from? Inconceivable is the
 12:23:14 12 question?---I don't accept that.
 13
 12:23:16 14 All right. Okay. What about "the need to discuss the
 12:23:22 15 future direction for the Mokbel investigation next week",
 12:23:26 16 what do you think that's about?---Well, again, I can only
 12:23:36 17 really take the entry at face value, which is obviously
 12:23:44 18 decisions were still being made or considered around
 12:23:47 19 exactly what direction to take with that investigation, so
 12:23:51 20 it's part of the chain of conversations that have been
 12:23:54 21 happening around an investigation into Mokbel and the
 12:23:57 22 Mokbel family, but still no firm direction had been set and
 12:24:00 23 obviously there needed to be some further discussion about
 12:24:02 24 it the following week.
 25
 12:24:04 26 And there was ongoing debriefing, can I suggest, around
 12:24:07 27 this time of Ms Gobbo and a notation about the direction of
 12:24:13 28 an investigation suggests that something is going to occur
 12:24:18 29 which may well affect the direction of that
 12:24:22 30 operation?---Well, I think the fact that Mr O'Brien had
 12:24:24 31 been moved across to Purana was part of gearing up for
 12:24:32 32 Purana to move on to the investigation of Mokbel, because I
 12:24:36 33 think we talked about this previously, there were a number
 12:24:38 34 of phases to Purana. This was further preparation for the
 12:24:44 35 phase of Purana that was targeting the Mokbel syndicate.
 36
 12:24:49 37 So the second meeting, the debrief occurs on the 21st and
 12:24:55 38 Ms Gobbo provides information on matters, including Tony
 12:25:02 39 Mokbel, another person - and other people who were cooking
 12:25:05 40 for Mokbel, including a person by the name of [REDACTED] and the
 12:25:10 41 fact that [REDACTED] had [REDACTED]
 12:25:14 42 There's discussion about Mr Lanteri, Navaroli, Solicitor
 12:25:22 43 2, a number of other people, so there's, a lot more
 12:25:26 44 information is gathered from Ms Gobbo. Then there's a
 12:25:30 45 meeting with yourself on 26 September 2005?---Yes.
 46
 12:25:39 47 And you make notes in your diary about that?---I do.

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12003

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1
12:25:48 2 And if we have a look at RCMPI.0133.0001.0001, at p.512,
12:25:58 3 which is in your diary, I think, at p.200, we see that your
12:26:12 4 notes refer to Mokbel, to 3838 for the first time?—Yes.
5
12:26:27 6 And Mokbel meeting with Bickley, [REDACTED]?---Yes.
12:26:34 7
8
12:26:35 9 Lanteri cooking for Mokbel, Operation Quills, VicPol
12:26:45 10 operation, and accused Operation Brocard, which is an AFP
12:26:49 11 operation for a conspiracy to import involving Mokbel, Raad
12:26:55 12 and a person by the name of Abdullah, do you see
12:26:59 13 that?—No, I don't have actually have that in my
12:27:01 14 statement, which I'm going from. I don't have a copy of
12:27:04 15 the diary in front of me.
16
12:27:14 17 Perhaps if Mr Overland can be shown his diary?—Thank you.
12:27:30 18 Yes, I see that.
19
12:27:31 20 You see that, the reference to Brocard. The name is Raad
12:27:43 21 and Abdullah and there's a note, "Need to manage this
12:27:48 22 source very carefully" and Terry Purton to be fully
12:27:54 23 involved?---Yes.
24
12:27:59 25 You were going overseas shortly, is that right?—Yes.
26
12:28:06 27 And Mr Purton was going to stand in your shoes, is that
12:28:09 28 right, whilst you were away?—That's right.
29
12:28:14 30 Yes?—Yes.
31
12:28:16 32 So he needed to be briefed on the matter?—My recollection
12:28:23 33 now, looking at that, is Terry Purton was Commander Crime.
12:28:29 34 To have a Commander at crime was recognition of some of the
12:28:38 35 operational issues that arise in that area, so there was an
12:28:42 36 extra layer of supervision, so I think what I was saying
12:28:47 37 there generally that as Commander, because he is closer to
12:28:51 38 the ongoing day to day operations than I was as AC; that he
12:28:57 39 needed to be fully involved in this, regardless of whether
12:29:00 40 he was Acting AC or not, but certainly if I was going away,
12:29:03 41 he would need to be involved.
42
12:29:05 43 Certainly if you're going away, he's standing in your
12:29:08 44 shoes, he has to be updated about what's going on?—He
12:29:09 45 does, but I think as the Commander, he needed to be
12:29:12 46 involved in what was going on.
47

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12004

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12:29:13 1 In any event, what's clear, can I suggest to you, is that
12:29:15 2 by this stage a decision has been made to register Ms Gobbo
12:29:20 3 because she is now being referred to as 3838, would that be
12:29:24 4 fair to say?---Yes, she's got a number.
5
12:29:27 6 She's got a number?---Yes.
7
12:29:28 8 And in accordance with, I suppose, commonsense, if someone
12:29:34 9 is now registered and the decision has been made to use
12:29:39 10 her, then appropriate measures should be put in place with
12:29:43 11 respect to this particular human source?---Yes.
12
12:29:47 13 And indeed, any human source, I suppose, but particularly
12:29:50 14 with this human source?---Particularly with this one.
15
12:29:53 16 Because she is providing information with respect to very,
12:29:57 17 very significant targets as far as you're concerned?---Yes.
18
12:30:03 19 Mr Mokbel, he couldn't be a bigger target, at this
12:30:08 20 stage?---I'm not sure that's quite right, but at the time
12:30:12 21 he was very significant, yes, very significant.
22
12:30:15 23 And it would stand to reason that the source would need to
12:30:21 24 be managed very carefully?---Yes.
25
12:30:28 26 It's clear enough that you've been made aware that this
12:30:32 27 information is from Gobbo and Gobbo is - you know at this
12:30:42 28 stage she's a lawyer?---Yes.
29
12:30:46 30 And can I suggest to you you would have known that she was
12:30:52 31 Mr Mokbel's lawyer?---I don't believe I did.
32
12:30:58 33 And she was appearing overtly in court at around this time
12:31:02 34 for Mr Mokbel in various proceedings that he was involved
12:31:07 35 in?---I don't believe I knew she was acting for him at that
12:31:10 36 time.
37
12:31:12 38 And can I suggest to you that if you had been uncertain as
12:31:20 39 to whether or not Ms Gobbo was acting for Mokbel, it would
12:31:25 40 have been appropriate for you to ask?---Well, I don't
12:31:39 41 recall whether I did or I didn't ask. I don't believe I
12:31:41 42 did because I don't believe I knew - I don't believe I knew
12:31:45 43 she was acting for him.
44
12:31:53 45 There is nothing in your diary about whether or not she's
12:31:58 46 acting for Mr Mokbel, is there?---No, there's not.
47

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12005

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12:32:03 1 So therefore you say, "I don't know whether she's acting
12:32:06 2 for him or not because I can't say from looking at my
12:32:12 3 diary"?---No, I can't say that.
4
12:32:19 5 What you do say, however, is that "this source needs to be
12:32:23 6 managed very carefully"?---Yes.
7
12:32:25 8 And what you've said previously is that you would have said
12:32:37 9 to your investigators she simply cannot act for people in
12:32:44 10 relation to whom she's providing information about?---She
12:32:48 11 can't continue to act or start acting for them, yes.
12
12:32:51 13 Can't continue to act or start acting for them?---I think
12:32:54 14 so, I think that's what the discussions were about.
15
12:32:59 16 Have you said previously that you thought - you assumed she
12:33:05 17 was acting for Mr Mokbel?---No, I don't believe I have.
18
12:33:15 19 Did you actually consider this issue about whether it was
12:33:19 20 appropriate for an informer who's a barrister - did it
12:33:24 21 occur to you that an informer who is a barrister simply
12:33:28 22 shouldn't be - or couldn't be providing information about
12:33:30 23 her clients to police?---I did consider it, but - - -
24
12:33:35 25 You actually considered it?---I did, but the nature of the
12:33:38 26 information that I've recorded here and that I recall being
12:33:42 27 provided, looked to be information that was about ongoing
12:33:47 28 criminal activity, not about - and not necessarily
12:33:50 29 information that had been derived in a situation of legal
12:33:53 30 professional privilege. I mean, she was providing details
12:33:56 31 as to who was currently cooking for him and that means who
12:33:59 32 was manufacturing amphetamines for him, how those drugs
12:34:02 33 were being distributed, how the network was working. They
12:34:05 34 are matters that are not covered by legal professional
12:34:07 35 privilege.
36
12:34:09 37 Righto. When I asked you questions at the very beginning,
12:34:15 38 and this is at p.11315, I said - I put this to you, "I take
12:34:36 39 it you would also have been aware that in late 2005/2006,
12:34:41 40 previously Ms Gobbo was acting for Mr Mokbel in relation to
12:34:44 41 drug charges brought by the Commonwealth?" You say, "Look,
12:34:47 42 I believe so, but I don't have a particularly clear
12:34:50 43 recollection of that." "No, all right. In due course we
12:34:53 44 might put in front of you at least newspaper articles which
12:34:55 45 make it clear that Ms Gobbo was acting for Mr Mokbel?
12:34:59 46 Yes. At the time? I accept that she was acting for
12:35:00 47 Mr Mokbel at the time. You would have been aware of that

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12006

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12:35:04 1 at the time? I assume so, but I don't have a specific
12:35:07 2 recollection of that." Do you say that what you said then
12:35:12 3 was inaccurate?---No, I don't. I'm doing my best to
12:35:21 4 remember when I knew particular things about particular
12:35:25 5 people. So I think that's talking about events in 2006.
6
12:35:31 7 Late 2005, 2006?---2006. You know, I don't recall when I
12:35:39 8 became aware that Ms Gobbo was acting for Mr Mokbel.
9
12:35:45 10 Right. The fact is she was overtly and regularly appearing
12:35:51 11 for Mr Mokbel in late 2005 in the Supreme Court?---I accept
12:35:56 12 that.
13
12:36:01 14 It's easy, I suppose, for you to say, "I don't recall now",
12:36:06 15 but are you prepared to accept that if that was the fact
12:36:10 16 then, then it is likely you would have been aware of
12:36:12 17 that?---No, I don't accept it is likely I was aware of it.
12:36:16 18 I mean, you touched on this. I was actually overseas for a
12:36:19 19 month.
20
12:36:20 21 I'll come to that?---You know, I'm sorry, I just don't
12:36:25 22 recall.
23
12:36:25 24 Righto. Do you say you would have said to Mr O'Brien at
12:36:34 25 that meeting, or at least - that meeting on the 26th or at
12:36:41 26 various times around that time, that Ms Gobbo could not be
12:36:48 27 used to provide information in circumstances where the
12:36:52 28 target of that information was her own client?---No. I
12:36:59 29 think - again, I don't recall what I said in this meeting.
12:37:05 30 I note the meeting that we're talking about was a half-hour
12:37:08 31 meeting, I note that I've got an entry that I was called
12:37:11 32 out at the start of the meeting, so I wasn't there for the
12:37:13 33 whole half hour, and I've got notes, so there's a
12:37:18 34 reasonably detailed amount of information that was covered
12:37:22 35 in whatever space of time I was there. Of particular
12:37:25 36 interest to me now that I've been able to see my notes, is
12:37:28 37 on the very next day I have a follow-up meeting with Terry
12:37:35 38 Purton, where he both tells me about the debrief of 3838,
12:37:37 39 but I talk to him about the things we need to be doing in
12:37:41 40 order to manage that source or the information coming from
12:37:46 41 that source, so I don't know what I said on - I don't
12:37:51 42 recall now what I said on the 26th, but on the 27th clearly
12:37:56 43 I had quite a discussion with Terry Purton about issues
12:38:03 44 associated with the management of 3838.
45
12:38:05 46 Did you receive more information on the 27th, because there
12:38:10 47 was another debriefing on 26 September 2005?---As I said,

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12007

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12:38:16 1 my notes indicate - it says, "3.45 pm Terry Purton re
12:38:23 2 debrief 3838" and then there's some details there.
3
12:38:28 4 That's on the 27th?---That's on the 27th, yes. That's what
12:38:31 5 you're asking me about.
6
12:38:32 7 Did you not get a further debrief on the 27th?---That's
12:38:40 8 what I was talking about, at 3.45, from Terry Purton.
9
12:38:47 10 Right. You'd had a meeting at 2 o'clock - sorry, Purton
12:38:54 11 had had a meeting at 2 o'clock?---Well that might be right.
12
12:38:58 13 The evidence - sorry, I interrupted you?---I mean that
12:39:02 14 might be right, but I don't know that now, but if it's in
12:39:04 15 his diary, then I assume that's the case.
16
12:39:07 17 On 26 September 2005 there was the third debrief and
12:39:12 18 Ms Gobbo provided information about matters, including the
12:39:17 19 fact that she had assisted PII to become a Crown
12:39:22 20 witness, she'd spoken to Mr Bateson about this, she was
12:39:27 21 concerned that Solicitor 2 may uncover her involvement and
12:39:32 22 tell Mr Mokbel, she was concerned about diary notes being
12:39:42 23 revealed at trial disclosing her actions, she provided
12:39:45 24 information about Mokbel wanting PII to provide him
12:39:49 25 with an exculpatory statement. She provided information
12:39:53 26 about Mokbel's relationship with Mr Karam. She spoke about
12:40:00 27 Mokbel's public hearing at the Supreme Court regarding his
12:40:03 28 assets, which was coming up, she spoke about Mokbel being
12:40:11 29 obsessed with PII's case, that is Operation PII,
12:40:17 30 about Operation Kayak tapes, the fact that Mokbel believes
12:40:21 31 that he can't be convicted without the Kayak tapes, Mokbel
12:40:25 32 being concerned that PII could put him in, concerned
12:40:31 33 about PII rolling on him, Mokbel's relationship with
12:40:36 34 Lanteri, Lanteri cooking for Mokbel, according to
12:40:40 35 PII who PII. So all of that
12:40:43 36 information, including PII's relationship with Tony
12:40:55 37 and Milad Mokbel, personal details of PII, including
12:41:02 38 confidential information, pressure on PII for
12:41:06 39 Mokbel, believes - Mokbel believes that he may have been
12:41:10 40 PII behind their back, there's reference to her view -
12:41:13 41 at least the view of PII that he'll get PII
12:41:19 42 years on his current charges, so she's clearly providing
12:41:23 43 information which would be confidential information, one
12:41:25 44 assumes, to her handlers. Then there's a meeting on 27
12:41:40 45 September, and this is in Mr Purton's diary, at 2 o'clock.
12:41:47 46 He meets with Mr O'Brien, Inspector Hill, Burrows and Paul
12:41:55 47 Rowe, who are MDI directors, and also Sandy White and

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12008

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12:42:00 1 Mr Peter Smith. Those latter two are the SDU. They
12:42:08 2 provide him with significant information about the three
12:42:11 3 meetings that they've had with Gobbo to that time, the
12:42:15 4 16th, the 21st and the 26th, and he has a fairly lengthy
12:42:20 5 meeting, it goes for a couple of pages - a page and a half
12:42:24 6 in his diary - setting out the information that's conveyed
12:42:27 7 to him and the outcome of the meeting is the Kayak tapes to
12:42:35 8 be relocated to Purana, to Commander of Crime, to you -
12:42:44 9 sorry, to Purton, and then he comes in and has a meeting
12:42:49 10 with you?---Yes.
11
12:42:51 12 And also there's to be discussion about the investigation
12:43:02 13 plan and resourcing. Now, clearly you're a person who is
12:43:07 14 involved in the provision of resources?---Yes.
12:43:10 15
12:43:10 16 At the very least?---Yes.
17
12:43:11 18 But you're also making notes, I suggest, about the
12:43:15 19 information that's being provided?---I did. They're in my
12:43:21 20 diary.
21
12:43:22 22 And in your diary, you record a discussion with Mr Purton
12:43:26 23 regarding the debrief of 3838?---Yes.
24
12:43:31 25 And there's a reference to PII [REDACTED], information about
12:43:35 26 Mr Lanteri, that PII [REDACTED], correct?---Yes.
27
12:43:41 28 That he PII [REDACTED] with Mokbel, that Mokbel was worried
12:43:45 29 about PII [REDACTED] ---Yes.
30
12:43:46 31 "Was seeking Kayak tapes. Maybe [REDACTED] to
12:43:53 32 police"?---Yes.
33
12:43:54 34 That's information in your diary?---Yes.
35
12:43:56 36 Discussed handling of information from Ms Gobbo, highly
12:44:01 37 sensitive - or 3838 you record?---Yes.
38
12:44:03 39 And obviously you know at that stage that it's
12:44:06 40 Ms Gobbo?---I do.
41
12:44:08 42 Highly sensitive. "IR as normal. Contact reports held by
12:44:15 43 TP. Discussed with Ian Thomas re management. Need to keep
12:44:20 44 info extremely tight with audit trails." Correct?---Yes.
12:44:25 45
12:44:25 46 And "investigation strategy being developed", do you see
12:44:34 47 that?---Yes.

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12009

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1
12:44:36 2 "Monday, part of Purana." Do you see that?---I do.
3
12:44:46 4 "Mustn't compromise 3838 under any circumstances."
12:44:54 5 Correct?---Yes.
6
12:44:54 7 Particularly with proposal [REDACTED].
12:44:57 8 "Need to ensure 3838 not burnt in any plan"?---Yes.
9
12:45:02 10 And this operation is going to be conducted by Purana, not
12:45:07 11 by the MDID?---Yes.
12
12:45:20 13 There's no reference anywhere in your diaries of a note to
12:45:25 14 investigators to make sure she doesn't act improperly or
12:45:29 15 contrary to her duties as a lawyer?---No, but there is a
12:45:34 16 reference to audit trails.
17
12:45:36 18 That's as close as you can get to your evidence that you
12:45:43 19 implored investigators that she should not provide
12:45:47 20 information against people for whom she was acting?---I've
12:45:50 21 explained that in my statement. I don't believe I would
12:45:53 22 have written that down because it would identify 3838 as a
12:45:56 23 lawyer and is potentially a source of compromise, for the
12:46:00 24 sorts of reasons - - -
25
12:46:02 26 How would it be a compromise?---For the sorts of reasons
12:46:05 27 that I've explained in my earlier evidence, that it's often
12:46:08 28 through diary notes and piecing together information that
12:46:11 29 the identity of a source can be disclosed at subsequent
12:46:14 30 proceedings.
31
12:46:15 32 You say, "I deliberately didn't write down anything about
12:46:19 33 any warning I provided to my investigators about her in my
12:46:24 34 diary because at some stage down the track in future, my
12:46:28 35 diaries could be subpoenaed and those diaries might reveal
12:46:33 36 that this particular informant, 3838, was in fact a
12:46:38 37 lawyer", that's the reason you say you didn't record
12:46:41 38 it?---I think it's a reason why I didn't record it.
39
12:46:43 40 Is another reason the fact that you simply didn't give that
12:46:52 41 exhortation?---No, it's my consistent recollection that I
12:46:55 42 did.
43
12:46:56 44 Did you tell investigators about what they should record in
12:47:03 45 their diaries?---I don't believe so. I don't know. I
12:47:10 46 don't recall now, but I don't - - -
47

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12010

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12:47:13 1 If you're concerned about what goes into your diary about
12:47:17 2 this particular informant surely - - -?---I mean there is a
12:47:19 3 need to keep information extremely tight with audit trails.
12:47:25 4 You know, I could have touched on it. I don't specifically
12:47:27 5 recall.
6
12:47:29 7 The likelihood is that it's going to be the investigators
12:47:33 8 whose diaries are subpoenaed, not the Assistant
12:47:36 9 Commissioner of Crime?---Correct, yeah.
10
12:47:40 11 So you don't believe that you told them not to record any
12:47:45 12 information which might suggest that this person was a
12:47:47 13 lawyer?---I think they would well understand that these are
12:47:51 14 all very experienced investigators, they understand the way
12:47:57 15 the criminal justice system works and discovery, so - - -
16
12:48:04 17 Is it your evidence that you make a conscious decision not
12:48:08 18 to record anything that could lead to someone reading your
12:48:14 19 diary to form a conclusion that that particular informer
12:48:20 20 3838 is a lawyer, you make that decision
12:48:24 21 deliberately?---It's been my evidence on earlier days about
12:48:27 22 the issues around record keeping and around diaries in
12:48:34 23 particular and the risks that are run around that and the
12:48:36 24 needing to be careful. I think I have been careful in
12:48:39 25 terms of the records that I have made. That's my - I mean,
12:48:46 26 I do clearly recall saying to investigators that the issues
12:48:52 27 around legal professional privilege needed to be managed,
12:48:55 28 that's my recollection.
29
12:48:57 30 Have you been able to find any note in your diary anywhere
12:49:01 31 to the effect that you spoke to investigators about either
12:49:04 32 legal professional privilege with respect to this
12:49:07 33 particular informer or alternatively the fact that she
12:49:10 34 simply cannot provide information which would be used
12:49:17 35 against her clients?---Not specifically in those terms, no.
36
12:49:22 37 And you accept that - you say that you were very concerned
12:49:29 38 about those particular aspects?---Yes.
39
12:49:32 40 And yet there's nowhere in your diaries that you can point
12:49:37 41 to which suggests that you provided that information to
12:49:40 42 Detectives?---No.
43
12:49:49 44 Mr O'Brien gave evidence - and you say that that's
12:49:53 45 something you would have made very clear to Mr O'Brien, I
12:49:55 46 take it?---I believe so, yes.
47

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12011

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12:49:58 1 What about Mr Purton?---I believe so, yes.
2
12:50:03 3 Would you expect that those police officers would record
12:50:09 4 somewhere that they had been told by you about these
12:50:12 5 important matters?---They may or they may not. I think for
12:50:16 6 the reasons I've outlined, they may not.
7
12:50:20 8 How do you protect yourself if you're now saying to the
12:50:26 9 Commissioner, "Look, I made this abundantly clear" and
12:50:29 10 things go awry, how are you going to justify your conduct?
12:50:37 11 There's just no record of it anywhere?---No, I understand
12:50:41 12 that.
13
12:50:41 14 But you say you considered these issues?---Yes.
15
12:50:45 16 Mr O'Brien was asked about a risk assessment - you know
12:50:57 17 there was - an investigation plan was developed in relation
12:51:01 18 to Operation Posse?---Yes.
19
12:51:03 20 And Ms Gobbo's use in Operation Posse?---Yes.
21
12:51:09 22 Do you say that you saw that investigation plan?---I don't
12:51:12 23 recall whether I did or I didn't. I don't think I did, but
12:51:15 24 I don't specifically recall.
25
12:51:19 26 Can I suggest to you that it's something that you would
12:51:23 27 have been keen to see and be across?---It's not my
12:51:31 28 recollection. I don't recall seeing many investigation
12:51:35 29 plans.
30
12:51:36 31 All right. Would you - having been informed of the fact
12:51:47 32 that there were federal police officers - Federal Police
12:51:54 33 were involved in investigating Mr Mokbel, would you have
12:51:58 34 been interested to find out what the situation was with
12:52:00 35 respect to that investigation?---There would need to be
12:52:07 36 some liaison, I would imagine.
37
12:52:10 38 But do you say as AC Crime, "That's not for me to look
12:52:16 39 into, that's for my investigators"?---Yes. It would be
12:52:19 40 unusual for me to be involved at that level of detail. I
12:52:22 41 might facilitate some contact, but that would be about the
12:52:26 42 extent of it, I think.
43
12:52:27 44 So if we have a look at your diary on 11 October 2012, at
12:52:33 45 11.30 pm - it may well be that we can show you this.
12:52:40 46 You've got that there. Can you find it?---I'm just trying
12:52:44 47 to find it. 11 October, yes.

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1
12:52:47 2 Do you have a note at 12.30 pm?---Yes.
3
12:52:52 4 And what is it?---"Frank Prendergast re Mokbel
12:52:56 5 prosecutions".
6
12:52:57 7 And Mr Prendergast is a federal police officer?---He was at
12:53:01 8 that time, yes.
9
12:53:02 10 So you contacted him and you've been asking him about the
12:53:06 11 state of play with respect to the Mokbel prosecution, is
12:53:11 12 that right?---That's what the entry says. I suspect what I
12:53:14 13 was doing was setting up liaison contact between the AFP
12:53:18 14 and VicPol.
15
12:53:20 16 That's what you say you're doing?---I think so. I think
17 that's what I was doing.
18
12:53:22 19 Is there a note to that effect?---No.
20
12:53:25 21 Were you keen to find out when Mr Mokbel was going to be
12:53:30 22 arrested or what the situation was with respect to
12:53:35 23 Mokbel?---Look, I don't recall the specifics.
24
12:53:37 25 But you were interested, I take it, in what was going on
12:53:40 26 and so that's the reason you contacted
12:53:45 27 Mr Prendergast?---Look, I don't know. I mean, I've clearly
12:53:47 28 contacted him, it is about Mokbel prosecutions. I can't
12:53:53 29 take it any further than that now.
30
12:54:00 31 Were you aware that there was then currently a prosecution
12:54:04 32 on foot in the Supreme Court, a Commonwealth
12:54:08 33 prosecution?---I assume I was, yes.
34
12:54:11 35 And Ms Gobbo - that's the one that Ms Gobbo was acting in
12:54:14 36 subsequently - - -?---I understand.
37
12:54:16 38 And we've seen the newspaper article?---Yeah, I understand.
39
12:54:20 40 And she'd been making applications before Justice Gillard
12:54:27 41 for disclosure in relation to a particular person who was
12:54:30 42 an informer at the time, in late 2005?---I accept that if
12:54:38 43 you're telling me that. I don't have a specific
12:54:41 44 recollection of it.
45
12:54:42 46 She wanted to find out, on behalf of Mr Mokbel, who a
12:54:47 47 particular informer was against Mr Mokbel, at a time when

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12:54:50 1 she was starting to become an informer against Mr Mokbel.
12:54:54 2 It is quite strange, isn't it, bizarre?---A funny old
12:54:59 3 world.
4
12:54:59 5 Surely you would have known those things, wouldn't
12:55:02 6 you?---Well, I don't recall them now. Whether I knew them
12:55:04 7 at the time, I don't know.
8
12:55:14 9 Now, I think you say in your statement that you went away
12:55:17 10 on the 22nd of - just hang on. Just before I go there, I'm
12:55:29 11 reminded of something that you expect I'm going to ask you
12:55:34 12 about, 29 September 2005?---Yes.
13
12:55:42 14 That's a note in your diary of a discussion with Ms Nixon,
12:55:53 15 is that right?---Yes, it is.
16
12:55:56 17 And this follows the information - the debrief with
12:56:06 18 Mr Purton on Tuesday the 27th and you have a meeting on the
12:56:15 19 29th with the Chief Commissioner in the morning and a
12:56:18 20 number of things are discussed?---Yes.
21
12:56:27 22 At around - is it fair to say that, as we discussed before,
12:56:33 23 that there were decisions to be made about the direction of
12:56:37 24 the investigation against Mokbel? You recall before you
12:56:44 25 made a note that a decision had to be made about the
12:56:46 26 direction - - ?---Discussions I think I said, discussions
12:56:48 27 about the direction.
28
12:56:49 29 And that included significant resourcing issues, I take
12:56:52 30 it?---It would have included resourcing issues, yes.
31
12:56:59 32 And equally, the information that was being provided by
12:57:02 33 Ms Gobbo with respect to persons such as ^{PII} [REDACTED] and
12:57:11 34 Mr Lanteri and ^{PII} [REDACTED] and so forth, that was
12:57:14 35 significant information that was going to enable
12:57:18 36 potentially police action against the Mokbel cartel, if you
12:57:24 37 like?---Yes.
38
12:57:25 39 So this was a big story?---It was one of many at the time.
40
12:57:30 41 But a particularly - one particular big story?---One of
12:57:35 42 many at the time.
43
12:57:36 44 It's likely that it's something that you would want to
12:57:41 45 speak to the Chief Commissioner about?---What aspect of it?
46
12:57:46 47 What aspect of it do you think you'd want to speak to the

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12:57:50 1 Chief Commissioner about?---On my reading of that note now,
12:57:53 2 and I don't have a specific recollection of it, it looks to
12:57:57 3 me like the meeting was actually scheduled to deal with the
12:58:00 4 first issue, that I've made notes about.

5
12:58:04 6 Yeah, that's the Operation Lorcha?---Lorcha, which was
12:58:08 7 another matter I had quite a degree of involvement in, and
12:58:12 8 then there's the reference "Purana - re 3838." So my
12:58:20 9 recollection - well, it's not my recollection, but my
12:58:23 10 belief is I spoke to the Chief Commissioner about the fact
12:58:26 11 that Ms Gobbo was registered as a human source by that code
12:58:29 12 number.

13
12:58:34 14 What do you believe you would have told Ms Nixon? You say
12:58:38 15 you have a belief that you would have spoken with her?---I
12:58:40 16 don't have a specific recollection. As I said in my
12:58:44 17 statement, it's significant in my mind that I told the
12:58:48 18 Chief Commissioner about that because it's not the sort of
12:58:53 19 operational information that you normally would tell the
12:58:55 20 Chief Commissioner. I don't know that I went into the
12:58:58 21 nature of the information she was able to provide in
12:59:02 22 detail, I just don't recall, but it just seems logical to
12:59:10 23 me, based on the note, based on the exceptional
12:59:13 24 circumstances in telling the Chief Commissioner something
12:59:15 25 like this, that I made her aware that Ms Gobbo, a
12:59:19 26 barrister, was registered as a human source by that code
12:59:23 27 number.

28
12:59:32 29 Clearly that's a possibility?---It's a possibility. As I
12:59:36 30 say, I don't have a specific recollection of the
12:59:39 31 conversation, so I'm trying to reconstruct how that
12:59:45 32 conversation might have gone out of the sequence of events,
12:59:50 33 the entries I have made, my general practice. It seems to
12:59:55 34 me logical that that is what the conversation was about.

35
12:59:58 36 What you say is, "It is conceivable that I said to
13:00:07 37 Ms Nixon, 'We have got an operation going at Purana against
13:00:11 38 Mokbel'", or the Mokbel cartel, Milad Mokbel, Horty Mokbel,
13:00:19 39 whoever it might be, three of them, "'and we've got an
13:00:22 40 informer, 3838, and it's going to'" - you might have said,
13:00:30 41 "Look, she's a barrister." Do you think you might have
13:00:33 42 said that?---We are in the realm of conjecture here. I
13:00:39 43 might have said it. I, in some ways, would be surprised if
13:00:43 44 I hadn't said it because I think the purpose of - there was
13:00:45 45 a purpose in me telling her this information, this is not
13:00:48 46 information that I would normally tell a Chief
13:00:53 47 Commissioner, so logically I believe I told her because of

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13:00:58 1 the fact that the human source was a barrister.
2
13:01:02 3 Is there an alternative, that it was simply something that
13:01:08 4 you told her about without mentioning who the informer was,
13:01:15 5 but an indication that it could lead to a big breakthrough
13:01:18 6 against the Mokbels?---I think that is unlikely. Look, I
13:01:22 7 can't exclude it, but I think it is unlikely that that is
13:01:26 8 what it was about.
9
13:01:28 10 Is it conceivable that - a number of issues arise at this
13:01:36 11 time. To an extent, there's a change of direction in
13:01:43 12 Purana?---Yes.
13
13:01:47 14 Purana is going to need resourcing upgrades, if you
13:01:49 15 like?---Yeah, but my recollection is that I was managing
13:01:52 16 the resourcing issues. I don't recall needing to talk to
13:01:54 17 the Chief Commissioner about resourcing.
18
13:01:58 19 Purana was probably the highest profile task force within
13:02:03 20 Victoria Police?---At that time, yes.
21
13:02:06 22 And a significant media interest in it?---Yes, although
13:02:13 23 some of the intense media interest had passed by then, but
13:02:17 24 yes, it was topical, yeah.
25
13:02:20 26 And if, for example, Victoria Police was, through its
13:02:26 27 opportunities, able to bring down the Mokbel cartel, that
13:02:32 28 would be a good news story?---It would be.
29
13:02:36 30 One assumes as Assistant Commissioner of Crime, you would
13:02:40 31 have been keen to tell that good news story?---No.
32
13:02:43 33 No?---We're a long way short of that.
34
13:02:46 35 But what you say is, "No, look, I'm confident" - I withdrew
13:02:50 36 that. "I believe that I would have said to Ms Nixon, with
13:02:58 37 respect to Operation Purana, we've got an informer who's a
13:03:03 38 barrister"?---I think I must have said at least that, but
13:03:07 39 again, I don't specifically recall, so I don't want to
13:03:10 40 overstate this, but it just seems to me, for the reasons
13:03:14 41 I've outlined, I must have at least told her that and I
13:03:19 42 can't then see why I wouldn't have told her the name of
13:03:22 43 that person.
44
13:03:22 45 Why would she need to know?---Because of the unusual
13:03:30 46 circumstances.
47

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13:03:31 1 Because of - the unusual circumstances being a barrister
13:03:34 2 who's an informer?---A barrister who is providing
13:03:38 3 information, yeah.
4

13:03:39 5 Do you think that you would have told her, "We're using her
13:03:43 6 to bring down the Mokbel cartel"?---I quite possibly did,
13:03:47 7 but again, I don't specifically recall.
8

13:03:51 9 Do you think there was any information provided to her
13:03:54 10 about whether Ms Gobbo was acting for Mr Mokbel?---I'm
13:03:59 11 certain there wasn't.
12

13:04:00 13 You're certain there wasn't?---No, I don't believe I - I
13:04:03 14 can't believe that that was a conversation I had with her.
15

13:04:10 16 If you're going to tell the Chief Commissioner about it,
13:04:12 17 you'd want to be in possession of all the information,
13:04:15 18 wouldn't you?---This is the sequence of events here: I had
13:04:23 19 a meeting with the Chief Commissioner. Looking at the
13:04:25 20 note, it seems to me the logical inference from the note is
13:04:28 21 that I told her about the fact that Ms Gobbo had been
13:04:31 22 registered as an informer by the number of 3838. I really
13:04:35 23 can't take it much further than that because I simply don't
13:04:38 24 recall.
25

13:04:40 26 Haven't you given evidence previously that Ms Nixon didn't
13:04:44 27 need to know?---No, I haven't given that evidence. I think
13:04:47 28 the evidence I gave was I didn't recall whether I told her
13:04:51 29 or not and, you know, it was a judgment call around whether
13:04:54 30 this sort of information would be made known to a Chief
13:04:57 31 Commissioner or not. I wasn't equivocal about it, I don't
13:05:00 32 believe - sorry, unequivocal about it.
33

13:05:03 34 In any event, what you can say is as to the extent to which
13:05:08 35 Ms Gobbo was discussed or the response to the briefing from
13:05:12 36 Ms Nixon, you've got no recollection of?---I think I just
13:05:17 37 told her because I thought she needed to know, that's my
13:05:20 38 take from the note.
39

13:05:21 40 That's your take, that she needed to know what, that
13:05:24 41 Ms Gobbo was the informer?---That she needed to know,
13:05:31 42 because of the unusual circumstances, that a barrister was,
13:05:37 43 I think probably Ms Gobbo, was registered as a human
13:05:39 44 source.
45

13:05:43 46 There's no - we don't see any note at all in your diary
13:05:48 47 about what you say to her, obviously, save for those

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13:05:51 1 words?---Again, I think that's deliberate on my part.
2
13:05:56 3 So what you say again is, "I believe that I didn't record
13:05:59 4 what I told the Chief Commissioner about this because of a
13:06:02 5 concern about my diaries being" - - -?---Security concerns,
13:06:06 6 diaries being left lying around, people reading them who
13:06:09 7 shouldn't, discovery processes through the court.
8
13:06:11 9 No-one is going to get your diary. These are diaries which
13:06:15 10 are in the Assistant Commissioner's office?---Yeah, but you
13:06:20 11 carry diaries around with you. It's not unknown for highly
13:06:22 12 secure documents to be lost. I think members of the
13:06:25 13 defence force have left top-secret documents in airport
13:06:28 14 lounges, if I recall correctly, so things do go missing.
15
13:06:31 16 They do, but also, things have got to be recorded, don't
13:06:33 17 they?---They do, but there's a record there, there's a
13:06:36 18 reference to the fact that I had a conversation with the
13:06:39 19 Chief Commissioner about 3838.
20
13:06:42 21 What we see is "Purana re 3838", that's all we can
13:06:46 22 tell?---That's it, yep.
23
13:07:00 24 MR GLEESON: Commissioner, if Mr Winneke is leaving that
13:07:01 25 issue now - are you moving on?
26
13:07:04 27 MR WINNEKE: Yes.
28
13:07:08 29 MR GLEESON: Commissioner, it is important that I raise
13:07:09 30 this matter now. Last year it was put by Mr Winneke that
13:07:14 31 this witness had not told the Chief Commissioner, Christine
13:07:19 32 Nixon, about Nicola Gobbo and about organisational risks
13:07:23 33 and that his reason for doing so was to protect the
13:07:26 34 advancement of his career. If that proposition is to be
13:07:32 35 pressed by Mr Winneke, he should do so in the face of a
13:07:37 36 diary note that now reveals that Mr Overland did indeed
13:07:41 37 have a discussion with Christine Nixon about 3838. It is
13:07:46 38 not satisfactory to leave it dangling. If the change in
13:07:50 39 position has arisen because the diary note reveals they had
13:07:54 40 a discussion, that should be acknowledged. If that very
13:07:56 41 serious unsatisfactory allegation is to be put to this
13:07:58 42 witness, it should be squarely put and somehow reconciled
13:08:01 43 with his diary note.
44
13:08:07 45 MR WINNEKE: Now, Mr Overland, you say in your statement -
13:08:11 46 just excuse me - that it was put to you that you didn't
13:08:15 47 tell Ms Gobbo - sorry, didn't tell Ms Nixon about Ms Gobbo

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13:08:21 1 because of your concern about advancement. Can we go to
13:08:32 2 11863, please, in the transcript.
3
13:08:35 4 COMMISSIONER: I think that is probably the best idea.
5
13:08:39 6 MR WINNEKE: The 20th of December. "Senior counsel
13:08:59 7 assisting put to me that I'd failed to keep the Chief
13:09:04 8 Commissioner, Christine Nixon, aware of the situation
13:09:06 9 involving Ms Gobbo and that I'd done so to protect the
13:09:06 10 advancement of my career at Victoria Police." That's what
13:09:09 11 you say in your statement. Let's have a look at the
13:09:12 12 transcript, at 11863.
13
13:09:19 14 MR GLEESON: You start at 11861, at line 9.
15
13:09:32 16 MR WINNEKE: Let's have a look at 11863 because that's what
13:09:35 17 this witness relies upon. I think at line 15 I said,
13:09:53 18 "Mr Overland, you had been interviewed at this stage" -
13:09:58 19 this is as at the time of the SWOT analysis. I was asking
13:10:03 20 you questions about the SWOT analysis, which I'd suggested
13:10:06 21 had come to you, and that document referred to OPI
13:10:11 22 investigations, et cetera?--I remember that.
23
13:10:14 24 And, "Had you been told that you had that position by this
13:10:17 25 stage?" "I don't believe so." "Can I suggest to you that
13:10:21 26 this document here, if the concerns in it had any basis in
13:10:25 27 fact, would have the effect that you'd never be Chief
13:10:36 28 Commissioner", and you say, "I don't accept that, I don't
13:10:39 29 accept the submission that this somehow influenced my
13:10:42 30 decision-making around this, I simply don't." That's the
13:10:47 31 proposition that you say should be corrected, is that
13:10:53 32 right? What I was putting to you was that the document
13:10:56 33 which suggested that the management of Ms Gobbo over a
13:11:01 34 period of years needed to go before the OPI, or ought
13:11:07 35 potentially could go before the OPI, and that should have
13:11:11 36 been revealed to the Chief Commissioner, that
13:11:14 37 information?--But as I recall it, I don't believe I saw
13:11:18 38 that information, but I don't agree with any proposition
13:11:22 39 that I failed to appropriately report any information for
13:11:27 40 reasons of career advancement.
41
13:11:36 42 MS ENBOM: Commissioner, may I be heard in relation to this
13:11:38 43 issue? I appeared for Ms Nixon. In my submission,
13:11:43 44 Mr Gleeson's submission is a premature one. Mr Winneke
13:11:47 45 shouldn't be forced to decide now what final proposition he
13:11:55 46 wants to put to this witness about whether or not he told
13:12:01 47 Ms Nixon until we've all had a opportunity at the Bar table

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13:12:05 1 to cross-examine. As you know, Commissioner, Mr Winneke
13:12:07 2 goes last and so he will have the benefit of the
13:12:10 3 cross-examination by all of us in relation to this matter
13:12:14 4 and then he can assess - - -
5
13:12:16 6 COMMISSIONER: I don't think - I'm certainly - I don't
13:12:18 7 think Mr Winneke is accepting that he has to put something
13:12:21 8 like this, I think he's just trying to go to the transcript
13:12:26 9 so we can see exactly what was said on the last occasion
13:12:29 10 and follow it from there.
11
13:12:32 12 MS ENBOM: It is my submission that Mr Winneke - - -
13
13:12:34 14 COMMISSIONER: Your point is a good one. Obviously,
13:12:37 15 Mr Winneke, as counsel assisting, is not tied to having to
13:12:41 16 put some proposition at this stage.
17
13:12:44 18 MS ENBOM: My short submission is he is not required to do
13:12:47 19 what Mr Gleeson submitted he should do.
20
13:12:49 21 COMMISSIONER: He will have re-examination later, after
13:12:52 22 everyone has cross-examined, as well, but as I understood
13:12:55 23 it, you were just clarifying what was said on the last
13:12:58 24 occasion and what was said now.
25
13:13:01 26 MR WINNEKE: Thanks, Commissioner.
27
13:13:03 28 Mr Overland, do you accept that what I put to you last year
13:13:06 29 wasn't that which I put to you in your statement?---I'm
13:13:14 30 relying on my legal team, to a certain extent, for the
13:13:19 31 material that is in my statement.
32
13:13:21 33 Is that right?---Around - - -
34
13:13:23 35 I did put to you that that document could - - -?---I do
13:13:27 36 remember you putting that to me and I remember - - -
37
13:13:29 38 And that could hinder your advancement?--- - - - not
13:13:33 39 agreeing with it.
40
13:13:34 41 I understand that, but do you say that it was suggested by
13:13:37 42 me, as your statement suggests, that the reason you didn't
13:13:39 43 tell Ms Gobbo about this - - -?---Ms Nixon.
44
13:13:43 45 Ms Nixon about registering Ms Gobbo as an informer was
13:13:47 46 because it would - - -?---I had a recollection that you had
13:13:49 47 put that to me. If that's not the case, then I apologise,

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13:13:51 1 but that was my recollection.
2
13:13:52 3 You don't need to apologise.
13:13:54 4
13:13:55 5 MR GLEESON: In fairness, Commissioner, he needs to be
13:13:56 6 taken, as I requested Mr Winneke to, to 11861, where it
13:14:00 7 commences, where it says, "Can I suggest to you it would
13:14:02 8 have been absolutely essential to speak to the Chief
13:14:05 9 Commissioner and tell her about these potential
13:14:07 10 organisational risks." He says, "Yes. Look, I don't
13:14:10 11 recall exactly, I don't recall whether I did. I assume I
12 did have a conversation with the Chief Commissioner
13 about" - - -
14
13:14:15 15 COMMISSIONER: Mr Gleeson, you'll have the opportunity to
13:14:18 16 re-examine, so I really don't think we need to do it at
13:14:21 17 this level at this time.
18
13:14:23 19 MR GLEESON: With respect, the questions need to be fair
13:14:26 20 and he is asking the witness to retract what he says in his
13:14:29 21 witness statement by taking him to a selective piece of the
13:14:32 22 transcript.
23
13:14:33 24 COMMISSIONER: That is the transcript that you've quoted in
13:14:37 25 the statement and is in the footnote.
26
13:14:41 27 MR GLEESON: No, it is two pages before that, Commissioner,
13:14:42 28 and it was put to him that you should tell her, Ms Nixon,
13:14:46 29 that Gobbo was a human source. It is in the context of
13:14:49 30 that that he suggests to Mr Overland that he withheld this
13:14:53 31 from Ms Nixon about Gobbo being a human source for reasons
13:14:59 32 of career advancement where he says, "I suggest to you that
13:15:02 33 this document", at 11863, "if the concern had any basis in
13:15:03 34 fact". Now, the fact is about Gobbo being a human source.
13:15:07 35 So in fairness to him, he's got to be taken to the
13:15:10 36 transcript in context and not asked to retract from his
13:15:14 37 statement or accept that his statement is wrong unless it
13:15:18 38 is fairly put.
39
13:15:20 40 MR WINNEKE: Commissioner, the questions that I'm putting
13:15:22 41 to Mr Overland at that stage - if you go back earlier, I'm
13:15:26 42 talking about January 2009. If you go back to 11860, "Bear
13:15:31 43 in mind this is January 2009, early Feb 2009, the world in
13:15:36 44 Victoria changed", that is what Mr Overland said, "that is
13:15:38 45 early February, we're talking about January".
46
13:15:41 47 COMMISSIONER: It might be quicker if you just do this

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13:15:43 1 then. Just go through it with the witness.
2
13:15:46 3 MR WINNEKE: Judging - can I suggest I did not put to
13:15:51 4 Mr Overland that a failure to tell Ms Nixon about Ms Gobbo
13:15:58 5 acting as a human source would harm his career, I was
13:16:01 6 putting to him matters concerning the SWOT analysis and,
13:16:06 7 indeed, if you go further down, immediately above the
13:16:11 8 section that Mr Gleeson referred to, I'm talking about the
13:16:13 9 SWOT analysis. Now, Ms Nixon has given evidence that she
13:16:18 10 has no recollection, as I understand it, of being informed
13:16:20 11 that Ms Gobbo was an informer by Mr Overland, and that's a
13:16:25 12 proposition that I put to him and I'm obliged to put it to
13:16:30 13 him because that's her evidence. Now, he is suggesting
13:16:34 14 otherwise. He is suggesting that he believes he may well
13:16:37 15 have. My submission is that what Mr Overland says in his
13:16:44 16 statement isn't supported by the puttage to him last year.
17
13:16:49 18 COMMISSIONER: Well, as long as you put that to the witness
13:16:52 19 and he has an opportunity to comment. It can be dealt with
13:16:55 20 in re-examination.
21
13:16:59 22 MR WINNEKE: What you say is that you believe that you did
13:17:03 23 tell Ms Nixon?---I do, yes, I do, with the benefit now of
13:17:07 24 seeing the diary note, yes.
13:17:09 25
13:17:10 26 And what you say is that as to exactly what you told
13:17:15 27 Ms Nixon, you simply don't know?---I don't have a specific
13:17:19 28 recollection of the conversation, no.
29
13:17:21 30 Whether it is a reference to Ms Gobbo or whether Ms Gobbo's
13:17:26 31 name was referred to, you simply do not know?---Look, I
13:17:30 32 can't take the matter any further. I've attempted to
13:17:33 33 answer your questions as best I can. I don't know whether
13:17:38 34 I specifically told her. My belief is, looking at the
13:17:40 35 entry and the events around it, I probably did, but I can't
13:17:45 36 say categorically that I did.
37
13:17:47 38 Okay. I'm hearing from both sides at the same time
13:18:06 39 "lunchtime".
40
13:18:07 41 COMMISSIONER: Right. That is one thing I think everyone
13:18:09 42 will agree on. All right then. We'll adjourn until
13:18:12 43 2 o'clock.
44
13:19:15 45 <(THE WITNESS WITHDREW)
13:19:15 46
47 LUNCHEON ADJOURNMENT

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14:03:36 1 UPON RESUMING AT 2.08 PM:
14:08:31 2
14:08:33 3 COMMISSIONER: I'll just mention there has been a further
14:08:37 4 application for leave to appear, which I understand is not
14:08:40 5 opposed by counsel assisting, from the witness using the
14:08:45 6 pseudonym "Mr Cooper" and if there's no submissions to the
14:08:51 7 contrary, I'll give leave to Mr Cooper to appear in respect
14:08:58 8 of this witness. Yes, Mr Winneke.
14:09:01 9
14:09:02 10 <SIMON JAMES OVERLAND, recalled:
14:09:03 11
12 MR WINNEKE: Thanks, Commissioner.
13
14:09:04 14 Mr Overland, I want to correct something that I've been
14:09:08 15 putting to you which is an error based on - I think an
14:09:11 16 error of Mr O'Brien's transcript of his diaries. Do you
14:09:16 17 recall on 19 September 2005 I was putting to you that there
14:09:24 18 was a meeting on the 18th floor between Mr O'Brien and
14:09:31 19 members of the MDID and members of the SDU, being Peter
14:09:38 20 Smith and Sandy White, regarding the update - or it being
14:09:44 21 an update from them about what had occurred on 16
14:09:49 22 September, being the first debrief of Ms Gobbo?---Yes.
14:09:53 23
14:09:53 24 I think I suggested to you, and I've done so previously,
14:09:58 25 that immediately after that meeting at 9.12, at 10.05 he
14:10:02 26 attended upon you and conveyed information to you, and
14:10:10 27 that's what his diary suggested, and you've said, "He can't
14:10:15 28 have because I didn't start until 10.30"?---Yes.
14:10:18 29
14:10:19 30 Can I suggest to you that you're absolutely correct, he
14:10:21 31 didn't attend upon you at 10.05, but there was an update at
14:10:29 32 13:58, which is consistent with the Purana update, of which
14:10:33 33 you made notes?---Yes, I think there's an entry that I've
14:10:36 34 got an update later that day.
14:10:38 35
14:10:38 36 So that information which I've suggested to you was
14:10:40 37 conveyed then at 13:58, the note is, "Attend AC office,
14:10:45 38 14th floor, brief same re Purana and information re Mark
14:10:49 39 Lanteri, discuss operations with respect to [REDACTED]
14:10:55 40 [REDACTED]", or something?---Yep.
14:10:58 41
14:11:01 42 "Covert operation re [REDACTED]." So that note was
14:11:05 43 at 13:58 and not 10.05?---Right.
14:11:09 44
14:11:29 45 Just a couple of matters that I want to ask you about,
14:11:36 46 Mr Overland. You say clearly you rely on the note on 29
14:11:48 47 September concerning Purana and briefing regarding 3838

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14:11:54 1 with respect to Ms Nixon?---The Chief Commissioner, yes.
14:11:59 2
14:11:59 3 Have you found any other entries in your diaries which
14:12:08 4 reflect or suggest that you have had discussions with the
14:12:12 5 Chief Commissioner about Ms Gobbo or 3838, or anything like
14:12:16 6 that?---No.
14:12:17 7
14:12:20 8 Do you know whether there have been or have you found any
14:12:23 9 notes of briefing Chief Commissioner Nixon about Operation
14:12:28 10 Posse or the success of that operation?---I think I've said
14:12:37 11 in my statement from being able to go through my diaries,
14:12:42 12 I've now determined there were quite a number of occasions
14:12:46 13 where I did speak to the Chief Commissioner about Purana,
14:12:50 14 but I don't have all that detail in front of me, so - - -
14:12:54 15
14:12:54 16 All right. In any event, your diaries will speak for
14:12:57 17 themselves about that?---Well, they do.
14:12:59 18
14:13:06 19 I want to move on to 21 October. You go away, I think, on
14:13:13 20 22 October?---Again, now having had an opportunity to look
14:13:17 21 at my diaries, yes, I went overseas on 22 October.
14:13:21 22
14:13:22 23 There's a source management log - or at least Mr O'Brien's
14:13:26 24 diary suggests that on 21 October he's dealing with matters
14:13:34 25 in relation to the investigation plan and the risk
14:13:41 26 assessment with respect to Operation Posse. There's an SML
14:13:48 27 entry on that day indicating that he's had a discussion
14:13:52 28 with the SDU on 21 October about the investigation plan and
14:14:05 29 the risk assessment. Now, if we have a look at 21 October
14:14:09 30 there's a meeting - there's an indication - 21 October 2005
14:14:13 31 SML. The note is, "Meeting with Detective Senior Sergeant
14:14:18 32 O'Brien MDID. Received copy of investigation plan and risk
14:14:23 33 assessment for Operation Posse. Task Force plan to be
14:14:27 34 submitted today", date, "to AC Crime". Now, there's
14:14:33 35 evidence that, in Mr Sandy White's diary, that meeting
14:14:38 36 occurs at 8 am or thereabouts, "Investigation plan, impact
14:14:46 37 on DSU, risk assessment impact on DSU". So the meeting is
14:14:52 38 about the impact upon the DSU of this plan and the note is
14:14:58 39 that it's going to be submitted to you on that day, right?
14:15:05 40 Now, do you say that you did have any discussions with
14:15:10 41 anyone about this investigation - the investigation plan on
14:15:14 42 this day, prior to you going overseas?---I don't recall.
14:15:19 43
14:15:19 44 Have you got your diary there?---No, I don't.
14:15:21 45
14:15:22 46 Your diary suggests that there's no discussion about
14:15:26 47 it?---Yep.

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14:15:26 1
14:15:26 2 It doesn't record it, in any event, there's no record of
14:15:30 3 any discussion - - -?---No.
4
14:15:31 5 - - - with anyone about that. If we have a look at other
14:15:39 6 diary entries, if we have a look at the diary entry of
14:15:42 7 Mr O'Brien, VPL.0005.0126.0001. That's Mr O'Brien's diary.
14:16:00 8 It's a transcribed diary, but it says at 06:40, "Attend to
14:16:07 9 investigation plan, risk assessment re Operation Posse.
14:16:09 10 Speak to Sandy White at office re same. Return telephone
14:16:15 11 call from Commander Purton. To leave same", that is the
14:16:20 12 investigation plan, risk assessments, "with corrections, at
14:16:23 13 his office". Just have a look at that entry, the top one,
14:16:29 14 do you see that?---Yep.
14:16:31 15
14:16:33 16 And Ms Enbom can look at that and make sure that that's
14:16:36 17 accurate, because she's got access to the - but that's what
14:16:40 18 seems to be reflected by his diary?---Yes.
14:16:44 19
14:16:44 20 Then whilst we're there, you'll see that at 21, on the same
14:16:50 21 day, at 14:25 Mr O'Brien speaks to Commander Purton, "Task
14:16:56 22 Force Posse to proceed". Do you see that?---Yep.
14:17:00 23
14:17:01 24 In between those times, if we have a look at your diary, we
14:17:08 25 see that at 1 pm there's - have you got your transcript of
14:17:15 26 diaries there?---No.
14:17:17 27
14:17:18 28 If you have a look at the 1 pm entry, there's a note - just
14:17:24 29 excuse me.
14:17:26 30
14:17:27 31 COMMISSIONER: Just while you're talking to Ms Enbom, there
14:17:30 32 was - you note, Mr Overland, at paragraph 13 of your
14:17:34 33 statement that your solicitors transcribed all entries from
14:17:38 34 your diary that appeared relevant to the Commission's Terms
14:17:42 35 of Reference and you reviewed the transcriptions against
14:17:44 36 your handwritten entries and they accurately reflect what's
14:17:51 37 recorded in the diary entries. Were you intending to
14:17:54 38 tender that, Mr Gleeson?
14:17:55 39
14:17:56 40 MR GLEESON: Yes, I'm happy to, Commissioner. There has
14:17:57 41 been communication with other members of counsel about that
14:18:01 42 who are, not unreasonably, asking for it and we've just
14:18:05 43 momentarily provided that to them and I will, when I have a
14:18:08 44 copy, tender it.
14:18:09 45
14:18:10 46
47

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14:18:10 1 #EXHIBIT RC983A - (Confidential) Transcribed entries from
14:18:11 2 Simon Overland's diaries.
14:18:11 3
14:18:12 4 #EXHIBIT RC983B - (Redacted version.)
14:18:14 5
14:18:15 6 MR CHETTLE: The problem with it - I've just received it,
14:18:16 7 Commissioner, but it seems to stop on January 2004, which
14:18:21 8 is inconsistent with what I understood to be the case, that
14:18:24 9 it went further than that.
14:18:25 10
14:18:26 11 COMMISSIONER: Maybe they say that after that, they weren't
14:18:29 12 relevant to the Commission. I don't know what the position
14:18:31 13 is.
14:18:31 14
14:18:32 15 MR GLEESON: There's no doubt that not all of them were
14:18:34 16 transcribed, there's no doubt that some of the
14:18:37 17 transcriptions are quite wrong.
14:18:38 18
19 COMMISSIONER: Some of the transcriptions are wrong, are
20 they?
21
14:18:38 22 MR GLEESON: Yes, done by a paralegal and they just misread
14:18:42 23 the handwriting. It will probably set hares running that
24 shouldn't run
25
26 COMMISSIONER: I see
27
14:18:43 28 MR GLEESON: But we want to be completely open about this.
14:18:47 29
14:18:47 30 COMMISSIONER: Okay. Just having read paragraph 13, I
14:18:50 31 thought it might be a useful document, but that's perhaps
14:18:53 32 not entirely accurate.
14:18:55 33
14:18:55 34 MR GLEESON: It's probably not accurate. The handwriting,
14:18:57 35 from my perspective, isn't too bad, but we don't want
14:19:01 36 anyone to think we're holding anything back, so we'll
14:19:04 37 produce what we can, and perhaps there can be discussion
14:19:07 38 among the members of counsel as to whether they think it's
14:19:11 39 worth tendering.
14:19:12 40
14:19:12 41 MR CHETTLE: My problem, Commissioner, is that I need to
14:19:16 42 see these diaries before I cross-examine Mr Overland, and I
14:19:19 43 haven't seen either the diaries or the relevant entries in
14:19:23 44 the extract.
14:19:25 45
14:19:25 46 MR GLEESON: I think Mr Chettle will be much better served
14:19:27 47 by looking at the actual diaries.

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14:19:28 1
14:19:29 2 COMMISSIONER: Have you got them yet?
14:19:30 3
14:19:30 4 MR CHETTLE: No, Commissioner.
14:19:31 5
14:19:32 6 MS ENBOM: Commissioner, I'll talk to Mr Chettle about that
14:19:35 7 in the break.
14:19:35 8
14:19:36 9 COMMISSIONER: Yes. We should also tender the diary,
14:19:38 10 shouldn't we, if we have it? We haven't done so.
14:19:38 11
14:19:39 12 MR WINNEKE: Yes, Commissioner.
14:19:40 13
14:19:45 14 COMMISSIONER: For the moment, I'll tender the transcript
14:19:49 15 - - -
14:19:49 16
14:19:49 17 MR WINNEKE: Commissioner, we have - - -
18
19
14:19:51 20 COMMISSIONER: - - - A and B, 983A and B, and the diaries.
14:20:01 21
14:20:01 22 MR WINNEKE: We have redacted versions of the diaries that
14:20:05 23 have been provided to the Commission. Representatives of
14:20:13 24 the Commission went and read the diaries - went through the
14:20:15 25 diaries subsequent to the versions that were provided to
14:20:18 26 the Commission and have noted some additional entries which
14:20:21 27 were relevant and I think we have a version of that also.
14:20:25 28 In addition to that, we've been going through the diaries
14:20:28 29 today and we've found further material that's relevant. So
14:20:31 30 I think, Commissioner, there's going to need to be a
14:20:35 31 process whereby we satisfy ourselves that what's tendered
14:20:39 32 contains all of the relevant material, and I must say I'm
14:20:42 33 not satisfied at the moment that what we've got contains
14:20:46 34 all the relevant materials.
14:20:46 35
14:20:46 36 COMMISSIONER: What you've got does. But obviously what
14:20:48 37 will have to be tendered is everything relevant. So all
14:20:53 38 relevant portions of Mr Overland's diaries will be 984.
14:21:00 39
14:21:01 40 #EXHIBIT RC984A - (Confidential) Relevant portions of
14:20:55 41 Mr Overland's diaries.
14:21:03 42
14:21:03 43 #EXHIBIT RC984B - (Redacted version.)
14:21:10 44
14:21:10 45 MR WINNEKE: Thanks, Commissioner.
46
14:21:13 47 I'd like to ask you - if we can come to 21 October of 2005.

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14:21:22 1 What your diaries do reveal is that you had a meeting with
14:21:27 2 a Mary Barlow, I think, "BCG - EMT 360 degree feedback -
14:21:37 3 BCG - Mary Barlow". Does that ring a bell? You know who
14:21:40 4 that is?---Yes.
14:21:41 5
14:21:41 6 That's a fairly truncated version of a meeting - or a note
14:21:45 7 of a meeting which occurred at 1 pm. It appears that
14:21:48 8 Mr Purton was at that meeting also. Bear in mind the note
14:21:53 9 was to the effect that Mr O'Brien was to leave the risk
14:21:59 10 assessment - the investigation plan and risk assessment,
14:22:01 11 with corrections, at Mr Purton's office and that's in the
14:22:05 12 morning, do you follow that?---I do.
14:22:07 13
14:22:07 14 Then you have a meeting with Ms Barlow at 1 pm but in
14:22:11 15 addition, also at that meeting is Mr Purton?---Yes.
14:22:15 16
14:22:16 17 And his note says, "Meet with Mary Barlow, Helen Reid,
14:22:23 18 Simon Overland and superintendents re the upward feedback,
14:22:29 19 surveys, Inspectors, Senior Sergeants" and so forth. Then
14:22:35 20 his next entry is at - he leaves at 13:30, so that meeting
14:22:41 21 goes from 1.00 to 1.30 and then he has another meeting at
14:22:47 22 13:40, that is 10 minutes later, with you regarding
14:22:53 23 Operation Posse. Do you follow?---I do.
14:22:57 24
14:22:57 25 Albeit there's no note in your diary about that, because
14:23:01 26 your diary simply says, "EMT 360 degree", et cetera
14:23:06 27 et cetera, and then leave duty at 4 pm. So the meeting
14:23:10 28 seems to have gone from 1 o'clock to 1.30. Then there's
14:23:13 29 another meeting, according to Mr Purton's diary, with you
14:23:18 30 regarding Operation Posse and there's no note about that in
14:23:21 31 your diary, and then at 14:30, the next entry in
14:23:28 32 Mr Purton's diary is, "Visit MDID, speak to Jim O'Brien re
14:23:34 33 Operation Posse". That corresponds with Mr O'Brien's
14:23:42 34 diary, 14:25, "Speak to Commander Purton, TF Posse to
14:23:49 35 proceed". Can I suggest that the upshot of all of that
14:23:52 36 information is before you go away on 22 October, there's a
14:23:57 37 desire to get to you the risk assessment and the operation
14:24:02 38 plan with respect to Posse, to get your sign-off before you
14:24:06 39 go away?---(Witness nods.)
14:24:08 40
14:24:08 41 And can I suggest to you that the evidence suggests that
14:24:11 42 that's what occurs, the risk assessment and the
14:24:16 43 investigation plan get to you, you have a discussion with
14:24:21 44 Mr Purton, you give the all clear for the operation to go
14:24:26 45 ahead and that information is then conveyed back. Now, are
14:24:31 46 you prepared to agree with that analysis?---I accept that's
14:24:36 47 a logical analysis, yes.

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14:24:38 1
14:24:39 2 If that's the case, it seems to be that you were provided
14:24:49 3 with the investigation plan, which includes the plan that
14:24:57 4 [REDACTED], [REDACTED] will be utilised and ultimately the
14:25:07 5 plan will be to use those people, with a view to bringing
14:25:12 6 down the Mokbel clan?---That might be the case.
14:25:16 7
14:25:17 8 And part of that is using Ms Gobbo?---Yes.
14:25:24 9
14:25:24 10 Right. Can I suggest to you that you were well across
14:25:27 11 those operational aspects of it on 21 October and you gave
14:25:33 12 the go-ahead?---That appears to be the case, yes.
14:25:37 13
14:25:46 14 Commissioner, I'll tender those entries of Mr Purton's. I
14:25:50 15 don't believe we have those aspects of Mr Purton's diary,
14:25:54 16 but we'll have those copied and tendered in due course.
14:25:58 17
14:25:58 18 COMMISSIONER: Okay. Could you just give us the dates of
14:26:00 19 those, thanks, the dates of the diary entries that you're
14:26:04 20 wanting to tender.
14:26:04 21
14:26:05 22 MR WINNEKE: The diary entries of 21 October 2005.
14:26:18 23
14:26:18 24 COMMISSIONER: Mr Purton's diaries have been tendered as
14:26:21 25 one exhibit, as 109A and B, but you want these particular
14:26:26 26 diaries - - -
14:26:27 27
14:26:27 28 MR WINNEKE: The diaries that have been tendered are the
14:26:28 29 versions that we have been provided with, which contain
14:26:30 30 redactions, and they don't - we've been given today the
14:26:33 31 originals.
14:26:34 32
14:26:34 33 COMMISSIONER: All right. So we will do these separately,
14:26:37 34 all right then.
14:26:42 35
14:26:43 36 #EXHIBIT RC985A - (Confidential) Additional relevant
14:26:46 37 aspects of Mr Purton's diary entries on
14:26:54 38 21/10/05.
14:26:56 39
14:26:57 40 #EXHIBIT RC985B - (Redacted version.)
14:27:03 41
14:27:03 42 MR WINNEKE: There's another entry of 17 October of
14:27:05 43 Mr Purton's that we would seek to tender, Commissioner, and
14:27:10 44 the 27th of September.
14:27:13 45
14:27:13 46 COMMISSIONER: 17 October, was it?
14:27:14 47

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14:27:15 1 MR WINNEKE: Yes, and 27 September 2005.
14:27:21 2
14:27:21 3 COMMISSIONER: 27 October.
14:27:26 4
14:27:26 5 #EXHIBIT RC986A - (Confidential) Additional relevant
14:26:46 6 aspects of Mr Purton's diary entries on
14:26:54 7 27/10/05.
14:27:28 8
14:27:28 9 #EXHIBIT RC986B - (Redacted version.)
14:27:30 10
14:27:30 11 #EXHIBIT RC987A - (Confidential) Additional relevant
14:26:46 12 aspects of Mr Purton's diary entries on
14:26:54 13 27/09/05.
14:27:38 14
14:27:39 15 #EXHIBIT RC987B - (Redacted version.)
14:27:46 16
14:27:46 17 MR WINNEKE: Thanks, Commissioner.
18
14:27:52 19 I was going to take you before to Mr O'Brien's comments
14:27:55 20 about the risks associated with the use of Ms Gobbo and I
14:28:01 21 just want to ask you a couple of questions about what he
14:28:03 22 has to say. Ms Tittensor asked Mr O'Brien for some
14:28:10 23 comments in relation to a number of matters raised in risk
14:28:15 24 assessments. I take it - do you know what a risk
14:28:19 25 assessment is in relation to a particular operation?---Yes.
14:28:22 26
14:28:23 27 Is it the case that it was usual for the preparation of a
14:28:30 28 risk assessment when an operation commenced?---Yes.
14:28:35 29
14:28:35 30 Are you aware of that?---Yes.
14:28:36 31
14:28:37 32 And those are documents which are done as a matter of
14:28:39 33 course?---For many investigations, yes.
14:28:43 34
14:28:44 35 Yes, all right. And if we have a look at VPL - let's have
14:28:55 36 a look at this one, VPL.0005.0096.0004. If this could be
14:29:11 37 put up on Mr Overland's screen. It's an exhibit, but I'm
14:29:22 38 not too sure what it is. I wonder if that document could
14:29:54 39 be - can I suggest to you that this is the risk assessment
14:29:56 40 which was prepared in relation to Operation Posse, which
14:30:00 41 was prepared by Mr O'Brien, do you see that?---Right, yep.
14:30:04 42
14:30:04 43 COMMISSIONER: Exhibit 469 I'm told.
14:30:06 44
14:30:07 45 MR WINNEKE: Thanks, Commissioner. It's a five-page
14:30:10 46 document. If we could just go through it so Mr Overland
14:30:14 47 could just have a look at it. Keep going. If you haven't

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14:30:28 1 had a chance to read it, let us know, Mr Overland?---I
14:30:33 2 haven't. Again, I don't recall whether I've seen this
14:30:38 3 previously or not.
14:30:39 4
14:30:40 5 Let's assume it was prepared and provided to you in
14:30:44 6 accordance with the material that I've just taken you
14:30:48 7 to?---Yeah. Look, I understand that, but again, and I've
14:30:52 8 said this previously, I still don't recall whether I've
14:30:55 9 seen this or the investigation plan. I accept it appears I
14:30:57 10 had a conversation with Terry Purton in the way that you
14:31:00 11 put it to me. I don't know whether I saw the document.
14:31:02 12 There doesn't appear to have been a lot of time for me to
14:31:07 13 have read same, so I'm not clear that I actually saw it. I
14:31:10 14 understand what you put to me earlier, it does look like
14:31:14 15 there was some conversation with Terry about authorising
14:31:16 16 Posse before I left, I accept that, but I'm still not clear
14:31:21 17 I have seen this document before.
14:31:22 18
14:31:23 19 In any event, given your concerns about the use of a
14:31:29 20 barrister as an informer, one would assume that you would
14:31:32 21 insist on any risk assessment, including those matters, as
14:31:39 22 risks of the operation, wouldn't you?--Well, I did see
14:31:42 23 some references in there that sort of looked to me like
14:31:46 24 they might refer to that, as I was looking through quickly,
14:31:52 25 but as I say, I haven't had a chance to read the document.
14:31:58 26 I think it was on the next page, I think.
14:32:02 27
14:32:02 28 Right?---So, "All human source material to be sanitised by
14:32:09 29 the DSU. The actioning of intelligence will only occur
14:32:15 30 after consultation between the Task Force manager and the
14:32:16 31 DSU on considering risks to any RHS." I mean, there's a
14:32:22 32 number of matters in there that, to me, could be code for
14:32:31 33 the issue that you're raising. Again, I would have some
14:32:35 34 concerns about specific reference to legal professional
14:32:39 35 privilege in a document like this because this is the sort
14:32:42 36 of thing that could finish up being discovered in
14:32:46 37 subsequent judicial proceedings.
14:32:47 38
14:32:48 39 If you are preparing a risk assessment, you've got to set
14:32:51 40 out the risks associated with the use of a particular
14:32:56 41 informer. The risks that you see there are more or less
14:33:03 42 generic risks associated with the use of any informer,
14:33:06 43 particularly an informer providing information against
14:33:10 44 dangerous criminals, but what you don't see is any
14:33:16 45 reference to the risks associated with using a barrister or
14:33:20 46 a lawyer to provide information, either with respect to LPP
14:33:27 47 or operating against her clients?---But if you look at the

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14:33:36 1 likelihood, consequence and risk rating, which are those
14:33:40 2 three categories there, rare, catastrophic and high, that
14:33:44 3 says to me that's rated as a very high risk.
14:33:47 4
14:33:47 5 Yes, no question about that, but there's nothing in this
14:33:50 6 about the corruption of the judicial process or depriving
14:33:54 7 people of the opportunity of independent legal counsel or
14:33:58 8 any of those sorts of things?---No, I accept that.
14:34:01 9
14:34:01 10 And you say that you were particularly concerned about
14:34:03 11 those matters because of the use of Ms Gobbo?---Yes.
14:34:05 12
14:34:05 13 Those are unusual risks?---Yes.
14:34:08 14
14:34:09 15 Wouldn't you expect there to be something of that sort in
14:34:11 16 this sort of document?---Not in a direct manner, no.
14:34:15 17
14:34:15 18 Again, you would say it is something that would need to be
14:34:18 19 excluded from a document such as this because of the risk
14:34:22 20 that it might reveal the identity of an
14:34:25 21 informer?---Correct.
14:34:25 22
14:34:26 23 So again, this is just another - - -
14:34:28 24
14:34:28 25 COMMISSIONER: I don't think there's any problem with that
14:34:30 26 going up on the screens for counsel to see; there's no
14:34:33 27 names in that.
14:34:34 28
14:34:35 29 MR GLEESON: Thanks, Commissioner.
14:34:37 30
14:34:38 31 COMMISSIONER: Mr Gleeson was wanting to see the document.
14:34:42 32
14:34:42 33 MR WINNEKE: So effectively what you're saying is, "There
14:34:44 34 are two levels of protection that we're going to give
14:34:47 35 ourselves. We're not going to record anything in our
14:34:52 36 notes, that's the first thing, because we don't want our
14:34:55 37 notes, or any risk assessments or any documents such as
14:34:58 38 this, to reveal the identity of an informer"?---On the
14:35:06 39 investigation side, yes.
14:35:08 40
14:35:08 41 That's the first thing. "In any event, we can rely in due
14:35:13 42 course, if worst comes to worst, on public interest
14:35:15 43 immunity to make a claim because we've got that ability
14:35:20 44 anyway"?---Well, yes, but that's not a complete defence,
14:35:26 45 but yes, it's a defence.
14:35:28 46
14:35:28 47 So what you're saying is you're quite comfortable with this

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14:35:33 1 proposition that - no notes, which will mean that you're
14:35:39 2 either protected or accountable for using a barrister such
14:35:41 3 as this in these circumstances?---No, no, I've said earlier
14:35:45 4 on there's reference in my entry of the 26th that we did
14:35:50 5 need to keep records, audit trails needed to be kept, but
14:35:54 6 that's on the DSU side.
14:35:57 7
14:35:58 8 My point is this: you've got to make it plain to people
14:36:02 9 who aren't lawyers, detectives, that there are real
14:36:05 10 concerns, there are real problems with using a barrister
14:36:09 11 who's a lawyer, and yet in none of the documents that we've
14:36:13 12 seen - certainly in this document - we don't see any - -
14:36:18 13 - ?---No.
14:36:18 14
14:36:19 15 - - - note of it?---No.
14:36:20 16
14:36:20 17 And in your notes we don't see any reference to you
14:36:24 18 advising people about it?---No.
14:36:32 19
14:36:32 20 We'll keep going through the document. Is there not a way
14:36:36 21 it could be done in a coded way, just so as you could at
14:36:41 22 least point to something and say, "Well look" - -
14:36:45 23 - ?---Well, I think it has been; that's the references I've
14:36:48 24 taken you to.
14:36:48 25
14:36:49 26 All right. Okay. Sorry, I interrupted you. If we scroll
14:36:59 27 through. Have you seen that?---Yes, I'm having a look at
14:37:23 28 that. I mean, a lot of this is directed towards the
14:37:26 29 management of highly sensitive information.
14:37:30 30
14:37:33 31 Victoria Police are constantly dealing with highly
14:37:36 32 sensitive information and there are ways and means that
14:37:39 33 that can be protected?---Correct.
14:37:41 34
14:37:41 35 That's what you've got to do. But do you say further to
14:37:44 36 that, "There's just no reason why I should be recording -
14:37:47 37 or there should be records of this sort of
14:37:51 38 information"?---Not in that way, not in the way you're
14:37:53 39 putting, no - well, I'm sorry, that's not what was done at
14:38:02 40 that time. I think there's an issue about what's done in
14:38:05 41 future, but at the time, that's not what was done.
14:38:09 42
14:38:27 43 One of the things you can do is, if you're concerned about
14:38:29 44 potential ramifications or legal problems, you can speak to
14:38:34 45 lawyers yourself and you've got access to lawyers, is that
14:38:37 46 right?---Yes.
14:38:38 47

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14:38:42 1 And, indeed, you refer, in paragraph 122 of your statement,
14:38:47 2 to a meeting that's recorded in your diary on 7 October
14:38:51 3 2005 with Dianne Preston, a lawyer?---Yes.
14:38:56 4
14:38:57 5 And that was a meeting concerning Solicitor 2,
14:39:00 6 right?---Yes.
14:39:00 7
14:39:04 8 Do you see any - have you found any record in your diary of
14:39:08 9 a meeting with a lawyer about the use of a barrister as a
14:39:13 10 human source?---No.
14:39:14 11
14:39:19 12 Can I ask you about Mr O'Brien's comments. He was taken -
14:39:25 13 this is at p.5526 - he was asked about a risk assessment.
14:39:32 14 I think this is the SDU risk assessment. And there was an
14:39:44 15 - SDU carried out a risk assessment as well of Ms Gobbo.
14:39:50 16 Perhaps if we can put this up, it's VPL.2000.0003.8288. It
14:40:03 17 seems that the SDU prepared a risk assessment as well.
14:40:25 18 You'll see there that, "The source is a criminal barrister
14:40:31 19 who is extremely well-known within the legal fraternity.
14:40:34 20 The source is a member of the executive committee of the
14:40:37 21 Victorian Criminal Bar association", et cetera. "Very
14:40:41 22 well-known within police and criminal community. Depicted
14:40:44 23 in the media. High profile criminal matters over the past
14:40:48 24 few years. Frequent attendance at the courts. Physical
14:40:51 25 appearance, easily identifiable. Currently acting for
14:40:57 26 several members of the Mokbel criminal cartel, including
14:41:00 27 Tony Mokbel". Certainly that was something that was known
14:41:05 28 to the SDU?---Yep.
14:41:08 29
14:41:09 30 "Over the past 12 months conversations with several police
14:41:14 31 members, including members of Operation Purana and MDID
14:41:17 32 regarding the possibility of the source assisting police."
14:41:21 33 Do you see that?---Yes.
14:41:22 34
14:41:24 35 And then there's a reference to September 93 she was
14:41:30 36 charged. Now, do you think this is a document that you
14:41:34 37 would have seen?---I don't believe so.
14:41:36 38
14:41:37 39 Please scroll through it.
14:41:37 40
14:41:37 41 COMMISSIONER: I'll just mention that's Exhibit 285.
14:41:43 42
14:41:44 43 MR WINNEKE: Would you have liked to have seen this
14:41:46 44 document?---No.
14:41:47 45
14:41:47 46 At a time when you're signing off on this operation?---No.
14:41:53 47

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14:41:54 1 Why not?---Because it's with the DSU and because that's
14:41:58 2 part of a separate command and there was the decision to
14:42:01 3 keep the two streams, the investigative stream and the
14:42:04 4 management of the source stream, separate.
14:42:08 5
14:42:08 6 It certainly would have made it plain to you, if it wasn't
14:42:12 7 already plain, that she was acting for the Mokbels?---Yes.
14:42:15 8
14:42:17 9 If we scroll through quickly, just so as you can confirm
14:42:23 10 that you haven't seen it?---I'm as sure as I can be about
14:42:27 11 any of this, that I haven't seen this document.
14:42:29 12
14:42:31 13 In any event, can I ask you now to comment. Mr O'Brien was
14:42:35 14 asked about some of the risks associated with the use of
14:42:38 15 Ms Gobbo. "I'm going to ask you for your comments in
14:42:43 16 relation to a number of matters that are raised, said under
14:42:46 17 the second paragraph, that indicates the source is
14:42:51 18 currently acting for several members of the Mokbel crew or
19 cartel, including Tony Mokbel. Now that's something you
14:42:56 20 were aware of? Some of them", Mr O'Brien says, "not all of
14:42:57 21 them, I was unaware of all of them. Now this is a document
14:43:02 22 dated 15 September. You were aware at that stage that
23 despite being a police agent against Mokbel she continued
24 to represent him?" He says, "I know she represented him in
14:43:08 25 relation to a trial matter, yes. In fact, over this period
14:43:11 26 she was appearing in proceedings in the Supreme Court
14:43:14 27 arguing for disclosure of information relating to informers
14:43:18 28 in the Mokbel matters. I was unaware of that. I had no
14:43:21 29 interest in, as I say, I had no interest in previous
14:43:24 30 matters". Question: "But the reality was you were aware
14:43:27 31 she continued to represent him during this period of time
14:43:30 32 when she's providing information against him? I know that
14:43:33 33 she represented him, yes. And that she was continuing to
14:43:36 34 represent him during this period of time? I believe so,
14:43:39 35 yes. In the third paragraph it says over the past 12
14:43:44 36 months the source has had conversations with several police
14:43:48 37 officers", et cetera. And Ms Tittensor takes Mr O'Brien
14:43:54 38 through the matters, or a number of the matters that are
14:43:56 39 set out in that document. If we go over to p.5528, the
14:44:11 40 sixth risk that's identified says this, "Because of this
14:44:15 41 source's occupation and particular provision, if
14:44:19 42 compromised the handling of this source would come under
14:44:19 43 extreme scrutiny. This could cause embarrassment and
14:44:24 44 criticism of the Force. This must be considered and
45 balanced against the proposition of not utilising the
14:44:30 46 source and the potential resultant harm to the public that
14:44:33 47 may occur through lack of intelligence against very large

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14:44:37 1 scale drug traffickers, do you see that? Yes, I can see
 14:44:39 2 that. That's regarded as a significant risk to Victoria
 14:44:43 3 Police. Is that something that you considered? And he
 14:44:47 4 says no. "Did you consider that if it became known that
 14:44:50 5 Victoria Police were tasking a barrister against her
 14:44:52 6 client, that might come under extreme scrutiny? No, as I
 14:44:57 7 said", Ms Tittensor says, "it never occurred to you? The
 14:45:02 8 risk assessments were being handled by the Source Unit, it
 14:45:05 9 wasn't something that I turned my mind to". That was the
 14:45:09 10 evidence that he gave. Would you be surprised that it's
 14:45:13 11 something that he hadn't turned his mind to?---Yes.
 14:45:16 12
 14:45:16 13 Why would you say that?---As I've stated previously, I
 14:45:21 14 recall discussions with a number of investigators, and I
 14:45:25 15 believe with Jim O'Brien, around the need to manage that.
 14:45:28 16
 14:45:29 17 It goes over the page, 5529, "Did you consider that if she
 14:45:33 18 was discovered to be a source in that context, in the
 14:45:35 19 context of informing against her clients, that that might
 14:45:38 20 cause extreme embarrassment and criticism of Victoria
 14:45:41 21 Police? I didn't consider that. I considered if she
 14:45:44 22 became known, she'd be dead, that's what I considered. Did
 14:45:47 23 you consider any repercussions in terms of police
 14:45:50 24 embarrassment beyond that? I didn't at that time, no.
 14:45:53 25 When you say at that time? Well it's obviously now, now
 26 that I'm sitting here and now that you're showing me this
 14:45:59 27 for the first time. From that point in time, did you at
 14:46:03 28 some stage come to an appreciation that 'what we are doing
 14:46:08 29 might be considered by others to be wrong?' No, I didn't
 14:46:11 30 turn my mind to that at that time, no. You didn't at this
 14:46:15 31 time. Along the way did you ever consider that? No, I
 14:46:18 32 didn't. Did you ever consider that the courts might have
 14:46:21 33 some concern about what was going on with Ms Gobbo? No, I
 14:46:25 34 didn't consider that. Did you ever discuss with Mr White
 14:46:30 35 the need for legal advice in relation to what had gone on
 14:46:32 36 with Ms Gobbo? No, as I say, the only matter I discussed
 14:46:36 37 with Mr White was in relation to what had happened with
 14:46:42 38 [REDACTED]". There have been so many numbers I'm not too
 14:46:50 39 sure who that is at that stage?---I think you're calling Mr
 14:46:54 40 - - -
 14:46:54 41
 14:46:54 42 COMMISSIONER: PII [REDACTED]?---PII [REDACTED].
 14:46:55 43
 14:46:56 44 MR WINNEKE: Right, thank you. "Did you ever have any
 14:46:59 45 discussion about the need for legal advice because of the
 14:47:01 46 use of Ms Gobbo? No, I did not". It's apparent from some
 14:47:12 47 of the evidence that the Commission has heard that there

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14:47:15 1 were concerns being expressed by people within your crew as
14:47:19 2 to the use of Ms Gobbo as a human source, not simply
14:47:21 3 because of Ms Gobbo's safety, but because of her
14:47:24 4 profession. Do you say you were never part of those
14:47:26 5 discussions with your own crew? No, I don't recall any
14:47:29 6 such discussion. Do you say that they never happened or
14:47:32 7 you just don't recall them? I don't believe it happened".
14:47:37 8 5530, "If someone had raised concerns like that with you at
9 that time what would you have done about it? I would have
14:47:44 10 discussed it with them and basically said it's being
14:47:45 11 handled by the SDU. If it's a legitimate concern that's
14:47:51 12 being raised, and it seems, although it might fall under
14:47:54 13 the umbrella of the SDU, but it's a risk to Victoria Police
14:47:57 14 that's not being dealt with adequately by the SDU, what
14:47:59 15 would you do about that?" And he says, "If it was raised
14:48:03 16 in that manner I suppose I would have to seek some advice
14:48:07 17 from a senior officer in which case it would probably,
14:48:10 18 would have been the Superintendent or the Assistant
14:48:17 19 Commissioner. And you had a direct line to Mr Overland? I
14:48:19 20 did, yes. Do you say those matters were never raised as
14:48:24 21 any concern with you so they were never raised with
14:48:27 22 Mr Overland? No. If members of your crew had memories of
14:48:32 23 those concerns being raised as discussed on numerous
14:48:35 24 occasions do you say that they're wrong? As I say,
14:48:39 25 including the view, I don't have a recollection of that
14:48:40 26 being raised with me". He seems to be suggesting that the
14:48:49 27 concerns weren't raised with him and he never raised those
14:48:53 28 concerns with you. Now, what do you say, do you say you
14:48:56 29 agree with that or disagree with that?--Well I can't
14:48:59 30 comment on whether concerns were raised with him.
14:49:02 31
14:49:02 32 No, I follow that?--But I didn't have concerns - I don't
14:49:05 33 recall having concerns raised with me.
14:49:08 34
14:49:08 35 And he says that, "It appears to be the case, do you say
14:49:13 36 those matters were never raised as a concern with you, so
14:49:16 37 they were never raised with Mr Overland? No". The
14:49:20 38 suggestion is that he hasn't had these discussions with you
14:49:24 39 about concerns with respect to using a barrister as a human
14:49:28 40 source?--I think what you're putting to me is concerns
14:49:30 41 that are being raised with him by his investigators and
14:49:33 42 whether he'd raised those concerns with me. I think the
14:49:37 43 flow of information is the other way, isn't it?
14:49:40 44
14:49:40 45 I follow that, but the question was, "So they were never
14:49:44 46 raised with Mr Overland"?--Well, again, I think that's the
14:49:46 47 - the question seems to go to the sequence that I just

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14:49:52 1 explained.
14:49:52 2
14:49:52 3 What you're saying is, look, those questions relate to his
14:49:56 4 underlings referring concerns to him, not to you referring
14:50:01 5 concerns to him?---Well that's what I understand the
14:50:03 6 question to be about.
14:50:04 7
14:50:04 8 Can I suggest to you that the tenor of his evidence is that
14:50:07 9 he just wasn't, he didn't have those concerns, he was
14:50:09 10 concerned about her coming to harm, but not concerns about
14:50:13 11 risks to the judicial process?---No, I understand that.
14:50:18 12
14:50:18 13 And what you would say is if he's saying in his evidence
14:50:23 14 that he didn't have those concerns, that simply cannot be
14:50:27 15 right because you told him about your concerns?---I told
14:50:30 16 him about my concerns, yes.
14:50:31 17
14:50:41 18 Do you say you expressed those concerns also to the SDU
14:50:45 19 when you had discussions with them?---I don't, I don't
14:50:51 20 believe I did. I don't believe I spoke to the SDU about
14:50:55 21 those matters. They were matters for the SDU and that
14:50:59 22 Command to manage. I think I've said I remember talking to
14:51:04 23 my investigators about these issues.
14:51:07 24
14:51:09 25 We want to be accurate about this. You say now that "I
14:51:16 26 didn't express my concerns to the SDU, but only the
14:51:19 27 investigators", is that your evidence now?---I think that's
14:51:22 28 what I've said, yes.
14:51:23 29
14:51:37 30 Did you indicate to IBAC at p.39 that you raised your
14:51:43 31 concerns with both Sandy White and Jim O'Brien?---Well if
14:51:50 32 you've got the transcript there, I mean I don't - - -
14:51:53 33
14:51:53 34 I suggest to you at p.46 there's also a reference to a
14:51:56 35 number of conversations with Mr White about your
14:52:02 36 concerns?---Again, if you can take me to the specific
14:52:04 37 reference. I remember talking with Mr White about my
14:52:07 38 concerns about her management and about the exit strategy.
14:52:12 39
14:52:12 40 Right. Did you make a note of those concerns?---Well, I
14:52:19 41 think there were some diary entries that have been put to
14:52:22 42 me during the course of this hearing that suggest in fact
14:52:25 43 those concerns were raised and steps were taken to address
14:52:30 44 the issue of an exit strategy.
14:52:33 45
14:52:34 46 There was a meeting I think on 15th of - - - ?---I think
14:52:37 47 through - - -

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14:52:38 1
14:52:38 2 - - - May - - - ?---2006 I think. The first reference I
14:52:41 3 think was in 2006 when I think officers from SDU came to
14:52:46 4 see me about a reward and there's a reference in their
14:52:50 5 notes to I think a termination or exit strategy.
14:52:53 6
14:52:53 7 Right?---And then I think subsequent to that through 2000 -
14:52:59 8 I think later in 2006 there's a conversation I have with
14:53:03 9 Gavan Ryan in the December where he, I think, makes me
14:53:06 10 aware of safety concerns with respect to Ms Gobbo and I ask
14:53:09 11 him to go and talk to the SDU about an exit strategy.
14:53:12 12
14:53:13 13 Right?---Then I think there's other entries in 2007 where a
14:53:19 14 variety of people come to see me about the ongoing
14:53:22 15 management of Ms Gobbo as a source and I think it was in
14:53:28 16 the August where there was the three options were put.
14:53:33 17 Excuse m,e Commissioner, I've got a crook throat and I'm
14:53:38 18 starting to lose my voice.
14:53:40 19
14:53:40 20 COMMISSIONER: You've got some water there?---I'll do my
21 best.
22
14:53:42 23 If you need a break, tell me?---Thank you. And the three
14:53:45 24 options were to de-register, to - which was discounted to I
14:53:54 25 think maintain the status quo, which was discounted, and
14:53:57 26 the third option was to continue to manage her without any
14:54:01 27 taskings. So I think they're all records consistent with
14:54:05 28 my position that I was raising my concerns with the SDU
14:54:10 29 about the need to find a way to manage Ms Gobbo out of the
14:54:15 30 organisation.
14:54:15 31
14:54:16 32 MR WINNEKE: Can I suggest to you, Mr Overland, that you've
14:54:18 33 given evidence previously in this Commission at p.11313,
14:54:25 34 line 21 - I asked you this question, at line 17, "Given
14:54:30 35 those dual roles, those concerns, can I suggest would have
14:54:34 36 arisen from the possibility that Ms Gobbo might, amongst
14:54:37 37 other matters, one, breached duties of privilege of
14:54:40 38 confidence owed to her clients and through them the court?
14:54:43 39 Yes. And two, she might continue to act for clients in
14:54:48 40 relation to whom she'd seek to provide information to
14:54:48 41 Victoria Police? Yes". Line 21, "You say that you
14:54:51 42 expressed those concerns to both your investigators and
14:54:53 43 also to those managing Ms Gobbo on a number of occasions,
14:54:56 44 is that correct? That's my recollection"?---Okay.
14:55:01 45
14:55:01 46 Are you saying you're changing that position?---No, I stand
14:55:04 47 to be corrected, no.

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14:55:05 1
14:55:10 2 Have you found any notes in your diaries where you've had
14:55:14 3 those sorts of discussions with, putting aside the entries
14:55:20 4 on 27 September, other than that do you say that there are
14:55:25 5 any notes in your diaries where you've expressed those
14:55:28 6 concerns or, in a cryptic way, expressed those concerns to
14:55:32 7 the handlers?---Well I think that's in large part what my
14:55:40 8 raising of the issue of an exit strategy early on was all
14:55:45 9 about and I have said previously that I was concerned from
14:55:48 10 the outset about the use of Ms Gobbo as a human source. I
14:55:52 11 thought that, because of the threats that were against her
14:55:58 12 from Tony Mokbel, I sort of thought that the best of a bad
14:56:05 13 set of options was to use her as a human source with the
14:56:08 14 hope to dismantle the Mokbel syndicate, remove the threat
14:56:13 15 and then manage her out of the organisation. That was my
14:56:16 16 hope at the outset and my view was that if this was to all
14:56:20 17 end happily, that was probably the only way that that could
14:56:24 18 or would occur.
14:56:25 19
14:56:25 20 Right. And I think there's evidence that, Exhibit 398,
14:56:30 21 that you had a discussion with the SDU on 17 May 2006. If
14:56:40 22 we can have a look at Exhibit 398. Just take that down.
14:57:32 23 If we can go to 17 May.
14:57:34 24
14:57:34 25 COMMISSIONER: Show it to the witness and me, please.
14:57:36 26
14:57:37 27 MR WINNEKE: It's Sandy White's diaries for 17 May. If we
14:57:43 28 just put the entry of 17 May up. You'll see here that's
14:58:21 29 the meeting I think, it might have been put to you
14:58:23 30 previously, that's the meeting that you have with Sandy
14:58:28 31 White and Peter Smith regarding Ms Gobbo. There's a
14:58:34 32 discussion about the reward process, the motivation,
14:58:37 33 et cetera, consider acknowledgement?---Yes, I think the
14:58:39 34 entry I'm thinking of is, it's another note that was made,
14:58:44 35 so I think this is a diary note, I think there's another
14:58:47 36 note of this meeting that does refer to an exit strategy of
14:58:51 37 some kind.
14:58:51 38
14:58:52 39 Right?---In the source log or something like that I think
14:58:54 40 it might be.
14:58:55 41
14:58:55 42 "Discuss finding, consider acknowledgement of appreciation,
14:59:00 43 AC advised HS is aware of" - and this is the one - - -
14:59:07 44 ?---Yeah, "Aware of assistance not" - - -
14:59:08 45
14:59:08 46 Discuss funding trip to Las Vegas, Celine Dion, discuss
14:59:18 47 need for counselling, consider as appropriate. So the

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14:59:23 1 appropriate thing to do from VicPol perspective. You say
14:59:28 2 that - and there was another discussion about exiting, you
14:59:32 3 say?---That's my recollection. I think there's a source
14:59:36 4 log that actually - a source management log refers to it.
14:59:40 5
14:59:41 6 I think on 9 May and the 22nd of May there's reference to
14:59:48 7 exiting?---Correct.
14:59:49 8
14:59:58 9 What we don't see in any of the notes taken by the SDU are
15:00:05 10 reflections that you had conveyed your strong views to the
15:00:10 11 SDU that there were problems associated with or concerns or
15:00:17 12 risks associated with Ms Gobbo's use of the sort that we've
15:00:20 13 been discussing?---Look, again, not in those terms. But I
15:00:30 14 mean all I can say again is - so this early 2006. She has
15:00:36 15 been registered for a very short period of time and I'm
15:00:40 16 saying we need to find a way to get this woman out of the
15:00:42 17 organisation.
15:00:43 18
15:00:43 19 Your diary, for example, on 17 May 2006 simply says,
15:00:49 20 "12:30 pm, Sandy White re HS". That's it?---Yep.
15:00:56 21
15:00:56 22 And you agree that there's nowhere in your diary where
15:01:00 23 you're expressing, even cryptically, that these people have
15:01:04 24 to be very careful about using Ms Gobbo?---No. Other than
15:01:08 25 the entries I've taken - we've talked about in September
15:01:12 26 when I became aware.
15:01:14 27
15:01:17 28 You say in your statement you deal with conversations with
15:01:22 29 the Office of Public Prosecutions and the Director of
15:01:26 30 Public Prosecutions and you say that, "In my initial
15:01:30 31 statement to this Commission I noted that all such
15:01:32 32 undertakings under my leadership were done with full
15:01:36 33 knowledge and agreement of the then DPP Mr Paul Coghlan and
15:01:40 34 senior counsel Geoff Horgan QC"?---Yes.
15:01:44 35
15:01:44 36 "There are a number of the entries in the diaries that
15:01:47 37 support this position. In addition to those meetings that
15:01:50 38 have already been put to me during the course of my
15:01:52 39 evidence, I note that my diary reflects meetings with
15:01:55 40 Mr Coghlan and Mr Horgan on nine separate occasions
15:01:59 41 regarding Purana Task Force matters"?---Yes.
15:02:02 42
15:02:02 43 Can I suggest to you that you haven't found any diary
15:02:05 44 entries that support the proposition that you informed
15:02:09 45 either of those gentlemen that you were using Ms Gobbo as a
15:02:13 46 human source?---No, I don't believe I did.
15:02:15 47

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15:02:19 1 And nor do you suggest you did?---No, I don't suggest I
15:02:23 2 did.
15:02:23 3
15:02:37 4 Just finally a couple of matters. In your diaries at p.14
15:02:52 5 there's noted, and this is on 1 February 2003, there's a
15:03:00 6 reference to a meeting that you had with Graham Ashton of
15:03:05 7 the AFP?---Right.
15:03:07 8
15:03:10 9 There are other references to meetings you had with
15:03:12 10 Mr Ashton in 2003. So you haven't got your diary. Perhaps
15:03:27 11 if you have a look at your diary, 2003 diary. Do you see
15:03:47 12 that entry there, on the screen and in your diary on that
15:03:51 13 day? Are you able to enlighten the Commission as to the
15:03:54 14 reason for those, for that meeting?---I suspect it was
15:04:11 15 probably just a courtesy call. It's got "GMS", so I take
15:04:18 16 it he was the general, what was called General Manager
15:04:22 17 Southern, so the Assistant Commissioner of the AFP in the
15:04:25 18 southern region. I'd started, you know, a week or so
15:04:28 19 previously. I imagine it was just really a courtesy call
15:04:31 20 to just go and say hello.
15:04:33 21
15:04:39 22 Then at p.85 of that diary, at the bottom?---Yep.
15:04:58 23
15:05:00 24 And another conversation with Mr Ashton regarding a
15:05:04 25 particular person, "TI material to disseminate". That's
15:05:10 26 the - just excuse me - 21 June 2003, is that right? I
15:05:21 27 can't give you a date?---23 June 2003. Monday the 23rd.
15:05:27 28 Sorry, I can't help you with that, I just don't - the name
15:05:31 29 that's there I think, and I stand - I think is an
15:05:42 30 individual I dealt with in the AFP.
15:05:44 31
15:05:44 32 Right. If we go to p.90 of your diary, another discussion
15:05:49 33 I think on 1 July with Mr Ashton?---Is that the one at 3
15:06:03 34 o'clock?
15:06:03 35
15:06:04 36 3 o'clock, yes?---That's on the 2nd. That's with Deputy
15:06:11 37 Commissioner Kelly, just a general catch up, the note says.
15:06:20 38
15:06:20 39 Is that because he's in charge of the southern
15:06:23 40 region?---He's the head of the AFP at that time.
15:06:26 41
15:06:26 42 With a view to having a cooperative relationship with the
15:06:30 43 AFP?---Yes. There would have been regular catch up
15:06:33 44 meetings probably between Bill Kelly and he. I don't
15:06:38 45 specifically remember, but possibly Bill Kelly asked me to
15:06:42 46 sit in on that meeting.
15:06:43 47

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15:06:47 1 Just a couple of things I want to ask you about.
15:07:45 2 Commissioner, I think that's all I've got. Thanks very
15:07:48 3 much.
15:07:48 4
15:07:48 5 COMMISSIONER: Yes, all right then. I think Ms Shann has
15:07:52 6 other commitments later in the week so we're going to have
15:07:55 7 Ms Shann's cross-examination next. Thanks for making room
15:08:01 8 for Ms Shann at the table.
15:08:01 9
15:08:01 10 WITNESS: Commissioner, I'm just wondering, could I have a
15:08:04 11 break if that's possible?
15:08:05 12
15:08:05 13 COMMISSIONER: Yes, we'll take the afternoon break now.
15:08:39 14
15:08:40 15 (Short adjournment.)
15:08:53 16
15:29:57 17 COMMISSIONER: Yes, Ms Shann.
15:29:58 18
19 <CROSS-EXAMINED BY MS SHANN:
20
15:29:59 21 Thank you, Commissioner. Thanks, Mr Overland.
15:30:06 22 Mr Overland, you'd agree, wouldn't you, that any statement
15:30:10 23 or affidavit that you make needs to be, firstly,
15:30:15 24 truthful?---Yes.
25
15:30:16 26 That's a requirement. And, secondly, complete?---Yes.
27
15:30:20 28 And in relation to that second aspect, it would be contrary
15:30:26 29 to the obligations of swearing such a document to leave out
15:30:34 30 information the inclusion of which would change the tenor
15:30:37 31 of what is being expressed, you'd agree with that?---That's
15:30:45 32 a very broad statement. I think context - I'm not sure,
15:30:52 33 without having more context, I can answer that question.
34
15:30:55 35 You understand that if you're expressing - being asked to
15:31:02 36 express all the information you have on a particular topic
15:31:07 37 and you leave something out, that that would be contrary to
15:31:12 38 your obligations in terms of swearing a statement or
15:31:16 39 affidavit?---If you leave something out and it's relevant,
15:31:20 40 yes.
41
15:31:20 42 If you're being asked to include everything on a topic and
15:31:23 43 you leave something out, that would be contrary to your
15:31:26 44 obligation, wouldn't it?---I think in the process of
15:31:32 45 putting together an affidavit you necessarily make
15:31:35 46 decisions about what goes in and what goes out. You're
15:31:41 47 stating a very broad proposition to me and - - -

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1
15:31:43 2 And you disagree with that proposition?---I think it's more
15:31:46 3 complex than your - I think the question you're asking me
15:31:49 4 doesn't lend itself to a simple yes/no answer.
5
15:31:54 6 Let's go to, leaving aside any document you might do in
15:32:01 7 preparation with your own lawyers. If you're being asked
15:32:05 8 to prepare an affidavit by the Office of Police Integrity
15:32:10 9 and they ask you to detail all the information you have
15:32:12 10 about a particular topic, you're obliged, aren't you, to
15:32:16 11 detail all of that information?---Yes.
12
15:32:18 13 It's not for you to edit, is it?---Well, you do that to the
15:32:26 14 best of your ability, yes.
15
15:32:28 16 We're talking about deliberateness, obviously, rather than
15:32:32 17 inadvertence?---Okay. Yep.
18
15:32:34 19 You'd agree, wouldn't you, it would be contrary to your
15:32:38 20 obligations in providing an affidavit to the Office of
15:32:42 21 Police Integrity to leave out a matter deliberately on the
15:32:44 22 topic that you're being asked about?---If it's relevant,
15:32:48 23 yes.
24
15:32:49 25 Well, it is for them to determine relevance, is it
15:33:03 26 not?---Well, I think relevance is ultimately - you've got
15:33:08 27 to have a view about what you think is relevant and you do
15:33:10 28 your best to provide relevant information, yes.
29
15:33:14 30 Right. Okay. Now, if you are - let's insert that word.
15:33:19 31 If you have left out relevant information, the inclusion of
15:33:22 32 which would alter the tenor of what you're conveying, you'd
15:33:26 33 agree, wouldn't you, that you're giving a impression?---You
15:33:33 34 might be, yes.
35
15:33:33 36 And that that would be unacceptable?---Again, you're asking
15:33:37 37 me general questions.
38
15:33:38 39 I am. Do you agree with that general question?---In
15:33:40 40 general, yes.
41
15:33:42 42 And that that would be deceptive?---Well, it may be.
43
15:33:52 44 And to make such an affidavit to the Office of Police
15:33:55 45 Integrity would be, at best, grossly unethical?---Look,
15:34:01 46 again, it may be. I mean I think there's a whole stack of
15:34:03 47 context that's not available to me.

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1
15:34:06 2 So you think that there may be circumstances where giving
15:34:11 3 an affidavit to the Office of Police Integrity which
15:34:14 4 conveyed a false impression may not be grossly
15:34:21 5 unethical?---No.
15:34:22 6
15:34:22 7 MR GLEESON: Commissioner, we've taken the general
15:34:24 8 propositions as far as we can. If my learned friend has
15:34:27 9 got something to put to the witness where she is going to
15:34:30 10 assert that he's misled somebody, she should put it.
11
15:34:32 12 COMMISSIONER: Yes, I think that would be better, Ms Shann,
15:34:33 13 if you'd go on to that, please.
15:34:35 14
15:34:35 15 MS SHANN: If we could bring up SUB.1029.0001.0010.
16
15:34:47 17 Do you recognise that document, Mr Overland?---Yes, I do.
18
15:34:51 19 That's an affidavit - 23-page affidavit of yours made to
15:35:00 20 the Office of Police Integrity?---Yes.
21
15:35:03 22 And if we go to the final page, which is p.23, that is
15:35:10 23 sworn by you on 1 November 2007, do you see that?---Yes.
24
15:35:17 25 And it's signed before - you may not recognise that
15:35:22 26 signature, but I suggest to you that's a Ms Kerrison. Do
15:35:27 27 you recall that?---I don't, but I - - -
28
15:35:29 29 An investigator at the OPI at the time?---I accept that,
15:35:32 30 yeah.
31
15:35:33 32 Now, this is the affidavit that you made just prior to the
15:35:38 33 public hearings in Operation Diana. Do you accept
15:35:43 34 that?---I do.
35
15:35:43 36 You gave evidence about this, in brief terms, last year, at
15:35:49 37 11786 of the transcript, that this affidavit would have
15:35:54 38 gone to matters of how information relating to Operation
15:36:01 39 Briars might have got into the public domain and how it
15:36:04 40 might have been disseminated, you accept that?---Yes.
41
15:36:07 42 And that was the topic that you were being asked about by
15:36:10 43 Ms Kerrison in order for this affidavit to be
15:36:16 44 prepared?---Yes.
45
15:36:18 46 And you understood at the time that the OPI were
15:36:24 47 investigating leaks to the media in relation to Operation

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15:36:30 1 Briars?---I did by then, yes.
2
15:36:32 3 And that that meant leaks to Nick McKenzie?---I think so.
4
15:36:43 5 If we look at p.22 of that affidavit. At paragraph 79
15:36:59 6 there's a reference to having been made aware, on 14
15:37:03 7 September, that there was an investigation into the media
15:37:07 8 leaks?---That's right.
9
15:37:09 10 And there's a reference at 81 to McKenzie, but also within
15:37:15 11 this document, paragraph 73, 74, 77, 81, each refer to Nick
15:37:26 12 McKenzie, do you accept that?---Okay. I accept that. I
15:37:29 13 haven't looked at this for quite some time.
14
15:37:31 15 You're also aware, in making this affidavit, that the OPI
15:37:34 16 were looking at the extent to which Operation Briars was
15:37:38 17 compromised by Messrs Lalor and Waters becoming aware of
15:37:45 18 what ^{Pii} [REDACTED] was alleging?---So again, my recollection of
15:38:00 19 Operation Diana was looking at primarily then
15:38:05 20 Assistant Commissioner Noel Ashby, the Secretary of the
15:38:08 21 Police Association Paul Mullett and Steve Linnell, who was
15:38:11 22 the media director, and the information that was, I think,
15:38:15 23 passing from Linnell through to Ashby through to Mullett,
15:38:19 24 some of which was coming from Operation Briars, yes.
25
15:38:25 26 So one of the topics that the OPI was investigating was the
15:38:28 27 extent to which information from Operation Briars had been
15:38:33 28 fed to Waters and Lalor, thereby compromising the
15:38:42 29 operation?---Look, it was an OPI investigation. My
15:38:49 30 recollection is it was more about the three people that
15:38:51 31 I've just indicated than the information being known to
15:38:59 32 those two gentlemen. Look, again, I haven't looked at this
15:39:03 33 for some time, so if that was part of the investigation
15:39:07 34 that the OPI was running, that's part of the investigation
15:39:09 35 they were running, but I don't have a clear recollection
15:39:12 36 about that at the moment.
37
15:39:13 38 Your affidavit, you would agree, details what information
15:39:19 39 about Operation Briars Linnell knew?---Well, I assume so,
15:39:24 40 but again, I haven't seen this for quite some time, and
15:39:29 41 I've not read it for quite some time, so I'm struggling to
15:39:32 42 recall exactly what's in it.
43
15:39:37 44 In the absence of - what do you think you were being asked
15:39:42 45 about about Mr Linnell?---About him passing information to
15:39:46 46 those two people.
47

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15:39:47 1 In relation to Operation Briars?---In relation to Operation
15:39:53 2 Briars.
3
15:39:53 4 In terms of the evidence that you gave at the end of last
15:39:57 5 year, you were asked about an ICR dated 1 April 2007 and
15:40:07 6 this is at transcript 11719, and it's part of that ICR at
15:40:18 7 p.758, and this is an ICR which reveals that on 1 April, or
15:40:32 8 around about then, that Waters told Gobbo, who then told
15:40:37 9 her handlers, that he had a contact at Purana leaking to
15:40:41 10 him that ^{PII} [REDACTED] was talking. Do you recall being asked
15:40:45 11 questions about that at the end of last year?---I do.
12
15:40:49 13 COMMISSIONER: Do you know who ^{PII} [REDACTED] is?---I do,
15:40:52 14 Commissioner.
15
15:40:52 16 You've got that on the list?---Yes.
15:40:54 17
15:40:54 18 MS SHANN: Do you recall being asked questions about that
15:41:01 19 at the end of last year?---I do. Yes, I recall being asked
15:41:04 20 some questions about it, yep.
15:41:05 21
15:41:05 22 And that the handlers then notified Ryan. You recall being
15:41:09 23 asked about that?---Not particularly, but I take your word
15:41:15 24 for it.
25
15:41:16 26 You haven't reviewed the transcript of your evidence from
15:41:18 27 December?---No.
28
15:41:21 29 Before coming to court - the Commission?---No.
30
15:41:23 31 And your evidence at 11747 was that you must have been
15:41:27 32 aware of that report from Waters to Gobbo to the police, do
15:41:32 33 you accept that?---I accept that if that's what's in the
15:41:35 34 transcript, yes.
15:41:35 35
15:41:36 36 And you were sure they would have told you because
15:41:40 37 operation security was such a key issue, that was your
15:41:43 38 evidence last year?---Yes.
39
15:41:47 40 Indeed, that was a significant detail with operational
15:41:50 41 consequences, you'd agree with that, that Waters, as one of
15:41:53 42 the targets of Operation Briars, was indicating that
15:41:56 43 someone from Purana was giving him information?---Yes, that
15:42:03 44 had a number of potential meanings.
45
15:42:07 46 Well, one potential meaning is that someone from Purana has
15:42:12 47 a corrupt relationship with Waters?---Yes.

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1
15:42:16 2 Now, if you go to your OPI affidavit at p.13. So
15:42:46 3 paragraphs 50, 51 and 52 about Purana being as successful
15:42:59 4 as it has been being reasonably tight. Paragraph 50,
15:43:05 5 that's dealing with leaking or lack of leaking of
15:43:08 6 information, correct?---Correct.
7
15:43:10 8 And it goes on at 51 to provide more detail about that,
15:43:19 9 about it having been made - this is the final sentence of
15:43:23 10 51 - made really clear to Purana about that layered defence
15:43:29 11 around information and at 52, when information did get out
15:43:33 12 of Purana "it tended to be when we would get to a stage
15:43:36 13 where we'd bring more people in" and then refers to the
15:43:39 14 sensitivity around Briars. Now, you were giving the
15:43:43 15 impression in those paragraphs, were you not, that there
15:43:47 16 were no leaks from Purana, to your knowledge, in relation
15:43:51 17 to this operation and investigation?---By and large. So
15:44:06 18 I'm thinking I'm saying it was largely successful. I don't
15:44:10 19 think I'm saying it was perfect.
20
15:44:13 21 There's no reference here, is there, to the target of
15:44:16 22 Operation Briars having reported through Gobbo to police
15:44:19 23 that Purana was leaking him information about this
15:44:21 24 operation?---No.
25
15:44:22 26 And that is a deliberate omission on your behalf, isn't
15:44:26 27 it?---No, it's not.
28
15:44:27 29 You say that that was inadvertent?---Well, I'm not sure. I
15:44:43 30 mean, this is going back some time, again, so I'm just
15:44:47 31 struggling to recall. So what I was being asked about in
15:44:53 32 the process of preparing this was about information that
15:44:56 33 was clearly coming through the sources that I described.
34
15:45:00 35 Well, what you're detailing here in these paragraphs, 50,
15:45:04 36 51, 52, is that Purana is reasonably tight and how leaking
15:45:10 37 does or doesn't work in relation to this operation and
15:45:15 38 Purana?---By and large, yep, correct.
39
15:45:17 40 This is a key place where, with full disclosure, we would
15:45:21 41 expect to see, would we not, a reference to the target of
15:45:24 42 Operation Briars saying they were getting information from
15:45:27 43 Purana?---Look, again, I'm struggling to recall this time.
15:45:38 44 To be quite frank, the information that came from Mr Waters
15:45:44 45 could be entirely self-serving.
46
15:45:48 47 Certainly?---And he had a close association with Mr Lalor,

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15:45:51 1 who had a close association with Mr Mullett, so it is
15:45:54 2 entirely possible that he did know and, in fact, we knew
15:45:58 3 very early on that the investigation was compromised where
15:46:02 4 both Mr Waters and Mr Lalor knew about the investigation.
15:46:05 5 There are a variety of ways in which they could do that.
6
15:46:09 7 Is it not for the OPI, who are investigating leaks in
15:46:14 8 relation to Briars, to determine those matters?---It's a
15:46:17 9 matter for them.
10
15:46:19 11 But don't you need to tell them about it in order for them
15:46:23 12 to make that determination?---Well, I think this is a
15:46:26 13 statement or an affidavit that's put together in November.
15:46:29 14 I remember actually - I think I was spoken to at length by
15:46:34 15 investigators, I think in September, and they prepared the
15:46:39 16 affidavit. I then read it and I then signed it, so I
15:46:42 17 signed an affidavit based on something that had been
15:46:45 18 prepared by the OPI that was relevant to their
15:46:47 19 investigation and prosecution.
20
15:46:50 21 You say, do you, in the interview with the OPI that
15:46:54 22 preceded this affidavit, that you told them that Waters
15:46:56 23 said he was having information leaked from Purana?---I
15:47:00 24 don't now recall whether I did or I didn't. I mean I think
15:47:03 25 you'd have to go back and have a look at whatever notes
15:47:05 26 they made of that conversation.
27
15:47:07 28 In light of what they were investigating, you were obliged,
15:47:12 29 if you were being up-front and honest with them, to give
15:47:16 30 them that information, weren't you?---I don't know whether
15:47:18 31 I did or I didn't now. I can't recall.
32
15:47:20 33 But you'd agree, wouldn't you, that in light of their
15:47:24 34 oversight role and the fact they're investigating leaks
15:47:27 35 relating to Briars, that you were obliged, as a matter of
15:47:30 36 your professional responsibility, to provide them with that
15:47:34 37 information?---I think they would have known that
15:47:38 38 information because Mr Ashton - - -
39
15:47:40 40 Mr Overland, that is not the question?---Hang on a minute.
15:47:43 41 Because Mr Ashton was sitting on the steering committee and
15:47:48 42 so he was aware - - -
43
15:47:49 44 Mr Overland, that's not the question I'm asking you. I'm
15:47:51 45 asking you about your obligation when you personally are
15:47:54 46 being asked by an OPI investigator about leaks from Briars,
15:47:58 47 your obligation to inform those investigators that Waters

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15:48:04 1 says leaking is occurring from Purana?---Again, I don't - I
15:48:10 2 can't take it any further. I don't - - -
3
15:48:12 4 Do you accept that you had that obligation if you were
15:48:15 5 being transparent, honest and up-front?---No, I think
15:48:19 6 you're trying to characterise something as deliberate
15:48:23 7 dishonesty when that's certainly not how I would have
15:48:28 8 approached this. As I have approached anything, I would
15:48:30 9 have done my best to provide what I thought was the
15:48:32 10 relevant information at the time, given that this was an
15:48:35 11 OPI investigation.
12
15:48:36 13 Do you agree it was not for you to determine whether or not
15:48:38 14 that information was relevant?---Well, I don't - - -
15
15:48:42 16 MR GLEESON: I object, Commissioner. This seems clearly to
15:48:44 17 be nothing more than a credit attack, not going to matters
15:48:48 18 directly in issue, for some other agenda, and if we're not
15:48:54 19 to conduct a mini trial into what Mr Overland told the OPI
15:48:57 20 and whether it was accurately reflected in a long
15:49:00 21 affidavit, all of which he hasn't read for many years -
15:49:03 22 this is a 13-year-old affidavit - then we can't take this
15:49:07 23 matter any further. With respect, the Commission shouldn't
15:49:09 24 entertain cross-examination designed for other agendas
15:49:12 25 purely to attack the credit of a witness.
15:49:14 26
15:49:16 27 MS SHANN: Commissioner, the agenda is to put to
15:49:20 28 Mr Overland, which perhaps I'll do directly, that,
15:49:27 29 Mr Overland, you did not tell the OPI about this and,
15:49:30 30 indeed, other interactions that related to Gobbo and leaks
15:49:37 31 because you were designing to hide Gobbo's relationship
15:49:42 32 with police from those OPI investigators?---No, I don't
15:49:48 33 believe that's the case, but I am at some disadvantage
15:49:53 34 here. You're asking me about matters that are very old, I
15:49:55 35 haven't seen this material, I haven't seen the source
15:49:59 36 record of the interview that I did with the investigators
15:50:02 37 that led to the preparation of this, I haven't had any
15:50:05 38 material made available to me, so - - -
39
15:50:07 40 If I suggest to you that there is no reference to Gobbo
15:50:13 41 within this affidavit - - -?---But why would there be?
42
15:50:19 43 Well, this is your affidavit about leaks in relation to
15:50:24 44 Operation Briars and we know that in addition to the 1
15:50:31 45 April 2007, that on 22 June 2007, and this was dealt with
15:50:37 46 in your evidence at 11746, that Nick McKenzie told Iddles,
15:50:46 47 who told you, that there was leaking from someone within

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15:50:48 1 the Crime Department. Now, you were taken to that at the
15:50:52 2 end of last year. Do you recall that?---Not particularly,
15:50:55 3 but I accept that that was put to me.
4
15:50:58 5 And again, that there is - was that something that you
15:51:05 6 would consider you were obliged, if you were being honest,
15:51:09 7 to tell the OPI about when they were asking you questions
15:51:13 8 investigating leaks from Briars?---You said from the Crime
15:51:18 9 Department. Briars wasn't in the Crime Department.
10
15:51:21 11 Well, Clonk/Briars?---Look, again, I'm finding this quite
15:51:28 12 difficult because these are very old matters, I don't have
15:51:31 13 any of this material, I haven't had a chance to look at any
15:51:34 14 of this material.
15
15:51:35 16 I'm not asking you a question about this material at this
15:51:37 17 stage, I'm asking you about whether or not you consider, if
15:51:40 18 you were being asked questions from OPI investigators who
15:51:44 19 are investigating leaks in relation to what ^{PII} [REDACTED] has
15:51:49 20 said, whether or not you had an obligation to tell them
15:51:56 21 that Nick McKenzie had told Iddles, who told you, that
15:52:02 22 there was leaking from someone within the Crime
15:52:05 23 Department?---So, again, my recollection as to the way this
15:52:08 24 affidavit was put together is I was interviewed by the OPI
15:52:11 25 investigators, they asked me questions, I answered the
15:52:14 26 questions to the best of my ability, they then prepared an
15:52:17 27 affidavit that they gave back to me and they asked me to
15:52:20 28 look at it and to, if I agreed with it, sign it, which is
15:52:25 29 what I did.
30
15:52:26 31 You've got an obligation, don't you, in signing an
15:52:29 32 affidavit, to make sure it conveys the full picture, you
15:52:32 33 don't just blindly sign something that is put in front of
15:52:35 34 you?---No, I read the affidavit and I signed it.
35
15:52:37 36 And if there was something that was an omission in terms of
15:52:39 37 presenting the full picture, you would have said to them,
15:52:42 38 "Hey, I'm not signing this until you include the full
15:52:44 39 picture"?---I thought this was the full picture, that the
15:52:51 40 OPI was interested in having as part of their investigation
15:52:56 41 and prosecution in relation to the leaks from Operation
15:52:59 42 Diana.
43
15:53:00 44 And you say you told them in interview everything you knew
15:53:02 45 about leaks and they've then just selected particular
15:53:06 46 material?---Again, I answered the questions they asked me
15:53:08 47 about their investigation.

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1
15:53:11 2 And, indeed, on 30 July 2007, and this is again something
15:53:19 3 you were taken to in your cross-examination at the end of
15:53:24 4 last year, there was a Briars Task Force update, where the
15:53:29 5 investigator Iddles suggested that the appropriate way to
15:53:35 6 deal with Briars moving forward was to seed the story in
15:53:39 7 the media and that, according to Cornelius' notes, that
15:53:46 8 there was a preference expressed, in contrast to Iddles'
15:53:50 9 view, that "the seeding of the information should occur via
15:53:53 10 female visitors - lawyer". Do you recall being taken to
15:53:57 11 that?---No, not specifically.
12
15:54:00 13 You don't recall being asked questions about 30 July - -
15:54:03 14 -?---I don't now, no.
15
15:54:05 16 That's at Exhibit 938B. So this is a typed version of
15:54:25 17 Cornelius' notes?---I don't think I've seen this before.
18
15:54:29 19 No, sorry, that exhibit might not be right. It's 30 July
15:54:38 20 2007, the Briars Task Force update.
21
15:54:40 22 COMMISSIONER: I think that is the right exhibit.
15:54:42 23
15:54:42 24 MS SHANN: Is that the right exhibit?
25
26 COMMISSIONER: Yes.
27
15:54:45 28 MS SHANN: I'm sorry, if it could just be scrolled down. I
15:55:01 29 also haven't got all of this, so I'm not actually sure
15:55:06 30 where to direct the Commission to.
31
15:55:20 32 COMMISSIONER: It's the typed version of Luke Cornelius'
15:55:26 33 handwritten notes, Briars Task Force update, 30 July '07.
15:55:31 34 That was tendered - - -
35
15:55:34 36 MS SHANN: It was tendered.
37
15:55:36 38 COMMISSIONER: - - - late on Friday the 20th of December.
15:55:42 39 But he'd probably been asked questions about it before it
15:55:46 40 was tendered.
41
15:55:48 42 MS SHANN: Page 7.
43
15:55:51 44 COMMISSIONER: Of that document that you're wanting, is
15:55:53 45 that right?
46
15:55:53 47 MS SHANN: I think that must be right, and I think it's at

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15:55:59 1 11777 of the transcript is where the questions of you,
15:56:04 2 Mr Overland, were last year, where the entry was put in
15:56:17 3 full to you. Perhaps I'll just read from the transcript,
15:56:21 4 Your Honour?---I'd rather see it, if I could.
5
15:56:26 6 I'm a novice in relation to this, so I can't assist you.
7
15:56:30 8 COMMISSIONER: We've got something up on the screen and
15:56:33 9 there's no reason why that can't go up on everyone's
15:56:37 10 screens - it is.
15:56:40 11
15:56:40 12 MS SHANN: It is a note in Mr Cornelius' handwriting, which
15:56:47 13 has then been typed, and it starts - the typed version
15:56:53 14 starts with, "Kit Walker issues." This is it. Can you see
15:57:03 15 that there, Mr Overland?--What am I looking at, sorry?
16
15:57:09 17 The note. You asked to have a look at the note that I was
15:57:13 18 asking you questions about and it's now in front of
15:57:16 19 you?---Right. So I don't think I've seen this before.
20
15:57:20 21 No, you were asked questions about it and it was read to
15:57:25 22 you at p.11777. It's the handwritten note which was put in
15:57:33 23 front of you, VPL.1011.0058?---Right.
24
15:57:49 25 0100.0058, at p.93.
26
15:58:03 27 COMMISSIONER: Perhaps that shouldn't really be up on the
15:58:07 28 screen, the public can see, just on the witness' screen for
15:58:11 29 the time being. You've got a copy, I take it, Ms Shann?
30
15:58:16 31 MR GLEESON: Not yet I don't.
32
15:58:17 33 COMMISSIONER: You don't, Mr Gleeson. It's just there is a
15:58:20 34 name mentioned there.
15:58:21 35
15:58:21 36 MS SHANN: I'll read what was put to you and perhaps that
15:58:25 37 can be put up in front of you while that's happening.
38
15:58:29 39 COMMISSIONER: It can be before the witness and me.
15:58:32 40
15:58:34 41 MS SHANN: The transcription on the Task Force update from
15:58:40 42 Cornelius includes, "Kit Walker issues. Ron Iddles' view.
15:58:46 43 Phone calls between Lalor and Waters concerned the OPI
15:58:52 44 approach will have a major impact, spook the player, info
15:58:53 45 to be leaked. [REDACTED] may be talking. You need to be
15:58:57 46 careful. Give Hodgkin a hearing and then pending Baker.
15:59:02 47 Seed story in the media. Prefer seeding info. Advise

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15:59:06 1 female visitors - lawyer. Call Hodgkin for hearing and
15:59:13 2 then out ^{PII} [REDACTED], and then it goes on to refer to that
15:59:17 3 [REDACTED], hopefully, [REDACTED] Do you recall now
15:59:20 4 being asked questions about this?---No, I don't.
5
15:59:23 6 This is 19 December last year, but you don't recall?---I'm
15:59:38 7 sorry - some of it seems familiar, but I don't - I'm sorry,
15:59:44 8 I'm struggling to recall it.
9
15:59:47 10 This, again - you'd agree, wouldn't you, that this note
15:59:54 11 reflects, firstly, that the investigative view was that one
15:59:57 12 option or a preferred option potentially of Iddles was to
15:59:59 13 seed the story in the media but a preference was expressed
16:00:03 14 - it's not said by whom - that the seeding of information
16:00:06 15 should be via female visitors - lawyer?---Again, just to be
16:00:20 16 clear, that's Cornelius' handwritten notes?
17
16:00:23 18 Yes?---Right. Well, I don't have - I'm sorry, I'm
16:00:45 19 struggling to recall this detail.
20
16:00:49 21 You're struggling to recall ever being asked questions
16:00:52 22 about this last year?---Well I recall being asked - I've
16:00:59 23 been asked lots of questions. I am sorry, I'm struggling
16:01:03 24 to recall this. If it's in the transcript, that might help
16:01:05 25 me.
26
16:01:08 27 If transcript at 11777 could be brought up. Now, you
16:01:38 28 recall, don't you, that Gobbo was tasked on 12 September
16:01:46 29 2007 to disclose details of Operation Briars to Waters?---I
16:01:53 30 don't specifically recall that, no.
31
16:01:57 32 Leaving aside the date, are you giving evidence that you
16:02:01 33 don't recall Ms Gobbo being tasked to provide that
16:02:07 34 information to the target of the operation that you sat on
16:02:11 35 the board of management for?---I don't specifically recall
16:02:18 36 that now, no.
37
16:02:20 38 That would, in November - if you take it from me that that
16:02:25 39 occurred - she was tasked and then that occurred on 13
16:02:29 40 September 2007, you'd agree, wouldn't you, that you would
16:02:33 41 have known about it at that time?---Again, I'm a little bit
16:02:40 42 confused here. So this was in relation to Operation
16:02:44 43 Briars?
16:02:44 44
16:02:45 45 Yes?---She was being tasked to release information in
16:02:49 46 relation to Operation Briars?
16:02:51 47

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16:02:51 1 Yes?---I didn't know - but as part of the OPI
16:02:53 2 investigation, Operation Diana?
3
16:02:56 4 No, as part of Operation Briars?---To generate
16:03:07 5 conversations, is that - was that the suggestion?
6
16:03:11 7 If you listen to the question. Let's put aside - let's
16:03:16 8 presume, for the purpose of this question, that Ms Gobbo
16:03:19 9 was tasked on the 13th - and did on 13 September 2007 -
16:03:26 10 have a conversation with Waters where details of Operation
16:03:31 11 Briars were disclosed to him in order to see what he would
16:03:35 12 say and potentially say to others?---Right.
13
16:03:38 14 Let's presume that?---Yeah.
15
16:03:39 16 You would have known about that?---I assume so at the time,
16:03:42 17 yes.
18
16:03:42 19 And certainly as of 1 November 2007, when you were swearing
16:03:48 20 your affidavit for the OPI about leaks in relation to
16:03:53 21 Briars and information passing to Waters and Lalor, that is
16:03:57 22 something that you would have known? You wouldn't have
16:04:04 23 forgotten it in the six weeks between mid-September and the
16:04:08 24 start of November?---Again, I assume so, but again - - -
25
16:04:12 26 You think it's possible you forgot that in a six-week
16:04:15 27 period?---No, no, no, I'm not, I'm just struggling with all
16:04:17 28 of this. I'm struggling to remember any of it, to be
16:04:20 29 honest.
30
16:04:20 31 You're struggling to remember whether or not that might
16:04:23 32 have stood out in your mind?
33
16:04:31 34 COMMISSIONER: What is being put is on '13 September '07,
16:04:35 35 you would have known that she was tasked - Nicola Gobbo was
16:04:38 36 tasked to leak information to Lalor to generate evidence as
16:04:45 37 part of Operation Briars and you would have known that at
16:04:50 38 the time you swore the affidavit in November to the
16:04:52 39 OPI?---Yes.
40
16:04:52 41 And you didn't mention it, that's what's being
16:04:55 42 put?---Commissioner, I understand that.
43
16:05:00 44 MS SHANN: That again, I suggest to you, is not a matter
16:05:02 45 that you disclosed to OPI investigators who were looking at
16:05:05 46 how information had passed to Waters and Lalor in relation
16:05:09 47 to Operation Briars?---Again, I say the OPI commission

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1 - - -
2
16:05:15 3 But is that correct, that you did not - - -
16:05:16 4
16:05:17 5 MR GLEESON: If the witness could be allowed to answer the
16:05:19 6 question.
7
16:05:19 8 COMMISSIONER: Also let counsel put the question. So just
16:05:22 9 put the question again, Ms Shann, please.
16:05:24 10
16:05:24 11 MS SHANN: Is that correct, that you did not tell OPI
16:05:27 12 investigators, who were looking into how Lalor and Waters
16:05:32 13 obtained information about Operation Briars, you did not
16:05:36 14 tell them, in your affidavit of 1 November 2007, that Gobbo
16:05:42 15 had been tasked in mid-September and indeed did disclose
16:05:47 16 details of that operation to them?--Again, I - if you're
16:05:53 17 telling me it's not in the affidavit, it's not - I accept
16:05:56 18 it's not in the affidavit. I now don't recall what is and
16:05:58 19 what is not in the affidavit.
20
16:05:59 21 You can take it from me it's not in the affidavit?--Okay,
16:06:02 22 then I accept it's not in the affidavit.
23
16:06:04 24 And that, I suggest to you, creates again another false
16:06:09 25 impression that the only mode by which leaks occurred in
16:06:13 26 relation to Operation Briars and what ^{PII} [REDACTED] was saying
16:06:16 27 to Waters was via the Linnell channel?--Well, again, all I
16:06:22 28 can say is that the answer I've given you previously, which
16:06:27 29 is the OPI interviewed me, I answered their questions, they
16:06:30 30 prepared the affidavit for their investigation, I read the
16:06:33 31 affidavit, I agreed it was accurate and I signed it. So
16:06:37 32 they made a determination around what they thought was
16:06:39 33 relevant and what they wanted included and what they didn't
16:06:42 34 want included.
35
16:06:43 36 But obviously you gave them, did you not, no indication
16:06:47 37 that there was another mode by which information was
16:06:51 38 travelling, i.e. via Nicola Gobbo?--I don't know whether
16:06:55 39 that, I did or I didn't, or whether that information was
16:06:57 40 known to them or not known to them, I don't now recall
16:07:01 41 that.
42
16:07:01 43 I suggest to you you hid Nicola Gobbo's involvement in
16:07:08 44 Operation Briars deliberately from these OPI
16:07:12 45 investigators?--No, I don't believe that's the case at
16:07:14 46 all.
47

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16:07:15 1 And you hid from them the extent of who knew about
16:07:20 2 Operation Briars, for example, the SDU?---I don't believe
16:07:26 3 that's the case, no.
4
16:07:28 5 You think these investigators knew those things?---Well, I
16:07:32 6 don't know what they knew.
7
16:07:35 8 And the public hearings, which commenced a week after you
16:07:42 9 swore your affidavit, included as part of opening
16:07:47 10 statements, and you're aware of this, aren't you, that the
16:07:51 11 focus of the investigative hearings is the unauthorised
16:07:55 12 passing of critical information, that some of the
16:07:59 13 information was passed to the target of Operation Briars,
16:08:03 14 that the leaks in relation to Operation Briars are at the
16:08:06 15 heart of this enquiry, you knew that that was part of the
16:08:11 16 public hearing opening statement splashed across the front
16:08:15 17 page?---Well at the time they were made I'd have become
16:08:17 18 aware of them, yes.
19
16:08:18 20 And indeed that Mr Mullett was charged thereafter with
16:08:23 21 attempt to pervert the course of justice in relation to
16:08:27 22 leaks relating to Operation Briars and Waters and Lalor
16:08:32 23 becoming apprised of detail about that operation?---I
16:08:35 24 recall that, yes.
25
16:08:37 26 And it's the case, isn't it, that you did not seek,
16:08:46 27 becoming aware of those public facts, to apprise Greg
16:08:53 28 Lyons, who was counsel assisting the OPI public hearings,
16:08:57 29 for example, about what you knew about other leaks, other
16:09:01 30 ways in which information was being passed to Waters?---I
16:09:07 31 apprised Greg Lyons?
32
16:09:11 33 You did not do that is what I'm putting to you?---No, it
16:09:14 34 wasn't something for me to do.
35
16:09:16 36 Did you apprise the Office of Public Prosecutions, the
16:09:19 37 Director of Public Prosecutions, when they were prosecuting
16:09:21 38 Mr Mullett, that there were other ways that you knew that
16:09:23 39 information may be leaking about Operation Briars to Waters
16:09:28 40 and Lalor?---No, this was - just to be clear about this,
16:09:32 41 this was an OPI investigation, that I provided witness
16:09:38 42 statements in relation to or an affidavit that was
16:09:40 43 effectively a witness statement. As I was, in effect, one
16:09:44 44 of the targets of the leaking, I stayed at arm's length
16:09:50 45 from all of this, so I had nothing to do with the OPI
16:09:56 46 investigation until 14 September, when I was briefed on it.
16:09:59 47 I then did certain things when I was asked to do them by

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16:10:02 1 the OPI, I provided the affidavit when I was asked to
16:10:05 2 provide it, but I had nothing to do with the prosecution.
3
16:10:08 4 What you had to do with it, I suggest to you, is you
16:10:11 5 created a deceptive by omission affidavit which was
16:10:17 6 provided as a part of the materials used in a public
16:10:21 7 hearing - - -?---I don't accept that.
8
16:10:23 9 - - - to create immense reputational damage to three men
16:10:27 10 and to further hide and cover up the use of Nicola Gobbo
16:10:35 11 and her involvement directly with Waters?---I don't accept
16:10:39 12 that.
13
16:10:40 14 Indeed, if I could show p.21 of your affidavit, paragraph
16:10:48 15 78. That paragraph reads, "In my view, there has been no
16:11:06 16 reason for information to be passed down" - this is in
16:11:10 17 relation to Briars - "to anyone outside the advisory group.
16:11:14 18 The fact that it has I find personally devastating, I feel
16:11:17 19 absolutely betrayed personally and organisationally because
16:11:21 20 I think the reality is the way this will play out is that
16:11:25 21 this investigation will be seen to have been hopelessly
16:11:28 22 compromised. That is just devastating for the
16:11:32 23 organisation. The one reason we've been able to survive to
16:11:34 24 date with all the difficulties that we have been dealing
16:11:37 25 with is that we have been able to run the line 'we're able
16:11:43 26 to deal with it'", and just stopping there, you're
16:11:46 27 referring to survive being avoid a Royal Commission?---In a
16:11:53 28 way, yes, because of the links that were being made at the
16:11:58 29 time between the shootings and police corruption.
30
16:12:01 31 Avoid a Royal Commission into aspects of police
16:12:05 32 corruption?---Well, avoiding Royal Commissions into the
16:12:08 33 suggestion that the murders were happening because of
16:12:10 34 police corruption.
35
16:12:11 36 And it goes on, "This, I think, just totally undermines
16:12:16 37 that defence so it is an act of the highest
16:12:23 38 bastardry"?---Yes.
39
16:12:23 40 Strong language for an affidavit?---Yes.
41
16:12:27 42 Do you consider that in light of where we are today, in a
16:12:33 43 Royal Commission which is considering aspects of police
16:12:39 44 illegality and corruption as it relates to the use of a
16:12:41 45 barrister as a human source, that it's somewhat ironic that
16:12:48 46 in 2007 the report that you were making to these OPI
16:12:52 47 investigators about conduct of Linnell, Ashby and Mullett

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16:12:58 1 as being acts of the highest bastardry is somewhat
16:13:02 2 misplaced?---No, because they were. The Operation Diana
16:13:07 3 investigation showed very clearly that that is exactly what
16:13:11 4 was happening, that Linnell was taking information,
16:13:13 5 sensitive information that he had been privy to because of
16:13:16 6 the media implications of what was happening with Briars,
16:13:19 7 he was passing that information to Ashby, who was sharing
16:13:23 8 it with Mullett, and it was then being fed to the media for
16:13:26 9 the purpose of undermining the Chief Commissioner and
16:13:30 10 undermining me.
11
16:13:31 12 You say, do you, that it was those three who were
16:13:34 13 responsible for leaking to the media about Operation
16:13:37 14 Briars?---I think the evidence that was adduced during
16:13:39 15 Operation Diana was very, very clear about that.
16
16:13:43 17 Though the attempt to pervert charge was thrown out at
16:13:47 18 committal, you're aware of that?---I am aware of that.
19
16:13:49 20 Indeed, you had to sign off on the costs paid to
16:13:52 21 Mr Mullett's counsel in relation to that?---I did.
22
16:13:54 23 As Chief Commissioner at the time?---I don't recall that,
16:13:57 24 but if you tell me I did, I did.
25
16:14:01 26 And indeed - - -
16:14:01 27
16:14:01 28 MR GLEESON: Commissioner, I object. The agenda that is
16:14:04 29 being pursued here has been laid bare. It has got nothing
16:14:07 30 to do with the Terms of Reference of the Royal Commission.
31
16:14:09 32 COMMISSIONER: It does seem to be going a little off the
16:14:12 33 track now. You have made your point, I think, that's
16:14:16 34 relevant to the Commission.
35
16:14:20 36 MS SHANN: Yes. Mr Overland, if I can then conclude. The
16:14:26 37 suggestion that I'm putting to you is that paragraph 174 of
16:14:32 38 your supplementary statement, which says that you have
16:14:35 39 never engaged in any dishonest conduct as
16:14:38 40 Deputy Commissioner and never covered up matters relating
16:14:42 41 to Nicola Gobbo, is manifestly false?---No, I don't agree
16:14:47 42 with that at all.
43
16:14:49 44 Thank you, Commissioner.
16:14:50 45
16:14:50 46 MR GLEESON: Commissioner, is it convenient if I re-examine
16:14:54 47 this discrete topic now and otherwise re-examine in respect

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16:14:58 1 of the matters that Mr Winneke, and perhaps others, do at
16:15:01 2 the end of the process or should I hold back for all of it?
3
16:15:04 4 COMMISSIONER: I'd prefer to do it in the usual way, I
16:15:06 5 think. Otherwise it does get a little disjointed.
6
7 MR GLEESON: Understood
8
16:15:09 9 COMMISSIONER: Mr Gleeson, could I mention those
16:15:10 10 instructing you, if they're wanting some material from the
16:15:15 11 technological team, if they could not interrupt the
16:15:18 12 proceedings to do that and just do it through you, please,
16:15:21 13 and ask me for it.
14
16:15:23 15 MR GLEESON: Certainly, yes. They're a bit enthusiastic
16:15:25 16 sometimes.
17
16:15:26 18 COMMISSIONER: Thank you. It was very distracting.
19
16:15:29 20 MS SHANN: Commissioner, just in relation to that last
16:15:32 21 point, I was about to ask to be excused. My preference
16:15:37 22 would be that the re-examination - - -
23
16:15:40 24 COMMISSIONER: Happens now.
25
16:15:42 26 MS SHANN: - - - happens now and thereafter if I could seek
16:15:45 27 to be excused, but it seems like it might be appropriate if
16:15:49 28 I was present during that.
29
16:15:50 30 COMMISSIONER: Yes. How long do you expect it to be,
16:15:52 31 Mr Gleeson?
32
16:15:54 33 MR GLEESON: About two minutes.
34
16:15:55 35 COMMISSIONER: All right. Okay. I give up.
36
37 <RE-EXAMINED BY MR GLEESON:
38
16:16:00 39 Mr Overland, it was put to you that the enquiry of the OPI
16:16:03 40 was in relation to unauthorised leaks of
16:16:06 41 information?---Yes.
42
16:16:07 43 Is the sanctioned release of information through Nicola
16:16:12 44 Gobbo an unauthorised leak?---No, it would be a controlled
16:16:16 45 leak.
46
16:16:17 47 It was put to you, in substance, that the OPI - that you

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16:16:22 1 withheld from OPI, for various reasons, what you knew about
16:16:26 2 Nicola Gobbo as a human source?---Yes.
3
16:16:32 4 There's been evidence about communications you had with
16:16:34 5 Mr Ashton. What do you say about that proposition - - -
6
16:16:37 7 MS SHANN: If I could just correct. I put to the OPI
16:16:39 8 investigators who were taking the affidavit, I didn't
16:16:43 9 suggest he withheld from the OPI.
16:16:45 10
16:16:48 11 MR GLEESON: Right.
12
16:16:51 13 Well, perhaps I'll just leave you to respond to that
16:16:54 14 proposition?---Well, my view was the OPI knew everything
16:16:57 15 they needed to know about Briars and the issues associated
16:17:01 16 with Briars. Operation Diana was their investigation, it
16:17:06 17 was a matter for them to run as they saw fit.
18
16:17:09 19 What was your understanding as to the stage of knowledge of
16:17:13 20 the OPI about Nicola Gobbo as a human source?---They knew.
21
16:17:16 22 Why do you say that?---Because Mr Ashton was on the
16:17:19 23 steering committee and my belief is he knew.
24
16:17:41 25 Thanks, Mr Overland.
26
16:17:44 27 MS SHANN: May I seek to be excused?
28
16:17:47 29 COMMISSIONER: Yes.
30
16:17:48 31 MS SHANN: Thank you, Commissioner.
32
16:17:48 33 COMMISSIONER: I think we then jump to you, Mr Nathwani, I
16:17:51 34 think that is next.
35
36 <CROSS-EXAMINED BY MR NATHWANI:
37
16:17:52 38 Mr Overland, counsel for Nicola Gobbo. Do you agree that
16:17:59 39 your evidence to date before the Royal Commission has been
16:18:00 40 an attempt by you to distance yourself from involvement in
16:18:04 41 the use of Ms Gobbo as a human source?---No, my evidence
16:18:07 42 has been the best evidence I can give about my recollection
16:18:12 43 of events that happened 15 or 20 years ago.
44
16:18:17 45 You, obviously, are aware of the criticisms made by the
16:18:19 46 High Court because you allude to them in your first
16:18:22 47 statement. Do you accept responsibility for the High

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16:18:27 1 Court's comments "that Victoria Police were guilty of
16:18:30 2 reprehensible conduct in knowingly encouraging Nicola Gobbo
16:18:34 3 to do as she did and were involved in sanctioning atrocious
16:18:38 4 breaches of the sworn duty of every police officer to
16:18:41 5 discharge all duties imposed on them faithfully and
16:18:43 6 according to law without favour or affection, malice or ill
16:18:47 7 will"?---I'm aware those comments have been made because
16:18:52 8 they've been widely reported, but I don't accept that's
16:18:56 9 what I've done.

10
16:18:57 11 One of the last questions that Mr Winneke asked you before
16:19:00 12 we left before Christmas, he asked you about whether you
16:19:03 13 accepted responsibility for the use of Ms Gobbo and you
16:19:06 14 said, 'Yes, I do." Can you elaborate? Do you accept
16:19:11 15 responsibility purely as the head of or a senior
16:19:15 16 decision-maker within Victoria Police during the relevant
16:19:18 17 period, 2003-11?---I think I said this has happened on my
16:19:22 18 watch, so I have to accept responsibility for it on that
16:19:25 19 basis.

20
16:19:26 21 How about personally for decisions you made in relation to
16:19:30 22 her authorisation, use and deployment throughout that
16:19:36 23 period?---Well, I didn't make decisions about her being
16:19:41 24 registered as a human source, that was done by others. I
16:19:45 25 was certainly aware of it, I was certainly aware of her
16:19:50 26 use, to the extent that I've set out, to the best of my
16:19:53 27 ability, in front of this Royal Commission, but I didn't
16:19:57 28 know at any stage that she was being used in the manner
16:20:02 29 that attracted the criticism that was made by the High
16:20:05 30 Court.

31
16:20:07 32 Do you accept that - because some of the evidence you're
16:20:11 33 giving is general and these are all general propositions
16:20:14 34 I'm putting to you before we go into detail - do you accept
16:20:18 35 that when you suggest you had an interest in her health,
16:20:22 36 care and safety, it was no more than a collateral issue to
16:20:26 37 you?---No, absolutely not. I thought that - in fact, it
16:20:30 38 was pivotal in my mind because I thought the alternative of
16:20:36 39 not, in effect, assisting her, not having her act as a
16:20:41 40 human source in the way that happened in 2005, was highly
16:20:45 41 likely to result in her death or serious injury.

42
16:20:48 43 We'll come to that. Do you accept that what happened, that
16:20:55 44 the High Court has criticised, is a combination of, one,
16:20:59 45 the establishment of the SDU and, two, Purana tactics?---I
16:21:05 46 don't know that I'm actually in a position to give a
16:21:10 47 competent answer to that. I'm not across all the evidence

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16:21:15 1 that's been led and given in this Royal Commission, I don't
16:21:17 2 know all the facts, I don't know all the detail.
3
16:21:20 4 Do you accept you were responsible for the tactics used and
16:21:23 5 deployed by Purana?---No, I wasn't making tactical
16:21:29 6 decisions. That wasn't my role.
7
16:21:34 8 Before we then go on to look at that, because that is where
16:21:37 9 we're going to start, do you accept during your evidence
16:21:43 10 before Christmas and, to a degree, today, you have
16:21:45 11 obviously had difficulties recalling matters, sometimes
16:21:50 12 obviously because you're not assisted by notes, other
16:21:53 13 occasions, I'm sure, due to the passage of time, but can we
16:21:58 14 just put this into context for the Commission, who I'm sure
16:22:01 15 is well aware of it. Nicola Gobbo, throughout the period
16:22:04 16 of time that you were at Victoria Police, was ever present
16:22:08 17 in your life?---No, I don't agree with that.
18
16:22:10 19 By that I mean from 2003 all the way up until you leave in
16:22:14 20 2011?---Well, no. I mean, she was a barrister involved
16:22:23 21 with a number of people who were under investigation from
16:22:27 22 2003 up to 2005. She had no formal role with the
16:22:33 23 organisation. She was another lawyer.
24
25 I'll headline it - - -
26
16:22:36 27 COMMISSIONER: Mr Nathwani, can I just interrupt for one
16:22:39 28 minute. Ms Shann, did you intend to tender the affidavit
16:22:42 29 of Mr Overland of 1 November 2007?
30
16:22:45 31 MS SHANN: Yes, thank you very much, Commissioner, I do.
32
16:22:48 33 COMMISSIONER: My associate reminded me.
34
16:22:50 35 MS SHANN: Thank you.
36
16:22:50 37 COMMISSIONER: All right. That will be Exhibit 988A and B.
16:22:56 38
16:22:58 39 #EXHIBIT RC988A - (Confidential) Affidavit of
16:22:43 40 Simon Overland dated 1/11/2007.
41
16:22:58 42 #EXHIBIT RC988B - (Redacted version.)
16:22:59 43
16:23:00 44 MR NATHWANI: So just looking at some of the matters she
16:23:02 45 was involved in, for the reason I say - I asked you about
16:23:04 46 between 2003-2011; Purana she was involved, was she not, in
16:23:11 47 relation to [REDACTED], [REDACTED] and [REDACTED] rolling?---She was.

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1
16:23:17 2 In 2004, providing information to Stuart Bateson?---That is
16:23:24 3 - yes.
4
16:23:24 5 Also involved in Operation Posse?---Yes.
6
16:23:28 7 In 2005 - I'm hearing the tick list from Mr Winneke -
16:23:32 8 Operation Khadi, Operation Petra, Operation Briars, she
16:23:37 9 sued you, so that takes us all the way up to 2009?---Yes.
10
16:23:41 11 In 2014 you're giving evidence at IBAC about her?---Yes.
12
16:23:45 13 And here you are now?---Yes.
14
16:23:49 15 Let's go to Purana. You received a police medal in 2007,
16:23:58 16 is that right?---Yes, I think so, around then.
17
16:24:00 18 I think the beginning of 2008, but you say 20007 in your
16:24:04 19 statement. And by that time, of course, you were the face,
16:24:06 20 in many respects, of the Purana successes, do you agree
16:24:10 21 with that?---You could put it that way, yes.
22
16:24:16 23 You devised a plan to target, within Purana at the very
16:24:22 24 beginning, weaker criminals attached to Williams and
16:24:27 25 Mokbel, do you agree with that?---I wouldn't put it quite
16:24:30 26 that way, but I - yes.
27
16:24:31 28 I want to, for the next few minutes, go to your - you gave
16:24:35 29 evidence before IBAC in November 2014?---I did.
30
16:24:41 31 Have you had an opportunity to look at that evidence?---No,
16:24:47 32 not in any detail.
33
16:24:49 34 At that time, just to refresh your memory because we'll
16:24:55 35 look at it, you went to the IBAC inquiry and provided a
16:25:00 36 lengthy statement before answering any questions?---Yes, I
16:25:03 37 did.
38
16:25:04 39 Touched on Ms Shann's clients, to some degree, about Ashby
16:25:08 40 and Mullett and how you thought there was a witch-hunt
16:25:12 41 against you in many respects about police leaks?---Yes.
42
16:25:15 43 But then you went on to discuss your initial arrival and
16:25:20 44 involvement with Purana. So if we can turn up RCI.13 -
16:25:25 45 this is the IBAC inquiry - this is what you said in a
16:25:28 46 written document to IBAC. If we can just quickly scroll
16:25:33 47 through. Keep going, please. Just keep going a bit

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16:25:47 1 further through so everyone is following. All the
16:25:48 2 introductions, the legal obligations are set out, the
16:25:52 3 confidentiality notice there. Mr Hevey appears on behalf
16:25:56 4 of the inquiry. If we keep scrolling down. We see in
16:26:02 5 italics from there onwards, you read out a statement. And
16:26:08 6 let's just keep going through, because the first few pages
16:26:10 7 really relate to Ashby and Mullett and others and you
16:26:13 8 saying that there are leaks against you and the like. If
16:26:16 9 we then come to p.13 - in fact, just at the bottom of p.12.
16:26:28 10 You write this, "I first became aware of this issue" -
16:26:32 11 that's the Gobbo issue - "in about March of 2003, shortly"
16:26:37 12 - I'll start again?---No, it's not the Gobbo issue.

13
16:26:38 14 Not the Gobbo issue, sorry. The issue that you outlined
16:26:42 15 just above, which is about why some of the drug issues and
16:26:47 16 associated violence were occurring within Melbourne. You
16:26:49 17 say, "I first became aware of this issue in about March of
16:26:52 18 2003, shortly after I joined the force. I was informally
16:26:57 19 advised by a senior officer within the Crime Department
16:27:00 20 that there was in fact a gangland war being waged in
16:27:05 21 Victoria. I immediately arranged to be briefed on this
16:27:06 22 situation and begun moves to establish a resource, what
16:27:08 23 became known as Operation Purana. I was responsible for or
16:27:13 24 involved in many of the key decisions during its course up
16:27:16 25 to 2009." Pausing there, do you accept that is
16:27:20 26 correct?---Yes.

27
16:27:20 28 Right. Let's keep going. "Operation Purana was formed
16:27:25 29 against a backdrop where it became apparent that
16:27:27 30 traditional investigative approach taken by Victoria Police
16:27:29 31 would not solve this complex series of shootings, murders
16:27:34 32 and drug-related crimes. One of my first responses was to
16:27:37 33 build as complete an intelligence picture as possible.
16:27:43 34 Victoria Police had a lot of information but it was
16:27:46 35 fragmented. I arranged for the information to be pulled
16:27:50 36 together. This required sharing across internal and
16:27:53 37 external organisational boundaries, something Victoria
16:27:56 38 Police had struggled to do until then. I tasked analysts
16:28:01 39 to paint a picture of what they thought was happening,
16:28:02 40 based on that intelligence. The key in this was to
16:28:06 41 understand the intersecting criminal networks operating in
16:28:09 42 this domain and to undertake network and market analysis as
16:28:12 43 a means of identifying intelligence gaps. I was
16:28:17 44 particularly interested in identifying weaknesses and
16:28:23 45 vulnerabilities in these networks that might be exploited.
16:28:26 46 This meant looking for persons involved in serious
16:28:28 47 criminality who could be targeted, arrested and charged

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16:28:31 1 with serious criminal offences and then used to provide
16:28:34 2 evidence against co-accused or other more significant
16:28:38 3 criminals, particularly those involving the murders, in
16:28:40 4 exchange for leniency on sentence. I immediately stress
16:28:45 5 that all such undertakings under my leadership were done
16:28:47 6 with full knowledge and agreement of the DPP, Mr Coghlan,
16:28:52 7 Queen's Counsel, and primary Senior Crown Prosecutor,
16:28:55 8 Mr Horgan, Queen's Counsel." The next paragraph I'm not
16:29:00 9 going to read out but you can see it there. "This approach
16:29:03 10 became the key strategy and source of considerable success.
11 Under Purana, notorious, violent and dangerous criminals
16:29:10 12 agreed to testify against each other" and then you have set
16:29:13 13 out some of the details, okay? The next paragraph, "As
16:29:18 14 events subsequently proved, more traditional policing means
16:29:22 15 had not succeeded and one of the keys to success lay in the
16:29:24 16 use of criminals and co-accused either as informers" -
16:29:29 17 you've said "informants" but "informers" - "or more
16:29:29 18 particularly as witnesses." So just pausing there, you
16:29:35 19 are, in effect, saying there was a particular tactic
16:29:38 20 devised by Purana and you're responsible for it?--I'm
16:29:41 21 sorry, I don't mean to be smart here, but it is the use of
16:29:45 22 language. I would say that was a strategy. Tactics are
16:29:48 23 actually much more operational low-level decision-making.
16:29:51 24 So that is the point I'm making. I stand by everything
16:29:54 25 that I said there, I was responsible for - - -
26
16:29:58 27 This was your brain child and there you were - - -?---For
16:29:59 28 the early strategic work and setting that in train, but I
16:30:02 29 wasn't involved, by and large, in tactical decision-making.
30
16:30:05 31 We'll come to that. Using your words, the strategy, you
16:30:09 32 are effectively saying there, at an IBAC inquiry, this was
16:30:12 33 my work?---Yes.
34
16:30:15 35 Looking at how that played out, because you refer to it,
16:30:19 36 examples of that were ^{PII} [REDACTED], you agree?---Yes.
37
16:30:26 38 Who we know Ms Gobbo represented. Subsequently then
16:30:30 39 ^{PII} [REDACTED]?---Yes.
40
16:30:33 41 And ^{PII} [REDACTED]?---Yes.
42
16:30:33 43 So there is your plan in operation?---Yes.
44
16:30:37 45 The same true of Ms Gobbo. Were you aware, in 2003, for
16:30:43 46 example, that Mr Bateson formed the view she was part of
16:30:47 47 the Williams gang and then thereafter she represented Lewis

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16:30:53 1 Moran at a bail application, resulting in Andrew Veniamin
16:30:58 2 threatening her?---Again, I became aware of that
16:31:02 3 information. I don't recall specifically when I knew that
16:31:04 4 information.
5
16:31:06 6 She was also, certainly by the time of her recruitment,
16:31:10 7 involved in the rolling of, as we said, PII [REDACTED]
16:31:16 8 PII [REDACTED] Were you aware of that?---I understand - yes,
16:31:23 9 I was aware of PII [REDACTED]
10
16:31:26 11 Certainly PII [REDACTED]?---Not PII [REDACTED]. Again, I don't know about PII [REDACTED]. I
16:31:31 12 don't recall specifically about PII [REDACTED]
13
16:31:36 14 The same tactic - Operation Posse, as we've heard about,
16:31:43 15 was a spin-off, in many respects, of Purana. Do you agree
16:31:46 16 with that?---No, it wasn't a spin-off, it was a later
16:31:52 17 phase. Originally Purana was about the homicides and it
16:31:56 18 was, at that point, primarily about Williams and people
16:31:59 19 associated with him. Mokbel was always a potential target
16:32:06 20 but, because of priorities and resourcing issues, was not
16:32:09 21 someone that could be got to at that point in time. When
16:32:13 22 Purana got to the point where arrests had been made,
16:32:16 23 charges brought and the murders were under control, it then
16:32:19 24 moved on to deal with Mokbel.
25
16:32:21 26 Commissioner, I note the time. I'm not going to finish
16:32:24 27 today. I think tomorrow we'll come to the - - -
28
16:32:27 29 COMMISSIONER: Yes, all right then. We'll adjourn in a
16:32:29 30 moment then. Just a few more housekeeping matters.
16:32:32 31 Ms Enbom, there are apparently over 300 exhibits awaiting
16:32:40 32 PII review by Victoria Police. Could you, tomorrow or the
16:32:47 33 next day - before the end of the week at least - give me an
16:32:50 34 update? We would like those done as soon as possible.
35
16:32:54 36 MS ENBOM: Yes, I'll get an update.
37
16:32:56 38 COMMISSIONER: Thank you. And there's also a hold-up with
16:33:02 39 - you're off the hook for this one - the Australian Federal
16:33:06 40 Police and the ACIC. I think Ms Minnett is here for the
16:33:13 41 Australian Federal Police. The arrangement was that the
16:33:18 42 AFP - after they'd been PIIed by Victoria Police, the AFP
16:33:23 43 would do their review within two business days. That's
16:33:28 44 slowed down, apparently, because there's been a large
16:33:30 45 number provided recently, but it hasn't been coming through
16:33:36 46 anywhere near in the two days. Could you ensure that those
16:33:44 47 responsible for this understand the preference that it be

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16:33:50 1 done within two days, because we really do need to get
16:33:53 2 these exhibits up into the public domain in a form that can
16:33:56 3 be done and it's not happening. So the system will be that
16:34:03 4 preferably the review is to be done by the Australian
16:34:06 5 Federal Police within two days and if it is not done within
16:34:13 6 five days in future, it will then be published in any case,
16:34:16 7 all right?
8
16:34:18 9 MS MINNETT: Yes.
10
16:34:19 11 COMMISSIONER: Thank you. And if there's a problem with
16:34:21 12 that, then an application can be made to me at the hearing.
13
16:34:25 14 MS MINNETT: Yes, Commissioner.
15
16:34:26 16 COMMISSIONER: And then the ACIC. I don't know whether
16:34:28 17 there is anyone here for them today. Is there anyone here
16:34:31 18 for the ACIC today? All right then. The same timeframes
16:34:35 19 will be given to the ACIC and a copy of this transcript
16:34:39 20 will be provided to them by the solicitors assisting the
16:34:42 21 Commission.
22
16:34:44 23 Ms Enbom, the other difficulty that has arisen is in
16:34:54 24 respect of the transcripts. You might recall when we sat
16:34:59 25 at the end of last year, I said to try and get the
16:35:04 26 transcripts up in some form for the public whilst the
16:35:11 27 arguments about PI were being sorted out, the Commission
16:35:16 28 was to publish them in the form that the police initial
16:35:24 29 request for PII - so the transcripts had been PIIed and
16:35:29 30 they went up in the form the police said that they wanted,
16:35:33 31 but then apparently there was some errors or some further
16:35:37 32 things that the police were concerned about, so over the
16:35:40 33 break the police then asked that they be taken down, but
16:35:44 34 they have never gone up again.
35
16:35:46 36 MS ENBOM: Right.
37
16:35:48 38 COMMISSIONER: So I presume when the police asked for them
16:35:50 39 to come down because of the further concerns about PII,
16:35:54 40 they had specific matters in mind, so they should have been
16:35:57 41 able to deal with them very quickly, I would have thought,
16:36:01 42 but that hasn't happened.
43
16:36:03 44 MS ENBOM: I'll look into that.
45
16:36:04 46 COMMISSIONER: I know everyone has been having a break and
16:36:06 47 everyone was very tired at the end of the year, but could

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16:36:07 1 you look into that and let me know what the position is.
2
3 MS ENBOM: Yes, I'll look into that
4
16:36:10 5 COMMISSIONER: And obviously I want to get them back up
16:36:13 6 again as soon as possible.
7
16:36:14 8 MS ENBOM: Yes. May I raise a matter that's related to the
16:36:15 9 - concerns the transcripts?
10
16:36:16 11 COMMISSIONER: Sure.
12
16:36:17 13 MS ENBOM: My memory of last year is that prior to
16:36:21 14 Mr Overland starting his evidence in December, we were not
16:36:24 15 using pseudonyms in public hearings, so we were not using
16:36:29 16 PII, witness and the letters and so on. I wasn't
16:36:34 17 here, but for some reason, when Mr Overland started giving
16:36:39 18 his evidence, we started using those pseudonyms. So when
16:36:42 19 we're doing the transcript - when we're reviewing the
16:36:46 20 transcript for PII, we are making PII claims over those
16:36:52 21 pseudonyms, in the same way that we would do that during
16:37:00 22 the course of the year when someone had accidentally used a
16:37:03 23 pseudonym in a public hearing.
24
16:37:07 25 COMMISSIONER: There might be particular pseudonyms that
16:37:09 26 that was the case for, but the whole idea of having the
16:37:13 27 pseudonyms was, of course, so it could be published.
28
29 MS ENBOM: Yes, but the problem was - - -
30
16:37:16 31 COMMISSIONER: I know you say that some pseudonyms and
16:37:18 32 other pieces of biodata mean that they can't be published,
16:37:23 33 but that was supposed to be what the PII was about, so it's
16:37:27 34 certainly not the case for every pseudonym that there's a
16:37:31 35 PII - - -
36
16:37:32 37 MS ENBOM: No, you are correct, Commissioner, it wasn't
16:37:34 38 every because, for example, we would use "Solicitor 2" in
16:37:36 39 public.
40
16:37:36 41 COMMISSIONER: There are a lot of pseudonyms that can be
16:37:40 42 used in public and that is what that is intended to do.
16:37:44 43 From all the material I have had from Victoria Police, I
16:37:46 44 understand the position is that you say that there is
16:37:48 45 biodata, that if you put a pseudonym in and then other
16:37:52 46 facts, then things can be worked out by those who want to
16:37:56 47 work them out.

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1
16:37:57 2 MS ENBOM: That's right. I think it is the pseudonyms
16:37:59 3 assigned to people who are the subject of suppression
16:38:01 4 orders, we haven't been using those pseudonyms in a public
16:38:04 5 hearing, but we're now doing it. "[REDACTED]" is an
16:38:08 6 example. So I think we - - -
7
16:38:14 8 COMMISSIONER: Need to sort that out.
9
16:38:15 10 MS ENBOM: We do need to sort that out.
11
16:38:18 12 MS ENBOM: Perhaps I should talk to Mr Winneke.
13
16:38:22 14 COMMISSIONER: Yes. It is not a straightforward matter, I
16:38:25 15 appreciate that.
16
16:38:26 17 MS ENBOM: No. I'll speak to Mr Winneke about it.
18
16:38:28 19 COMMISSIONER: All right then. Thank you. We'll adjourn
16:38:29 20 until tomorrow at 9.30.
16:39:04 21
16:39:05 22 <(THE WITNESS WITHDREW)
16:39:05 23
24 ADJOURNED UNTIL WEDNESDAY 22 JANUARY 2020
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