

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

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Friday, 6 September 2019

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 Mr S. Holt QC

Counsel for State of Victoria Mr C. McDermott

Counsel for Nicola Gobbo Mr R. Nathwani

Counsel for DPP/SPP Ms A. Martin

Counsel for CDPP Ms R. Avis

Counsel for Police Handlers Mr G. Chettle
 Ms L. Thies

Counsel for John Higgs Ms C. Dwyer

Counsel for Faruk Orman Ms S. Wallace

Counsel for Pasquale Barbaro Mr C. Wareham

Counsel for AFP Ms I. Minnett

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

09:37:36 1 COMMISSIONER: Yes, I note that the appearances are as they
09:37:39 2 were yesterday, save that Ms Martin is appearing for the
09:37:43 3 DPP. Yes. Just whilst we're in open hearing, we'll just
09:37:51 4 deal with the leave application for Mr Dale.

09:37:55 5
09:37:56 6 MR HOLT: Yes. As I indicated yesterday, we don't wish to
09:38:00 7 be heard on leave and we don't wish to be heard on
09:38:02 8 presence, Commissioner.

9
10 MR McDERMOTT: Nor does the State.

11
09:38:04 12 COMMISSIONER: No, all right then. We'll now go into
09:38:07 13 closed hearing with this witness. And the people allowed
09:38:12 14 to be present now include Paul Dale and his legal
09:38:25 15 representatives, each of whom have given the undertaking
09:38:35 16 not to disclose any information in respect of these closed
09:38:41 17 - have given the undertaking in the same terms as the legal
09:38:45 18 representatives of the other parties with leave to appear.
09:38:49 19 All right then. Yes, Ms Tittensor.

20
21 (IN CAMERA HEARING FOLLOWS)

22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

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

1 PROCEEDINGS IN CAMERA:

09:38:54 2
09:38:59 3 <JAMES MICHAEL O'BRIEN, recalled:

09:39:01 4
09:39:02 5 MS TITTENSOR: Mr O'Brien, I think yesterday I was taking
09:39:03 6 you through some matters in August of 2006 in relation to,
09:39:10 7 in particular, some PII matters relating to an upcoming
09:39:17 8 trial of Carl Williams and also I think it related to a
09:39:20 9 bail application or anticipated bail application of Milad
09:39:23 10 Mokbel. You recall that?---I remember you bringing it up,
09:39:26 11 yes.

12
09:39:28 13 I think we got to about 18 August when we adjourned
09:39:32 14 yesterday afternoon so I might ask you if you've got your
09:39:37 15 diaries there to - - -?---Yes, I think they're at the back
09:39:40 16 of the court.

17
09:39:49 18 MR HOLT: We'll have them brought up, Commissioner.

09:40:20 19
09:40:20 20 WITNESS: Sorry, 18 August?

09:40:21 21
09:40:22 22 MS TITTENSOR: Yes?---Year?

23
09:40:24 24 2006?---Yes.

25
09:40:38 26 Just slightly to refresh. A few days before there'd been a
09:40:42 27 meeting with the DPP and Senior Crown Prosecutors and so
09:40:46 28 forth and there'd been some discussions about PII issues in
09:40:50 29 relation to the statements of [REDACTED] and [REDACTED] and there
09:40:54 30 was a note about requesting an adjournment and further
09:40:59 31 consideration of relevance in relation to a number of
09:41:02 32 statements. So that had been a few days before?---Yes.

33
09:41:05 34 On 18 August 2006 do you have an entry in your diary at
09:41:12 35 12.45 in relation to discussions with Senior Crown
09:41:18 36 Prosecutor Geoff Horgan in relation to the Williams trial
09:41:21 37 and issues relating to PII and in relation to
09:41:25 38 statements?---Yes.

39
09:41:29 40 Immediately underneath that is there an entry in relation
09:41:32 41 to you speaking with Deputy Commissioner Overland?---That's
09:41:36 42 correct.

43
09:41:40 44 Do you know whether or not you spoke to Mr Overland about
09:41:44 45 those PII issues that you'd just spoken with Mr Horgan
09:41:50 46 about?---I imagine I probably would have. I mean it was
09:41:55 47 only a very short time after.

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

1
09:41:58 2 Seven minutes between conversations; is that right?---Yes.
3
09:42:04 4 There's also then some discussion in relation to
09:42:08 5 presentation to government in relation to Purana
09:42:11 6 statistics, et cetera; is that right?---That's correct.
7
09:42:16 8 Was it the case that there was some stock in the number of
09:42:24 9 arrests or was it the number of convictions, or how did
09:42:28 10 that work?---I think it was around what the statistics were
09:42:35 11 at the time. I remember briefing Mr Bracks and I think his
09:42:40 12 Chief Whip Terry Moran, who was at pains to tell me he
09:42:45 13 wasn't related to the other Morans, and was attended by
09:42:50 14 myself, Mr Overland and the Chief Commissioner, Christine
09:42:53 15 Nixon.
16
09:42:54 17 I'm interested in whether there were some stock sort of put
09:43:01 18 in the outcome of charges. Was there a lot of credit
09:43:06 19 given, for example, after convictions were obtained?---Well
09:43:13 20 Mr Bracks was certainly pleased with the results that
09:43:17 21 Purana was delivering and on I think two occasions he
09:43:20 22 actually attended the office, as did the government
09:43:23 23 minister at the time, Mr Cameron, and in fact on the arrest
09:43:28 24 of Tony Mokbel I received a personal call from Mr Bracks
09:43:33 25 and also an email from the Leader of the Opposition,
09:43:36 26 Mr McIntosh.
27
09:43:38 28 Yes. The statistics that you're talking about here, do
09:43:48 29 they relate to ultimate outcomes in terms of convictions
09:43:52 30 and so forth, do they include those?---It may have done.
09:43:56 31 There was a very short PowerPoint presentation put together
09:44:00 32 in relation to it. From memory I think the discussion was
09:44:09 33 around some need for change of legislation around
09:44:13 34 particularly decontamination of housing where
09:44:18 35 methylamphetamine labs had been conducted and the
09:44:22 36 likelihood of health issues to ongoing people as a result
09:44:26 37 in rental premises and things of that nature.
38
09:44:32 39 A few days after that, on 21 September, I think you've
09:44:39 40 noted a number - at 13:40 your weekly briefing again with
09:44:47 41 Deputy Commissioner Overland, Superintendents Grant,
09:44:51 42 Steendam and Acting Superintendent Byrnes; is that
09:44:56 43 right?---That's correct.
44
09:44:57 45 Again you have a specific note that there's a discussion in
09:45:00 46 relation to the Tony Mokbel extradition?---That's correct,
09:45:06 47 yes.

.06/09/19

5715

O'BRIEN XXN - IN CAMERA

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

1
09:45:06 2 Do you expect there would have been some discussion about
09:45:09 3 these PII issues in respect of [REDACTED] and [REDACTED] and so
09:45:13 4 forth that were occurring around that time?---I'm not sure
09:45:17 5 about that.
6
09:45:23 7 I think if you go forward to your diary on the 29th of
09:45:31 8 August you'll probably see that entry that you were just
09:45:34 9 talking about, p.189 of your diary?---Yes.
10
09:45:37 11 In relation to attending on the government with Deputy
09:45:42 12 Commissioner Overland and Chief Commissioner Nixon; is that
09:45:55 13 right?---That's correct.
14
09:46:02 15 Ms Gobbo, in relation to the Williams' complaint to the Law
09:46:11 16 Institute and the Bar and so forth, wrote a response
09:46:16 17 denying conflicts and the complaints generally that had
09:46:20 18 been raised by Mr Williams. Were you aware of that?---No.
19
09:46:25 20 It seems that prior to her lodging that letter you were
09:46:31 21 contacted. Do you recall that?---What day are we talking
09:46:35 22 about?
23
09:46:39 24 Perhaps around 18 September. If we can bring up document
09:46:59 25 VPL.2001.0002.0001. If we can go to the second page there,
09:47:45 26 please. Commissioner, there was a number of - a month or
09:47:54 27 so ago we discovered a missing ICR or an updated ICR so
09:47:58 28 this one's not within the book of ICRs that we have. It's
09:48:04 29 a separate - - -
30
09:48:07 31 COMMISSIONER: This is ICR 45?
09:48:11 32
09:48:12 33 MS TITTENSOR: Yes, a new ICR 45 or the second version.
34
09:48:14 35 COMMISSIONER: Yes.
09:48:15 36
09:48:16 37 MS TITTENSOR: If you see at halfway down the page at
09:48:28 38 16:55, Mr O'Brien, you'll see under "Management issue"
09:48:32 39 there's an indication that you've contacted the SDU and
09:48:35 40 you've seen [REDACTED] at the prison and mentioned some
09:48:43 41 information that [REDACTED] seemed to have passed on to you;
09:48:47 42 is that right?---That's what this says, yes.
43
09:48:49 44 And then underneath that it says this, "Confirm that if
09:48:54 45 O'Brien contacted, questioned by Bar Association Ethics
09:48:58 46 Committee, would confirm known threats to human source and
09:49:01 47 ongoing investigation. Further, that believes Williams has

.06/09/19

5716

O'BRIEN XXN - IN CAMERA

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

09:49:05 1 propensity and possibly ability even from gaol to carry out
09:49:08 2 threats (human source to include this in response to
09:49:12 3 complaint generated by Carl Williams against human
09:49:16 4 source)". Then underneath that the controller, Mr White,
09:49:20 5 is advised of that, do you see that?---Yes.

6
09:49:25 7 Further down the page at 17:40, there's a phone call
09:49:31 8 between the handler and Ms Gobbo and the handler gave
09:49:34 9 advice re Corrections to the Bar Association Ethics draft
09:49:40 10 response by Ms Gobbo. They note that they'd received that
09:49:43 11 draft from her a number of days earlier on the 15th and
09:49:47 12 "Advised Ms Gobbo re Detective Inspector O'Brien response
09:49:53 13 to any future query re the same"?---Right.

14
09:49:58 15 It suggests there that you've confirmed to the SDU that
09:50:04 16 that's what you would say, that you would say if you were
09:50:07 17 contacted that you'd confirm that there were known threats
09:50:11 18 to Ms Gobbo and that you believed that Mr Williams had the
09:50:14 19 propensity to carry out those threats, is that the
09:50:19 20 case?---That's what the document says. I'm just trying to
09:50:23 21 find any note of it in my diary.

22
09:50:46 23 The initial logging of that matter, the management issue,
09:50:51 24 is at 16:55. Is it the case that your diary records at
09:50:56 25 16:10 that you're at the office, supervision and admin.
09:51:00 26 duties, and then at 17:00 you go off duty?---That's
09:51:06 27 correct.

28
09:51:06 29 There's no indication of any calls made or received in the
09:51:09 30 meantime?---No.

31
09:51:11 32 Do you accept that you had a communication with the SDU in
09:51:14 33 relation to those matters in any case?---Well that says I
09:51:18 34 did. I've no recollection of it.

35
09:51:20 36 Do you accept that that record is - - - ?---That may be
09:51:25 37 right. As I say, I have no recollection of it.

38
09:51:38 39 If we can go to the ICRs and p.207, please. Sorry, not the
09:51:48 40 ICRs. Sorry about that. It's Mr O'Brien's diary. Sorry,
09:52:04 41 I skipped over a bit, Mr O'Brien. If you can just go back
09:52:07 42 slightly. I think we were at 13 September, 13:50, and the
09:52:15 43 entry in your diary there. Do you have an entry in your
09:52:39 44 diary there about liaising with Detective Sergeant's Flynn
09:52:43 45 and Bateson in relation to Supreme Court issues?---Yes.

46
09:52:47 47 That related to the surety application in relation to

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

09:52:51 1 Renate Mokbel?---That's correct.
2
09:52:52 3 And also a mention re Carl Williams' trial and you were to
09:52:56 4 read depositions re Justice King?---Yes.
5
09:53:00 6 Do you recall doing that?---No, I don't.
7
09:53:05 8 Do you know why you were needing to read the depositions at
09:53:09 9 that stage?---As of today, no, at this point in time.
10
09:53:17 11 If we can then go to 19 September?---Yes.
12
09:53:30 13 At 14:00 the entry there indicates a meeting with barrister
09:53:37 14 Ron Gipp and solicitor Dianne Preston re statements of
09:53:41 15 [REDACTED] ---Yes.
16
09:53:44 17 It seems as though, unless it's a different issue, it might
09:53:51 18 be a change of personnel in terms of the legal
09:53:54 19 representatives involved?---Yes, it may be, yes.
20
09:53:58 21 Do you know if this was a different issue or if it's the
09:54:01 22 same issue?---I'm - look, I can't be sure now but - - -
23
09:54:06 24 It seems to be the same solicitor at least, Dianne Preston,
09:54:09 25 that had been involved earlier?---Yeah, I don't have a note
09:54:12 26 of it but, you know, the solicitors and the barristers may
09:54:15 27 well have a file note I'd imagine.
28
09:54:17 29 Sorry?---The solicitor and barristers would possibly have a
09:54:20 30 file note I'd imagine.
31
09:54:22 32 Yes. Do you have any recollection of dealing with
09:54:25 33 barrister Ron Gipp in relation to presumably disclosure
09:54:32 34 relating to [REDACTED] ---No, I don't.
35
09:54:36 36 Do you know Mr Gipp?---From memory, no.
37
09:54:43 38 Can you say what that was about at that time?---No, I
09:54:47 39 can't. Sorry.
40
09:54:53 41 Then if I can take you to 27 September and to your entry at
09:55:12 42 14:40. Do you have that there?---Yes, I have that.
43
09:55:34 44 Does your entry there record you speaking to Detective
09:55:39 45 Inspector Ryan and getting an update in relation to
09:55:43 46 [REDACTED] having been sentenced to [REDACTED] with a minimum
09:55:46 47 of [REDACTED] ---Yes.

.06/09/19

5718

O'BRIEN XXN - IN CAMERA

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

1
09:55:52 2 You then have a discussion with a number of Purana members.
09:55:58 3 Were they related to the matters that were going on in
09:56:02 4 relation to [REDACTED]?---That's correct.
5
09:56:17 6 Then following that there's a mobile telephone call or is
09:56:22 7 it "make" or "mobile" telephone call?---No, make telephone
09:56:27 8 call.
9
09:56:27 10 "Make telephone call to Deputy Commissioner Overland,
09:56:29 11 updated re [REDACTED], PII issues re statements"?---Yes.
12
09:56:37 13 Can you shed any light on that, what you understood the PII
09:56:41 14 issues to be at that stage and what the discussion would
09:56:45 15 have entailed?---Not really.
16
09:56:54 17 Is there anywhere we would go to, that might shed any
09:56:58 18 further light on what you were discussing with Deputy
09:57:02 19 Commissioner Overland at that stage?---Unless Mr Overland
09:57:07 20 has some notes of the conversation, a diary note or any
09:57:12 21 earlier - in relation to the earlier conversation, perhaps
09:57:17 22 as Bateson had the handling of the issue, or Detective
09:57:22 23 Inspector Ryan who oversaw the carriage of that
09:57:24 24 investigation would have something. I may have been
09:57:27 25 passing on some information that was related to me, not
09:57:30 26 necessarily about some form of documentation.
27
09:57:34 28 Was there any file that might have been kept within Purana
09:57:37 29 about these PII issues that were going on?---I wouldn't
09:57:41 30 think so. As I say, whoever the appointed representatives
09:57:48 31 were by the Police Department would certainly have a
09:57:51 32 knowledge of it and would have a file note, I'd imagine.
33
09:57:59 34 If I can now change the topic and I'll be asking you some
09:58:03 35 questions now more related to [REDACTED]?---Right.
36
09:58:11 37 The arrest of [REDACTED] was essentially the culmination of
09:58:15 38 part of the original investigation plan; is that
09:58:18 39 right?---That's correct.
40
09:58:20 41 And that plan had involved essentially setting him up for a
09:58:26 42 [REDACTED] offence so that he might have as much motivation as
09:58:32 43 possible to cooperate with the police and give up the
09:58:34 44 Mokbels?---Well he wasn't being set up.
45
09:58:37 46 Not set up, sorry, I shouldn't - the plan was to catch him,
09:58:45 47 if you could?---That's right.

.06/09/19

5719

O'BRIEN XXN - IN CAMERA

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

1
09:58:47 2 In a [REDACTED] serious offence?---That's correct.
3
09:58:51 4 Which would provide him with as much motivation as possible
09:58:54 5 to cooperate and essentially give up the Mokbels?---Quite
09:58:58 6 possibly, yes.
7
09:59:15 8 At paragraph 174 of your statement and 175 you say this -
09:59:32 9 so he's arrested on the night of [REDACTED] 2006; is that
09:59:36 10 right?---That's correct.
11
09:59:38 12 At 7.15 pm Ms Gobbo attended the St Kilda Road Police
09:59:42 13 Station at [REDACTED] request. "I don't recall when I
09:59:49 14 learnt that Ms Gobbo was coming to St Kilda Road Police
09:59:51 15 Station to advise [REDACTED]. When she arrived I spoke to
09:59:55 16 her regarding [REDACTED] situation and the DPP's position
10:00:00 17 should [REDACTED] cooperate. I said to Ms Gobbo some
10:00:07 18 matters in relation to [REDACTED] [REDACTED]", do you see
10:00:13 19 that?---Yes.
20
10:00:13 21 And you also told her that the police were interested in
10:00:18 22 full cooperation which meant speaking to principals whilst
10:00:22 23 being recorded?---That's correct.
24
10:00:23 25 You go in paragraph 175 to say, "Ms Gobbo spoke to
10:00:27 26 [REDACTED]. I'm not aware of what advice she gave him. I
10:00:31 27 believed it would have been preferable for someone other
10:00:35 28 than Ms Gobbo to provide advice to [REDACTED]. In fact I
10:00:40 29 believed that Ms Gobbo should not have provided advice at
10:00:43 30 all. I could not speak to [REDACTED] about it without
10:00:46 31 compromising her safety and identity as a human source. I
10:00:51 32 didn't raise these concerns with Ms Gobbo. I didn't think
10:00:56 33 to raise these concerns with had. I was shocked that she
10:01:00 34 had attended the police station to advise [REDACTED] in
10:01:03 35 light of the information that she had been providing over
10:01:05 36 the last few months", do you see that?---That's correct.
37
10:01:12 38 Is it correct to say that you were shocked that she
10:01:16 39 attended the police station that night?---Yes, I was. I
10:01:19 40 was surprised.
41
10:01:20 42 You had no idea that anything of the kind would occur?---I
10:01:25 43 had no prior knowledge that she would be attending. I
10:01:27 44 expected her, I expected the DSU would have some cover
10:01:32 45 story for her non-attendance, somebody else would be
10:01:35 46 called.
47

.06/09/19

5720

O'BRIEN XXN - IN CAMERA

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

10:01:36 1 Did you have any prior discussion with them about it?---I
10:01:40 2 had prior discussion around the interview process.
3
10:01:43 4 Did you have any prior discussion with them about what
10:01:46 5 Ms Gobbo's role might be?---As far as I was concerned, to
10:01:50 6 the best of my memory, they were going to deter her from
10:01:53 7 attending.
8
10:01:54 9 Do you recall having those discussions with the SDU?---I
10:01:58 10 had discussions with them in the lead up to the arrest of
11 [REDACTED]
12
10:02:11 13 Had it been clear as between you and the DSU that she was
10:02:18 14 not to turn up?---I didn't believe she would turn up, that
10:02:21 15 was my understanding.
16
10:02:21 17 Was it made clear as between you and the SDU that she would
10:02:26 18 not turn up?---As clear as I could understand it, yes.
19
10:02:29 20 You had told them under no circumstances was she to turn
10:02:33 21 up?---I didn't want her involved at all.
22
10:02:35 23 Did you tell them that?---I would have discussed that, yes.
24
10:02:38 25 Did you make clear that that's not to occur?---Yes, it
10:02:40 26 shouldn't have occurred.
27
10:02:41 28 I know you say it shouldn't have occurred, but did you make
10:02:44 29 clear that it shouldn't have occurred to the DSU, that
10:02:47 30 it - - -?---Yes, I would have.
31
10:02:54 32 In terms of that shock, at that stage you were already
10:02:59 33 aware that she was prepared to act in conflict with her
10:03:03 34 duties as a lawyer; is that right?---Going on the material
10:03:06 35 you've been through, yes.
36
10:03:08 37 She'd been - from the very outset of Operation Posse and
10:03:14 38 her involvement in it, she'd been involved in informing
10:03:18 39 about [REDACTED] himself, who was her client during that
10:03:24 40 period of time?---Yes, about his criminal activity.
41
10:03:28 42 She still continued to act for him whilst informing on
10:03:33 43 him?---I don't know whether she acted for him while
10:03:36 44 informing on him. I don't know what the relationship was
10:03:40 45 at that point.
46
10:03:42 47 She continued to act for Tony Mokbel to your knowledge

.06/09/19

5721

O'BRIEN XXN - IN CAMERA

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

10:03:47 1 whilst she was informing on him?---In the early stages,
10:03:50 2 until Tony did a runner.
3
10:03:53 4 This whole scenario started in relation to Operation Posse
10:03:58 5 in order to bring down Tony Mokbel and his
10:04:01 6 associates?---That's correct.
7
10:04:02 8 During that period of time she continued to act for Tony
10:04:05 9 Mokbel?---I don't know whether she continued. As I said,
10:04:09 10 at the start of it, yes, but once he disappeared on 19
10:04:13 11 March I believe it was, or that 17 March indication.
12
10:04:20 13 When she started, let's just put the starting point say as
10:04:26 14 16 September, or even before that with Mansell and Rowe
10:04:30 15 from 31 August, from that point in time, until he absconded
10:04:33 16 on 19 or 20 March, she was acting for him?---Yes, she was
10:04:37 17 acting for him.
18
10:04:38 19 And she was informing against him?---She was, yes.
20
10:04:42 21 So you were aware that she was prepared to act in conflict
10:04:49 22 with her duties as lawyer during that period of
10:04:52 23 time?---Well, that's somewhat hard to determine. I mean,
10:04:55 24 yeah, she was providing information but I wasn't sourcing
10:04:58 25 any information from her in relation to what his intentions
10:05:01 26 were, what his ongoing matters were. It was about what his
10:05:05 27 ongoing criminal matters were, not matters for which he'd
10:05:11 28 been charged and she was acting.
29
10:05:13 30 Was she acting in Mr Mokbel's best interests?---Probably
10:05:16 31 not.
32
10:05:17 33 As his lawyer during that period of time. You would have
10:05:19 34 understood that it was her obligation as a lawyer to act in
10:05:22 35 his best interests during that period of time?---Yes.
36
10:05:24 37 That if she had knowledge of any serious offending of his
10:05:31 38 and she intended to report it, that she should tell him so
10:05:35 39 and say, "I can't act for you any more"?---I don't know
10:05:39 40 what the exact process is in those circumstances but
10:05:42 41 perhaps she should have gone and got some advice.
42
10:05:46 43 Perhaps the police should have gotten some
10:05:48 44 advice?---Exactly.
45
10:06:01 46 Had you been shocked when she continued to act for
10:06:05 47 Mr Mokbel during that period of time?---Which period of

.06/09/19

5722

O'BRIEN XXN - IN CAMERA

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

10:06:09 1 time are we talking about?
2
10:06:11 3 From the time she began informing to your members and then
10:06:15 4 the SDU about Mr Mokbel until he absconded, were you
10:06:19 5 shocked that she continued to act for him?---Well I wasn't,
10:06:30 6 as I said, because I suppose my mind was focused on ongoing
10:06:38 7 offending, not on past activities.
8
10:06:41 9 Had you been shocked when she began or continued to act for
10:06:49 10 [REDACTED] when you learned that she'd previously acted for
10:06:54 11 [REDACTED] who'd rolled over [REDACTED]?---As I say, I didn't
10:06:58 12 have a great depth of knowledge around that particular
10:07:01 13 matter. It was being handled by Bateson and oversighted by
10:07:05 14 Gavan Ryan.
15
10:07:06 16 Through this period of time, I think we've been through
10:07:09 17 yesterday a number of conversations that you've had out at
10:07:12 18 the gaol which made it clear, would have made clear to you
10:07:19 19 that she was in serious conflict in representing [REDACTED]
10:07:23 20 [REDACTED]---Yes, but as I say I was on the periphery of that
10:07:26 21 investigation.
22
10:07:27 23 You knew that she wasn't independent in her representation
10:07:30 24 of him?---No, clearly on what I know now, no.
25
10:07:36 26 You would have known that at the time, it was quite clear,
10:07:39 27 wasn't it?---Well, as I say, now I don't realise whether
10:07:44 28 that registered with me or not.
29
10:07:53 30 In terms of her representation of [REDACTED] you knew that
10:07:58 31 she'd represented him in a number of matters before the
10:08:03 32 court, the [REDACTED] briefs?---She had, yes.
33
10:08:08 34 There was no indication that she'd stopped representing
10:08:12 35 him?---Not as far as I know.
36
10:08:15 37 And following her recruitment she supplied a pretty
10:08:19 38 constant stream of information about [REDACTED] which flowed
10:08:25 39 through to you?---Yes, she did.
40
10:08:30 41 If I can refer to your statement at paragraph 98. You say
10:08:51 42 this: "At 3.10 pm on 5 January 2006 I received a telephone
10:08:58 43 call from Ms Gobbo. Ms Gobbo called me to request a change
10:09:03 44 in [REDACTED] for [REDACTED] and an associate. Ms Gobbo
10:09:09 45 called me directly and in her capacity as lawyer for
10:09:13 46 [REDACTED] and the associate". I just read into that the
10:09:17 47 associate was [REDACTED] [REDACTED], is that the case?---Well

.06/09/19

5723

O'BRIEN XXN - IN CAMERA

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

10:09:22 1 I take it it may have been.
10:09:24 2
10:09:24 3 "I told her that I agreed in principle but that she would
10:09:29 4 need to speak to the informant in the matter. In my diary
10:09:32 5 I referred to her as solicitor Nicola Gobbo, as distinct
10:09:35 6 from RHS (registered human source) or 3838 to distinguish
10:09:40 7 this contact from her contact with police as a human
10:09:44 8 source"?---That's correct.
9
10:09:46 10 Now first of all, it's apparent to you that she's
10:09:49 11 representing, purporting to represent ██████████ at that
10:09:53 12 stage?---Yes.
13
10:09:55 14 She's continuing during this period to represent
10:09:58 15 ██████████---Yes.
16
10:10:00 17 You say there, "Well, in that case that's just strictly a
10:10:05 18 normal interaction with a lawyer about a ██████████ and so
10:10:11 19 I've recorded that in my diary. If anyone sees the diary
10:10:15 20 there's no issue with that"?---That's correct.
10:10:17 21
10:10:17 22 "I won't need to claim any PII on that so I don't need to
10:10:24 23 put her down as a registered source or 3838"; is that
10:10:29 24 right?---No, it was a simple administrative matter.
25
10:10:32 26 If we can go to the ICRs, please, at p.110. If you can
10:10:53 27 just scroll up slightly. Sorry, go down a little bit.
10:11:10 28 You'll see there this is an entry in relation to ██████████
10:11:23 29 She's providing the handler with various information in
10:11:26 30 relation to ██████████ do you see that?---Yes.
31
10:11:31 32 His belief that he's under surveillance, he doesn't want to
10:11:34 33 talk to her on the phone because he doesn't want to
10:11:36 34 implicate her in anything he's doing as he ██████████ too
10:11:41 35 much. He's convinced his house is bugged but can't find
10:11:46 36 the bug. He's not sure why he'd come under police
10:11:50 37 attention. She discussed with him many possibilities as to
10:11:53 38 why he could come under scrutiny, including his
10:11:56 39 associations with Horthy and Milad Mokbel and so
10:11:59 40 forth?---Yes.
41
10:12:00 42 Underneath that ██████████ is going to ██████████ on ██████████
10:12:03 43 ██████████ 2006 to ██████████ for a week and he's asked Ms Gobbo
10:12:09 44 to arrange with ██████████ to be ██████████ for his ██████████
10:12:14 45 ██████████. He ██████████ once ██████████ on ██████████ and if
10:12:17 46 she's unable to assist he'll fly back specifically to sign
10:12:21 47 ██████████ and then immediately ██████████ to ██████████

.06/09/19

5724

O'BRIEN XXN - IN CAMERA

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

10:12:25 1 Ms Gobbo says to the handler, she states that she would
10:12:29 2 normally not handle this type of inquiry, she would get a
10:12:32 3 solicitor to do it, however if this can be achieved it
10:12:36 4 would enhance the relationship between [REDACTED] and
10:12:41 5 herself. Ms Gobbo would prefer to deal with someone like
10:12:44 6 Detective Sergeant Dale Flynn rather than the actual
10:12:47 7 informant, being Detective Bartlett. However Ms Gobbo
10:12:51 8 believes that Flynn is on leave. Then in brackets it says
10:12:56 9 the following day, 5 January 2006, "The handler spoke to
10:13:00 10 the controller", and then yourself, Detective Senior
10:13:06 11 Sergeant O'Brien of Operation Purana. That Flynn was on
10:13:09 12 leave, that Ms Gobbo was to be supplied with your mobile
10:13:13 13 number and advised that you are Flynn's supervisor and you
10:13:18 14 may agree to the request in Mr Flynn's absence. Do you see
10:13:23 15 that?---I see that, yes.
16
10:13:25 17 You had that conversation with the SDU about these
10:13:30 18 arrangements relating to Ms Gobbo and [REDACTED], do
10:13:37 19 you see that?---Yeah, I see what's on that document. I'm
10:13:40 20 just checking my diary. What time was this supposed to
10:14:05 21 have occurred, this conversation?
22
10:14:07 23 She's had that conversation initially on the 4th but the
10:14:10 24 indication within the ICR is that they had a conversation
10:14:13 25 with you on the 5th and ultimately you have a conversation
10:14:16 26 with Ms Gobbo at 3.10 that afternoon, so it's time before
10:14:22 27 3.10 on the 5th it seems that you have that conversation
10:14:31 28 with the SDU?---Yes, I don't have a note of that. But I
10:14:35 29 certainly had that conversation with Ms Gobbo but I don't
10:14:38 30 have a date of this information on the ICR.
31
10:14:40 32 Did you have that conversation - the prelude to the
10:14:43 33 conversation with Ms Gobbo was this conversation with the
10:14:46 34 SDU about her contacting you to speak about [REDACTED]. Do
10:14:55 35 you accept that you had that conversation with the
10:14:58 36 SDU?---No, I don't because it says here that all this
10:15:02 37 business about the informant being there and my advice to
10:15:05 38 her was she would need to speak to the informant.
39
10:15:08 40 Well, yes, but - - - ?---It seems to be at odds if I had
10:15:14 41 this prior knowledge.
42
10:15:17 43 Do you accept that you had a conversation with the SDU in
10:15:22 44 which you agreed that Ms Gobbo was to be supplied with your
10:15:25 45 mobile number?---No. As I say, I don't have a note of
10:15:32 46 that.
47

.06/09/19

5725

O'BRIEN XXN - IN CAMERA

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

10:15:32 1 Ms Gobbo in her court book appears to have your name beside
10:15:37 2 a mobile number at the front of her court book. Do you
10:15:40 3 know how she might have gotten your mobile number?---The
10:15:44 4 SDU possibly gave it to her.
5
10:15:46 6 Do you accept that they gave it to her after they had a
10:15:49 7 conversation with you in which that was agreed to be
10:15:51 8 done?---As I said, there'd be no reason for me to say, "You
10:15:56 9 would need to speak to the informant in the matter".
10
10:16:03 11 You don't accept that you had this conversation with the
10:16:06 12 SDU about her being able to ring you to try and arrange
10:16:10 13 things?---I don't recall this conversation. I don't have a
10:16:14 14 note of it. I would have no objection to her having my
10:16:17 15 number and ringing me.
16
10:16:19 17 What I'm asking you, though, is it seems as though prior to
10:16:22 18 Ms Gobbo calling you, you knew that that call was going to
10:16:28 19 come because you had this conversation with the SDU. Do
10:16:31 20 you accept that you had this conversation with the
10:16:35 21 SDU?---No, the earliest conversation I had with the SDU on
10:16:39 22 this Thursday the [REDACTED] was at 1.10.
23
10:16:43 24 Do you accept that there are conversations that you have
10:16:45 25 with the SDU that you don't write down in your diary?---On
10:16:49 26 the odd occasion but the majority of times I make full
10:16:53 27 notes.
28
10:16:54 29 Do you accept that this is one of those occasions on which
10:16:56 30 you didn't make any notes of the conversation with the
10:16:58 31 SDU?---I don't know.
32
10:17:00 33 Because this conversation, if you wrote this one down in
10:17:04 34 your diary, you would have to have used 3838, "3838's going
10:17:09 35 to ring me about a [REDACTED], and then if someone
10:17:15 36 got a hold of your notes it would reveal that Nicola Gobbo
10:17:18 37 was 3838?---No, it might have been as simple a thing as
10:17:25 38 they've rung and said, "Look, 3838's going to ring you
10:17:29 39 about wanting you to give a [REDACTED]" and that would
10:17:33 40 be the end of it. Then I got a call later on. It might be
10:17:36 41 the case of that. But I have no memory of all this.
42
10:17:39 43 What I'm suggesting to you is it wasn't simply just her
10:17:43 44 ringing to your knowledge as the lawyer of [REDACTED] She
10:17:51 45 was ringing to your knowledge because she wanted to enhance
10:17:57 46 her reputation with [REDACTED] that this was being done
10:18:04 47 covertly through the SDU for those purposes?---Well she may

.06/09/19

5726

O'BRIEN XXN - IN CAMERA

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

10:18:09 1 have had that intention. I've got no note - as I've said,
10:18:13 2 I'm telling you what I've got and she rang me, I'm not
10:18:17 3 denying she rang me. I have a note of that. I agreed in
10:18:22 4 principle but she'd need to speak to the informant.
5
10:18:25 6 Do you accept that you had this conversation earlier with
10:18:27 7 the SDU?---I may have had a conversation but I don't recall
10:18:30 8 all this information, the background to it.
9
10:18:33 10 In your statement you outline information provided by
10:18:39 11 Ms Gobbo about [REDACTED] conducting a number [REDACTED] over
10:18:48 12 a number of months; is that right?---Yes.
13
10:18:52 14 It's apparent from the evidence, I think even at some stage
10:18:58 15 within your diary notes, that [REDACTED] had court hearings
10:19:07 16 for the [REDACTED] outstanding matters coming up on [REDACTED]
10:19:11 17 2006?---That's correct, yes.
18
10:19:12 19 It's quite clear that everyone knew that as of [REDACTED] when
10:19:15 20 that hearing came along he was going to be pleading guilty;
10:19:19 21 is that right?---Yes.
22
10:19:20 23 And that he would go into custody at that time?---That was
10:19:24 24 the likely outcome, yes.
25
10:19:28 26 At some point in time there was thought given by the police
10:19:31 27 to having the plea adjourned, do you recall that?---No, I
10:19:39 28 don't recall that.
29
10:19:42 30 That [REDACTED] himself and those that he was [REDACTED] for
10:19:48 31 also wanted the matter adjourned to put off the inevitable,
10:19:54 32 do you accept that?---Well they may have wanted that. They
10:20:00 33 wouldn't have consulted me about it.
34
10:20:02 35 You've got a note in your diary on [REDACTED] about [REDACTED]
10:20:08 36 wanting an adjournment of his plea; is that right?---Could
10:20:42 37 you refer me to a paragraph?
38
10:20:44 39 It's a long entry. I think I might have picked it up
10:20:47 40 actually out of your diary summary initially. It's at
10:21:11 41 8.45 am according to your diary summary. If you go to the
10:21:31 42 entry at 8.45 and the last sentence effectively?---That's
10:21:35 43 correct.
44
10:21:42 45 Is it the case that police were also thinking about trying
10:21:46 46 to adjourn the matter because they hadn't yet located a
10:21:51 47 [REDACTED] such that he could be arrested [REDACTED] for a [REDACTED]

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

10:21:57 1 time?---I don't recall that.
2

10:22:00 3 In order for the plan, the Posse plan to be achieved, there
10:22:07 4 would have been a need for ██████████ to remain in the
10:22:10 5 community for as long as it took to find him in that
10:22:13 6 position, arrest him and get him to cooperate?---Yes.
7

10:22:21 8 If we can put up, please, VPL.0005.0076.1119, the audio
10:22:39 9 transcript of ██████████. This is not a conversation that
10:22:45 10 involves you, Mr O'Brien, it's a conversation involving SDU
10:22:51 11 members and Ms Gobbo?---Yes.
12

10:22:56 13 If we can go to p.70. You'll appreciate that there's lots
10:23:08 14 of different topics covered in these kinds of matters.
10:23:16 15 There's a discussion about how one might bring about an
10:23:23 16 adjournment?---Yes.
17

10:23:32 18 You'll see Mr Smith saying up the top there, "I'm saying
10:23:36 19 with your medical history and you're in hospital again,
10:23:39 20 they'll assume, oh, that she's sick, she can't come to
10:23:42 21 court". Ms Gobbo is saying, "That's right. And when
10:23:48 22 asked, "Because poor Tony Hargreaves won't know about this.
10:23:53 23 Will have to say, 'Well, I don't know, I spoke to her
10:23:55 24 yesterday, I spoke to the doctor or whatever and they can't
10:23:58 25 say'." Mr Smith says, "How are you going to make the
10:24:00 26 doctor admit you?" Ms Gobbo says, "I've had a stroke".
10:24:04 27 Mr Green says, "Chest pain would be enough to ... wouldn't
10:24:08 28 it?" Ms Gobbo says, "I reckon headache. I don't know, I
10:24:12 29 haven't thought about that part of it yet, okay". She
10:24:16 30 said, "It can't be that difficult, just go to sleep for a
10:24:21 31 few days, da da da", do you see that?---Yes.
32

10:24:24 33 If we can go to p.72, please. They're having some more
10:24:33 34 discussion. Halfway down the page they're talking about
10:24:41 35 potentially a holiday as an excuse for the adjournment
10:24:45 36 because Smith is suggesting she needs to take some time
10:24:50 37 off. Ms Gobbo says, "Yeah, the other thing I thought of
10:24:53 38 was telling ██████████ to do is to break his leg or
10:24:56 39 something, have a car accident", do you see that?---Yes.
40

10:25:03 41 At p.75 and they're talking - you see Mr Smith refer to the
10:25:15 42 broken leg, that you can get over quickly. They sort of, I
10:25:20 43 think they see the problem with the broken leg and Ms Gobbo
10:25:23 44 says, "Crap. If you'd broken it in a few places you're
10:25:28 45 going to have to be, but that won't solve his problem
10:25:33 46 because he won't be able to ██████████ if he's in a hospital
10:25:36 47 bed". Do you see that?---Yes.

.06/09/19

5728

O'BRIEN XXN - IN CAMERA

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

1
10:25:38 2 Page 78. There's reference up the top there to [REDACTED] and
10:25:52 3 then there's reference to [REDACTED] and there's some
10:25:58 4 discussion there at that stage I think about having a
10:26:02 5 closer opportunity the other night when she offered to
10:26:07 6 drive [REDACTED] somewhere. Perhaps the context might be
10:26:12 7 lost on you reading that bit but I think it was, she was
10:26:15 8 saying there was an opportunity the other night, she
10:26:18 9 offered to drive him and she almost could have located
10:26:21 10 where [REDACTED] was?---Right.
11
10:26:29 12 There's some further discussion along those lines about how
10:26:33 13 she - over the next few pages if we scroll through.
10:26:44 14 There's some talk about if she finds it and she's with him
10:26:48 15 when she might be able to call and tell them and you'll see
10:26:53 16 then at p.80 they get back to considering all those things
10:27:03 17 and then Ms Gobbo says this, "Can the police, not the
10:27:06 18 police, can I presume that O'Brien, can I presume it's
10:27:11 19 O'Brien that knows about this?" She asks, "Can he think of
10:27:15 20 a reason?" Sorry, and Smith says, "Yeah". Ms Gobbo says,
10:27:20 21 "Well can he think of a reason?" After that Smith says, "I
10:27:25 22 wanted to have a proposal". They're talking again there
10:27:32 23 about a reason to have the matter adjourned?---Yeah, he
10:27:35 24 says, "No, I wanted to have a proposal."
25
10:27:42 26 You're quite right there. He says, "No, I wanted to have a
10:27:45 27 proposal". Ms Gobbo is initially saying, "I assume O'Brien
10:27:50 28 knows about this". Mr Smith says, "Yes". Ms Gobbo says,
10:27:53 29 "Can he think of a reason?" Mr Smith says, "No, I wanted
10:27:58 30 to have a proposal". It seems to be the case that they're
10:28:03 31 saying you know about this in terms of wanting an
10:28:07 32 adjournment but you don't have an idea about how to get an
10:28:13 33 adjournment and Smith wanted to have a proposal for you, do
10:28:17 34 you see that?---I don't know what that means. I mean to me
10:28:19 35 this looks like SDU methodology. I had no knowledge of
10:28:22 36 this.
37
10:28:23 38 If we go over to the page to p.81. They're discussing
10:28:30 39 there some problems and the problem, Mr Smith says, is
10:28:35 40 timing and the type of case, "That he's [REDACTED]"
10:28:40 41 and so forth. If we can go to p.88. At the top of the
10:28:54 42 page Mr Smith is saying that, "The best we've come up with,
10:28:58 43 if we're honest, is you being sick, you being in hospital".
10:29:04 44 Halfway down the page Ms Gobbo is saying, "The other way to
10:29:07 45 get an adjournment out of any judge is to say, 'Look, there
10:29:11 46 are matters that I can only tell you about on the
10:29:15 47 application for the adjournment in a closed court', and

.06/09/19

5729

O'BRIEN XXN - IN CAMERA

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

10:29:17 1 then the judge knows the crook is talking to the police and
10:29:20 2 no judge ever wants to". Mr Smith says, "How are you going
10:29:24 3 to do that with [REDACTED] though?" Ms Gobbo says, "I
10:29:28 4 can't, I'm just saying to you the way to get on". If we
10:29:43 5 scroll up. "The way to get an adjournment for anything is
10:29:50 6 that I, I can't do that with him." Mr Green is saying,
10:29:57 7 "What about if [REDACTED] is talking to the police?" So
10:30:08 8 they're having a pretty long conversation about "how we're
10:30:10 9 going to get this adjournment?" Then at p.92 Ms Gobbo
10:30:29 10 suggests that, "The Crown could say you know we need an
10:30:33 11 adjournment because he's the subject of an ongoing
10:30:36 12 investigation", do you see that?---Yes.

13
10:30:40 14 Then Mr Smith says, "We can't go in there saying the truth
10:30:44 15 now, can we? That would put the whole court system out of
10:30:47 16 whack"?---Right.

17
10:30:59 18 Is it the case that you're aware that there was concern
10:31:01 19 that there might be a need, if we can't locate [REDACTED]
10:31:05 20 [REDACTED] in time, if we can't roll [REDACTED] in time,
10:31:10 21 that we might need to get an adjournment?---No.

22
10:31:16 23 Do you say you were not aware of that at all?---No, I knew
10:31:19 24 that he was pleading on [REDACTED]. And if we didn't manage to
10:31:24 25 capture [REDACTED] the [REDACTED] time before [REDACTED] he would have
10:31:36 26 been more than likely incarcerated at which point I would
10:31:39 27 have done an approach to him.

28
10:31:44 29 Do you accept though that you knew that there was some
10:31:48 30 discussions being had about trying to get the matter
10:31:52 31 adjourned?---Yes, but not from my side it wasn't.

32
10:31:57 33 No, but did you know those conversations were going on?---I
10:32:01 34 vaguely remember something about a possible adjournment but
10:32:06 35 certainly nothing like this.

36
10:32:11 37 Mr Smith has a diary entry a few days following this which
10:32:17 38 indicates that, [REDACTED] wants human source to get
10:32:24 39 adjournment. Human source can if she is sick. Human
10:32:28 40 source worried about her health and was planning to go to
10:32:30 41 hospital and may conflict with trial. Advise if human
10:32:40 42 source ill her health is our priority. If matter is
10:32:43 43 adjourned will be advantageous to investigation but will
10:32:47 44 not condone or request deception of the court. Is a matter
10:32:51 45 for human source. Human source should not put clients
10:32:55 46 before health". That's a note in Mr White's diary a number
10:33:01 47 of days later?---Right.

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

1
10:33:07 2 It seems as though they're talking about her potentially
10:33:10 3 being too ill - so this is ██████████ 2006?---Right.
4
10:33:16 5 Talking about the possibility of her being so ill that she
10:33:19 6 might need to be in hospital weeks down the track
10:33:24 7 contemplating that, do you understand that?---Yeah, I
10:33:28 8 understand what you're saying.
9
10:33:56 10 Now on about ██████████ 2006 as it turned out ██████████
10:33:56 11 was located?---Yes.
12
10:33:56 13 If we can put up the SMLs, please. You'll see there on ██████████
10:34:12 14 ██████████, about halfway down the page, "Meet with Operation
10:34:17 15 Purana. ██████████"---Yes.
16
10:34:23 17 "█████████ located, discussions re ██████████ trial being
10:34:26 18 adjourned. Assistant Commissioner to approach OPP." Do
10:34:31 19 you see that?---Yes.
20
10:34:33 21 Was it the case that there was to be an approach to the OPP
10:34:37 22 to see if "we might be able to get the plea adjourned so
10:34:41 23 that we could bring our plans to fruition"?---If I can have
10:34:47 24 a look in my diary.
25
10:35:07 26 Whilst you're looking at your diary I might ask the
10:35:11 27 operator to bring up Mr White's diary. VPL.0100.0096.0183.
10:36:06 28 See Mr White's diary there. It indicates over on the
10:36:09 29 left-hand side - perhaps we can just go up one page so we
10:36:13 30 can check what the date is. See there it's ██████████
10:36:19 31 ██████████?---Yes.
32
10:36:20 33 If we can go down. At 9.05 he indicates he has a call from
10:36:27 34 you. You're requesting a meeting with the TSU and the CSU
10:36:34 35 in relation to ██████████ and proposed action?---Yes.
36
10:36:37 37 Can you just explain what's the TSU and the CSU?---Tactical
10:36:49 38 Support Unit, Covert Support Unit.
39
10:36:55 40 At 10.05 you see in his diary over on the right-hand side,
10:37:01 41 "Operation Purana, meet with Jim O'Brien", a number of
10:37:07 42 others, presumably from those other units?---Excuse me. I
10:37:11 43 don't think that meeting went ahead, this first one you're
10:37:14 44 talking about, because I've got a note at 9.02. "Note no
10:37:19 45 telephone call to White, meeting to be changed".
10:37:27 46
10:37:28 47 He's recording seemingly the same meeting, that there was

.06/09/19

5731

O'BRIEN XXN - IN CAMERA

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

10:37:33 1 to be a meeting?---That's what I say in that entry there.
10:37:37 2
10:37:37 3 Your entry there indicates a call with him and that the
10:37:41 4 meeting is to be changed?---Yes.
10:37:42 5
10:37:43 6 But it seems as though perhaps the meeting was changed to
10:37:47 7 be at 10.05 that morning?---10.15.
10:37:53 8
10:37:53 9 Yes. He's got an entry anyway at 10.05, you've got an
10:37:58 10 entry at 10.15, is that right?---Yes.
10:38:01 11
10:38:01 12 It seems to be recording the fact of the same meeting.
10:38:05 13 You've got in your diary, "Meeting re Operation Posse".
10:38:10 14 Mr Flynn is there, Mr White is there. I assume the two
10:38:16 15 other names are from the two other units you were talking
10:38:20 16 about?---Support services, yes.
10:38:22 17
10:38:22 18 And, "Decision re camera locations" I assume - -
10:38:28 19 -?---Surveillance.
10:38:28 20
10:38:28 21 - - - that's surveillance. And you've got, "Detective
10:38:34 22 Sergeant Flynn to approach", is that "end of
10:38:40 23 [REDACTED]"?---End of [REDACTED], yes.
10:38:43 24
10:38:44 25 If you go back to Mr White's diary. He's got those same
10:38:55 26 people present, is that right?---Yes.
10:38:57 27
10:38:57 28 He might have one extra at the end?---Yeah, that's right.
10:39:06 29 Tactical Support Unit, Covert Support Unit are both there.
10:39:10 30
10:39:11 31 He records an update by you. He's got a T, which I assume
10:39:17 32 means target?---Possibly.
10:39:19 33
10:39:19 34 Doing a [REDACTED] which would equal [REDACTED] of
10:39:24 35 [REDACTED]?---Yes.
10:39:25 36
10:39:25 37 First [REDACTED], second [REDACTED]?---Yes.
10:39:28 38
10:39:29 39 Indicates it's too risky to get a camera in there?---Yes.
10:39:34 40
10:39:35 41 And you might get an [REDACTED] somewhere around
10:39:38 42 there?---That's right.
10:39:39 43
10:39:39 44 As surveillance. If we keep going up. It says that you
10:39:45 45 were to meet with the Assistant Commissioner that day in
10:39:49 46 relation to the adjournment via Coghlan at the OPP. Do you
10:39:54 47 see that?---Beg your pardon, sorry, what time?

.06/09/19

5732

O'BRIEN XXN - IN CAMERA

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

10:39:59 1
10:39:59 2 Right up the top?---Yes.
10:40:02 3
10:40:07 4 Further on down - well, the next entry is that
10:40:12 5 [REDACTED] was to go to [REDACTED] in
10:40:17 6 relation to [REDACTED] assets?---Yes.
10:40:20 7
10:40:24 8 The information Ms Gobbo had been providing was that
10:40:28 9 [REDACTED] had, was related to [REDACTED] assets, is
10:40:35 10 that right?---That's correct.
10:40:36 11
10:40:37 12 Underneath that the objective was to arrest [REDACTED] in
10:40:40 13 possession of incriminating evidence and to roll him over
10:40:46 14 and use him against others?---Yes.
10:40:48 15
10:41:05 16 Further down, or a couple of lines down, "The investigators
10:41:08 17 will arrest the target if the opportunity arises"?---Yes.
10:41:13 18
10:41:14 19 And then, "Need to meet investigators re plan for approach
10:41:18 20 to [REDACTED]"---That's correct.
10:41:21 21
10:41:21 22 Do you see that?---That's correct.
10:41:22 23
10:41:22 24 Do you accept those things were discussed at that
10:41:25 25 meeting?---Yes, more than likely, yes.
10:41:27 26
10:41:28 27 Was it the case that you then went on to discuss the
10:41:33 28 possibility of an adjournment with Mr Overland?---I don't
10:41:36 29 know if I discussed an adjournment with him or not. I
10:41:41 30 certainly had some discussions with Mr Overland that day.
10:41:45 31
10:41:49 32 If we can go further down the page. You'll see at 15:20,
10:41:56 33 and then at the top of the - there's some - at the top of
10:42:03 34 the next page there's an indication that Mr White has
10:42:06 35 spoken to you again. "There's a need to spread the belief
10:42:11 36 that Ms Gobbo is a suspect, or a person of interest, or a
10:42:19 37 suspect of interest to Posse", is that right?---I can see
10:42:22 38 that note, yes.
10:42:22 39
10:42:22 40 And, "There's a need to muddy the water. People that know
10:42:29 41 or believe Ms Gobbo is assisting", the number of people I
10:42:33 42 assume that that means, "That know or believe she's
10:42:37 43 assisting could be reduced if people believed that she's a
10:42:40 44 suspect", do you see that?---That's what's there, yes.
10:42:43 45
10:42:45 46 Do you recall if you had that conversation?---No, I don't
10:42:49 47 and I'd say that's probably more to do with DSU methodology

.06/09/19

5733

O'BRIEN XXN - IN CAMERA

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

10:42:55 1 than anything else.
10:42:55 2
10:42:55 3 He seems to be recording a conversation with you, he says
10:42:58 4 he spoke to you about that?---No, I've no recollection of
10:43:01 5 that.
10:43:01 6
10:43:02 7 And if there's to be that achieved, presumably the
10:43:07 8 investigators would need to be the ones that get that
10:43:10 9 message out there?---I certainly wasn't of that opinion. I
10:43:18 10 wouldn't be putting that out there.
10:43:23 11
10:43:24 12 In your statement you refer at paragraph 157, I think, to
10:43:34 13 there being a hierarchy briefing. So that day, at 5 pm,
10:43:43 14 you attended your regular briefing with Assistant
10:43:47 15 Commissioner Overland, Detective Superintendents Blayney
10:43:50 16 and Collins and you say in your statement that during that
10:43:55 17 meeting you informed them that [REDACTED] was under
10:43:58 18 surveillance and he was about to [REDACTED] at any time
10:44:02 19 and you refer to a discussion, you say your diary notes
10:44:08 20 refer to a discussion as to a resolution regarding [REDACTED]
10:44:14 21 [REDACTED] which you say was going to be that, "We were going to
10:44:17 22 offer [REDACTED] a plea deal in exchange for his assistance"
10:44:20 23 and it was agreed that you'd go and discuss those things
10:44:23 24 with the OPP, is that right?---Yes. So my entry at 5 pm is
10:44:34 25 to the OC's office, weekly briefing to OC Overland,
10:44:40 26 Detective Superintendents Blayney and Collins. Discussion
10:44:43 27 re resolution re [REDACTED] played the [REDACTED] surveillance
10:44:49 28 tape to them in relation to what was going on.
10:44:55 29
10:44:55 30 So do you think that there also would have been, given the
10:45:02 31 discussions that you'd had, according to Mr White's
10:45:07 32 diaries, about you speaking with the Assistant Commissioner
10:45:11 33 about the adjournment and going to speak to the DPP,
10:45:14 34 Mr Coghlan, about the possibility of getting an
10:45:17 35 adjournment, that you would have also spoken at that
10:45:19 36 meeting about the possibility of needing an
10:45:23 37 adjournment?---No, I don't think - I don't think I was
10:45:26 38 looking at an adjournment because at the end of the day if,
10:45:31 39 in the event that [REDACTED] was arrested, and given the
10:45:36 40 date and the time constraints, I would imagine that those
10:45:39 41 matters would have been put off in any event.
10:45:42 42
10:45:43 43 Part of the plan was to arrest him and then get him to
10:45:49 44 cooperate, is that right?---That's correct.
10:45:50 45
10:45:51 46 And that cooperation that you wanted involved him
10:45:56 47 participating in transactions and hopefully gathering

.06/09/19

5734

O'BRIEN XXN - IN CAMERA

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

10:46:00 1 evidence against others down the line?---That was a
10:46:03 2 possibility.
10:46:04 3
10:46:04 4 That would have taken potentially a bit of time to
10:46:08 5 achieve?---Yes.
10:46:09 6
10:46:10 7 So for that reason you may have considered that you needed
10:46:14 8 an adjournment?---No, because this had a use-by date. I
10:46:20 9 mean it was a dangerous situation that had limited
10:46:23 10 opportunity. It's not something that could drag on
10:46:29 11 forever.
10:46:29 12
10:46:30 13 In the days leading up to the arrest there are a number of
10:46:34 14 meetings between Purana and the SDU to plan for it, is that
10:46:36 15 right?---There would have been, yes.
10:46:38 16
10:46:39 17 If we can go to the ICRs at p.252, please.
10:46:48 18
10:46:49 19 COMMISSIONER: Is it 252?
10:46:51 20
10:46:52 21 MS TITTENSOR: Yes, Commissioner. Do you see there at
10:46:59 22 10.30 there's a DSU matter. Controller White and Smith
10:47:04 23 confer with Operation Purana's O'Brien and Flynn. Discuss
10:47:11 24 tactics for post arrest based on Ms Gobbo's information
10:47:16 25 regarding cooperation and possible recruitment of target
10:47:18 26 [REDACTED]. And then points to be included in an interview
10:47:23 27 plan by yourself?---Yes.
10:47:26 28
10:47:26 29 Do you see that? Do you take issue with that entry?---No,
10:47:35 30 obviously we were intending to try and have [REDACTED] roll
10:47:39 31 over and cooperate with the police. I agree with that.
10:47:43 32 And we would have discussed what we knew up to that point
10:47:47 33 that could have been levers.
10:47:49 34
10:47:49 35 And that included, according to this, information provided
10:47:55 36 by Ms Gobbo?---Information that the DSU had learnt as a
10:48:01 37 result of dealings with her.
10:48:04 38
10:48:05 39 And the reality was that Ms Gobbo, over the period of time,
10:48:10 40 had provided the SDU with a lot of material related to
10:48:14 41 matters personal to [REDACTED] that might have pushed some
10:48:19 42 of his buttons or pulled some of those levers as you
10:48:23 43 describe?---It gave us an understanding of the man and his
10:48:26 44 motivations.
10:48:27 45
10:48:27 46 She revealed to them and some of the information that had
10:48:30 47 been passed on to you were his [REDACTED] issues?---No.

.06/09/19

5735

O'BRIEN XXN - IN CAMERA

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

10:48:36 1 [REDACTED]
10:48:37 2 [REDACTED] diagnosis?---No.
10:48:39 3
10:48:40 4 His [REDACTED]?---Certainly his [REDACTED], yes.
10:48:43 5
10:48:43 6 His [REDACTED]?---He told her [REDACTED] at one
10:48:47 7 point, yes.
10:48:48 8
10:48:49 9 Do you say you didn't know about those [REDACTED] issues or
10:48:52 10 anything like that?---I don't believe so. I mean I think
10:48:56 11 it was a general discussion, a general point at one point,
10:49:00 12 [REDACTED] is [REDACTED] about something", but I don't know
10:49:02 13 whether he [REDACTED]
10:49:04 14
10:49:30 15 In your diary on that day, this is the 19th?---Yes.
10:49:35 16
10:49:37 17 At 10.12 you're recording a meeting with Mr White, Mr Green
10:49:43 18 and Mr Smith?---That's correct.
10:49:45 19
10:49:50 20 The first piece of information that you provided there was
10:49:52 21 in fact about [REDACTED] and the fact that [REDACTED] had
10:49:58 22 been [REDACTED] with [REDACTED] and he'd been given a time
10:50:03 23 frame, worst case [REDACTED]?---Yes.
10:50:05 24
10:50:07 25 So that might provide a lever down the track in relation to
10:50:13 26 [REDACTED]?---It was information we were aware of, yeah,
10:50:19 27 personal information. Give us again an understanding of
10:50:22 28 the person that we're dealing with.
10:50:24 29
10:50:25 30 Then there's some information in relation to [REDACTED]
10:50:31 31 [REDACTED] that he's never [REDACTED], that [REDACTED]
10:50:36 32 will have it all, [REDACTED]?---Yes.
10:50:40 33
10:50:42 34 Information about a [REDACTED] that had been paid off,
10:50:47 35 information about [REDACTED] and that in relation to [REDACTED]
10:50:54 36 [REDACTED] that [REDACTED] possibly supported [REDACTED] and
10:51:03 37 was a bit of a soft touch for [REDACTED]?---Yes. Which I
10:51:12 38 don't think was true.
10:51:15 39
10:51:15 40 You don't think that was true?---I don't think so.
10:51:19 41
10:51:19 42 Nevertheless, those are some of the information that was
10:51:23 43 being passed on to you that day?---That's correct.
10:51:25 44
10:51:25 45 Then at 10.20 until, you've got an entry there, "Discussion
10:51:34 46 re-interview process"?---Yes.
10:51:36 47

.06/09/19

5736

O'BRIEN XXN - IN CAMERA

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

10:51:37 1 And that goes on until, your next entry is at 11 am?---Yes,
10:51:43 2 that's right.
10:51:43 3
10:51:48 4 Now, the ICR has recorded that there was to be an interview
10:51:55 5 plan. Do you say that there was an interview plan?---No,
10:51:59 6 there wasn't.
10:51:59 7
10:52:01 8 One of the very first things that happens when someone is
10:52:06 9 arrested is that they get told about their right to legal
10:52:09 10 advice?---Yes.
10:52:09 11
10:52:12 12 Do you recall that being discussed in this period of
10:52:16 13 time?---From my memory I can't recall, no.
10:52:21 14
10:52:22 15 You must have been aware of the likelihood, the almost
10:52:29 16 certainty, that [REDACTED] would call upon Ms Gobbo for
10:52:33 17 advice when he's arrested on the [REDACTED] occasion?---He may
10:52:37 18 well do, yes.
10:52:38 19
10:52:39 20 Ms Gobbo herself had been anticipating the arrest of [REDACTED]
10:52:45 21 [REDACTED] for some period of time and had been telling the
10:52:48 22 handlers whenever she discussed it with them, that she was
10:52:53 23 intending to be there, that she wanted to be there. Was
10:52:57 24 this something that you say you were completely unaware
10:53:00 25 of?---I was unaware of it.
10:53:01 26
10:53:03 27 If we can go to the ICR at p.177, please. Do you see there
10:53:37 28 at 12.30 under "DSU issues"?---Yes.
10:53:41 29
10:53:41 30 They were discussing the, "Source wanting to take a week
10:53:45 31 off after the Tony Mokbel trial, the TM trial, but does not
10:53:50 32 want to be away when [REDACTED] is arrested. Source feels
10:53:55 33 she needs to control the information flow at the time of
10:53:57 34 the arrest of [REDACTED] Do you see that?---Yes.
10:54:00 35
10:54:04 36 That's a bit of a concern, isn't it, that she wants to be
10:54:08 37 so involved when he's arrested so that she can control what
10:54:15 38 information is flowing?---Yes, she's obviously wanting to
10:54:18 39 control the situation.
10:54:19 40
10:54:20 41 To control potentially what [REDACTED] says and does?---I
10:54:25 42 don't know whether it says that or whether it's controlling
10:54:28 43 the rest of the communications around the criminal element.
10:54:34 44
10:54:34 45 If we can go to p.182, please. Down the page it says,
10:54:53 46 [REDACTED] arrest considerations are that the source wants
10:54:56 47 to be there if and when it takes place so she has some

.06/09/19

5737

O'BRIEN XXN - IN CAMERA

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

10:55:00 1 control over what is said and done"?---Yes.
10:55:02 2
10:55:06 3 Do you say the SDU wasn't providing you with that
10:55:09 4 information?---I don't believe I got that information, no.
10:55:11 5
10:55:23 6 If you can go back to Mr White's diary, please. If we can
10:55:46 7 just scroll up.
10:55:48 8
10:55:48 9 COMMISSIONER: What date are we looking for?
10:55:51 10
10:55:51 11 MS TITTENSOR: [REDACTED], Commissioner. Hang on, I'm just
10:55:58 12 trying to see where we're at. Yes, if we can keep going
10:56:02 13 up, thanks.
10:56:02 14
10:56:03 15 COMMISSIONER: This is [REDACTED] or [REDACTED]?
10:56:06 16
10:56:06 17 MS TITTENSOR: [REDACTED], Commissioner.
10:56:08 18
10:56:09 19 COMMISSIONER: [REDACTED], thanks.
10:56:10 20
10:56:17 21 MS TITTENSOR: If we can - we're on the 19th you can see
10:56:21 22 there. I think at 10.10 over the page there's an
10:56:35 23 indication there, Operation Purana meet, meet yourself,
10:56:42 24 meet with yourself?---Yes.
10:56:43 25
10:56:43 26 And then there's, "A request for Ms Gobbo to speak to
10:56:46 27 [REDACTED] there" and then there's issues to be discussed,
10:56:54 28 "[REDACTED] re [REDACTED]. [REDACTED] vulnerabilities.
10:57:01 29 Assets, [REDACTED]. NG", potentially means Nicola
10:57:09 30 Gobbo, "At [REDACTED]" and underneath that it says,
10:57:12 31 "Meet with Jim O'Brien or Flynn in relation to [REDACTED]
10:57:16 32 strategy"?---Yes.
10:57:18 33
10:57:18 34 Do you see that?---Yes.
10:57:19 35
10:57:20 36 If you can keep going up. If you see later that evening at
10:57:38 37 18:00 there's a meeting, they're the initials of Green and
10:57:48 38 Smith, in relation to 3838. Do you see that?---Sorry.
10:57:56 39 Yes, yes.
10:57:57 40
10:57:58 41 And it says, "Issue re human source representing [REDACTED]
10:58:03 42 after arrest"?---Yes.
10:58:06 43
10:58:06 44 "Evidence from [REDACTED] implicating himself may not be
10:58:09 45 admissible if counsel is not impartial. Agreed that
10:58:13 46 investigators to be warned, intended that [REDACTED] be
10:58:18 47 interviewed prior to [REDACTED] Big picture is

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

10:58:24 1 Mokbel cartel." I think that underneath the tab there
10:58:30 2 says, ██████████ is potentially one inquiry re same", or
10:58:37 3 is, "Avenue of inquiry re same", do you see that?---Yes, I
10:58:41 4 do.
10:58:41 5
10:58:46 6 It goes on, "Investigators intend to use ██████████ as a
10:58:53 7 witness if he agrees. Possibly task ██████████ to visit
10:59:02 8 ██████████ and ██████████ and others", do you see that?---Yes.
10:59:04 9
10:59:07 10 "Purana request that the SDU might have something to do
10:59:15 11 with that on the day", that there's some indication about a
10:59:22 12 review that's going on in relation to Ms Gobbo's file
10:59:26 13 there. If you go further down, it's agreed tactical
10:59:31 14 decisions re 3838 made in accordance with
10:59:37 15 investigators?---Yes.
10:59:38 16
10:59:39 17 And then it's agreed again down the bottom, "Will minimise
10:59:44 18 chance of compromise by spreading misinformation"?---Yes.
10:59:51 19
10:59:51 20 Do you accept that you were warned by the Source
10:59:56 21 Development Unit about a problem associated with Ms Gobbo's
11:00:00 22 representing ██████████ on the day?---Yes, I didn't think
11:00:05 23 Ms Gobbo should have represented ██████████ on the day at
11:00:08 24 all.
11:00:09 25
11:00:10 26 Did you have this conversation with the SDU about this is a
11:00:16 27 real problem, about the admissibility of evidence if she
11:00:19 28 turns up to represent him?---As I say, look, I may have. I
11:00:27 29 have no memory of that.
11:00:28 30
11:00:28 31 I'm not saying that you were necessarily present at this,
11:00:32 32 this appears to be a meeting between a number of members of
11:00:35 33 the SDU about what they intended to do?---Yes.
11:00:38 34
11:00:39 35 Do you accept that you did have a conversation about these
11:00:42 36 matters, about the problems with evidence if Ms Gobbo turns
11:00:46 37 up to represent ██████████ ---I may have. As I say, I have
11:00:51 38 no memory of that.
11:00:54 39
11:00:56 40 Mr Flynn in his statement has indicated that he's got some
11:01:00 41 sort of vague recollection that prior to the arrest day
11:01:02 42 someone indicated that maybe ██████████ should be told that
11:01:07 43 Ms Gobbo was uncontactable. Do you recall something like
11:01:12 44 that ever being discussed?---Well certainly that would have
11:01:16 45 been looking for an excuse for her not to come to St Kilda
11:01:23 46 Road.
11:01:23 47

.06/09/19

5739

O'BRIEN XXN - IN CAMERA

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

11:01:23 1 Obviously if that was a suggestion, it was one that was
11:01:26 2 never taken up?--Well she chose to ignore.
11:01:32 3
11:01:32 4 But someone nevertheless rang her so that she would
11:01:37 5 attend?---I'm not sure. I wasn't party to that.
11:01:40 6
11:01:43 7 You and Mr Overland went and met with the DPP Paul Coghlan,
11:01:48 8 is that right?---We did, yes.
11:01:50 9
11:01:50 10 And in your diary you record re strategic direction re
11:01:57 11 Operation Posse?---Yes.
11:01:58 12
11:01:59 13 In your statement you indicate that at that point in time
11:02:02 14 you discussed what the plea deal might be for ██████████
11:02:09 15 ██████--That's correct, with full cooperation, what we could
11:02:13 16 say to him, of course bearing in mind we'll always be bound
11:02:18 17 by the judge's decision.
11:02:19 18
11:02:20 19 That's not noted in your diary. How are you able to recall
11:02:25 20 that that was that discussion at that point in time?---I
11:02:28 21 think I referred to it later on. I recall it was - I
11:02:34 22 remember it was ██████████ years with full cooperation and
11:02:39 23 assistance to the police.
11:02:42 24
11:02:43 25 Ms Gobbo had previously told the SDU that ██████████
11:02:49 26 understanding of his likely sentence for the ██████ matters
11:02:52 27 that he had been facing was that he understood - he
11:02:58 28 believed he'd get somewhere between ██████████ years.
11:03:02 29 Was that conveyed to you at some stage?---No. I'd have
11:03:09 30 thought that was pretty light.
11:03:11 31
11:03:11 32 He was facing ██████████ quantities, is that
11:03:16 33 right?---██████████ quantities.
11:03:17 34
11:03:17 35 ██████████ quantities at that stage. He was being
11:03:22 36 advised by Ms Gobbo and it seems as though, from what she
11:03:25 37 said, he's understanding, presumably on the basis of some
11:03:29 38 advice was he'd get somewhere between ██████████ years
11:03:32 39 for those matters?---I'm not sure what indication she gave
11:03:36 40 him. Just so you're aware, they were actually massive
11:03:51 41 amounts of drugs that he was - - -
11:03:53 42
11:03:53 43 In relation to ██████████?---And ██████████, and they were
11:03:58 44 both videotaped, he was videotaped committing the offences.
11:04:04 45
11:04:04 46 If we can just scroll forward to the ██████████ and keep going to
11:04:17 47 an entry at 7.40. You'll see there it's apparent that the

.06/09/19

5740

O'BRIEN XXN - IN CAMERA

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

11:04:25 1 SDU have received some word back in relation to your
11:04:28 2 meeting with Mr Coghlan. Mr White receives notification
11:04:39 3 that, "Re ██████ adjournment, DPP Coghlan believes will
11:04:44 4 be difficult because of co-accused", do you see
11:04:47 5 that?---Yes.
11:04:47 6
11:04:48 7 Do you accept that there was, with Mr Coghlan, an
11:04:51 8 adjournment, the possibility of an adjournment
11:04:55 9 discussed?---It may have been. As I say, I have no
11:04:58 10 recollection or note of that. As that says, that would
11:05:09 11 indicate to me that an adjournment was unlikely.
11:05:12 12
11:05:13 13 Did you discuss with Mr Coghlan this problem that you might
11:05:17 14 have with an informer turning up to advise ██████---No,
11:05:25 15 I didn't.
11:05:25 16
11:05:25 17 On the day of the arrest and what you might be able to do
11:05:28 18 to prevent that conflict from occurring?---No, I didn't.
11:05:31 19
11:05:34 20 Why not?---Well, again, I'd be declaring an informer.
11:05:42 21
11:05:43 22 Did you discuss that problem with any other person so that
11:05:47 23 you could get some legal advice?---No, because as I said I
11:05:51 24 didn't anticipate her turning up.
11:05:56 25
11:05:57 26 If we can go to VPL.0005.0097.0011. This is another
11:06:07 27 meeting with Ms Gobbo and the SDU on ██████ 2006. Go to
11:06:25 28 p.255, please. Do you see there there's discussion from
11:06:49 29 the top of the page about what happens when ██████ gets
11:06:54 30 arrested?---Yes.
11:06:55 31
11:07:01 32 And there's some concern about him getting arrested and
11:07:07 33 what impact that might have on Ms Gobbo's credibility if it
11:07:11 34 happens before ██████ for whatever reason?---Yes.
11:07:14 35
11:07:15 36 Mr White says essentially that ██████ could get arrested
11:07:23 37 at any tick of the clock, it's beyond anybody's
11:07:28 38 control?---Yes.
11:07:28 39
11:07:29 40 That ██████ might go up in a ball of flames?---Yes.
11:07:33 41
11:07:33 42 This fellow says, "Unlikely, but yes". It goes on. If we
11:07:39 43 can scroll further, thanks. "You know the point is he
11:07:44 44 could get arrested at any particular of the clock either by
11:07:47 45 design or by accident." Ms Gobbo says, "Yeah. And the
11:07:50 46 first thing is he's going to do we would assume is that he
11:07:52 47 would ring you". Ms Gobbo says, "He'll ring no one else

.06/09/19

5741

O'BRIEN XXN - IN CAMERA

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

11:07:56 1 but me". Do you see that?---Yes.
11:07:58 2
11:08:00 3 If you go over to the - Mr White says, "And what would your
11:08:09 4 response be?" There's a "... do not say a word". And then
11:08:16 5 we keep on going up. And Mr White's talking about, "One of
11:08:23 6 the things that concerns us a little bit". He goes on
11:08:30 7 that, [REDACTED] will be afforded every opportunity to
11:08:32 8 speak to a solicitor and ... obviously that's going to be
11:08:37 9 you and everything will just go on as it normally would".
11:08:41 10 He goes on, "He would have an expectation that you'd
11:08:44 11 represent him." Ms Gobbo says, "Yes". And Mr White says,
11:08:47 12 "And how does that work?" Ms Gobbo says, "Make some sort
11:08:56 13 of joke, I'll send him a message". And if we can keep
11:09:03 14 going. Mr White says again, "How does that work?" And she
11:09:11 15 says, "If, questioning". Mr White says, "If you represent
11:09:15 16 him whilst at the same time you've been instrumental in his
11:09:18 17 apprehension" and Ms Gobbo says that's one of the things
11:09:23 18 that keeps her up at night. Again Mr White says, "Well
11:09:27 19 have you got a plan about how you're going to manage that?"
11:09:31 20 Ms Gobbo says, "Well what's the big deal, you're not going
11:09:35 21 to tell him". Mr White says, "No, we're not". Ms Gobbo
11:09:37 22 says, "Well nor am I. I don't really feel like being dead
11:09:40 23 this month"?---Right.
11:09:44 24
11:09:46 25 She's then asked about, "How do you deal with it
11:09:51 26 ethically?" They keep going through and Mr White is
11:10:07 27 saying, "Yeah, it's a problem for more you than us, but".
11:10:10 28 Ms Gobbo says, "You don't care. Like you care what I'm
11:10:14 29 thinking but you don't care from his point of view, true?"
11:10:18 30 And Mr White says, "Well we care about the position that
11:10:21 31 we're putting you in. Granted you're the master of your
11:10:25 32 own destiny". And Ms Gobbo says, "Well I told you,
11:10:28 33 remember ... talking about this right at the beginning,
11:10:33 34 that this would end up being a real problem and I knew it
11:10:36 35 would be. What can I do?" Mr Green says, "How's it going
11:10:41 36 to run practically on the night? Say you get the phone
11:10:44 37 call, 'Look, I've been arrested'" and he goes on, "Say
11:10:46 38 nothing, I'll be there in ten minutes". And then it
11:10:51 39 continues on. "You don't have to answer these questions if
11:10:54 40 it's breaching." Ms Gobbo, "No, no, no". Mr Green, "I'm
11:10:58 41 just trying to work through it in my head. You have the
11:11:01 42 initial, you'd be put on tape, obviously afforded - ring
11:11:05 43 the solicitor, blah, blah, blah and to be suspended, and
11:11:06 44 you go in and say, 'Look, [REDACTED], say no comment'."
11:11:13 45 Ms Gobbo, "No, I'm not going to say that". And then
11:11:20 46 Mr Green, "The interview would take place because he's
11:11:23 47 going to say no comment" and then Ms Gobbo, "Not

.06/09/19

5742

O'BRIEN XXN - IN CAMERA

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

11:11:27 1 necessarily, he may talk to them in there. Okay, good
11:11:31 2 point". Do you see that?---I see that, yes.
11:11:36 3
11:11:41 4 262. There's some discussion about how best to get then,
11:11:51 5 it seems to be accepted she's, frankly she's turning up.
11:11:56 6 Then there's a discussion about how best to get [REDACTED]
11:11:59 7 in a position to cooperate and whether he'd agree to
11:12:06 8 cooperate with the police in terms of conducting
11:12:08 9 transactions with others. And she's talking about,
11:12:16 10 Mr Green is saying, "What's the best practical way?"
11:12:18 11 Ms Gobbo, "He needs to have it in his mind before he gets
11:12:21 12 back to the police station, back to St Kilda Road. That is
11:12:26 13 fucked. Not that he can save himself, no. He needs to be,
11:12:31 14 he needs to know that he's got real problems essentially
11:12:35 15 before he gets back to the police station". Do you see
11:12:37 16 that?---I see it, yes.
11:12:39 17
11:12:42 18 At 266. There's some discussion about, as you see again,
11:12:51 19 Ms Gobbo, "He won't speak to anyone else". Mr White, "I'm
11:12:55 20 just wondering whether he'd make the decision on his own or
11:12:59 21 he'd say, 'Is Nicola there or can I get her back?'" And
11:13:03 22 there's Mr Smith saying he'll expect Ms Gobbo essentially
11:13:07 23 to hang around regardless. And then over the page. It's
11:13:22 24 referred to at the bottom there, you'll see Mr Green,
11:13:26 25 "Perhaps there's areas he might be able to help the police,
11:13:29 26 I don't know. This is why we touched on this before, would
11:13:33 27 he go and deliver for the other side. I don't know. I
11:13:37 28 don't know that he would do that. It's fraught with
11:13:40 29 massive problems because you're not going to be able to,
11:13:43 30 how are you going to arrest him and keep him quiet, secure
11:13:47 31 and quiet". And that's essentially one of the problems you
11:13:50 32 were facing on the night, is that right?---Yes, there was
11:13:53 33 an issue with a media leak.
11:13:55 34
11:13:56 35 And it was of concern that the police kept his arrest quiet
11:14:00 36 so that he could cooperate and do those other
11:14:04 37 transactions?---That I could keep him safe, yes.
11:14:07 38
11:14:08 39 If the other side found out that he'd been arrested, they
11:14:12 40 wouldn't transact with him and you couldn't get any
11:14:14 41 evidence against him?---They'd do more than that, they'd
11:14:18 42 have killed him.
11:14:19 43
11:14:19 44 Yes, but part of what you wanted to keep it quiet for was
11:14:24 45 so he could participate in those transactions?---Keep the
11:14:26 46 actions going, yes.
11:14:27 47

.06/09/19

5743

O'BRIEN XXN - IN CAMERA

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

11:14:33 1 Page 272. They're talking about creating dramas for
11:14:44 2 Ms Gobbo and then Mr White says, "Look, for a purely
11:14:48 3 technical point of view, if you want to talk to [REDACTED]
11:14:51 4 and give him legal advice before he's interviewed and he
11:14:55 5 makes a confession, I'm speaking theoretically here, right,
11:14:58 6 I'm not saying this is going to happen, but wouldn't it be
11:15:01 7 the case down the track that a defence barrister could
11:15:04 8 argue, well the advice he got prior to participating in the
11:15:07 9 record of interview was not impartial because it was done
11:15:10 10 on behalf of the police by a person that was acting for the
11:15:14 11 police". Ms Gobbo's response was, "Who the fuck is going
11:15:16 12 to say that?" "It's a theoretical question", says
11:15:22 13 Mr White. Ms Gobbo, "Why would anyone say that?" And
11:15:26 14 Mr White, "No one's going to say that but I'm trying to
11:15:30 15 understand. The conflict of interest area is not something
11:15:33 16 that we ever deal with, all right. For you, and it's - I
11:15:35 17 mean some people could put up an argument that a person who
11:15:38 18 is a barrister perhaps could never help the police and
11:15:41 19 still represent the person that she's helping the police
11:15:44 20 with, so I'm just trying to get my head around this. Could
11:15:47 21 you - maybe it's even pointless talking about it because
11:15:50 22 you might think I'm going". Ms Gobbo, "Probably, but
11:15:53 23 what's the real point" and she goes on. Mr Smith says,
11:15:58 24 "Just the general ethics of the whole situation". Ms Gobbo
11:16:02 25 says, "The general ethics of all of this is fucked".
11:16:08 26 Mr Smith says, "What about the legality of it? Well it's
11:16:15 27 not illegal", says Ms Gobbo. "What's unlawful about it,
11:16:19 28 seriously." That's possibly arguable. Do you see all
11:16:25 29 that?---Yes, I do see it.
11:16:26 30
11:16:26 31 Do you think, having the SDU having had a conversation like
11:16:31 32 that, it might have been prudent to go and get some legal
11:16:35 33 advice about what was going on?---Yes.
11:16:41 34
11:16:42 35 And not just prudent but essential?---After reading that,
11:16:47 36 yes.
11:16:47 37
11:17:02 38 COMMISSIONER: If you've finished with that topic - a
11:17:05 39 little bit more?
11:17:06 40
11:17:07 41 MS TITTENSOR: There is a little bit more but I can come
11:17:08 42 back to it. I have got a little bit more to go on this,
11:17:10 43 Commissioner.
11:17:10 44
11:17:11 45 COMMISSIONER: We'll take the midmorning break. 10
11:17:13 46 minutes.
47

.06/09/19

5744

O'BRIEN XXN - IN CAMERA

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

(Short adjournment.)

11:34:38 1
11:34:38 2
11:34:38 3 COMMISSIONER: Yes Ms Tittensor.

11:34:40 4
11:34:41 5 MS TITTENSOR: Thank you, Commissioner. Again, could you
11:34:43 6 put that transcript back up on the screen, please. If we
11:34:46 7 can go to p.278, please. Do you see there, Mr O'Brien,
11:34:57 8 there's a long passage in which Ms Gobbo is talking?---Yes.

11:35:06 9
11:35:15 10 She's talking about essentially how she came to be doing
11:35:18 11 what she's doing. She's indicating that, or she says she's
11:35:28 12 been putting things together for years. She spent far too
11:35:33 13 much time thinking about things than anything else. The
11:35:36 14 problem was being used by people to, you know, to
11:35:39 15 manipulate all sorts of systems, not so much criminal
11:35:43 16 justice system but really being used by people and talks
11:35:46 17 about that being part of, part of it was a guilty
11:35:49 18 conscience she guesses, not from doing anything illegal
11:35:54 19 herself but knowing about these things and not doing
11:35:58 20 anything about it, do you see that?---She appears to be
11:36:01 21 struggling with her conscience, yes.

11:36:03 22
11:36:04 23 "With [REDACTED] it's just gone way in one direction because
11:36:08 24 he's now decided, I mean", she goes on, "I'm almost or
11:36:13 25 probably bordering on conspiring with him where, you know,
11:36:16 26 when I sit down and have these conversations with him and
11:36:20 27 he's telling me about how much he's [REDACTED] and how much
11:36:24 28 this and how much that, why am I not the equivalent of an
11:36:31 29 aider and abettor". Mr Green says, "What are you doing to
11:36:38 30 assist?" Ms Gobbo says, "Well forget about assisting but
11:36:39 31 I'm encouraging, I'm inciting, I'm conspiring with him" and
11:36:45 32 Mr White doesn't like that idea. He says, "You're not
11:36:51 33 inciting him" and it goes on. Do you see some concerns
11:36:54 34 that arise in that conversation there, or that piece of
11:37:00 35 conversation, that she's acknowledging that her
11:37:04 36 conversations with [REDACTED] in all of this might there
11:37:09 37 involve her committing criminal offences herself? Do you
11:37:14 38 see that?---Yes, obviously that's her thought process, yes.

11:37:15 39
11:37:15 40 And she's telling the police about those thought processes,
11:37:20 41 that she might be committing criminal offences in doing
11:37:23 42 what she's doing for the police?---Yes.

11:37:24 43
11:37:28 44 If we can go to p.295. There's some questioning here in
11:37:40 45 relation to who was going to be at the police station when
11:37:45 46 [REDACTED] is arrested, halfway down the page Ms Gobbo says,
11:37:51 47 "Anyway, my original question, how many the night [REDACTED]"

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

11:37:57 1 is arrested? Who am I going to find there who know about
11:38:01 2 this?" Smith says, "Two definite, three definites
11:38:04 3 actually". Ms Gobbo says, "Three now, why three?"
11:38:09 4 Mr Green says, "Because one of us will be around". Gobbo,
11:38:12 5 "Why are you going to be around?" Smith says, "To see how
11:38:17 6 [REDACTED] goes". Gobbo says, "Isn't someone going to say
11:38:21 7 why are you there?" Mr Green says, "They'll be a bit too
11:38:26 8 busy to notice essentially". Mr White then says, the
11:38:31 9 "Other thing is we want to make sure it's not going to be
11:38:34 10 said that anything can be attributed to you". Effectively
11:38:38 11 saying, "Part of the reason we want to be there" is to make
11:38:41 12 sure her situation was not compromised either. Do you see
11:38:45 13 that?---I see that.
11:38:46 14
11:38:46 15 They go on, she's asking who the other people are that are
11:38:53 16 going to be there and there's some reference, perhaps
11:38:56 17 mistakenly at that stage, to an understanding that
11:38:58 18 Mr Bateson might be there. Mr Smith says, "Stuart and also
11:39:03 19 the other bloke we've been talking to". And Gobbo is
11:39:06 20 asking, "Who is that? Am I allowed to know?" Mr White
11:39:10 21 says, "It's Jim O'Brien". Ms Gobbo says, "Yeah, I thought
11:39:15 22 it would be him". Then she's asking about, "Why is Bateson
11:39:19 23 going to be there? Is it a Purana job or something? It's
11:39:24 24 Purana related". If we keep going down. There's some
11:39:33 25 discussion there. Ms Gobbo was asking, "What does Jim
11:39:38 26 think of ... what does he think of the point of view of
11:39:42 27 knowing that [REDACTED] and I might say for the sake of
11:39:45 28 making it really messy, that [REDACTED]", being [REDACTED]
11:39:51 29 [REDACTED] "And probably someone else by
11:39:54 30 the name of Dragan are not going to ring anybody else but
11:39:58 31 me. What does Jim think about all of this?" Do you see
11:40:04 32 she's asking what do you think about it all?---Yes.
11:40:06 33
11:40:07 34 It goes on. Mr Smith says something about what you said
11:40:14 35 before about what would we know about it and then he goes
11:40:19 36 on, "You know what you said before about what we would know
11:40:22 37 about [REDACTED] and what he's doing right now without you,
11:40:26 38 something like that". Ms Gobbo says, "I don't follow that,
11:40:29 39 sorry". And Mr Smith says, "He'll be thinking the same
11:40:32 40 thing, they would have been struggling without it".
11:40:36 41 Mr White says, "You're asking what he would think about all
11:40:40 42 those people wanting to talk to you on the night".
11:40:43 43 Ms Gobbo, "Yes, yes". Mr White, "That's just normal, he
11:40:46 44 would know that. He would know, I mean all those" - and he
11:40:53 45 keeps going on and Ms Gobbo says, "But I'm saying, does he
11:40:58 46 think someone like him thinks that there's some massive
11:41:01 47 conflict or not?" Mr Smith, "No, no, no, this is us, just

.06/09/19

5746

O'BRIEN XXN - IN CAMERA

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

11:41:06 1 wondering about your situation, round tabling it and
11:41:09 2 thinking we should discuss it with you". There seems to be
11:41:14 3 some suggestion by Mr Smith, "Don't care what he thinks"
11:41:18 4 and Ms Gobbo says, "All he wants to do is say thank you to
11:41:23 5 me". Do you see that?---Yes.
11:41:24 6
11:41:26 7 Were you having discussions with the SDU about these
11:41:30 8 matters?---No.
11:41:31 9
11:41:34 10 This is a conversation that the SDU are having with
11:41:38 11 Ms Gobbo, it's about [REDACTED] days out from the arrest of [REDACTED]
11:41:42 12 [REDACTED] Do you understand that?---Yes, I can see that date on
11:41:46 13 it.
11:41:46 14
11:41:46 15 Some pretty serious issues that are being raised within
11:41:49 16 this conversation, do you agree with that?---Yes, I do.
11:41:51 17
11:41:52 18 Do you say that none of these issues were raised with
11:41:55 19 you?---No, they weren't.
11:41:56 20
11:41:57 21 The fact that it's confirmed that Ms Gobbo is very much
11:42:02 22 intending to turn up to the police station at whatever time
11:42:07 23 [REDACTED] is arrested?---My view was she was to be
11:42:11 24 discouraged from turning up, to make an excuse.
11:42:14 25
11:42:14 26 Clearly any discouragement is not working with
11:42:17 27 Ms Gobbo?---Well I hadn't - I was unaware of this
11:42:19 28 conversation.
11:42:19 29
11:42:21 30 Were you told, "We've tried to discourage her but it's not
11:42:24 31 working"?---No.
11:42:25 32
11:42:32 33 This is the same conversation, just so you understand,
11:42:36 34 within this conversation this is the same one in which you
11:42:41 35 and Mr Ryan and Mr Bateson had agreed to give Ms Gobbo the
11:42:46 36 transcript of [REDACTED] evidence so that she might
11:42:52 37 essentially betray her duty to the court and the client and
11:42:56 38 try and convince him for the police to cooperate. Do you
11:43:01 39 understand that?---In this conversation?
11:43:04 40
11:43:04 41 In this conversation, it's the same conversation?---Right.
11:43:10 42
11:43:14 43 So you say, "I was not told anything about this. Two days
11:43:20 44 later when she turns up I'm utterly shocked"?---I was told
11:43:24 45 later on, told later on by White that, "It didn't matter
11:43:28 46 what we did, we were unable to discourage her". This was
11:43:31 47 after the fact, not before.

.06/09/19

5747

O'BRIEN XXN - IN CAMERA

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

11:43:32 1
11:43:32 2 How long after the fact were you told that?---I can't
11:43:37 3 recall now but it was - it was well after the fact it was
11:43:41 4 over.
11:43:42 5
11:43:43 6 He's arrested on the [REDACTED], so did you have a bit of a
11:43:48 7 debrief with Mr White about what went on?---I would have
11:43:52 8 spoken to him at some point.
11:43:54 9
11:43:56 10 When you say you would have spoken to him, you spoke to him
11:43:59 11 about this issue?---Yes.
11:44:00 12
11:44:03 13 And he says, "Well, nothing we can do discourages this
11:44:08 14 woman"?---This was afterwards and we discussed the issue
11:44:12 15 afterwards and we were both troubled by what happened.
11:44:17 16
11:44:19 17 Mr White gave evidence that there was some contemplation on
11:44:22 18 the part of at least himself, if not the other members of
11:44:27 19 the SDU, to arrest her, to stop her from doing that because
11:44:32 20 it was considered potentially a criminal offence by
11:44:38 21 perverting the course of justice. Did he tell you
11:44:41 22 that?---No.
11:44:41 23
11:44:41 24 Is it something that you considered?---It's not something
11:44:45 25 that I considered, no.
11:44:46 26
11:44:46 27 That in doing what she did when she turned up on that day
11:44:50 28 was perverting the course of justice?---No, it wasn't.
11:44:54 29
11:44:57 30 When you say you had this conversation with Mr White, would
11:45:00 31 it have been on the same day? Did you get straight on the
11:45:04 32 phone and say, "What's going on"?---No, because one of the
11:45:11 33 other people, I'd have to look at the pseudonym, was there,
11:45:26 34 Officer Smith.
11:45:29 35
11:45:29 36 Sorry - - - ?---Officer Smith.
11:45:31 37
11:45:31 38 You had this conversation with Officer Smith or Officer
11:45:34 39 White about the problem? Sorry, Officer Smith you say was
11:45:37 40 there on the night?---Attended on the night.
11:45:39 41
11:45:40 42 Did you have a conversation with him about this being a
11:45:42 43 problem on the night?---As I said, I was just blind sided
11:45:46 44 by it, "What the hell's going on here?"
11:45:49 45
11:45:49 46 When you later have this conversation with Mr White, I just
11:45:53 47 want to understand how long after the event it might have

.06/09/19

5748

O'BRIEN XXN - IN CAMERA

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

11:45:56 1 been that you had this conversation, was it the day of or
11:45:58 2 was it the next day or within days?---No. It probably
11:46:02 3 would have been within weeks.
11:46:04 4
11:46:04 5 Within weeks?---Probably.
11:46:05 6
11:46:06 7 Was there anyone else there or was it a conversation
11:46:08 8 between the two of you?---I think the first conversation
11:46:12 9 was travelling together in the car into work one day.
11:46:15 10
11:46:15 11 Is that something, did you live nearby each other?---We
11:46:18 12 did, yes.
11:46:19 13
11:46:19 14 And you often shared rides into work, did you?---Not often.
11:46:24 15 Early days we did when he worked at the MDID, but later on
11:46:28 16 when he was off somewhere else it would be just generally
11:46:33 17 when I was coming back from a period of leave or some
11:46:36 18 reason why I didn't have a car.
11:46:37 19
11:46:38 20 How often around this period of time would you and he have
11:46:41 21 shared rides into work?---Not all that often, probably once
11:46:47 22 a month or something like that. Might be.
11:46:49 23
11:46:50 24 And no doubt talk about work-related issues?---Yes.
11:46:53 25
11:46:55 26 Were those discussions recorded in your diary?---No.
11:46:59 27
11:47:02 28 Was this discussion that you had with him about your
11:47:05 29 concerns as to Ms Gobbo's representation of [REDACTED]
11:47:09 30 recorded anywhere?---Not that I know of.
11:47:12 31
11:47:14 32 Was there any discussion by the two of you about needing to
11:47:17 33 do something about it because evidence might be now
11:47:20 34 contaminated?---No, I don't think it got to that.
11:47:24 35
11:47:38 36 On the morning of the arrest of [REDACTED] is it the case
11:47:44 37 you were communicating with the SDU?---Yes.
11:47:50 38
11:47:54 39 No doubt you would have told them that the arrest was
11:47:59 40 expected to occur today?---No, just the possibility of
11:48:08 41 bringing the arrest forward. I was dependent upon forensic
11:48:12 42 expert opinion basically.
11:48:14 43
11:48:15 44 About safety and so forth?---No, around, given the
11:48:18 45 likelihood of the elapse of time in [REDACTED] process, at
11:48:21 46 what stage it was at, because with [REDACTED]
11:48:25 47 until you've got finished product on the table you don't

.06/09/19

5749

O'BRIEN XXN - IN CAMERA

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

11:48:28 1 have an offence. So, you know, a lot of the time the
11:48:31 2 defence used to be, "I'm producing essential oils" or
11:48:35 3 something like that and so they had to get to a certain
11:48:38 4 point in time in the production.
11:48:39 5
11:48:40 6 So there was some estimation about where within the
11:48:43 7 production they might have been, so we'll arrest at a
11:48:47 8 particular time?---And the type of, the type of process
11:48:51 9 being used and the amount likelihood given the amount of
11:48:55 10 [REDACTED] that had been ordered.
11:48:58 11
11:48:59 12 Do you know what time it was decided that you would be
11:49:03 13 arresting him that day?---We were looking at bringing it
11:49:08 14 forward to 12 midday, around 12 midday.
11:49:12 15
11:49:14 16 Presumably that decision had been made - okay. At 7.41 you
11:49:20 17 speak to Smith, is that right?---That's correct.
11:49:23 18
11:49:23 19 And you're looking at bringing the arrest forward to today
11:49:31 20 after midday?---After midday, yes. Due to the timing of
11:49:37 21 being possibly sufficient to [REDACTED] and then at 7.49 I
11:49:40 22 spoke to Jim Pearson, the forensic chemist, advised him of
11:49:47 23 possibility of [REDACTED], purchase of
11:49:50 24 [REDACTED] and he advised the possibility of
11:49:52 25 another eight to ten [REDACTED] before [REDACTED] was [REDACTED].
11:49:56 26
11:49:56 27 There's an understanding at least earlier that morning at
11:49:59 28 7.40 by the SDU that he's possibly going to be arrested
11:50:05 29 today, this afternoon?---Yes.
11:50:06 30
11:50:12 31 If we can bring the ICRs up for that date, [REDACTED]
11:50:45 32 Perhaps while we're getting to that. In terms of your
11:50:49 33 statement, Mr O'Brien, you say at paragraph 170 that the
11:50:58 34 arrest of [REDACTED] and [REDACTED] occurred at about
11:51:07 35 2.21 pm?---That's correct.
11:51:07 36
11:51:09 37 And that you attended the scene after the arrest and spoke
11:51:13 38 to [REDACTED] ---That's correct.
11:51:14 39
11:51:15 40 Do you know - were you nearby when the arrest was
11:51:20 41 affected?---I don't think so. The arrest was done by the
11:51:24 42 [REDACTED]
11:51:25 43
11:51:27 44 After that occurred [REDACTED] and [REDACTED] were placed into
11:51:35 45 custody and had their rights read to them?---Yes.
11:51:38 46
11:51:38 47 Were you there when that occurred?---I was there at the

.06/09/19

5750

O'BRIEN XXN - IN CAMERA

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

11:51:43 1 initial start of it, I may not have been there when the
11:51:46 2 rights and that were read to them.
11:51:47 3
11:51:51 4 Do you recall which officers dealt with which - - - ?---I
11:51:54 5 think Sergeant Flynn was at the scene with policewoman - -
11:52:00 6 -
11:52:00 7
11:52:01 8 Farah maybe?---Farah, that's right, Anne Farah.
11:52:05 9
11:52:07 10 Was Flynn dealing with [REDACTED] ---Yes.
11:52:10 11
11:52:11 12 And was it Mr Kelly dealing with [REDACTED]?---I'm not 100 per
11:52:17 13 cent sure, that's quite possibly true.
11:52:20 14
11:52:20 15 When Flynn was there with [REDACTED] cautioning him, reading
11:52:25 16 him his rights and so forth, were you around?---No, I think
11:52:31 17 the only memory of a conversation is when we first attended
11:52:36 18 [REDACTED] was seated on the ground and he was just asked if
11:52:42 19 there was anything in there that could hurt us. His answer
11:52:46 20 was, "I think you'll be very pleased with yourselves"
11:52:51 21 basically.
11:52:52 22
11:52:56 23 It's apparent that at the scene when the rights are read to
11:53:02 24 I think both [REDACTED] and [REDACTED] that they both ask for
11:53:08 25 Ms Gobbo, do you understand that?---No, I wasn't there.
11:53:12 26
11:53:15 27 Surely you would have been told about that pretty quickly,
11:53:18 28 wouldn't you?---Not necessarily. It would have been left
11:53:22 29 to the Sergeant and the crews to handle the - - -
11:53:27 30
11:53:27 31 Mr Flynn certainly seems to be aware that this was a bit of
11:53:31 32 an issue, there had been some discussion at least prior to
11:53:36 33 that, well, to get out of this problem occurring maybe one
11:53:41 34 solution is to tell Ms Gobbo, tell [REDACTED] that Ms Gobbo
11:53:45 35 is uncontactable. Given that he knew seemingly that it was
11:53:49 36 an issue, do you think he would have had a discussion with
11:53:52 37 his Senior Sergeant about it, about what to do?---He may
11:53:56 38 have.
11:53:56 39
11:54:02 40 You don't recall one way or the other whether he did?---No,
11:54:05 41 I don't.
11:54:05 42
11:54:11 43 At 3.02 is it the case that you updated Mr Smith at the
11:54:21 44 SDU?---That's correct.
11:54:22 45
11:54:28 46 You've got that note in your diary, is that right?---That's
11:54:31 47 correct.

.06/09/19

5751

O'BRIEN XXN - IN CAMERA

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

11:54:31 1
11:54:33 2 You would have updated Mr Smith at the SDU. Would you have
11:54:40 3 given him the update about who [REDACTED] was asking
11:54:45 4 for?---I don't believe so.
11:54:46 5
11:54:49 6 You say you're back in the office at 3.50, is that
11:54:56 7 right?---That's correct.
11:54:57 8
11:54:57 9 Your entry in your diary is, "At office, supervision and
11:55:01 10 admin"?---Yes.
11:55:03 11
11:55:03 12 "Await outcome of interview process"?---Yes.
11:55:05 13
11:55:08 14 You refer to a number of other officers who were guarding
11:55:11 15 the scene?---That's correct.
11:55:14 16
11:55:15 17 And Detective Ryan to conduct a welfare check. Is that in
11:55:21 18 relation to anyone in particular?---It would have been
11:55:26 19 persons in custody.
11:55:27 20
11:55:28 21 And, "Crew 2 to continue surveillance"?---That's correct.
11:55:32 22
11:55:33 23 You've got that entry in your diary, it's at 15:50 and the
11:55:38 24 next entry in your diary is three hours later at 18:50, is
11:55:44 25 that right?---That's correct.
11:55:45 26
11:55:46 27 You remained in the office at that stage?---I'd imagine so,
11:55:49 28 yes.
11:55:49 29
11:55:49 30 And you remained, as your diary indicates, awaiting to hear
11:55:53 31 what happened in the interview process?---That's correct.
11:55:56 32
11:55:57 33 Were you getting updates about those matters?---I don't
11:56:02 34 believe so.
11:56:02 35
11:56:06 36 Don't you think you would have been a bit interested to
11:56:09 37 hear what was going on in relation to the two interviews
11:56:14 38 over that period of those three hours?---Well I was letting
11:56:19 39 crew Sergeants do their job basically. They would update
11:56:23 40 me when they saw fit.
11:56:24 41
11:56:25 42 It seems as though once you get back to the office that
11:56:34 43 Detective Flynn facilitates calls to Ms Gobbo. Do you say
11:56:41 44 you just weren't made aware of that?---I don't recall being
11:56:47 45 made aware of it but I'm not surprised. If the suspects
11:56:53 46 ask to speak to her he would have facilitated the call.
11:56:57 47

.06/09/19

5752

O'BRIEN XXN - IN CAMERA

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

11:56:58 1 Regardless of concerns that that might bring to the quality
11:57:03 2 of the evidence that you were to obtain afterwards?---As I
11:57:06 3 say, if he requested to speak to her I don't think Dale
11:57:10 4 Flynn was in any position to say no.

11:57:15 5
11:57:20 6 If I can just take you to the screen there. You'll see in
11:57:26 7 accordance with the entry that you've made in your diary
11:57:29 8 about an earlier communication, you'll see the SDU handler
11:57:34 9 has reported from you of being briefed about the arrest
11:57:39 10 phase and you've indicated also to him that you need to be
11:57:46 11 appraised of any contact by [REDACTED] immediately. So it
11:57:51 12 seems to be the case that if [REDACTED] contacts Ms Gobbo,
11:57:55 13 you want to know about it straight away?---Yes, quite
11:58:00 14 possibly. That's what it says there.

11:58:02 15
11:58:08 16 Following that at 8.30 the handler has tried a number of
11:58:13 17 times to call Ms Gobbo but didn't get through. She then
11:58:16 18 returns a call at 12 past 9 and tells the handler that
11:58:22 19 she's about to go into the prison to see [REDACTED] Do you
11:58:26 20 see that?---Yes, yes.

11:58:28 21
11:58:31 22 The handler calls her again at 9.23. She's advised to
11:58:36 23 leave the phone in the car switched on silent, to ring the
11:58:41 24 handler immediately upon leaving prison. She's advised she
11:58:46 25 may see the handlers today at St Kilda Road if the arrests
11:58:50 26 occur but she's to ignore them unless there's some
11:58:54 27 prearranged secure meeting. And then she's instructed to
11:58:58 28 immediately advise in relation to any contact with [REDACTED]
11:59:03 29 [REDACTED]---Right.

11:59:04 30
11:59:05 31 There's very much an understanding that if there's an
11:59:10 32 arrest that occurs, that Ms Gobbo is going to turn up to
11:59:13 33 [REDACTED] Do you see that?---Yes, I see that.

11:59:15 34
11:59:24 35 Do you see at 12.30 there's another conversation with the
11:59:29 36 handler and the handler reports that Ms Gobbo is waxing
11:59:34 37 ironic re the imminent arrest of [REDACTED] and that she
11:59:39 38 won't get paid for representing him?---Right.

11:59:43 39
11:59:48 40 You had updated Mr Smith about the arrest at 3.02 and you
11:59:54 41 see there that at 3.03, that advice is recorded, that you
12:00:01 42 advise the handler on that day that two people are in
12:00:06 43 custody, [REDACTED] and another, and that you believe it can
12:00:13 44 be kept quiet, the fact of the arrests?---Yes.

12:00:16 45
12:00:16 46 A minute later the handler phones Ms Gobbo and advises her
12:00:23 47 that [REDACTED] and someone else is in custody. She's again

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

12:00:28 1 told to ignore the handlers if she sees them at St Kilda
12:00:33 2 Road and told to message and they'll meet away from the
12:00:36 3 building. So again, there's no hiding, everyone's
12:00:40 4 expecting that she's turning up to St Kilda Road?---As I
12:00:44 5 say, I wasn't privy to this.
12:00:48 6
12:00:53 7 Do you think it's strange given that there were
12:00:58 8 communications between you and the SDU and this Operation
12:01:03 9 Posse is being engaged in and there's cooperation between
12:01:06 10 lots of different units, that the SDU with this major
12:01:10 11 concern that this woman, Ms Gobbo might turn up on the day
12:01:19 12 and ruin it all, do you think it's strange that they would
12:01:23 13 withhold that from you?---Yes, I do.
12:01:26 14
12:01:27 15 But you maintain that that's what they did?---Yes. As I
12:01:30 16 said, I didn't have any knowledge until such time as she
12:01:34 17 turned up down there. My view was I didn't need her to be
12:01:38 18 there. I'd have much preferred to have somebody
12:01:41 19 independent and completely different.
12:01:46 20
12:01:51 21 It seems as though [REDACTED] is put on tape between 3.56 and
12:01:58 22 3.59, put on tape very quickly in terms of a record of
12:02:06 23 interview, and then [REDACTED] similarly between 4.14 and
12:02:11 24 4.19 is put on tape and presumably they both say a quick no
12:02:15 25 comment, or something of the like, or, "I want to speak to
12:02:19 26 my lawyer"?---All right.
12:02:20 27
12:02:22 28 You see there at 4.10 pm, 16:10, Ms Gobbo reports having
12:02:31 29 been contacted by the investigators, having been advised
12:02:35 30 that [REDACTED] and [REDACTED] are in custody, they both
12:02:39 31 want to see her. She's now en route to St Kilda Road.
12:02:43 32 She's ten minutes off from there and she'll ring them
12:02:47 33 later. She seems happy re the arrests and asks the
12:02:51 34 question: "Who's next"?---Right.
12:02:56 35
12:02:56 36 Any of this ever told to you?---No.
12:02:58 37
12:02:59 38 When you had your conversation later on with Mr White in
12:03:02 39 the car, were you given any information that they knew that
12:03:07 40 this was going to occur?---No, I didn't have any of this
12:03:11 41 detail. Only that it had occurred and that's what we were
12:03:16 42 discussing.
12:03:16 43
12:03:20 44 At 4.25 Ms Gobbo arrives and speaks to both of the men,
12:03:30 45 [REDACTED] first at 16:25 and then at 16:43 until about
12:03:38 46 quarter to 6 or ten to 6 she speaks to [REDACTED]. So for
12:03:44 47 over an hour she's speaking with [REDACTED]. Do you say

.06/09/19

5754

O'BRIEN XXN - IN CAMERA

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

12:03:47 1 throughout all that time Ms Gobbo's arrived at the police
12:03:53 2 station, she's spoken to both of them, she's in there with
12:03:56 3 ██████████ for over an hour, that no one tells you about
12:03:59 4 that?---Well they may have told me she was there, but I
12:04:03 5 didn't see her there. I was in a different part of the
12:04:06 6 building, I didn't - - -
12:04:07 7
12:04:07 8 As soon as you knew she was there, you would have been
12:04:10 9 saying, "This is a real problem, we need to do something
12:04:13 10 about it", wouldn't you?---Yes, I was annoyed by the fact
12:04:16 11 that she actually came down to the police station.
12:04:18 12
12:04:18 13 She comes - the reality is she comes to the police station
12:04:22 14 twice?---Right.
12:04:24 15
12:04:25 16 This is the first time she's come. She's there the first
12:04:28 17 time for, in a room speaking with ██████████ for over an
12:04:34 18 hour?---Right.
12:04:36 19
12:04:39 20 Your statement makes no mention of that attendance by her.
12:04:43 21 It's likely, isn't it, that you were made aware of that
12:04:46 22 attendance?---I may have been, but as I say they were being
12:04:51 23 handled by the crews that were handling the interview
12:04:53 24 process at that stage.
12:04:54 25
12:04:55 26 Wouldn't you be straight on the phone saying, "What can we
12:04:58 27 do about this"?---At that stage what could I do about it?
12:05:03 28 She was there.
12:05:03 29
12:05:04 30 You could ring your own superior, you could ring the OPP,
12:05:10 31 you could ring someone and say, "This is a problem, what do
12:05:12 32 we do"?---Yeah, but as I say, I didn't.
12:05:14 33
12:05:15 34 Ms Gobbo leaves the station about quarter to 5, sorry,
12:05:24 35 quarter to 6, ten to 6. And after that if we scroll down
12:05:33 36 you see Ms Gobbo has reported being emotional after having
12:05:42 37 seen ██████████ in custody. She's spoken to Detective
12:05:46 38 Sergeant Flynn, who has told her nothing as yet. ██████████
12:05:51 39 is wondering how police knew of the ██████████. He thinks that
12:05:57 40 ██████████ was there before the police and that might
12:06:00 41 be something that's relevant. He's very suspicious about
12:06:04 42 how he was caught. He wants her to ring ██████████ and ██████████
12:06:08 43 ██████████ and some other people, ██████████ and ██████████
12:06:13 44 He's done a no comment interview. The investigators have
12:06:20 45 told him, or the interviewers had told him that they knew
12:06:25 46 he had been there for about a week and he told her that he
12:06:29 47 hadn't ██████████ yet. Is that the case, that there

.06/09/19

5755

O'BRIEN XXN - IN CAMERA

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

12:06:32 1 hadn't been a [REDACTED] in process?---I don't know.
12:06:37 2
12:06:38 3 She says she's also spoken to [REDACTED] who stated there
12:06:41 4 was [REDACTED] at [REDACTED] and therefore they didn't think
12:06:44 5 there was any devices in there. That's in terms of what
12:06:48 6 their appreciation is of what the police evidence might be,
12:06:51 7 I presume. Following that at 18:30 - - - ?---I don't know
12:06:58 8 what that refers to when you say [REDACTED] at [REDACTED] I mean
12:07:02 9 [REDACTED] is a common term [REDACTED].
12:07:04 10
12:07:04 11 Yes, I don't know if they're talking to [REDACTED], [REDACTED]
12:07:09 12 itself, or [REDACTED] or police devices, I'm not sure. You
12:07:15 13 see under that at 18:35 that the handler reports receiving
12:07:22 14 an SMS from Ms Gobbo?---Yes.
12:07:23 15
12:07:24 16 She forgot to mention that there are [REDACTED] in the
12:07:27 17 [REDACTED]?---Yes.
12:07:28 18
12:07:28 19 And that you were notified immediately?---That's what it
12:07:31 20 says, yes.
12:07:31 21
12:07:32 22 Do you recall that occurring?---No. I remember something
12:07:35 23 about [REDACTED] but I mean naturally in the course of a
12:07:41 24 crime scene search anything that was there would be found.
12:07:45 25
12:07:45 26 Do you know when they were found?---No. Quite possibly - a
12:07:50 27 [REDACTED] crime scene processing may take a day or more.
12:07:57 28
12:08:02 29 No doubt upon you being advised there were a [REDACTED]
12:08:05 30 in [REDACTED], you would have notified somebody else about
12:08:08 31 that?---I could have. But I wouldn't be surprised, [REDACTED]
12:08:11 32 and [REDACTED] go together.
12:08:15 33
12:08:15 34 It's something you would have advised someone else about,
12:08:20 35 upon you being advised immediately of it?---I may not have
12:08:24 36 necessarily done something immediately about it, I may have
12:08:26 37 just committed it.
12:08:27 38
12:08:27 39 It's something that if you're going to be speaking to these
12:08:31 40 men afterwards as well you might want to be speaking to
12:08:35 41 them about the fact that there's, you know, it's serious
12:08:39 42 again, we've found [REDACTED]?---I may have.
12:08:41 43
12:08:42 44 These [REDACTED]?---In the scheme of things [REDACTED] is not
12:08:46 45 all that serious.
12:08:47 46
12:08:48 47 You don't record that conversation in your diary, is that

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

12:08:52 1 right?---No, I've no note of that.
12:08:53 2
12:09:06 3 Was there someone at the scene that you would have spoken
12:09:09 4 to about that if you did speak to someone? Was there a
12:09:13 5 particular person you might have said, "There's possibly
12:09:16 6 some guns there somewhere"?---As I say, I believe, given
12:09:20 7 the time of day this information's received, more than
12:09:29 8 likely there would have been a crime scene guard on the
12:09:32 9 scene with nothing to be touched until daylight hours so
12:09:37 10 there was no rush to do anything.
12:09:38 11
12:09:43 12 You can't say when and where [REDACTED] were found within the
12:09:46 13 scene?---No.
12:09:47 14
12:09:59 15 According to Mr Flynn, the SDU handler Smith arrived to
12:10:09 16 assist the police with the [REDACTED] that essentially they were
12:10:12 17 going to put to [REDACTED] as to [REDACTED]
12:10:18 18 [REDACTED] and [REDACTED]. You're aware of
12:10:21 19 that?---That's correct, yes.
12:10:22 20
12:10:24 21 Mr Smith was there obviously because he had some extensive
12:10:29 22 knowledge in relation to [REDACTED] because of all the
12:10:33 23 things that Ms Gobbo had been telling them about?---Yes, he
12:10:36 24 had an intimate knowledge.
12:10:39 25
12:10:45 26 At 6.50 pm is it the case that you and Smith and Flynn went
12:10:57 27 in to a particular room to speak with [REDACTED]?---Yes. He
12:11:04 28 was brought around from the interview room and I spoke to
12:11:08 29 him in a board room, in the building.
12:11:11 30
12:11:11 31 Were the interview rooms on the same floor?---Same floor on
12:11:17 32 the opposite side of the lift well.
12:11:20 33
12:11:20 34 During this sort of three hour gap that's in your diary,
12:11:24 35 were you seeing Flynn during that time, was he coming back
12:11:27 36 and reporting to you what was going on?---He may have.
12:11:31 37
12:11:31 38 He would have been just over the other side of the lift
12:11:35 39 well presumably when he was conducting the
12:11:38 40 interviews?---Yes.
12:11:38 41
12:11:38 42 And once Ms Gobbo's there, she's, for over an hour, an hour
12:11:47 43 and a half with the [REDACTED] Mr Flynn would have been
12:11:50 44 waiting around to see if he's going to go back and speak
12:11:54 45 with, well waiting around for the time when you're going to
12:11:59 46 speak to [REDACTED] is that right?---He may well have been,
12:12:04 47 yes.

.06/09/19

5757

O'BRIEN XXN - IN CAMERA

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

12:12:04 1
12:12:05 2 You'd expect within that period of time he would have had
12:12:08 3 some discussions with you in the lead up to that that
12:12:11 4 Ms Gobbo's been speaking to him for the last hour or
12:12:15 5 so?---He may have, I'm not 100 per cent sure.
12:12:17 6
12:12:25 7 [REDACTED] was brought into there. There was a discussion
12:12:29 8 with the three of you, is that right?---That's correct.
12:12:31 9
12:12:32 10 And you give him the [REDACTED] on why it's in his best
12:12:36 11 interests to start cooperating?---Yes, I told him what was
12:12:39 12 on offer.
12:12:39 13
12:12:39 14 What was on offer and presumably there's some input about
12:12:46 15 other matters, you know, "You [REDACTED]
12:12:50 16 [REDACTED], you've got [REDACTED] on in
12:12:53 17 your [REDACTED]' and so forth?---Yes, I would have spoken to him
12:12:56 18 about, you know, in [REDACTED]'s [REDACTED] years, in the other
12:13:02 19 [REDACTED]'s [REDACTED] years, you pick [REDACTED] you want because
12:13:07 20 that's the likely outcome.
12:13:08 21
12:13:09 22 You've got three of you in there. Who is doing most of the
12:13:12 23 talking?---Probably me.
12:13:13 24
12:13:13 25 It's apparent that he had some sort of trust level already
12:13:18 26 with Detective Flynn, is that right?---Yes, he would have
12:13:23 27 known both of us, but he - I think he had a rapport with
12:13:28 28 Dale Flynn.
12:13:28 29
12:13:28 30 Yes. And they'd had at least coffee on an earlier occasion
12:13:34 31 with Ms Gobbo?---Not to my knowledge.
12:13:36 32
12:13:37 33 Do you recall much of that interaction with him?---It was
12:13:44 34 fairly brief. Told him that we'd been to the Director and
12:13:53 35 the indication was [REDACTED] years with full cooperation and
12:13:57 36 full admissions in relation to his part. Any assistance,
12:14:01 37 the greater assistance he could give the more likelihood he
12:14:04 38 would get of the discount on whatever sentence he had.
12:14:09 39 That Tony Mokbel had done a runner and left him. I felt
12:14:14 40 that that removed any, or certainly removed in my mind the
12:14:18 41 potentiality of a threat or removed some of the threat
12:14:22 42 towards him, albeit other members of the family were still
12:14:25 43 around.
12:14:26 44
12:14:26 45 You would have thought that some of the other members of
12:14:29 46 the family would create a similar kind of threat do you
12:14:32 47 think?---I think they were a bit lower down the rung than

.06/09/19

5758

O'BRIEN XXN - IN CAMERA

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

12:14:38 1 Tony.
12:14:38 2
12:14:38 3 Your expectation was they would takeover the running of the
12:14:43 4 operation upon his removal initially?---Yes.
12:14:46 5
12:14:46 6 Expecting that he might be in custody, is that
12:14:49 7 right?---They would step up, yes.
12:14:50 8
12:14:53 9 That conversation, it seems from your diary, goes from
12:14:57 10 18:50 to 19:15, 25 minutes around about?---I'll just check.
12:15:22 11 Yes, from 18:50. I'm not sure how long it would have gone
12:15:31 12 for. It was only fairly short.
12:15:33 13
12:15:33 14 And at some stage within that period of time he requests to
12:15:38 15 speak to Ms Gobbo again?---He did, yes.
12:15:41 16
12:15:43 17 Your diary records, "Requested to speak to solicitor
12:15:48 18 again"?---Yes.
12:15:48 19
12:15:51 20 He would have named the solicitor, wouldn't he?---Yes.
12:15:54 21
12:15:55 22 He would have said, "I want to speak to Ms Gobbo"?---Yes.
12:16:01 23
12:16:01 24 There's an opportunity there, isn't it, to see - you say
12:16:07 25 you're shocked when she attends. Did you start getting a
12:16:11 26 bit concerned at this point?---Yes, well as I say I didn't
12:16:15 27 expect her to attend. I was blind sided by the fact that
12:16:20 28 she'd chosen to involve herself in the situation given she
12:16:24 29 had been providing information.
12:16:26 30
12:16:28 31 He requested to speak to solicitor again. You expect that
12:16:31 32 that's the same solicitor, you clearly know that he has
12:16:36 33 already spoken to a solicitor?---Yes, I'm presuming that,
12:16:40 34 yes.
12:16:40 35
12:16:41 36 You know that he's now asking to speak to Ms Gobbo and you
12:16:44 37 expect that - you must have known at that point she's
12:16:47 38 already been and she's coming again, or he wants her
12:16:52 39 again?---I may have.
12:16:52 40
12:16:53 41 She had clearly turned up the first time, no reason for her
12:16:58 42 not to turn up a second time?---As I say, she shouldn't
12:17:03 43 have been there.
12:17:04 44
12:17:04 45 At that stage though did you then say to Mr Flynn, "What's
12:17:10 46 going on? We need to stop this, we can't have this"?---As
12:17:15 47 I said I was annoyed by what happened. I don't know what I

.06/09/19

5759

O'BRIEN XXN - IN CAMERA

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

12:17:18 1 said to Flynn. He may have a better recollection or notes
12:17:22 2 of it than I.
12:17:23 3
12:17:23 4 Have you had any discussions with Mr Flynn in relation to
12:17:27 5 these matters at all since any of these inquiries have been
12:17:29 6 going on?---I've spoken to him about a couple of things,
12:17:32 7 particularly in relation to trying to get in contact with
12:17:36 8 Mr Bartlett in relation to that earlier tape with Tony
12:17:41 9 Mokbel and - - -
12:17:43 10
12:17:43 11 Did you speak to Mr Flynn about his recollections of this
12:17:45 12 night?---No. He has told me he's got good notes of what
12:17:50 13 occurred. That was some of it.
12:17:52 14
12:17:53 15 Was there any recording of any of these discussions that
12:17:57 16 you were having with [REDACTED] on the night?---No, I don't
12:18:02 17 think so.
12:18:02 18
12:18:03 19 Why would you not be recording those discussions?---No
12:18:07 20 particular reason.
12:18:07 21
12:18:09 22 Often the police [REDACTED] off
12:18:14 23 [REDACTED], outside of [REDACTED] with these suspects,
12:18:17 24 is that right?---They may, yes.
12:18:19 25
12:18:21 26 Was there a particular reason why this wasn't occurring on
12:18:25 27 this occasion with [REDACTED]?---None that I know of. It
12:18:30 28 was a fairly straightforward, straightforward thing.
12:18:35 29 "Here's the offer, [REDACTED] you make the decision".
12:18:39 30
12:18:39 31 You might expect even if he's not willing to necessarily
12:18:45 32 cooperate, he might provide you with some sort of
12:18:47 33 intelligence within the conversation. Did you think maybe,
12:18:52 34 "We'll put him on tape, let him" - - - ?---None of - - -
12:18:56 35
12:18:57 36 "Get one of those transcripts like we've got for [REDACTED]
12:19:00 37 [REDACTED]---None of it would have been, in my view none of it
12:19:03 38 would have been admissible in any event.
12:19:05 39
12:19:05 40 That's right, but it can be used in other ways, can't it,
12:19:10 41 with those witnesses?---Not that I'm aware of.
12:19:14 42
12:19:15 43 Might be used to influence him down the track?---No. Look,
12:19:19 44 if I've realised that I'd have been sitting here 14 years
12:19:24 45 later I would have taped it.
12:19:25 46
12:19:27 47 Ms Gobbo came to the police station for a second time that

.06/09/19

5760

O'BRIEN XXN - IN CAMERA

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

12:19:32 1 night at around 7.15?---Yes.
12:19:34 2
12:19:38 3 She's brought to the boardroom where you are with Mr Flynn,
12:19:43 4 Mr Smith and [REDACTED]?---Yes. No, [REDACTED] wasn't there.
12:19:54 5 I think he was sitting in the interview room.
12:19:57 6
12:19:58 7 He'd been taken out of the boardroom and put back into the
12:20:01 8 interview room, had he?---After the brief conversation I
12:20:04 9 had with him he went back to the interview room.
12:20:06 10
12:20:07 11 Your statement indicates you had a discussion with Ms Gobbo
12:20:09 12 in relation to [REDACTED] position, the DPP recommendation
12:20:16 13 as to sentence, that he plead and cooperate, is that
12:20:20 14 right?---That's correct.
12:20:21 15
12:20:27 16 And your diary also indicates that you explained that the
12:20:32 17 police were interested in full cooperation, which includes
12:20:35 18 speaking to [REDACTED] whilst [REDACTED]?---Yes.
12:20:40 19
12:20:47 20 You go on in your diary to indicate that [REDACTED]
12:20:52 21 requested to speak to Ms Gobbo and also requested that
12:20:57 22 Detective Sergeant Flynn remain present?---Yes.
12:20:59 23
12:21:01 24 That occurred in your presence?---That was the conversation
12:21:06 25 but there was no conversation with [REDACTED] in my
12:21:09 26 presence.
12:21:09 27
12:21:10 28 Is it not the case that you were, the four of you were in a
12:21:14 29 room for a number of minutes while that conversation with
12:21:17 30 Ms Gobbo was going on and then the two of you, Mr Smith and
12:21:22 31 you left the room and just left Ms Gobbo and Mr Flynn with
12:21:28 32 [REDACTED]?---I don't believe so. As I say, I think [REDACTED]
12:21:33 33 [REDACTED] was, from memory would have been back in the interview
12:21:36 34 room.
12:21:37 35
12:21:37 36 Is that where Ms Gobbo and Mr Flynn spoke with him?---Spoke
12:21:43 37 with [REDACTED]?
12:21:44 38
12:21:44 39 Yes?---That's the only place I'd imagine they would have
12:21:48 40 spoken to him at.
12:21:49 41
12:21:51 42 Do you recall whether they were in the boardroom speaking
12:21:54 43 to him or were they in the - - - ?---No, he was back in an
12:21:58 44 interview room.
12:21:59 45
12:21:59 46 Interview room?---And I spoke to her in the doorway of the
12:22:04 47 boardroom. It was just inside the secure area of the Task

.06/09/19

5761

O'BRIEN XXN - IN CAMERA

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

12:22:06 1 Force.
12:22:06 2
12:22:07 3 So she then is taken around to the interview room?---Would
12:22:12 4 have been, yes.
12:22:13 5
12:22:13 6 Mr Flynn is there?---As far as I know.
12:22:16 7
12:22:16 8 Where is Mr Smith?---I'm not 100 per cent sure.
12:22:24 9
12:22:24 10 Is he present while you're having this discussion with
12:22:27 11 Ms Gobbo about what the police are interested in from
12:22:31 12 [REDACTED]?---He may have been, I'm not 100 per cent sure.
12:22:35 13
12:22:37 14 Did you tell Ms Gobbo you had real problems with her being
12:22:40 15 there?---No, I didn't.
12:22:41 16
12:22:44 17 There was an opportunity, was there not, to go into the
12:22:48 18 boardroom, shut the door and say, "You can't be doing
12:22:51 19 this"?---I should have yes, in hindsight.
12:22:54 20
12:22:54 21 The people there around you were Mr Smith who knew very
12:23:00 22 well what she was doing and Mr Flynn who also knew very
12:23:04 23 well what was going on, is that right?---Yes.
12:23:06 24
12:23:06 25 Was there anyone else around?---Not that I know of.
12:23:10 26
12:23:11 27 Why on earth would you not have just said to her, "You
12:23:17 28 can't do this, go away"?---As I say, I think I was just
12:23:21 29 blind sided by the fact of what had happened, it was a
12:23:24 30 unique situation. I'd never encountered anything like this
12:23:28 31 before.
12:23:28 32
12:23:29 33 Did you consider there might be implications down the track
12:23:32 34 from that point in time?---At that time, no.
12:23:35 35
12:23:37 36 When did you consider that?---Basically probably when I
12:23:41 37 discussed it with Mr White some time later.
12:23:44 38
12:23:44 39 What were the implications that you thought might occur
12:23:47 40 down the track?---The troubling thing was around the
12:23:50 41 ethical situation of what she'd done.
12:23:55 42
12:23:55 43 That it might impact on court proceedings?---That it could,
12:23:58 44 yes.
12:23:58 45
12:23:58 46 That's something that you considered when you spoke with
12:24:01 47 Mr White?---We considered around the ethical piece, the

.06/09/19

5762

O'BRIEN XXN - IN CAMERA

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

12:24:06 1 ethical issue was hers, she was the one that made that
12:24:10 2 decision.
12:24:10 3
12:24:11 4 And that court proceedings might be affected because of
12:24:13 5 what had occurred?---Well, I don't think I'd looked that
12:24:18 6 far ahead at that point.
12:24:19 7
12:24:19 8 Is that not just, what you've just said, that you
12:24:23 9 considered at that stage that there might be implications
12:24:26 10 for court proceedings because of what had occurred?---It
12:24:28 11 could be, but I don't think it was front of mind at that
12:24:31 12 time.
12:24:31 13
12:24:32 14 Did you do anything about that, about that concern?
12:24:37 15 Clearly you were raising these issues with Mr White, did
12:24:40 16 you agree on any course to deal with those concerns?---No,
12:24:44 17 we didn't.
12:24:44 18
12:24:59 19 Ms Gobbo and Mr Flynn go into a room where [REDACTED]
12:25:06 20 is?---Right.
12:25:06 21
12:25:09 22 You're there, you've taken them around to the room, I
12:25:12 23 suppose?---No, I didn't.
12:25:13 24
12:25:13 25 They go round to the room, you assume that they're off with
12:25:17 26 [REDACTED]?---Yes.
12:25:18 27
12:25:19 28 What happened next?---The next thing I rang the Crown
12:25:28 29 Prosecutor, Mr Horgan.
12:25:30 30
12:25:31 31 Sorry, I might just indicate, if I can take you to your
12:25:35 32 diary. You see there you've got your diary entry at
12:25:40 33 19:15?---Yes.
12:25:40 34
12:25:41 35 About Ms Gobbo arriving and you've had your conversation
12:25:46 36 with her about what you expect out of [REDACTED] if he's to
12:25:50 37 cooperate?---Yes.
12:25:51 38
12:25:51 39 And it says there that [REDACTED] has requested that
12:25:56 40 Ms Gobbo and Mr Flynn remain present?---Yes.
12:25:59 41
12:26:00 42 Then two minutes later your diary records at 19:17 that
12:26:08 43 yourself and Detective Sergeant Smith leave the
12:26:10 44 room?---Yes.
12:26:11 45
12:26:11 46 Does that indicate that the four of you have been in a room
12:26:14 47 and that the two of you leave the room?---It indicates to

.06/09/19

5763

O'BRIEN XXN - IN CAMERA

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

12:26:19 1 me that Gobbo and Flynn had gone around to the interview
12:26:25 2 rooms and myself and Smith left the room and had a
12:26:30 3 discussion with Detective Inspector Ryan, Detective
12:26:34 4 Superintendent Biggin re 464 implications.
12:26:39 5
12:26:39 6 Is the boardroom around on your side of the floor, near
12:26:43 7 your office?---Yes.
12:26:44 8
12:26:46 9 Within sight of your office?---Not within sight, probably -
12:26:51 10 - -
12:26:51 11
12:26:51 12 If they're in the boardroom talking with the door shut
12:26:55 13 you'd sort of know that they're still in there
12:27:00 14 talking?---If I was back in my office, not necessarily.
12:27:02 15
12:27:03 16 Do you know for how long they're having their discussion
12:27:08 17 for?---Who are we talking about?
12:27:09 18
12:27:10 19 Sorry, Ms Gobbo, Mr Flynn and [REDACTED]?---I don't think
12:27:13 20 they - from memory I didn't think they were in the
12:27:17 21 boardroom, I thought they were back around at the interview
12:27:21 22 room.
12:27:21 23
12:27:21 24 Wherever they were, do you know how long that discussion
12:27:24 25 went on?---No.
12:27:25 26
12:27:25 27 What report did you get back from Mr Flynn after the
12:27:28 28 discussion?---I believe at some point I was told that he
12:27:33 29 was going to cooperate.
12:27:38 30
12:27:45 31 Do you see you've left, it seems, Ms Gobbo and Flynn and
12:27:54 32 [REDACTED] at around quarter past 7 that evening?---Yes.
12:28:00 33
12:28:01 34 Your next diary entry is at 17:55?---Yes.
12:28:04 35
12:28:05 36 In relation to a conversation that you'd had with
12:28:09 37 Mr Horgan?---Yes.
12:28:09 38
12:28:10 39 About getting some consent from the [REDACTED] people to remain in
12:28:14 40 custody?---Yes.
12:28:15 41
12:28:17 42 And you note at the end of that that Detective Sergeant
12:28:29 43 Flynn is continuing to speak to [REDACTED] in the presence
12:28:33 44 of solicitor Gobbo?---Yes.
12:28:34 45
12:28:35 46 So it seems as though it's still at least 40 minutes that
12:28:39 47 they'd been in there discussing matters?---Yes.

.06/09/19

5764

O'BRIEN XXN - IN CAMERA

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

12:28:41 1
12:28:45 2 Surely at the end of all of that you got some indication of
12:28:50 3 what was going on in there. You had some discussion with
12:28:55 4 Mr Flynn about what it took to bring him around?---No.
12:29:00 5
12:29:00 6 You never had any discussion along those lines?---No, the
12:29:07 7 only thing I think it was about that he'd agreed to
12:29:11 8 cooperate.
12:29:12 9
12:29:13 10 And that's it?---As far as I remember.
12:29:14 11
12:29:26 12 If I can bring up VPL.0005.0097.0536, please. Go to p.179.
12:30:09 13 There comes to be some discussion, this was a conversation
12:30:12 14 Ms Gobbo was having the SDU members on [REDACTED] 2006?---Yes.
15
12:30:17 16 About a month and a half after this?---Right.
17
12:30:25 18 At this meeting Ms Gobbo has been given copies of
12:30:30 19 [REDACTED] statements to read and told she can - copies of
12:30:36 20 his draft statements and she's told that they're working
12:30:40 21 copies and she can write on them and during the course of
12:30:44 22 that meeting she discusses her concerns about her
12:30:47 23 involvement on [REDACTED] 2006 coming out?---Right.
24
12:30:55 25 And you see down the bottom she says, "I remember sitting
12:30:59 26 in that room". She's talking about in the context of
12:31:06 27 [REDACTED] agreeing to assist?---Yes.
28
12:31:10 29 If we go down there and over the page. She says, "The fact
12:31:22 30 of sitting, I'm talking about when Jim O'Brien was sitting
12:31:28 31 in that room with [REDACTED] and Dale and [REDACTED] said,
12:31:36 32 and it was awfully embarrassing, he was crying and he said,
12:31:38 33 he grabbed my hands and said, 'I can't, I'm not going to do
12:31:42 34 it. [REDACTED] and I'm not going to do it unless you tell
12:31:47 35 me it's, I should do this'". Ms Gobbo says, [REDACTED]
12:31:49 36 knows about that and I know Dale's never going to give
12:31:52 37 evidence about it". She says Smith was in the room. "He's
12:31:59 38 never going to give evidence about". Then she says, "I
12:32:04 39 don't believe [REDACTED] would but there's a slight chance
12:32:07 40 he would", do you see that?---Yes. That never happened to
12:32:12 41 my recollection. I have no memory of that and I don't
12:32:12 42 believe it happened.
43
12:32:13 44 You say there was never this embarrassing situation where
12:32:16 45 the four of you were in that room, [REDACTED] was crying and
12:32:19 46 saying he can't do it, that he [REDACTED]?---No.
47

.06/09/19

5765

O'BRIEN XXN - IN CAMERA

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

12:32:22 1 He's not going to do it unless she tells him he should do
12:32:28 2 it?---Never occurred. I was not in a room when that
12:32:31 3 happened.
4

12:32:33 5 One reading of your diary notes indicates that the four of
12:32:36 6 you may well have been in a room together for a couple of
12:32:39 7 minutes before Mr Smith and you leave the room and leave
12:32:44 8 Ms Gobbo and Mr Flynn to it?---No, that's not my
12:32:49 9 recollection. As I say, I believe that [REDACTED], after I
12:32:55 10 spoke to him, was taken back around to the interview room
12:32:58 11 area. So they didn't sit in the boardroom.
12

12:33:03 13 If we just continue on slightly with that transcript.
12:33:07 14 Ms Gobbo says, "No one's ever going to say it happened".
12:33:12 15 White says, "Yep". She says, "But then there's those tapes
12:33:16 16 because they insisted, some high up police officer
12:33:20 17 somewhere insisted on [REDACTED] being put on tape about
12:33:23 18 what his intentions are going to be. They are horrific
12:33:27 19 tape recordings because I'm all over those ones". She
12:33:33 20 says, "He mentions me at the beginning of them". Mr White
12:33:37 21 says, "What does he say, not that 'Nicola told me to do
12:33:39 22 this'" And she says, "Well not in those words". She says,
12:33:42 23 "He says something like 'I've decided to do that', blah
12:33:46 24 blah blah", and on it goes. Was there some recording of an
12:33:52 25 acknowledgement by [REDACTED] about his intentions that
12:33:59 26 night, aside - I'm talking aside from the record of
12:34:04 27 interview?---No, I would assume not. As I say, I don't
12:34:08 28 recall any of this and my presumption has always been that
12:34:12 29 the record of interview would have - what happened, what
12:34:16 30 happened, and the record of interview would have just
12:34:18 31 continued.
32

12:34:19 33 If we can just go to p.295. Halfway down that page you see
12:34:38 34 Ms Gobbo starts asking, "What are they going to do with the
12:34:41 35 tapes from the first night with [REDACTED]? You know how we
12:34:46 36 agreed". Mr White says, "That conversation where you were
12:34:50 37 present though, was that taped did you say?" Ms Gobbo goes
12:34:54 38 on, "Remember how Dale said ... Jim O'Brien said, 'You need
12:35:01 39 to commit yourself to what you're going to do and talk on
12:35:06 40 the tape and you need to tape-record it'". And it goes
12:35:12 41 on?---As I say, Mr Flynn would be able to, be in a better
12:35:17 42 position to answer these questions because he handled the
12:35:19 43 investigation and any subsequent interviews.
44

12:35:23 45 I'll just put this bit to you. White refers to, between
12:35:31 46 the initial interview and getting into it, and Ms Gobbo was
12:35:35 47 saying, "Between the no comment interview and between him

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

12:35:39 1 doing his stuff", and there's some reference to copies of
12:35:44 2 the tapes and no one ever listening to them. Mr Green
12:35:55 3 says, "They're not evidence. They don't form part of his
12:35:58 4 confessions", Mr White is saying. And she's saying, "No,
12:36:03 5 but I'm worried about his, whatever they transcribe and put
12:36:06 6 into the brief", and she mentioned subpoenas. Do you know
12:36:10 7 if there was any other recording of any matters going on
12:36:13 8 that night as between - other than the two records of
12:36:19 9 interview that bookend these matters?---As I said earlier,
12:36:24 10 I don't recall recording the conversation but it may have
12:36:26 11 been. I mean I don't know what Smith did or whether Flynn
12:36:30 12 may have recorded it but, as I say, I don't recall
12:36:36 13 recording it.
14
12:36:47 15 Upon her leaving - do you recall Ms Gobbo leaving?---No.
16
12:36:54 17 If we can go back to the ICR please. Do you see at 21:00
12:37:07 18 there it records a - sorry, first of all at 19:15 the ICR
12:37:15 19 records a meeting and the handler indicates, "At St Kilda
12:37:21 20 Road with investigators Detective Sergeant Flynn and
12:37:27 21 Detective Inspector O'Brien and suspect [REDACTED].
22 Investigators attempting to get [REDACTED] to assist inquiry
12:37:33 23 via profile supplied by SDU. [REDACTED] requested legal
12:37:36 24 representation. Gobbo arrives. Gobbo, [REDACTED] and Flynn
12:37:49 25 then conduct a private conversation", do you see
12:37:51 26 that?---Yes.
27
12:37:52 28 Then at 21:00 there's another meeting recorded, Smith,
12:37:55 29 Green and O'Brien meet with Gobbo at Purana rear office.
12:37:59 30 Then you leave the room?---Yeah, I don't recall that.
31
12:38:04 32 You don't have any - your diary entry goes from that 19:55
12:38:11 33 entry to the next entry being 22:37; is that
12:38:16 34 right?---That's correct.
35
12:38:20 36 It seems as though, according to this, do you accept that
12:38:23 37 you have had a meeting with her and the [REDACTED] handlers at the
12:38:27 38 rear office at Purana?---No, I don't recall being in any
12:38:31 39 meeting with her and the [REDACTED] handlers. I don't recall
12:38:35 40 seeing her leave the building.
41
12:38:37 42 Do you accept that that seems to be what had
12:38:40 43 happened?---Well that's what they've got a record of. As I
12:38:43 44 say, I've got no recollection of that.
45
12:38:45 46 She then expresses some concern to the handlers about who
12:38:51 47 may know of her role in terms of police. Presumably there

.06/09/19

5767

O'BRIEN XXN - IN CAMERA

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

12:38:55 1 are other police around the building, she knew of yourself
12:38:58 2 but she's concerned in relation to others and there's an
12:39:02 3 arrangement to escort her from the building by
12:39:06 4 investigators and that she'll rendezvous shortly with the
12:39:12 5 handlers, do you see that?---Right, yes.
6
12:39:17 7 Then underneath that we get at 21:07, they arrange to meet
12:39:26 8 and in brackets it's got that the handlers are advised by
12:39:29 9 yourself that [REDACTED] has been cooperative. He's
12:39:34 10 admitted to [REDACTED] of a particular [REDACTED], is that
12:39:41 11 right?---That's what's on the note, yes.
12
12:39:43 13 In the [REDACTED] plus [REDACTED] and names of participants; is
12:39:49 14 that right?---That's what it says there, yes.
15
12:39:51 16 It seems as though whilst the crime scene guards might have
12:39:57 17 earlier been told to leave it and "we'll sweep the place
12:40:03 18 tomorrow", that someone's sent them in and there's maybe
12:40:06 19 been some discovery of [REDACTED]?---How do you say that?
12:40:12 20 It may have just been purely from admissions that [REDACTED]
12:40:16 21 had provided at that point.
22
12:40:18 23 All right. Do you know one way or the other whether - - -
12:40:27 24 ?---As I say, I don't believe the crime scene would have
12:40:31 25 been touched until the daylight hours due to the dangerous
12:40:36 26 situation.
27
12:40:38 28 It may well be that he's just simply volunteered that?---He
12:40:40 29 may have provided that information.
30
12:40:41 31 He started being cooperative, he's making admissions, the
12:40:45 32 arrests are not to be made public, that [REDACTED] will
12:40:48 33 participate in some covert meetings with some of the
12:40:52 34 [REDACTED]'s other targets?---Yes.
35
12:40:56 36 You accept you had that conversation with the SDU
12:40:59 37 member?---Well, as I say, I don't recall it but it's
12:41:02 38 recorded there.
39
12:41:05 40 It seems to accord with what was going on at the
12:41:10 41 time?---Yeah, there was a lot going on at the time.
42
12:41:17 43 It's apparent that at 9.08 [REDACTED] is re-interviewed
12:41:24 44 again. This is by Flynn and Detective Rowe at this stage
12:41:29 45 and he makes those admissions and cooperates
12:41:34 46 thereafter?---Right.
47

.06/09/19

5768

O'BRIEN XXN - IN CAMERA

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

12:41:37 1 During that night you had some contact with superiors; is
12:41:43 2 that right?---Yes, I would have.
3
12:41:45 4 Who were they?---Well Detective Inspector Ryan and
12:41:53 5 Detective Superintendent Biggin.
6
12:41:55 7 Is Ryan superior - you were a Detective Senior Sergeant.
12:42:00 8 So Biggin as well?---That's correct.
9
12:42:03 10 Anyone else?---As I say, I spoke to a Crown Prosecutor,
12:42:08 11 Horgan. 22:37 made a telephone call and spoke to Inspector
12:42:15 12 Elliott from the [REDACTED]
13
12:42:18 14 At 22:45?---22:45 made telephone call, spoke to Detective
12:42:23 15 Superintendent Grant, updated same.
16
12:42:27 17 Superintendent Grant, what was his position?---Detective
12:42:30 18 Superintendent.
19
12:42:31 20 Where was he located, in terms of which department?---Crime
12:42:34 21 Department. He would have been the Superintendent over - I
12:42:38 22 think at that stage they'd gone through a restructure and
12:42:42 23 we'd become Task Force 600 or something instead of Purana,
12:42:47 24 that was our official name.
25
12:42:49 26 So you've spoken to him and given him an update of what's
12:42:55 27 going on?---Yes.
28
12:42:56 29 Presumably we've got this - "We've made [REDACTED] arrests and
12:43:00 30 we've got one who's cooperating"?---Yes, "Assistant
12:43:05 31 Commissioner approval re Force Response Unit to guard the
12:43:08 32 prisoners given by Assistant Commissioner Overland".
33
12:43:11 34 Is that a conversation you've had with Mr Overland or is
12:43:14 35 that something that's been reported to you by Detective
12:43:19 36 Superintendent Grant?---I believe by Detective
12:43:21 37 Superintendent Grant.
38
12:43:24 39 To any of those people did you discuss the problem of
12:43:31 40 Ms Gobbo's advice and representation to [REDACTED] that
12:43:35 41 night?---I don't believe so. I might have spoken to - I
12:43:44 42 could have spoken to Tony Biggin in relation to it.
43
12:43:50 44 Is that because Mr Biggin had some knowledge of those kinds
12:43:55 45 of matters and issues?---Yes, I'm not sure. I think at
12:44:05 46 this stage he was in charge of the Covert Support Units but
12:44:08 47 I've known him for a long while and he was my previous

.06/09/19

5769

O'BRIEN XXN - IN CAMERA

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

12:44:11 1 officer-in-charge and I trusted him.
2
12:44:14 3 Is it the case you're more likely to speak to him because
12:44:18 4 you trusted him?---I could have, yes. As I say, I have no
12:44:23 5 note of that. I have a note of speaking to him that night.
6
12:44:27 7 Does your note say in what regard you spoke to him?---No.
8
12:44:32 9 At what time did you speak to him?---I spoke to him at
12:44:38 10 19:17.
11
12:44:41 12 At 19:17, that's immediately upon you having been
12:44:47 13 confronted with the shock of Ms Gobbo turning up?---Yes.
14
12:44:51 15 Does that make you think it's very likely that you did
12:44:54 16 speak to him about your shock?---I may have told him, yes.
17
12:45:00 18 Is that a conversation that you had in the presence of
12:45:03 19 Detective Inspector Ryan as well, or did you maybe take him
12:45:11 20 aside?---I'm not sure. Like I say, it's only a
12:45:22 21 possibility.
22
12:45:26 23 Over the next period of time, the [REDACTED] days,
12:45:31 24 [REDACTED] was in custody but was also assisting the
12:45:38 25 police?---Yes.
26
12:45:39 27 Essentially by helping, as I've indicated before, [REDACTED]
12:45:44 28 [REDACTED] and [REDACTED] with other targets of
12:45:47 29 [REDACTED] ---Yes.
30
12:45:50 31 And they included having some conversations with [REDACTED] and
12:45:55 32 [REDACTED] is that right?---I can't specifically recall.
12:46:04 33 I believe [REDACTED]. I can't specifically recall
12:46:08 34 whether he had conversations with [REDACTED] but he may well
12:46:10 35 have.
36
12:46:12 37 Ms Gobbo was permitted contact with [REDACTED] during those
12:46:18 38 days whilst he was assisting police?---Not that I'm aware
12:46:24 39 of.
40
12:46:25 41 Do you recall that she had telephone contact with him at
12:46:28 42 least?---No, I don't believe so.
43
12:46:34 44 Did you give any instruction that she was not to have any
12:46:36 45 further contact with [REDACTED] ---I don't think so.
46
12:46:41 47 Why not?---Well again it's not something that came to mind.

.06/09/19

5770

O'BRIEN XXN - IN CAMERA

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

12:46:49 1 I mean he was in a secure location, he didn't have access
12:46:54 2 to a telephone.
3
12:46:55 4 There were welfare issues associated with him over the [REDACTED]
12:46:59 5 [REDACTED] days, weren't there?---There certainly was.
6
12:47:02 7 He got pretty emotional at times?---He completely broke
12:47:07 8 down on one occasion.
9
12:47:08 10 Did you know whether contact was facilitated with Ms Gobbo
12:47:12 11 around that time?---No.
12
12:47:13 13 Would it surprise you if it was?---I'm not aware it was.
12:47:17 14 He broke down basically because he couldn't believe how
12:47:21 15 little they thought of him.
16
12:47:29 17 Ms Gobbo appeared for [REDACTED] at his filing hearing a few
12:47:32 18 days later, you're aware of that?---I'm aware of it now,
12:47:36 19 yes.
20
12:47:37 21 Did you become aware of it at the time?---I don't believe
12:47:40 22 so.
23
12:47:43 24 Did you make any enquiries about whether she continued to
12:47:47 25 act or appear for him?---I didn't, no.
26
12:47:51 27 Did you know, did you make it your business to know?---No,
12:47:55 28 as I say the matter at this stage was being handled by
12:47:58 29 Detective Sergeant Flynn and his crew.
30
12:48:00 31 So you just abrogate all responsibility off to Detective
12:48:04 32 Sergeant Flynn?---I don't abrogate all responsibility. The
12:48:06 33 things you've got Sergeants and crews to do investigations.
12:48:11 34 They do that work. My job is broader than that.
35
12:48:16 36 This is a pretty serious, it might compromise this
12:48:19 37 investigation in relation to not just [REDACTED] but
12:48:21 38 anything that flowed from it?---Yeah. As I say, I hadn't
12:48:26 39 turned my mind to that.
40
12:48:31 41 Are you aware that she continued to have contact with
12:48:34 42 [REDACTED] in the months and years thereafter?---I'm not
12:48:46 43 sure what her contact was with him. But it would be a
12:48:50 44 matter of record if she visited him in [REDACTED] or anything
12:48:54 45 like that.
46
12:48:56 47 You were receiving updates, weren't you, about who was

.06/09/19

5771

O'BRIEN XXN - IN CAMERA

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

12:48:59 1 seeing who in custody? You were getting those updates
12:49:02 2 through from Corrections, you could easily see that she was
12:49:07 3 visiting [REDACTED] ---Well as I say, easily see - I don't
12:49:11 4 think it was something I looked at on a daily or even
12:49:17 5 weekly basis.
6
12:49:17 7 It was available to you to see if you happened to
12:49:20 8 check?---If I made the inquiry, yes.
9
12:49:22 10 Who's going out to see this prisoner, Ms Gobbo's out there
12:49:26 11 a fair bit?---If I rang Corrections, yes, I could make that
12:49:33 12 inquiry.
13
12:49:33 14 Did you give some evidence yesterday that that information
12:49:36 15 was coming through on a weekly basis about who was visiting
12:49:40 16 particular - - -?---That was if somebody made the phone
12:49:43 17 call to find out if there was a particular interest as to
12:49:46 18 who had visited which prisoner.
19
12:49:48 20 [REDACTED] went on to make numerous statements; is that
12:49:52 21 right?---Yes.
22
12:49:55 23 Something in excess of [REDACTED] statements?---I'm not sure how
12:50:00 24 many but I know there was a number of statements.
25
12:50:03 26 He went on to give evidence in court proceedings in
12:50:06 27 relation to numerous people?---Yes, he would have.
28
12:50:12 29 [REDACTED]?---I don't think he gave evidence against [REDACTED]
12:50:16 30 [REDACTED]
31
12:50:18 32 [REDACTED]?---I'm not sure.
33
12:50:22 34 [REDACTED]?---I'm not sure. I think they all pleaded
12:50:26 35 guilty from memory. I'm not 100 per cent sure.
36
12:50:30 37 [REDACTED]?---Again, the same.
38
12:50:34 39 Someone called [REDACTED]?---I say he may have, I'm not
12:50:40 40 sure of all the trials and court matters in which he was
12:50:46 41 involved. It may have been after I left the organisation.
42
12:50:48 43 [REDACTED]?---Yes, he may have.
44
12:50:52 45 [REDACTED]?---I'm not sure whether he did or not.
46
12:50:58 47 Someone called [REDACTED]?---As I say, I don't have

.06/09/19

5772

O'BRIEN XXN - IN CAMERA

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

12:51:04 1 knowledge of all the prosecutions which he may have been
12:51:08 2 called to give evidence.
3
12:51:09 4 By this stage you'd become aware of Ms Gobbo's involvement
12:51:19 5 in relation to ██████████?---Yes.
6
12:51:25 7 That there was some conflict that had been discussed within
12:51:29 8 some of those conversations in relation to her having been
12:51:32 9 involved in amendments to statements in relation to
12:51:40 10 ██████████ against ██████████?---Yes, that's what you
12:51:48 11 informed me about, yes.
12
12:51:49 13 You agree in the circumstances in this case we've got a
12:51:52 14 situation where she's responsible for the apprehension of
12:51:55 15 ██████████ in the first place?---She is, yes.
16
12:51:58 17 She's someone that's being tasked by police to gather
12:52:05 18 information?---She was providing information, yes.
19
12:52:08 20 About not just him but about many other people?---Yes.
21
12:52:14 22 She's someone that would be motivated to ensure that
12:52:18 23 someone like ██████████ wouldn't say anything adverse to her
12:52:21 24 interests in his statements?---That he wouldn't be
12:52:27 25 motivated to?
26
12:52:28 27 She would be motivated to ensure that someone like
12:52:31 28 ██████████ didn't say anything adverse to her own interests
12:52:38 29 when he came to make statements?---Yes, she would have that
12:52:41 30 interest.
31
12:52:43 32 We know that certainly because of her reaction because of
12:52:48 33 what went into ██████████ statement?---Right.
34
12:52:55 35 She was someone who had a great capacity to influence
12:53:01 36 ██████████?---Possibly.
37
12:53:10 38 Well, she was there on the night convincing him to roll
12:53:15 39 over; is that right?---Well I don't know. I mean I wasn't
12:53:19 40 part of the interview process. I wasn't in the interview
12:53:23 41 room when Flynn - I was even unaware that Flynn had
12:53:26 42 actually - I know that was her request but I was unsure
12:53:29 43 whether Flynn had remained in the room with her or not.
44
12:53:32 45 You might expect that within that room she was brought in
12:53:36 46 during a ██████████ being made by Purana to have him roll over,
12:53:42 47 he requests to speak to his lawyer, he speaks to his lawyer

.06/09/19

5773

O'BRIEN XXN - IN CAMERA

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

12:53:51 1 in the presence of Detective Flynn, and then after she
12:53:53 2 leaves he then starts cooperating?--Right.
3
12:53:56 4 Do you think she had some capacity to influence him?--She
12:53:59 5 did but I'm surprised that she couldn't have spoken to him
12:54:03 6 privately on her own.
7
12:54:06 8 Well as it turns out she didn't speak to him privately, she
12:54:10 9 spoke to him there with Detective Flynn because I think
12:54:12 10 that they were on the same path?--Well, that's surprising
12:54:18 11 to me. I've always - - -
12
12:54:22 13 You knew on the night he remained present in the room,
12:54:25 14 didn't you?--No, that was the request. But I believe she
12:54:27 15 would have spoken to him independently on her own as a
12:54:31 16 lawyer/client relationship.
17
12:54:34 18 Your note here indicates that, "Requested Flynn to remain
12:54:38 19 present", you don't go on to say that he didn't?--No, I
12:54:42 20 know, but I - well, just from being a policeman I would
12:54:45 21 have assumed that he would have absented himself for that
12:54:50 22 process.
23
12:54:51 24 It's all very odd, isn't it?--Well no, as I said, I didn't
12:54:59 25 realise that he'd remained the whole time.
26
12:55:01 27 Nevertheless would you agree that Ms Gobbo was someone who
12:55:05 28 had the capacity to influence [REDACTED]?--Yes.
29
12:55:11 30 She was someone who was purporting to provide him with
12:55:14 31 legal advice?--Yes.
32
12:55:18 33 She was someone for whom he had expressed [REDACTED]?--Yes.
34
12:55:27 35 Are you able to say whether Ms Gobbo had any involvement in
12:55:31 36 the process of [REDACTED] making his statements?--Not as
12:55:37 37 far as I know.
38
12:55:45 39 Do you say she didn't or you - - - ?--Not as far as I
12:55:49 40 know. I mean I'd imagine his statement's going to be a
12:55:53 41 matter of record, when and where his statements were taken
12:55:58 42 would form part of the jurat on the document.
43
12:56:02 44 Did you give any instruction to your members that she's to
12:56:08 45 have absolutely nothing to do with this process?--No, I
12:56:11 46 didn't.
47

.06/09/19

5774

O'BRIEN XXN - IN CAMERA

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

12:56:11 1 Given that she'd involved herself in such processes
12:56:15 2 previously did you say, "We need to make sure given we've
12:56:20 3 already got this one complication that she has nothing to
12:56:23 4 do with him and this process from now on"?---No, I didn't
12:56:28 5 give - Dale Flynn was an experienced investigator. I
12:56:32 6 trusted him.
7
12:56:35 8 There's some indication in Mr Flynn's diary that on [REDACTED]
12:56:43 9 he's picked her up and she appears to perhaps have been
12:56:49 10 present with [REDACTED] during a period of time when he's
12:56:54 11 making his statements, do you have any knowledge of
12:56:57 12 that?---I don't believe so. I'll check my diary if you
12:57:01 13 like.
14
12:57:02 15 Sure?---No, I was on a day off, it was a Sunday. 14 May
12:57:20 16 06.
17
12:57:24 18 You yourself had some involvement during the statement
12:57:28 19 process with [REDACTED]; is that right?---I may have.
20
12:57:34 21 Did you meet with him on a number of occasions?---I did.
22
12:57:37 23 With your members as they were taking his statement?---No.
12:57:44 24 I spoke to him at the prison on a number of occasions and I
12:57:48 25 was there on the day he signed his statements.
26
12:57:52 27 In the lead up to that were you there during any of the
12:57:55 28 statement taking process or did you present yourself just
12:57:58 29 to say hello every now and then?---Yeah, I think it was
12:58:03 30 more a welfare check to see how he was going.
31
12:58:09 32 If you have a look at your diary on [REDACTED]?---Yes.
33
12:58:23 34 Is it the case that on that morning you record Flynn, Kelly
12:58:32 35 - sorry, a meeting with Flynn, Kelly and Bartlett in
12:58:35 36 relation to statements being taken from [REDACTED] and [REDACTED]
12:58:42 37 [REDACTED]?---Yes.
38
12:58:53 39 It's to be assumed that following that point there was a
12:58:55 40 statement taking process occurring?---Yes.
41
12:59:08 42 If we can go to the ICRs at p.318, please. This is [REDACTED].
12:59:35 43 You see down towards the bottom of the page there
12:59:37 44 Ms Gobbo's telling her handlers that [REDACTED] has calmed
12:59:44 45 back down from yesterday and was happy with the progress of
12:59:46 46 the statements he's making, do you see that?---Yes.
47

.06/09/19

5775

O'BRIEN XXN - IN CAMERA

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

12:59:49 1 She appears to be keeping in touch and knowing what's going
12:59:53 2 on in terms of statement progress and so forth?---Yes.
3
12:59:59 4 Over to p.320, please. We might just pause there for a
13:00:12 5 moment. You see there at 10.10 she reports that
13:00:17 6 [REDACTED] gone off his head, he doesn't want to help
13:00:21 7 anyone any more, saying things like, "I'll do the [REDACTED]
13:00:25 8 years", et cetera, et cetera?---Yes.
9
13:00:28 10 [REDACTED] a bit distressed about the way it seems that
13:00:32 11 [REDACTED] is getting treated?---Yes.
12
13:00:37 13 If we can go over to the next page. You see just near the
13:00:47 14 top there that, "Dale Flynn is not finished with [REDACTED]
13:00:51 15 [REDACTED] statement yet and he seems happier today"?---Yes.
16
13:01:00 17 If we go to your diary for that day, 6 May?---June.
18
13:01:09 19 COMMISSIONER: June, yes.
13:01:10 20
13:01:10 21 MS TITTENSOR: Sorry, June. I apologise. See on p.158
13:01:22 22 down the bottom your note there that Flynn had gone direct
13:01:27 23 with Farah re [REDACTED] statement?---Yes.
24
13:01:38 25 Then 1 pm you're attending at one of the weekly briefings
13:01:41 26 with Mr Overland?---Yes.
27
13:01:48 28 Would you have given a bit of a progress report on what was
13:01:51 29 going on with statements and those kinds of things?---I may
13:01:55 30 well have but a lot of this was a corruption issue
13:02:02 31 discussion.
32
13:02:05 33 I think you've indicated in the past there were some weekly
13:02:09 34 update sheets which provide a bit of an update
13:02:13 35 there?---Yes.
36
13:02:13 37 But you'd supplement that with a verbal briefing?---Yes,
13:02:16 38 yes.
39
13:02:17 40 In relation to anything on top of that that you knew
13:02:20 41 about?---Yes.
42
13:02:25 43 At 18:30 that day you record speaking with Mr White at the
13:02:29 44 office in relation to informer welfare issues?---Yes.
45
13:02:33 46 Do you know what that's about?---No, not really, unless he
13:02:39 47 has a record of it.

.06/09/19

5776

O'BRIEN XXN - IN CAMERA

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

1
13:02:44 2 On [REDACTED], if you have a look at your diary. You see there
13:02:51 3 at 9.20 you attend there a Posse strategy meeting with
13:03:00 4 White, Green, Flynn and Rowe?---Yes.
5
13:03:06 6 Can you recall now what that's about?---No, I can't I'm
13:03:11 7 sorry.
8
13:03:14 9 Then later at 13 - - - ?---Perhaps if you allow me to read
13:03:18 10 the rest of the document.
11
13:03:20 12 Sorry?---No, it's all right. It's something may become
13:03:24 13 evident there.
14
13:03:28 15 Actually, I suspect I know what it's about and we'll come
13:03:31 16 back to that at some stage later. Do you see there at
13:03:39 17 13:15 that you attended an Ethics Committee conference
13:03:43 18 chaired by Assistant Commissioner Cornelius?---Yes.
19
13:03:47 20 Given what had been going on did you share your concerns
13:03:50 21 about the ethical situation at the very least that was
13:03:53 22 going on in relation to [REDACTED] and his case?---No, I
13:03:58 23 didn't. This probably would have been a presentation of
13:04:10 24 some sort, organisational or department presentation.
25
13:04:15 26 But a timely reminder to consider things I suggest?---It
13:04:22 27 may have been.
28
13:04:25 29 If we can go to Mr White's notes please, VPL.01
13:04:34 30 00.0096.0264. Perhaps if we could go up so we could just
13:05:12 31 check the date. You'll see there it's [REDACTED]?---Yes.
32
13:05:18 33 If we can go a bit further down. Sorry, just slightly up
13:05:25 34 so we can see the start of this, what's been written. You
13:05:30 35 recall your diary indicated a meeting, Operation Posse
13:05:35 36 strategy meeting?---Yes.
37
13:05:36 38 With White, Green, Flynn and Rowe?---Yes.
39
13:05:42 40 This seems to be Mr White's recording of the same
13:05:45 41 meeting?---Yes.
42
13:05:45 43 You'll see there there's some discussion in relation to
13:05:49 44 Mr Bickley [REDACTED].Yes.
45
13:05:52 46 If we keep going further on. Over the page it also notes,
13:06:00 47 [REDACTED] statements ready for perusal by human source

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

13:06:04 1 tomorrow. Also prepared to show human source listening
13:06:09 2 device draft transcripts", do you see that?---Yes.
3
13:06:15 4 There was discussion at that meeting, wasn't there, or
13:06:18 5 there was provision at that meeting to the SDU draft
13:06:24 6 statements by [REDACTED] along with draft listening device
13:06:28 7 transcripts for provision to Ms Gobbo the following
13:06:33 8 day?---Yeah, I'm not sure. I don't have a note of that. I
13:06:38 9 mean does that refer to - is that referring to me or is
13:06:41 10 that something coming from the investigating crew?
11
13:06:44 12 I'm suggesting at a meeting that you were present at the
13:06:47 13 SDU were given [REDACTED] statements, or draft statements
13:06:52 14 as they were, for Ms Gobbo to go through the following,
13:06:56 15 along with draft listening device transcripts?---As I say,
13:07:05 16 they would have had to come from Detective Sergeant Flynn.
17
13:07:09 18 You were present at that meeting?---Yeah, as I say, I don't
13:07:13 19 recall that.
20
13:07:18 21 Do you say it didn't happen in your presence?---I'm not
13:07:21 22 sure.
23
13:07:25 24 Do you say Detective Flynn would make a decision like that
13:07:29 25 without consulting you?---He may. As I say, Detective
13:07:40 26 Sergeants ran the investigations.
27
13:07:43 28 It's a pretty significant decision, isn't it, to provide
13:07:48 29 Ms Gobbo with some draft statements for [REDACTED] and some
13:07:58 30 listening device transcripts, draft listening device
13:08:01 31 transcripts?---I'm trying to, first of all, imagine what
13:08:08 32 the listening device transcripts might have been.
33
13:08:10 34 Do you know what they were?---No.
35
13:08:13 36 Presumably they might have been some evidence in relation
13:08:17 37 to [REDACTED] brief of evidence or some of the others with
13:08:22 38 whom he was implicating involving listening devices, I
13:08:26 39 assume Operation [REDACTED] had some listening devices in?---In
13:08:30 40 relation to other investigations but certainly not in
13:08:33 41 relation to [REDACTED]
42
13:08:36 43 In relation to some other suspects of Operation [REDACTED]
13:08:42 44 against whom [REDACTED] was providing - - - ?---Yes, that
13:08:45 45 might have been the case.
46
13:08:46 47 It might have been in their briefs of evidence?---Could

.06/09/19

5778

O'BRIEN XXN - IN CAMERA

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

13:08:50 1 have been.
2
13:08:50 3 And for their briefs of evidence?---Could have been.
4
13:08:53 5 The following day Ms Gobbo met with the SDU and it seems
13:08:57 6 was shown [REDACTED] draft statements?---Right.
7
13:09:05 8 If we can go back to the ICRs at p.323, please. You see
13:09:21 9 under 12.11 on the last line in that entry, "Arrange to
13:09:30 10 RV", rendezvous, "Between 2 and 3 pm to view [REDACTED]
13:09:35 11 draft statements", do you see that?---Yes.
12
13:09:38 13 If we go to p.325. Down the bottom there under "DSU
13:09:57 14 issue", first of all, "Ms Gobbo has calculated on her
13:10:01 15 present charging rates she's racked up an account for
13:10:06 16 Victoria Police around the \$1.4 million mark", did you know
13:10:11 17 that she was calculating the time spent informing?---No.
18
13:10:14 19 Do you see underneath that in relation to [REDACTED] draft
13:10:20 20 statements, "She reports, there's a report there", I don't
13:10:25 21 know that that's given it's a DSU issue it seems under that
13:10:29 22 heading it's a report by the handler as opposed to
13:10:32 23 information provided by her?---Yes.
13:10:33 24
13:10:33 25 "Source read all statements made by [REDACTED] to Dale Flynn
13:10:38 26 of Purana. Very impressed with the detail and
13:10:42 27 thoroughness. Source commented on a number of minor
13:10:45 28 corrections"?---Right.
29
13:10:52 30 Did you know about that?---No.
31
13:10:55 32 Would you have allowed that to happen if you had have known
13:10:59 33 about that?---No, I believed if she was going to be given
13:11:04 34 the statement it would have been just about assuring
13:11:08 35 herself about her not being outed in them, but certainly
13:11:11 36 not making additions or deletions in relation to any
13:11:14 37 statement made by a witness.
38
13:11:16 39 These are draft statements, statements in progress, not
13:11:22 40 finalised statements?---Yes.
41
13:11:23 42 Would there be any reason - if it was a simply a matter of,
13:11:28 43 "Have a read of this just in case there's something that
13:11:31 44 compromises your safety", would there be any reason to do
13:11:35 45 that along the way with a draft statement?---No, not unless
13:11:38 46 - when you say draft, it might be a terminology. Perhaps
13:11:41 47 the statements were ready to be signed or whatever. I

.06/09/19

5779

O'BRIEN XXN - IN CAMERA

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

13:11:44 1 don't know.
2
13:11:45 3 The statements were not signed until August?---Oh right.
4
13:11:57 5 If we can go to a transcript of conversation, please, on [REDACTED]
13:12:04 6 [REDACTED] 2006. It's VPL.0005.0097.0536. Actually we might not
13:12:19 7 need to go to that one, sorry. It's apparent in this
13:12:25 8 conversation that Ms Gobbo is given the statements, she's
13:12:29 9 told she can write on the statements, they're effectively
13:12:35 10 working copies?---Yes.
11
13:12:38 12 Just for your own benefit, this is again not a conversation
13:12:42 13 that you were a participant in but it's a conversation that
13:12:44 14 Ms Gobbo is having with the members of the SDU?---Yes.
15
13:12:48 16 As appears to have been discussed in your meeting the
13:12:53 17 previous day about the statements being ready for her
13:12:58 18 perusal the next day, the listening device transcripts,
13:13:01 19 we've got this record of conversation, this transcript,
13:13:05 20 where it appears from that that she's given those
13:13:08 21 statements, she's told, she's given some sticky notes,
13:13:14 22 she's told she can write on the statements, they're working
13:13:18 23 copies and so forth?---Right.
24
13:13:19 25 It also appears that there's some discussion in relation to
13:13:21 26 and provision of listening device transcripts?---Right.
27
13:13:25 28 Just in relation to the listening device transcripts, could
13:13:34 29 you see any real need in terms of any safety concern for
13:13:37 30 Ms Gobbo that you would need to provide her with
13:13:41 31 transcripts of listening devices?---I can't imagine.
32
13:13:47 33 Presumably if there's any discussion about her on listening
13:13:52 34 devices it's as between parties who are suspects themselves
13:13:57 35 who don't know that she's an informer?---Look, if there's
13:14:01 36 any concerns on the listening device material it should
13:14:03 37 have been information that was shared between the
13:14:05 38 investigators and the SDU.
39
13:14:07 40 Well that's right. There would be no need though.
13:14:11 41 Presumably if the listening devices are evidence that's
13:14:18 42 going to go into a brief of evidence?---Yes.
43
13:14:23 44 It will be of conversations likely of parties that are
13:14:29 45 going to be charged?---That's correct.
46
13:14:31 47 And they are parties who presumably until - at the point

.06/09/19

5780

O'BRIEN XXN - IN CAMERA

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

13:14:35 1 that they're having whatever discussion they're having,
13:14:38 2 don't know that Ms Gobbo's an informer?---That's correct.
3
13:14:41 4 So there's not going to be any concern that whatever's on
13:14:44 5 those listening devices is going to somehow out her as an
13:14:46 6 informer?---I wouldn't think so.
7
13:14:50 8 So can you see any reason why she then might be shown
13:14:54 9 listening device - - - ?---As I say, without reading the
13:14:57 10 material or having knowledge or - that's a bit hard to
13:15:04 11 determine but in the normal course of events, no.
12
13:15:07 13 Perhaps that's a convenient moment, Commissioner.
14
13:15:10 15 COMMISSIONER: We'll adjourn until 2 o'clock, thanks.
13:15:13 16
13:15:14 17 <(THE WITNESS WITHDREW)
13:15:15 18
19 LUNCHEON ADJOURNMENT
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

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

13:58:25 1 UPON RESUMING AT 2.04 PM:
14:04:24 2
14:04:26 3 <JAMES MICHAEL O'BRIEN, recalled:
14:04:29 4
14:04:29 5 COMMISSIONER: Yes Ms Tittensor.
14:04:31 6
14:04:31 7 MS TITTENSOR: Thank you Commissioner. Mr O'Brien, before
14:04:33 8 lunch I was just taking you to ██████████ 2006 and some
14:04:41 9 indications that Ms Gobbo was shown the statements, the
14:04:46 10 draft statements of ██████████ and you'll recall in the ICR
14:04:51 11 it indicated that she'd read all the statements, she was
14:04:55 12 impressed and she'd commented on some minor
14:04:58 13 corrections?---Yes.
14:04:58 14
14:05:00 15 If we can go to VPL.0005.0104.0260, please. This is some
14:05:28 16 more transcript in relation to ██████████ 2006, Commissioner.
14:05:42 17 If we can go to p.12 there. You'll see, Mr O'Brien, at the
14:06:00 18 top that Ms Gobbo refers to Mr White and tells him there
14:06:06 19 that she's very impressed with the statements?---Yes.
14:06:11 20
14:06:13 21 When one listens to these transcripts some of the dot dot
14:06:18 22 dot words are audible and she can be heard comparing them
14:06:23 23 to other statements that she'd seen, including ██████████
14:06:30 24 and also ██████████ and I think as I discussed with you
14:06:38 25 yesterday that she had indicated at some point she had seen
14:06:41 26 the statements of ██████████ although she wasn't meant to
14:06:47 27 have?---Yes.
14:06:48 28
14:06:50 29 And that's reflected there in the line 10, you might see
14:06:54 30 the "... I'm not supposed to have seen da, da, da", do you
14:06:59 31 see that?---Yes.
14:07:01 32
14:07:02 33 You're not aware, I think you say, as to how she might have
14:07:06 34 gotten her hand on any statement that existed in relation
14:07:10 35 to ██████████?---No.
14:07:17 36
14:07:18 37 She goes on - - - ?---I think I was personally involved in
14:07:22 38 taking the statement from ██████████ and Detective Sergeant
14:07:25 39 Trichias I think was the other member involved.
14:07:28 40
14:07:28 41 ██████████ I think made statements in relation to a number
14:07:33 42 of murders, is that right? He'd been convicted along with
14:07:39 43 Mr ██████████ in relation to the ██████████ murder the
14:07:43 44 previous year?---The ██████████ murder.
14:07:46 45
14:07:49 46 He and Mr ██████████ had been charged with a ██████████ murder,
14:07:52 47 that of ██████████, is that right?---That's correct.

.06/09/19

5782

O'BRIEN XXN - IN CAMERA

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

14:07:56 1
14:07:56 2 Did he provide a statement in relation to that murder?---I
14:08:00 3 believe so. I don't think I was involved in that, that
14:08:02 4 would have been done by whoever the crew was which I think
14:08:06 5 was Detective Sergeant Trichias.
14:08:08 6
14:08:08 7 Would you have spoken to him about that?---Spoken to who?
14:08:11 8
14:08:12 9 [REDACTED]?---Yes. The initial approach by him which was -
14:08:19 10 - -
14:08:19 11
14:08:19 12 Was the initial discussions with [REDACTED] in relation to
14:08:22 13 cooperation in relation to [REDACTED]?---Yes.
14:08:25 14
14:08:25 15 As opposed to [REDACTED]?---Yes, and, "If you look
14:08:30 16 after me on this one I'll give you another one".
14:08:33 17
14:08:38 18 Further on in that conversation there is discussion in
14:08:43 19 relation to matters that might be included in the
14:08:47 20 statements that bear upon [REDACTED] credibility. Do you
14:08:55 21 perceive that there might be some problems with discussing
14:08:58 22 with someone like Ms Gobbo the contents of what [REDACTED]
14:09:04 23 statement should be?---Yes, apart from where it would
14:09:09 24 impact her safety, she shouldn't have any involvement in
14:09:12 25 it.
14:09:12 26
14:09:21 27 She just simply shouldn't have any involvement at all,
14:09:25 28 should she?---Generally no, I wouldn't have shown her the
14:09:29 29 statements.
14:09:29 30
14:09:30 31 Did the police not have the capacity themselves to look at
14:09:33 32 these statements and see whether they mightn't affect
14:09:38 33 Ms Gobbo's safety? Do they have departments within the
14:09:45 34 Police Force that are responsible for protection of
14:09:47 35 witnesses and informers and so forth and the capacity to
14:09:51 36 make those assessments themselves, rather than give them
14:09:54 37 back to the informer?---I think generally it's only if the
14:09:59 38 person's being considered for a Witsec program.
14:10:01 39
14:10:02 40 Have you ever heard of any other informer being given
14:10:05 41 statements of someone else to vet before they're put in a
14:10:09 42 brief?---No.
14:10:11 43
14:10:12 44 COMMISSIONER: So the SDU would never vet statements about
14:10:17 45 informers to make sure that they're not, their informers
14:10:23 46 haven't been mentioned in the statement?---The SDU had only
14:10:26 47 sort of been formed around this time, Commissioner.

.06/09/19

5783

O'BRIEN XXN - IN CAMERA

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

14:10:29 1
14:10:30 2 Still a work in progress?---Work in progress, I can't
14:10:33 3 really comment.
14:10:34 4
14:10:34 5 MS TITTENSOR: The SDU went on for a number of years. In
14:10:37 6 all the time that you were aware, was there any other
14:10:41 7 occasion on which the SDU were involved with another
14:10:46 8 informer in vetting someone's statements?---I know she was
14:10:50 9 shown statements, shown a brief, but not vetting
14:10:54 10 statements, no.
14:10:54 11
14:10:55 12 Aside from Ms Gobbo, did this process occur with anyone
14:10:59 13 else?---No.
14:11:00 14
14:11:00 15 In all your time in the Police Force?---Not that I can
14:11:05 16 recall.
14:11:05 17
14:11:10 18 It was known by this stage that Ms Gobbo was someone that
14:11:15 19 had a great ability to collect intelligence or information,
14:11:19 20 is that right?---She was providing intelligence, yes.
14:11:22 21
14:11:22 22 She was quite prolific?---Yes, there was a huge amount of
14:11:26 23 intelligence.
14:11:27 24
14:11:27 25 She had that ability to spread it around to others as
14:11:31 26 well?---I don't know whether she was working as a double
14:11:35 27 agent or not.
14:11:36 28
14:11:36 29 That would have been one of the concerns, wouldn't it?---It
14:11:39 30 would be, yes.
14:11:40 31
14:11:40 32 And if she's given these statements, aside from the
14:11:45 33 knowledge that she already had she accrues extra
14:11:49 34 knowledge?---She does, yes.
14:11:50 35
14:11:50 36 And you don't know where that goes?---No.
14:11:55 37
14:11:55 38 She may have some information that, "Well, I believe that
14:12:00 39 this part of this statement is wrong, so I can go and speak
14:12:04 40 to ██████████ about that and see if he can fix that up
14:12:07 41 before it's signed" or - - - ?---Yeah, I'm not aware of
14:12:11 42 anything like that happening.
14:12:12 43
14:12:13 44 The listening devices themselves, giving someone like
14:12:19 45 Ms Gobbo listening device transcripts of someone else's
14:12:24 46 conversation again is providing her with a source of
14:12:27 47 intelligence she otherwise wouldn't have had access

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

14:12:30 1 to?---That's right, generally you wouldn't give her
14:12:36 2 listening device material.
14:12:37 3
14:12:37 4 Were there any instructions given to the SDU about wanting,
14:12:41 5 to your knowledge about, "We want Ms Gobbo's feedback about
14:12:45 6 what she reckons about these statements, we think there's
14:12:49 7 certain things not in the statements that he might be able
14:12:52 8 to expand upon and the purpose may be of giving her these
14:12:57 9 statements to see what she can do about that when she goes
14:13:01 10 to see [REDACTED] next"?---I don't believe so.
14:13:04 11
14:13:05 12 It's the type of thing though that was done with [REDACTED]
14:13:09 13 wasn't it, when he was shown transcript?---Yes, you took me
14:13:13 14 through that material. But I don't believe that happened
14:13:17 15 in this case.
14:13:18 16
14:13:18 17 Does it bear a hallmark of similarity that she's being
14:13:21 18 given some information, an account of a particular person,
14:13:27 19 and in a situation where it might be expected that she'll
14:13:30 20 go back and speak to that person and be able to influence
14:13:33 21 what that person says?---I don't think - that's not my
14:13:42 22 taking from it.
14:13:43 23
14:13:53 24 Might one explanation for providing her with some listening
14:13:58 25 device transcript be that there were things within the
14:14:02 26 listening devices that she would become aware of which
14:14:05 27 perhaps were a bit inconsistent with what [REDACTED] was
14:14:09 28 saying and that might provide a reason for her to go back
14:14:13 29 and tell him to fix something up?---I have no recollection
14:14:17 30 of that occurring.
14:14:19 31
14:14:19 32 It's a possibility that something like that could occur
14:14:22 33 though out of such a scenario?---I think you'd have to talk
14:14:26 34 to the informant in the matter.
14:14:27 35
14:14:44 36 A scenario like this really could only have occurred on the
14:14:47 37 understanding that the police would never reveal Ms Gobbo's
14:14:51 38 involvement in this process, do you agree?---Well certainly
14:14:58 39 we were about protecting her identity, yes.
14:15:00 40
14:15:02 41 Something like this, Ms Gobbo secretly being shown these
14:15:06 42 statements by a covert unit, by the SDU, one would expect
14:15:12 43 that if we're doing it this way, this covert way and
14:15:15 44 there's some discussion about that fact within this very
14:15:20 45 conversation, that it would never become apparent to [REDACTED]
14:15:25 46 [REDACTED] or the courts down the track that she'd been involved in
14:15:29 47 this process?---Well, hard to say really. I mean it's

.06/09/19

5785

O'BRIEN XXN - IN CAMERA

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

14:15:38 1 probably a reasonable deduction on what you're telling me
14:15:41 2 but, you know, without knowing all the facts.
14:15:44 3
14:15:44 4 It might not be unusual that a lawyer, that someone wants
14:15:49 5 their lawyer to have a look at something before they sign,
14:15:53 6 that in itself is not necessarily unusual, is it?---No.
14:15:55 7
14:15:56 8 But ordinarily you might do that, you would do that
14:16:00 9 overtly, you'd send it to the solicitor on the
14:16:04 10 record?---Yes.
14:16:04 11
14:16:04 12 This was being done behind the back of the solicitor on the
14:16:08 13 record?---Right.
14:16:09 14
14:16:10 15 Are you aware of that?---No.
14:16:12 16
14:16:25 17 Are you aware of what became of those copies of those
14:16:30 18 statements that were shown to Ms Gobbo probably marked up,
14:16:38 19 it seems?---No.
14:16:39 20
14:16:44 21 Did you receive any documentation ever back from the
14:16:50 22 SDU?---I don't believe we received any information,
14:16:54 23 documentation back from them at any stage.
14:16:56 24
14:16:58 25 If we can go to the ICRs, p.326, please. So we're on [REDACTED]
14:17:11 26 [REDACTED] in the evening Ms Gobbo is being shown those
14:17:20 27 transcripts. You'll see here it's a Saturday, [REDACTED] at
14:17:30 28 14:10?---Yes.
14:17:34 29
14:17:34 30 Ms Gobbo is telling her handler about a conversation that
14:17:39 31 she's had with [REDACTED]?---Yes.
14:17:42 32
14:17:43 33 Who's now, it seems, very angry at [REDACTED]?---Yes.
14:17:47 34
14:17:50 35 He wants Ms Gobbo to pass on a message to [REDACTED]
14:17:55 36 not to contact him any more. There's some sort of dispute
14:17:58 37 about him not providing [REDACTED] for [REDACTED]
14:18:02 38 whilst he's in gaol?---Right.
14:18:04 39
14:18:04 40 She reports that [REDACTED] wants or needs [REDACTED] help
14:18:07 41 as the pressure is driving him mad?---Right.
14:18:10 42
14:18:11 43 Do you see that?---Yes.
14:18:11 44
14:18:16 45 If we can continue on over the page, please. It's now the
14:18:23 46 next day, it's the Sunday, and the handler reports another
14:18:29 47 conversation with Ms Gobbo. She reports that she's visited

.06/09/19

5786

O'BRIEN XXN - IN CAMERA

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

14:18:34 1 [REDACTED] in gaol. There's some conversation in relation
14:18:43 2 to [REDACTED] believing that he's going to be arrested
14:18:48 3 soon.

14:18:51 4
14:18:52 5 MR CHETTLE: Is it who visited - Commissioner, I think
14:18:54 6 there might be a misreading, maybe [REDACTED] visited.
14:18:59 7

14:18:59 8 MS TITTENSOR: Perhaps that's the case. It says
14:19:02 9 [REDACTED] and then a dash and then, "Visited [REDACTED]
14:19:07 10 at [REDACTED] [REDACTED] had told [REDACTED] that he'll be
14:19:16 11 arrested soon for a particular reason". So it seems as
14:19:21 12 though at least Ms Gobbo, if she hasn't visited [REDACTED]
14:19:25 13 in custody, she's had a conversation with him somehow.
14:19:32 14 [REDACTED] said that it was [REDACTED] fault that
14:19:35 15 he's in a difficult position now" and there's some further
14:19:41 16 discussion about that. And, [REDACTED] seems to be aware
14:19:47 17 that [REDACTED] may have been helping police or there's some
14:19:50 18 suggestion of that from [REDACTED] And no one really knows who
14:19:55 19 owes what to whom", do you see all that?---Yes.
14:19:58 20

14:19:58 21 Underneath that we have a DSU issue. If we can just
14:20:03 22 scroll, please. "Tell Dale Flynn that [REDACTED] wants to
14:20:08 23 amend some of his statements about [REDACTED]"?---Yes.
14:20:11 24

14:20:15 25 Were you aware that from time to time, or were you aware at
14:20:19 26 all that [REDACTED] amended his statements?---Not that I
14:20:25 27 recall. As I say it would have been done by the crew
14:20:27 28 Sergeant who was Dale Flynn at that time.
14:20:30 29

14:20:30 30 Were you getting reports about the current contents of his
14:20:36 31 statements over time, do you know? Whether he'd put, for
14:20:41 32 example, [REDACTED] in it or whether he was withholding
14:20:44 33 or wasn't putting him in yet?---No, you know, there might
14:20:48 34 have been casual conversation in the office about their
14:20:51 35 investigations, where it was tracking, but nothing that I
14:20:55 36 noted.
14:20:55 37

14:20:55 38 That would have been something that you were following
14:20:58 39 though, wouldn't it be, if he was willing at that stage to
14:21:02 40 put in [REDACTED], he was one of your targets?---I
14:21:07 41 imagine the crew Sergeants would come and tell me things
14:21:11 42 from time to time.
14:21:12 43

14:21:12 44 Do you think you might have been told, "He's potentially
14:21:16 45 now going to put [REDACTED] in"?---No recollection of
14:21:22 46 it.
14:21:23 47

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

14:21:44 1 If we can go to p.334, please. Perhaps we need to scroll
14:22:05 2 up a little bit. You see down the bottom there there's
14:22:12 3 reference to Kabalan's trial being two months off?---Yes.

14:22:17 4
14:22:22 5 [REDACTED] was someone involved in, was it [REDACTED]
14:22:27 6 or [REDACTED] or one of those matters, is that
14:22:32 7 right?-- [REDACTED] was, yeah, in the second of the two.
14:22:35 8
14:22:36 9 [REDACTED]?---[REDACTED].

14:22:37 10
14:22:37 11 And he was someone that was contesting his
14:22:43 12 proceedings?---More than likely, yes.

14:22:44 13
14:22:47 14 And there's a question there from Ms Gobbo, "Is [REDACTED]
14:22:51 15 needed as a witness?" And saying, "This needs
14:22:56 16 consideration"?---Yes, she may have, she may have asked
14:23:02 17 that question but what I know is there's no need for
14:23:08 18 anybody's witness statement in relation to [REDACTED].

14:23:11 19
14:23:12 20 Do you know if [REDACTED] ultimately made a statement
14:23:15 21 relating to [REDACTED]?---He may have as part of the
14:23:19 22 overall debrief but [REDACTED]'s part in it was he was
14:23:26 23 handed [REDACTED] with about [REDACTED] of [REDACTED], it was found
14:23:32 24 on the front seat of the car he was driving at the time he
14:23:35 25 was [REDACTED].

14:23:37 26
14:23:37 27 Do you if as a result of that there was a statement taken
14:23:41 28 from [REDACTED]?---There possibly would have been because it
14:23:49 29 was part of the overall debriefing of him.

14:23:51 30
14:23:54 31 If we can go to p.340, please. We're on 23 June 2006.
14:24:12 32 Again, Mr O'Brien, I acknowledge that I think I said
14:24:17 33 yesterday, from about mid-June you were on leave?---Yes.

14:24:20 34
14:24:20 35 Until some time about 24 July, on leave or at the course in
14:24:26 36 New South Wales, is that right?---Yes, that's correct.

14:24:27 37
14:24:30 38 You see here on 23 June, 13:21, "Ms Gobbo was very
14:24:41 39 concerned in relation to [REDACTED] She's going to see him
14:24:45 40 on Monday, 26 June, in the morning. She notes that
14:24:51 41 [REDACTED] intends to visit this weekend and she is
14:24:55 42 suggesting to stop this to prevent further damage by [REDACTED]
14:25:00 43 [REDACTED] speaking to him". Do you see that?---Yes.

14:25:02 44
14:25:02 45 And that, "The controller is advised and there's contact
14:25:07 46 made with Purana, Detective Inspector Ryan and Kelly to
14:25:11 47 arrange for [REDACTED] visit to be

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

14:25:16 1 disallowed"?---Yes, I see that.
14:25:18 2
14:25:19 3 And that following that she's then advised that that's
14:25:22 4 happened?---Yes, it's just got "phone human source", yes.
14:25:30 5
14:25:35 6 It seems to be the case that Purana have the ability to
14:25:39 7 contact Corrections and say this person shouldn't be
14:25:42 8 allowed in to see a particular person?---That might be the
14:25:48 9 case. It would depend on the circumstances.
14:25:52 10
14:25:54 11 Could that happen with lawyers?---Not that I know of.
14:25:58 12
14:26:00 13 Was it ever the case that it was attempted with lawyers,
14:26:04 14 that it was ever said that this lawyer shouldn't be allowed
14:26:07 15 in to see this person?---Not to my knowledge. Not as far
14:26:12 16 as I can recall.
14:26:13 17
14:26:18 18 Do you know if it happened at some stage with Ms Gobbo
14:26:22 19 attempting to see [REDACTED]?---Not that I recall.
14:26:26 20
14:26:34 21 Go to p.349, please. You'll see here if we scroll up a
14:26:49 22 little bit, at 10.10 there Mr O'Brien under the heading of
14:26:54 23 [REDACTED]---Yes.
14:26:55 24
14:26:59 25 It says that, "Human source suggests someone from Purana
14:27:02 26 should speak to [REDACTED] as he talked to her about [REDACTED]
14:27:09 27 [REDACTED] handling [REDACTED] in [REDACTED]. He saw, he, [REDACTED]
14:27:17 28 [REDACTED] it seems, saw an article in the Herald Sun in relation
14:27:20 29 to Renee Mokbel and a surety and realised that they, the
14:27:26 30 Mokbels, were acquiring assets when they told him they had
14:27:29 31 no money"?---Yes.
14:27:30 32
14:27:30 33 And again, Detective Inspector Ryan is advised and it's
14:27:36 34 arranged then for Mr Flynn to go out and see him the
14:27:41 35 following week?---Yes, I see that.
14:27:43 36
14:27:47 37 So it seems to be apparent that Ms Gobbo is involving
14:27:52 38 herself in the information flow as between the
14:27:58 39 investigators and this witness, both Ms Gobbo and the SDU
14:28:03 40 are in the middle of it all?---Yes. She's certainly
14:28:08 41 providing information.
14:28:09 42
14:28:10 43 We've got this sort of covert under the table process going
14:28:13 44 on whereas ordinarily if this witness decided that he
14:28:19 45 wanted to talk with investigators about something, it might
14:28:22 46 either be direct with the investigators or through an
14:28:25 47 instructing solicitor?---It was generally direct with the

.06/09/19

5789

O'BRIEN XXN - IN CAMERA

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

14:28:31 1 investigators but obviously she's got her nose in the
14:28:34 2 middle of it.
14:28:36 3
14:28:36 4 And she's knowing what he's wanting to do. She's keeping
14:28:43 5 in touch with [REDACTED] she's talking to [REDACTED] about
14:28:47 6 what information he might then give to the police?---That's
14:28:51 7 what it appears from that, yes.
14:28:52 8
14:28:53 9 Could there be any confidence in whether or not the
14:28:57 10 information that he's ultimately putting in his statement
14:28:59 11 is information that actually is to his knowledge as opposed
14:29:03 12 to something that she might have told him?---I think with
14:29:12 13 all witnesses, part and parcel of taking witness statements
14:29:18 14 is of course seeking to corroborate everything in their
14:29:20 15 statements, particularly where it's a criminal witness.
14:29:22 16
14:29:22 17 Of course you may well try and corroborate everything in
14:29:25 18 their statements, but obviously not everything can be
14:29:28 19 corroborated, is that right?---No, but you know this was
14:29:31 20 clearly, this information relates purely, from my reading
14:29:34 21 of it, relating to possible criminal proceeds.
14:29:39 22
14:29:39 23 What I'm talking to you about is someone might be able to
14:29:45 24 be corroborated in relation to three of ten things in their
14:29:48 25 statement, for example?---Right.
14:29:49 26
14:29:51 27 Accepting that?---Yes.
14:29:52 28
14:29:53 29 And the fact that they can be demonstrated to have told the
14:29:56 30 truth in relation to three of those ten things might mean
14:30:00 31 that you're more willing to believe the other seven of
14:30:03 32 those things?---Depending on the importance of those other
14:30:08 33 seven things of course to the case that's under question.
14:30:10 34
14:30:12 35 True. What I'm suggesting to you is you've got this
14:30:15 36 process where Ms Gobbo is having someone with this massive
14:30:21 37 ability to collect intelligence, an ability to influence
14:30:25 38 [REDACTED] telling the police about the particular bits of
14:30:29 39 information that he wants to provide to police, how could
14:30:34 40 you ever be sure that what ultimately goes into his
14:30:37 41 statement that might be corroborated or might not be, is
14:30:41 42 actually information from him as opposed to her information
14:30:45 43 that she's told him?---That's always a danger.
14:30:50 44
14:30:50 45 And that was a danger that could never be revealed. It
14:30:56 46 would never be revealed to the defence. They might
14:30:59 47 cross-examine [REDACTED] but it would never be revealed - it

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

14:31:08 1 was something that would never be revealed to the defence,
14:31:12 2 that she is possibly the true originator of that
14:31:21 3 information, not ██████████ ---That's a very wide, you know,
14:31:32 4 arc to draw, because if Dale Flynn the investigator is
14:31:36 5 going out there to speak to him, he'd soon establish what
14:31:40 6 the truth of the matter is or not I'd imagine.

14:31:43 7
14:31:43 8 ██████████ account in some way, do you accept that ██████████
14:31:49 9 ██████████ account may have been influenced or coloured in some
14:31:52 10 way by Ms Gobbo?---I suppose the only way to find that out
14:31:57 11 is ask ██████████

14:31:59 12
14:32:00 13 Ask Ms Gobbo?---Or both.

14:32:01 14
14:32:03 15 Defence were never given any opportunity to ask Ms Gobbo,
14:32:08 16 they never knew about the possibility of Ms Gobbo to ask
14:32:12 17 ██████████ about it, is that right?---I can see what you're
14:32:20 18 saying but, you know, I go back to, you know, the original
14:32:27 19 source of the information would have been the information
14:32:31 20 I'd be relying on. I mean that's always the case. Every
14:32:36 21 witness is capable of being influenced by their legal
14:32:39 22 representative, whether they're an informer or not, or some
14:32:43 23 other person in their group of associates. You're always
14:32:48 24 going to have that same situation.

14:32:50 25
14:32:52 26 This is very different than someone's legal representative,
14:32:56 27 someone - ordinarily you might be expecting a legal
14:33:01 28 representative to be behaving ethically and independently
14:33:05 29 and in the best interests of their client, is that
14:33:07 30 right?---That's correct.

14:33:08 31
14:33:08 32 And not feeding information potentially to their client to
14:33:14 33 give as their own evidence?---No, that shouldn't happen.

14:33:17 34
14:33:23 35 And all I'm suggesting to you, I'm not suggesting that it
14:33:26 36 did happen but I'm suggesting there was no way for that to
14:33:30 37 be explored given the way that these matters were being
14:33:34 38 dealt with?---Yes, that would be true.

14:33:37 39
14:33:46 40 If we can go over the page, please, to p.350. You'll see
14:33:58 41 there at 15:00, if we just scroll up a little bit, this is
14:34:05 42 - I think it says 4 July there, but if we look before and
14:34:09 43 after that's a typo and it should be ██████████. If we perhaps
14:34:14 44 go up a bit.

14:34:20 45
14:34:20 46 COMMISSIONER: It's July.

14:34:21 47

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

14:34:23 1 MS TITTENSOR: We've moved into July, my notes haven't
14:34:26 2 caught up. Sorry, we are July. Yes, you'll see at 15:00
14:34:36 3 there, just down the bottom, "Advised human source that
14:34:43 4 Flynn is to visit [REDACTED] this week"?---That's correct.
14:34:48 5
14:34:49 6 Then if we go over the page then. See on 6 July, "The
14:35:01 7 handler has received an SMS that [REDACTED] has got
14:35:05 8 impatient and he's rung Detective Bartlett and told him
14:35:10 9 about [REDACTED] being a trafficker and that there are millions
14:35:14 10 of dollars stooped at [REDACTED]'s house"?---Yes.
14:35:19 11
14:35:19 12 "And [REDACTED] was [REDACTED] and she stashes
14:35:27 13 all of [REDACTED]'s money"?---Yes.
14:35:30 14
14:35:30 15 Detective Inspector Ryan was advised of all that, and it
14:35:33 16 wasn't clear at that stage whether Bartlett had passed on
14:35:37 17 the information?---Right.
14:35:38 18
14:35:38 19 Underneath that at 16:44 there's another SMS asking if the
14:35:44 20 handler had received the last message. The handler replied
14:35:47 21 that they'd heard nothing and that Flynn would contact the
14:35:52 22 handler after he'd visited, do you see that?---Yes.
14:35:55 23
14:35:57 24 Do you know if there were ultimately some charges arising
14:36:01 25 out of that information?---Yes.
14:36:05 26
14:36:05 27 Some investigations and charges, is that right?---\$ [REDACTED]
14:36:12 28 stuck up in the backyard.
14:36:13 29
14:36:14 30 Of [REDACTED]'s house?---Yes.
14:36:16 31
14:36:17 32 Was [REDACTED], [REDACTED]?---Yeah, [REDACTED] and [REDACTED]
14:36:24 33 [REDACTED].
14:36:24 34
14:36:25 35 [REDACTED]. They were both charged, were they?---I'm not sure,
14:36:28 36 it would have been Detective Sergeant Coghlan from the
14:36:31 37 criminal proceeds team would have had charge of that.
14:36:34 38
14:36:35 39 Was [REDACTED] charged as a result of that, do you
14:36:40 40 know?---I don't believe so.
14:36:42 41
14:36:42 42 Was any of that information relevant to any prosecution or
14:36:47 43 brief against Milad Mokbel?---I'm not sure.
14:36:50 44
14:37:08 45 If we just scroll down to 15:00 and the management issue.
14:37:20 46 I think above that there's a reference to a call, Ms Gobbo
14:37:24 47 had received a call from [REDACTED] He'd been visited by

.06/09/19

5792

O'BRIEN XXN - IN CAMERA

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

14:37:31 1 Detective Rowe and told him about [REDACTED] and [REDACTED] and he
14:37:38 2 asked Rowe for one of the seized photographs of Ms Gobbo,
14:37:45 3 is that right?---Certainly I'm not aware of it.
14:37:49 4
14:37:51 5 It seems to be the case that [REDACTED] was asking Detective
14:37:56 6 Rowe for a copy of the photo of Ms Gobbo?---That's what's
14:37:59 7 on the document, yes.
14:38:01 8
14:38:01 9 At 15:00 there's a management issue. "Advised Controller
14:38:09 10 White and Detective Inspector Ryan of Operation Purana re
14:38:14 11 [REDACTED] contacting Bartlett. Detective Ryan confirmed
14:38:19 12 that Bartlett had passed on the information to the
14:38:22 13 appropriate crew and that [REDACTED] had re-confirmed or
14:38:28 14 reaffirmed the details with Detective Rowe"?---Yes. That's
14:38:32 15 in the document.
14:38:33 16
14:38:34 17 If we go to, over the page. Up the top there, "The handler
14:38:54 18 has advised Ms Gobbo of what's gone in terms of [REDACTED]
14:38:59 19 having spoken with Rowe". Do you see that?---Yes, I see
14:39:05 20 that, yes.
14:39:06 21
14:39:06 22 And then to p.355. On 12 July at 14:13 Ms Gobbo reports
14:39:23 23 that she'd been to gaol to see [REDACTED]. She says that
14:39:27 24 Detective Flynn told him that he will tell him where all
14:39:31 25 the information came from that led to his arrest and
14:39:37 26 advised Ms Gobbo this obviously will not happen. So
14:39:45 27 there's some concern there about Detective Flynn
14:39:50 28 potentially telling [REDACTED] that Ms Gobbo was responsible
14:39:55 29 for his arrest, do you see that?---That's what it says in
14:39:58 30 the document, yes.
14:39:59 31
14:40:00 32 And then over the page we see there under 1945, the second
14:40:15 33 main paragraph down, Ms Gobbo advises that she won't be
14:40:20 34 doing [REDACTED] plea, she will be arranging for a QC to
14:40:24 35 do it?---Yes.
14:40:25 36
14:40:29 37 It seems, following that, she talks about also trying to
14:40:33 38 get out of [REDACTED] matter, but [REDACTED] not seeing why
14:40:39 39 she can't do it, whereas [REDACTED] understands that there
14:40:45 40 are problems with her, her role becoming known, presumably,
14:40:49 41 to other members of the Mokbel cartel?---Yes.
14:40:51 42
14:41:01 43 357. SDU issues. Ms Gobbo is saying that she wants to see
14:41:16 44 [REDACTED] matter through to the end. She's concerned and
14:41:21 45 asking who knows she is acting as such. She knows about
14:41:28 46 Bateson and O'Brien and she's told by the SDU that very few
14:41:32 47 people know?---Yes.

.06/09/19

5793

O'BRIEN XXN - IN CAMERA

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

14:41:33 1
14:41:34 2 Now, the reality of that was a bit different, do you
14:41:38 3 agree?---Yes, I do.
14:41:39 4
14:41:40 5 How many people do you say by this stage, at least within
14:41:44 6 your crew, knew that Ms Gobbo was a source?---It's a bit
14:41:52 7 hard to say. I've said in my statement who I believe were
14:41:56 8 aware, became aware over time. Generally I'd suggest that
14:41:59 9 the Sergeants would have been aware, the Senior Sergeants
14:42:05 10 when they were there.
14:42:07 11
14:42:08 12 By this stage someone like Coghlan would have known?---Yes.
14:42:13 13
14:42:14 14 Certainly Flynn knew?---Yes.
14:42:15 15
14:42:16 16 Rowe?---Yes, Rowe knew from the outset.
14:42:20 17
14:42:22 18 Bartlett?---Bartlett wasn't at Purana but he - I don't know
14:42:27 19 whether he knew. I mean he was obviously talking to,
14:42:32 20 talking to her at court in the early days but I don't know
14:42:36 21 that he knew that she was a human source.
14:42:38 22
14:42:40 23 Is there anyone else there that sticks out in your mind
14:42:43 24 that must have known?---As I say the crew Sergeants I'd
14:42:47 25 imagine would have known or worked it out over time.
14:42:50 26
14:42:51 27 Who were the crew Sergeants?---Jason Kelly, Dale Flynn,
14:42:59 28 Peter Kennedy, Boris Buick, Mark Hatt, Stuart Bateson,
14:43:16 29 sorry, I can't recall much more than that.
14:43:18 30
14:43:19 31 Then there are people involved in this sort of statement
14:43:22 32 taking process, sometimes Senior Constables?---Yes, there
14:43:27 33 would have been from time to time. It would have been.
14:43:30 34
14:43:30 35 Who may also have had contact with Ms Gobbo during that
14:43:33 36 process it seems in relation to [REDACTED] and [REDACTED]
14:43:37 37 [REDACTED]---That may be the case.
14:43:44 38
14:43:46 39 If we can go to p.360, please. If we see there at 9.29,
14:44:03 40 Paul Rowe has been out to the prison to ask [REDACTED] to
14:44:10 41 sign his statement and he's gone berserk and Detective
14:44:16 42 Flynn was advised about it?---Right.
14:44:19 43
14:44:27 44 And do you see underneath that again at 15:57, in relation
14:44:32 45 to, it says, "Re [REDACTED] statements. Her handler is to
14:44:38 46 arrange for Ms Gobbo to view via Detective Flynn prior to
14:44:42 47 signing so that [REDACTED] is unaware of same". Do you see

.06/09/19

5794

O'BRIEN XXN - IN CAMERA

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

14:44:48 1 that?---Yes.
14:44:49 2
14:44:51 3 And there are a couple of other matters there in relation
14:44:55 4 to Danny Haffner and someone else named Steve?---Yes.
14:44:59 5
14:44:59 6 And then, "Detective Flynn is advised of the matters
14:45:03 7 above"?---Yes.
14:45:04 8
14:45:04 9 It seems as though Ms Gobbo's going to be viewing those
14:45:08 10 statements for a second time?---It appears so, yes.
14:45:13 11
14:45:17 12 If we can go over the page to 361, please. There's a note
14:45:43 13 there that you're aware that Tony Hargreaves was the
14:45:49 14 instructing solicitor in relation to [REDACTED]---Yes, I am
14:45:56 15 now.
14:45:56 16
14:45:57 17 Ms Gobbo was reporting to the handler that Tony Hargreaves
14:46:00 18 has asked Detective Flynn for [REDACTED] tapes and
14:46:05 19 transcripts and Flynn was asking if he, Tony Hargreaves,
14:46:09 20 knows about Ms Gobbo's role and was told absolutely
14:46:14 21 not?---Right.
14:46:14 22
14:46:14 23 Do you see that?---Yes.
14:46:16 24
14:46:16 25 It's apparent that the instructing solicitor even is being
14:46:23 26 kept in the dark in terms of Ms Gobbo's role on the night
14:46:27 27 of, presumably they're talking about the night of [REDACTED]
14:46:33 28 [REDACTED] arrest?---I'm not sure. I mean this is obviously some
14:46:40 29 time later, this document.
14:46:43 30
14:46:44 31 Yes, it is. Whatever the case is, there's some concern
14:46:50 32 about whether or not - Detective Flynn is asking about
14:46:54 33 whether Tony Hargreaves knows about Ms Gobbo's role. He's
14:46:59 34 told absolutely not. The inference there in - presumably
14:47:04 35 he's not necessarily asking, "Does Tony Hargreaves know
14:47:09 36 that you're a police informer", because well obviously he
14:47:15 37 wouldn't have been told that, but the controversial bit
14:47:20 38 might be about whether Tony Hargreaves knew that Ms Gobbo
14:47:23 39 had turned up on the night of the arrest of [REDACTED]---So
14:47:33 40 this meeting is - sorry, this meeting's between who that
14:47:39 41 we're talking about here?
14:47:41 42
14:47:41 43 This is Ms Gobbo reporting something to her
14:47:44 44 handler?---Right.
14:47:44 45
14:47:45 46 She's reporting to the handler that Tony Hargreaves had
14:47:48 47 asked Dale Flynn for [REDACTED] tapes and

.06/09/19

5795

O'BRIEN XXN - IN CAMERA

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

14:47:52 1 transcripts?---Yes.
14:47:53 2
14:47:54 3 And Dale Flynn was asking if he, Tony Hargreaves, knew
14:48:00 4 about Ms Gobbo's role?---Yes.
14:48:01 5
14:48:01 6 And is told absolutely not?---Yes.
14:48:05 7
14:48:15 8 If we scroll down a bit further. Perhaps if we can keep
14:48:46 9 going. See there under the heading of [REDACTED]---Yes.
14:48:57 10
14:48:58 11 There's further discussion about the [REDACTED] situation.
14:49:02 12 Ms Gobbo is to tell Hargreaves that [REDACTED] wants
14:49:09 13 Ms Gobbo to read them and they'd just been talking about
14:49:14 14 transcripts. Detective Flynn knows this and tomorrow - it
14:49:20 15 indicates, "Tomorrow tell Hargreaves to ring Flynn and
14:49:23 16 confirm that that was okay"?---Yes.
14:49:26 17
14:49:28 18 And, [REDACTED] plea brief won't require transcripts",
14:49:33 19 says Ms Gobbo. "Ms Gobbo is to see Mr Hargreaves in
14:49:36 20 relation to the interview tapes so tell Purana to hold off
14:49:41 21 serving the documents", do you see that?---Yes, I see that.
14:49:44 22
14:49:46 23 It seems to be the case that there's some arrangements
14:49:50 24 being made behind the back of the instructing solicitor, in
14:49:53 25 this case Mr Hargreaves, as between Ms Gobbo and the
14:49:59 26 police?---That would appear from that, yes.
14:50:00 27
14:50:02 28 So that the instructing solicitor doesn't become aware of
14:50:05 29 some information that Ms Gobbo sees as adverse to her?---I
14:50:10 30 don't know what the reason was. Probably more about
14:50:13 31 protecting her identity obviously.
14:50:15 32
14:50:20 33 Underneath that there's a complaint indicating that there'd
14:50:26 34 been no one visiting [REDACTED] for a number of weeks which
14:50:33 35 Ms Gobbo thought was poor?---Yes.
14:50:35 36
14:50:44 37 Go to 363 on 20 July. You see at 8.36 there's a line there
14:51:09 38 that says, "Ms Gobbo wants Flynn to tell [REDACTED] that she
14:51:19 39 will visit the next day and Detective Flynn was advised of
14:51:23 40 that"?---I can't see that on this.
14:51:26 41
14:51:26 42 If you're looking at 8.36, the third line under that
14:51:32 43 time?---Right.
14:51:32 44
14:51:32 45 It's a report to the handler. Ms Gobbo wants Flynn to tell
14:51:37 46 [REDACTED] that she'll be visiting tomorrow and then in
14:51:42 47 brackets under that it says he's advised about that,

.06/09/19

5796

O'BRIEN XXN - IN CAMERA

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

14:51:46 1 Flynn's advised?---I don't see the first - sorry. I'm just
14:51:50 2 seeing it now. Yes, I see that.
14:51:55 3
14:52:01 4 So again it's just an example of this covert means of
14:52:07 5 messages going through and the SDU and Ms Gobbo being
14:52:14 6 inserted in the middle of communications between the
14:52:17 7 investigators and the witness, do you see that?---Yes,
14:52:20 8 that's the case there, yes.
14:52:21 9
14:52:24 10 If we can go to 372, please?---I don't know whether she's
14:52:31 11 been - just on that I don't know whether she's been
14:52:34 12 inserted, this is what she's doing of her own volition. I
14:52:38 13 don't think anybody's inserted her there.
14:52:41 14
14:52:41 15 Well, it seems to be - she's asked for that to occur, the
14:52:47 16 SDU are then passing on the message to Flynn?---Right.
14:52:49 17
14:52:51 18 Presumably they wouldn't be doing that, passing on those
14:52:55 19 messages if they didn't expect that Mr Flynn might be doing
14:52:59 20 something about it, that he might be, wouldn't pass on that
14:53:04 21 message to ██████████ do you see what I mean?---Yeah, but
14:53:08 22 what I'm saying I don't know she's being directed to do
14:53:13 23 that or she's doing it of her own volition.
14:53:15 24
14:53:15 25 It seems that is of her own volition, she just wanted a
14:53:19 26 message passed to him. I'm not suggesting that was
14:53:23 27 something she's being directed to do at all?---That's fine.
14:53:27 28
14:53:30 29 If we can go to 372. We're on 28 July. You'll see at
14:53:49 30 2.15 pm Ms Gobbo reports that she went to the prison and
14:53:56 31 that she'd been with or that she'd seen ██████████ for two
14:54:03 32 hours. The statements are not signed yet because not been
14:54:09 33 to DPP yet. Do you see that?---Yes.
14:54:11 34
14:54:18 35 She's also, just by the by, mentioning having or collecting
14:54:23 36 a little bit of intelligence about other police and crew
14:54:26 37 who are out there who she believes might be visiting ██████████
14:54:30 38 ██████████ and ██████████?---Yes, I see that.
14:54:33 39
14:54:45 40 You attended the prison for the signing of those statements
14:54:50 41 by ██████████ is that right?---I did, yes.
14:54:53 42
14:54:54 43 You refer to that at paragraph 198 of your
14:55:12 44 statement?---That's correct, on 6 August.
14:55:16 45
14:55:16 46 "On 6 August 2006 I spoke to Ms Gobbo at the prison
14:55:21 47 reception for around three minutes. I did not make a

.06/09/19

5797

O'BRIEN XXN - IN CAMERA

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

14:55:24 1 record of what we discussed, and I do not now recall that
14:55:28 2 discussion. According to my diary I was at the prison to
14:55:31 3 meet with ██████████ who read and signed a number of
14:55:34 4 statements." And you said since ██████████ of 2006 you'd met with
14:55:41 5 ██████████ at the ██████████ on around ten occasions?---I've
14:55:47 6 since been through my diary in detail, I think it's around
14:55:52 7 15.

14:55:52 8
14:55:53 9 Had you understood through that that ██████████ was having
14:55:57 10 ongoing contact and communication with Ms Gobbo, or is that
14:56:04 11 something you can't now recall?---I can't now recall that.
14:56:09 12 And also with that, I don't now recall what was discussed.
14:56:14 13 I believe it was - I'm only doing this by what was pre and
14:56:19 14 post, I believe it probably related to threats. On the
14:56:27 15 4th, around that time, and then because after that, not
14:56:30 16 long after that I contacted the SDU about the threats,
14:56:36 17 paragraph 199.

14:56:39 18
14:56:39 19 At this stage also you were anticipating those serious
14:56:48 20 public interest immunity issues which might expose
14:56:51 21 Ms Gobbo, is that right?---I'm not sure.

14:56:53 22
14:56:53 23 We went through the dates of those things yesterday. In
14:56:59 24 about late July there were concerns being raised. Ms Gobbo
14:57:03 25 was reporting that the Carl Williams' trial was coming up
14:57:08 26 on 7 August, there's going to be a Milad Mokbel bail
14:57:14 27 application on 8 August and the Carl Williams' trial
14:57:17 28 starting on 13 August and all those matters had serious PII
14:57:24 29 issues attached to them?---I think it was all around, the
14:57:27 30 threats around, emanating possibly from Carl Williams and
14:57:31 31 George Williams.

14:57:32 32
14:57:32 33 Do you say you wouldn't have spoken to her on that day
14:57:35 34 about the concerns that her role might be exposed because
14:57:39 35 of these subpoena issues?---No, I don't think - - -

14:57:44 36
14:57:44 37 Is that because you knew that there was just simply going
14:57:47 38 to be no disclosure of those issues?---No, that's not the
14:57:51 39 case at all.

14:57:52 40
14:57:56 41 If you look at your diary for that day. Is it the case
14:58:02 42 that you'd been advised in the morning that ██████████ was
14:58:07 43 ready to sign his statements?---Yes, that's correct, at
14:58:25 44 10.20 by Mr Hargreaves.

14:58:26 45
14:58:27 46 Mr Hargreaves called you. You returned a call to him and
14:58:32 47 he indicated that ██████████ will sign his

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

14:58:36 1 statements?---Yes.
14:58:36 2
14:58:39 3 Shortly after that at 10.45 you set out with Detective
14:58:43 4 Flynn to the prison?---I did, yes.
14:58:45 5
14:58:47 6 Then you note in your diary at 11.45 that at the prison you
14:58:53 7 spoke to barrister Nicola Gobbo at reception to, till
14:59:00 8 11.48?---Yes.
14:59:00 9
14:59:04 10 If you were speaking to someone - when you were speaking to
14:59:10 11 her in that capacity were you speaking to her as a
14:59:14 12 barrister or were you speaking to her in some other
14:59:17 13 capacity?---No, I just ran into her at the gaol and made a
14:59:23 14 note of it. As I was going in she was coming out I think.
14:59:30 15
14:59:36 16 I think you indicate in your diary that at 12.10 you
14:59:40 17 entered the prison to speak with [REDACTED] who read and
14:59:45 18 signed his statements then?---That's correct.
14:59:47 19
14:59:49 20 And you clear the prison at 3.21 that afternoon?---That's
14:59:54 21 correct.
14:59:54 22
14:59:54 23 So it seems as though you're with him for a reasonable
14:59:59 24 amount of time?---Yes.
15:00:00 25
15:00:02 26 Possibly over three hours or around three hours?---Three
15:00:07 27 hours, yes.
15:00:07 28
15:00:08 29 Were there numerous statements to sign?---I'd imagine so.
15:00:10 30
15:00:11 31 Were they videotaped or recorded, any reading of those, or
15:00:15 32 anything like that?---I don't think so.
15:00:16 33
15:00:20 34 Do you know if it was coincidental that Ms Gobbo was out
15:00:24 35 there at the same time that you were?---I've no idea.
15:00:28 36
15:00:29 37 The prison records indicate that she's entering the prison
15:00:34 38 to visit [REDACTED], as well as [REDACTED]
15:00:47 39 and she signs in for those [REDACTED] people around the same
15:00:51 40 time, one at midday, another one at 2 minutes past midday
15:00:55 41 and another one at 4 minutes past midday. It seems as
15:00:59 42 though she's going into the prison at around the same time
15:01:04 43 as you, do you recall that?---No, I don't.
15:01:06 44
15:01:07 45 Was she in seeing [REDACTED] at any stage over those next
15:01:17 46 three hours? Were you in together seeing [REDACTED]?---No.
15:01:26 47 My memory of it was it was myself and Dale Flynn, that was

.06/09/19

5799

O'BRIEN XXN - IN CAMERA

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

15:01:29 1 it.
15:01:30 2
15:01:36 3 If we can go to p.384. You'll see there on 6 August at
15:02:02 4 15:59 Ms Gobbo reports to the handler that she's seen you
15:02:07 5 and Flynn entering the prison?---Yes.
15:02:09 6
15:02:09 7 This is after she's left the prison by that stage, which is
15:02:16 8 a minute to four?---Right.
15:02:18 9
15:02:19 10 She reports in relation to [REDACTED] that, he's "Now signed
15:02:26 11 the statements, he's in reasonably good spirits" and she
15:02:30 12 reckons she's up to about \$5000 which he owes her in
15:02:40 13 relation to fees?---Right.
15:02:42 14
15:02:42 15 Do you agree that Ms Gobbo charging fees to people for
15:02:49 16 representing them in circumstances where she's purporting
15:02:51 17 to provide independent and impartial advice might arguably
15:02:56 18 amount to obtaining a financial advantage by
15:03:02 19 deception?---Yes, it could.
15:03:02 20
15:03:04 21 It must have occurred to you at some point, mustn't it,
15:03:09 22 that Ms Gobbo might be making money from the people that
15:03:13 23 she's representing about whom she provided information
15:03:17 24 which led to their arrest in the first place?---I had no
15:03:20 25 idea what she was doing as far as charging people and
15:03:23 26 whether she charged them. My expectation would be she
15:03:27 27 wouldn't have charged anything.
15:03:28 28
15:03:28 29 Do you think if she'd given some information which
15:03:35 30 ostensibly had led to the arrest of someone, or that she
15:03:39 31 was seriously conflicted in relation to the representation
15:03:43 32 of someone, but went on to represent them nonetheless, do
15:03:47 33 you think she was doing so for free?---I didn't know what
15:03:50 34 she was doing.
15:03:52 35
15:03:54 36 Did it occur to you she was not likely providing her
15:03:57 37 services for free?---No, I never contemplated that.
15:04:00 38
15:04:01 39 You didn't contemplate that in her capacity as a lawyer she
15:04:05 40 might charge as a lawyer?---No. I mean obviously her
15:04:16 41 conscience didn't extend all that far.
15:04:18 42
15:04:28 43 At some stage after this, the signing of the statements of
15:04:34 44 [REDACTED] there were briefs of evidence being
15:04:40 45 compiled?---There would have been, yes.
15:04:41 46
15:04:44 47 You're aware that arrangements were made for Ms Gobbo to

.06/09/19

5800

O'BRIEN XXN - IN CAMERA

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

15:04:48 1 view those briefs of evidence against a number of the
15:04:52 2 accused who [REDACTED] had made statements about?---I don't
15:04:58 3 know, I don't recall which. I know she was shown some
15:05:02 4 briefs and that was more around assuring her that she
15:05:08 5 hadn't been exposed.
15:05:12 6
15:05:12 7 She was shown briefs of evidence in relation to Milad
15:05:15 8 Mokbel and a number of others?---Yeah, I don't recall, as I
15:05:18 9 say I don't recall which ones.
15:05:20 10
15:05:20 11 But you know it occurred?---Yes, I do.
15:05:22 12
15:05:22 13 You gave approval for it to occur?---I possibly did.
15:05:26 14
15:05:26 15 Did you think that the police might be in the best position
15:05:28 16 to assess her safety?---Yes and no.
15:05:40 17
15:05:41 18 Why on earth would you allow Ms Gobbo to read through
15:05:44 19 briefs of evidence?---It was about reassuring her she
15:05:49 20 hadn't been compromised I think more than anything else.
15:05:52 21
15:05:53 22 Why did you as an investigator need to assure her that
15:05:58 23 she'd not been compromised?---I think, as I say, I think it
15:06:03 24 was a request that came via the SDU.
15:06:05 25
15:06:05 26 It was a request that you could have easily said no
15:06:08 27 to?---Yes, I could have.
15:06:09 28
15:06:10 29 Was there a reason why you didn't?---No, not that I can
15:06:15 30 recall at this point.
15:06:16 31
15:06:17 32 Did you seek any approval yourself for that process to
15:06:20 33 occur?---No, not that I recall.
15:06:24 34
15:06:29 35 Did you understand that that process again might provide
15:06:31 36 Ms Gobbo with another source of information?---In what way?
15:06:38 37
15:06:39 38 She would be reading material that she otherwise wouldn't
15:06:42 39 necessarily get to see at a time that she wouldn't - before
15:06:47 40 she might otherwise get to see it. Briefs of evidence
15:06:51 41 contain more than statements, they contained all sorts of
15:06:54 42 other evidence, transcripts and so forth taken?---Possibly,
15:06:59 43 yes.
15:06:59 44
15:07:09 45 This was you say being done so that she's not compromised,
15:07:13 46 but it's being done to ensure that her duplicitous role is
15:07:19 47 not being discovered?---That's correct.

.06/09/19

5801

O'BRIEN XXN - IN CAMERA

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

15:07:21 1
15:07:26 2 Are you aware that the next day Detective Rowe had a
15:07:30 3 debrief with the SDU which included suggested improvements
15:07:39 4 to the brief which had been made by Ms Gobbo?---Which date
15:07:42 5 was this?
15:07:43 6
15:07:46 7 30 October was the viewing of the briefs and there was a
15:07:50 8 debrief the next day?---No, I have no note on the 31st.
15:09:03 9
15:09:05 10 [REDACTED] was required to give evidence in numerous
15:09:10 11 proceedings in the years thereafter, is that right?---As I
15:09:14 12 say I'm not sure what matters he actually gave evidence in
15:09:18 13 and what matters were pleas.
15:09:21 14
15:09:21 15 There were numerous briefs of evidence put together with
15:09:24 16 his statements contained?---That's correct, investigations
15:09:27 17 undertaken.
15:09:27 18
15:09:29 19 And there were numerous proceedings and people charged as a
15:09:35 20 result?---Yes, there would have been.
15:09:36 21
15:09:38 22 Ms Gobbo maintained contact with him throughout that period
15:09:46 23 of time?---I'm not sure about that. As I say, I'd resigned
15:09:50 24 from the organisation.
15:09:51 25
15:09:51 26 Are you aware that she'd report ups and downs in relation
15:09:55 27 to [REDACTED] and [REDACTED] in relation to their mind-set at
15:10:03 28 any particular given time?---I note in the documents you've
15:10:07 29 shown me there's some comments about people's demeanour at
15:10:10 30 the time, but I don't recall, you know, getting regular
15:10:15 31 updates about people.
15:10:16 32
15:10:17 33 Are you aware whether or not she'd notified handlers that
15:10:21 34 investigators might need to go out and see [REDACTED] or see
15:10:27 35 [REDACTED] for particular reasons?---No. I don't believe
15:10:35 36 so. I remember going out to the prison on one occasion to
15:10:39 37 speak to [REDACTED] in relation to some evidence he gave.
15:10:44 38
15:10:44 39 Is that when he gave some evidence that - perhaps you're
15:10:55 40 better placed to say?---Less than truthful.
15:10:57 41
15:10:58 42 Less than truthful evidence?---Yes.
15:10:59 43
15:11:00 44 Are you aware that Ms Gobbo expressed some discontent with
15:11:04 45 him around that period of time as well?---I don't think so.
15:11:08 46 I don't think I was aware of that. I remember going there
15:11:12 47 with Detective Sergeant Flynn and speaking to him about it

.06/09/19

5802

O'BRIEN XXN - IN CAMERA

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

15:11:17 1 and him - - -
15:11:18 2
15:11:18 3 Are you aware that in 2007 Ms Gobbo, this is the first half
15:11:23 4 I think of 2007, Ms Gobbo told her handlers that she was
15:11:29 5 being made the [REDACTED] for both [REDACTED] and
15:11:35 6 [REDACTED]?---No, I wasn't.
15:11:37 7
15:11:38 8 Are you aware later down the track when he was coming up
15:11:41 9 for [REDACTED] that [REDACTED] was seeking permission to go and
15:11:47 10 live with Ms Gobbo?---No.
15:11:48 11
15:11:54 12 You were aware throughout proceedings in which those [REDACTED]
15:11:59 13 witnesses were involved that there was great concern to
15:12:03 14 ensure that Ms Gobbo's role was not exposed?---Yes,
15:12:09 15 certainly on the material that we've discussed, yes.
15:12:11 16
15:12:11 17 And there were discussions with police members in relation
15:12:16 18 to what they might say when confronted with certain
15:12:21 19 questions at proceedings. Did you have those
15:12:26 20 discussions?---No.
15:12:27 21
15:12:28 22 Are you aware of the SDU having discussions in relation to
15:12:33 23 what might occur during those proceedings if Ms Gobbo might
15:12:40 24 be compromised?---No, I wasn't party to the discussions.
15:12:43 25
15:12:44 26 Are you aware that there were mechanisms in place should
15:12:49 27 she suddenly be compromised that the SDU would be
15:12:52 28 immediately notified by members so that they could put
15:12:56 29 measures in place?---Well that would stand to reason, yes.
15:13:00 30
15:13:00 31 Would it also stand to reason that there would be
15:13:02 32 discussions about the evidence that might be given by
15:13:11 33 particular members and the instructions that might be given
15:13:14 34 to those witnesses as to what they might say if they were
15:13:18 35 asked about their legal advice?---No, I wouldn't think so,
15:13:23 36 beyond the normal PII claim.
15:13:28 37
15:13:29 38 Do you recall whether you or your members had discussions
15:13:32 39 with [REDACTED] or [REDACTED] about not revealing that
15:13:38 40 Ms Gobbo was advising them at any particular point in
15:13:43 41 time?---No, I never had those discussions.
15:13:46 42
15:14:07 43 I'm not sure if the Commissioner proposes to have a break
15:14:12 44 given we're finishing early.
15:14:14 45
15:14:15 46 COMMISSIONER: No, we're adjourning at 3.40, there's not
15:14:20 47 much point having a break.

.06/09/19

5803

O'BRIEN XXN - IN CAMERA

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

15:14:25 1
15:14:26 2 MS TITTENSOR: Following [REDACTED] arrest on [REDACTED]
15:14:34 3 Ms Gobbo went on to represent numerous other people where
15:14:38 4 there were significant conflicts of interest, do you agree
15:14:41 5 with that?---If I can tell me who, who we're talking about,
15:14:46 6 I mean - - -
15:14:47 7
15:14:47 8 [REDACTED]?---Yes, if she represented him.
15:14:50 9
15:14:55 10 [REDACTED] days later after your shock of her turning up to
15:15:00 11 advise [REDACTED] were you confronted again with the shock
15:15:04 12 of Ms Gobbo turning up to represent and advise [REDACTED]
15:15:15 13 [REDACTED]?---I don't think I was at the police station at the
15:15:18 14 time. I don't think I was aware of that.
15:15:20 15
15:15:21 16 Did no one tell you that the person nominated by [REDACTED]
15:15:27 17 [REDACTED] on the [REDACTED], after he'd been arrested, that he
15:15:31 18 nominated Ms Gobbo straight away to speak to?---I would
15:15:37 19 have found out later on, as I say I wasn't at the building.
15:15:41 20
15:15:41 21 When you found that out what did you do?---Nothing, it was
15:15:45 22 left with a crew Sergeant basically.
15:15:48 23
15:15:48 24 Did you discuss that with Mr White?---No.
15:15:52 25
15:15:52 26 Was that another aspect of your concern that you discussed
15:15:57 27 with Mr White, "Well she's now representing someone else,
15:16:00 28 not just [REDACTED] she's now representing [REDACTED],
15:16:05 29 what have we gotten ourselves into"?---I was certainly
15:16:10 30 unhappy about it, but my understanding was [REDACTED]
15:16:13 31 didn't say anything.
15:16:14 32
15:16:15 33 So it didn't matter?---I'm not saying it didn't matter, but
15:16:20 34 he didn't say anything.
15:16:21 35
15:16:25 36 About the same night was someone else arrested?---I think
15:16:34 37 [REDACTED]
15:16:35 38
15:16:35 39 Who did he seek advice from that night?---I'm not sure.
15:16:39 40
15:16:39 41 It was Ms Gobbo, wasn't it?---It may have been, I'm not
15:16:43 42 sure.
15:16:44 43
15:16:44 44 You would have found that out subsequently?---I may have.
15:16:49 45 As I say I don't have a memory of it.
15:16:51 46
15:16:51 47 Would you have been pretty shocked about that?---Yes, well

.06/09/19

5804

O'BRIEN XXN - IN CAMERA

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

15:16:55 1 again, she shouldn't have done it.
15:16:57 2
15:16:57 3 Had your level of shock diminished a bit by that stage? It
15:17:01 4 was becoming de rigueur, wasn't it, that she would involve
15:17:06 5 herself where there were conflicts?---She shouldn't have
15:17:10 6 involved herself, no.
15:17:11 7
15:17:11 8 Should the police have allowed it to continue?---In
15:17:15 9 hindsight, probably not.
15:17:16 10
15:17:26 11 [REDACTED] had been arrested as a result of the
15:17:30 12 assistance provided by [REDACTED] is that right?---That's
15:17:35 13 correct.
15:17:35 14
15:17:36 15 Ms Gobbo had also been providing information about [REDACTED]
15:17:42 16 [REDACTED] as well as [REDACTED] and others?---Yes, a number of
15:17:46 17 others.
15:17:46 18
15:17:47 19 There was no way on earth that [REDACTED] could receive
15:17:51 20 impartial, independent advice from Ms Gobbo?---Again, you'd
15:17:57 21 have to ask Ms Gobbo that question.
15:17:59 22
15:18:01 23 You as a - standing back, can you say he would receive from
15:18:05 24 her impartial, independent advice?---As an outside
15:18:13 25 observer, probably not.
15:18:14 26
15:18:27 27 It's apparent on [REDACTED] 2006 that Ms Gobbo requested for
15:18:38 28 Flynn to get her business number added to [REDACTED]'s
15:18:43 29 phone list at the prison as it had been deleted for some
15:18:47 30 unknown reason. Were you aware of that?---Not to my
15:18:52 31 recollection.
15:18:53 32
15:18:57 33 On [REDACTED] 2006 Ms Gobbo told her handlers that [REDACTED],
15:19:06 34 [REDACTED], was talking about pleading guilty to the
15:19:09 35 current charges and expressed some annoyance that Detective
15:19:13 36 Flynn was not returning her calls. Were you aware of that,
15:19:22 37 was that information coming through to you, do you
15:19:28 38 know?---If I can check my diary momentarily.
15:19:30 39
15:19:31 40 [REDACTED] 2006?---I've no note of that.
15:20:00 41
15:20:01 42 Might that be a kind of information that it didn't
15:20:05 43 necessarily relate to intelligence that you would act upon
15:20:09 44 but it might be some other information of interest that you
15:20:12 45 wouldn't necessarily write down?---It may have been that
15:20:17 46 they gave it directly to Mr Flynn, I don't know.
15:20:20 47

.06/09/19

5805

O'BRIEN XXN - IN CAMERA

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

15:20:35 1 I'm just considering, Commissioner, whether I can avoid the
15:20:39 2 use of [REDACTED] name and we might be able to go into
15:20:43 3 some public hearing at the moment.
15:20:47 4
15:20:47 5 COMMISSIONER: So you're ready for that?
15:20:49 6
15:20:50 7 MS TITTENSOR: Yes, I'll endeavour to keep his name out of
15:20:55 8 it if I can.
15:20:57 9
15:20:57 10 COMMISSIONER: If you're confident you can, then - - -
15:21:00 11
15:21:00 12 MS TITTENSOR: I'll do my best.
15:21:01 13
15:21:02 14 COMMISSIONER: You are confident?
15:21:03 15
15:21:04 16 MS TITTENSOR: For now, yes, Commissioner.
15:21:05 17
15:21:05 18 COMMISSIONER: All right then, we'll go into public
15:21:08 19 hearing.
20
21 ---
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

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

15:21:09 1 UPON RESUMING IN PUBLIC HEARING:

15:21:19 2
15:21:20 3 MS TITTENSOR: If we can go please to Mr White's diary,
15:21:24 4 it's VPL.0100.0096.0354.

15:21:39 5
15:21:39 6 COMMISSIONER: What date is this?

15:21:46 7
15:21:46 8 MS TITTENSOR: This is 14 August 2006, Commissioner. If we
15:21:58 9 can just scroll up so we can see the date. See the date on
15:22:02 10 the screen there, Mr O'Brien, 14 August?---Yes.

15:22:05 11
15:22:06 12 Then if we scroll over to the next page. You'll see at
15:22:13 13 14:20 there's a communication with one of the handlers, I
15:22:24 14 think it's handler Green, in relation to 3838?---Yes.

15:22:31 15
15:22:32 16 And it indicates that the handler has told the controller,
15:22:38 17 Mr White, from you, Jim O'Brien of Purana, "Telephone
15:22:48 18 intercept shows Milad trying to get in touch with human
15:22:51 19 source, appears he wants PII [REDACTED]"?---Yes.

15:22:54 20
15:22:55 21 And there's a discussion, "Re the possibility of a trap to
15:22:59 22 test if the human source is assisting the police", do you
15:23:02 23 see that?---Yes, I do.

15:23:03 24
15:23:06 25 Do you have any corresponding entry in your diary?---Sorry,
15:23:13 26 can you just remind me the date again?

15:23:15 27
15:23:17 28 It's 14 August 2006?---No, I don't. I was actually in a
15:23:41 29 meeting with the Deputy Commissioner.

15:23:45 30
15:23:46 31 Perhaps I've just had something raised with me,
15:23:49 32 Commissioner. It may be it might be safer if we take the
15:23:58 33 private hearing route. I apologise for that. We're within
15:24:04 34 the - - -

15:24:04 35
15:24:04 36 COMMISSIONER: It was a noble try. It was a noble attempt.
15:24:07 37 Yes, all right then. The same orders that were apposite
15:24:14 38 two or three minutes ago apply again now.

15:24:20 39
15:24:20 40 (IN CAMERA PROCEEDINGS FOLLOW)

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

15:24:23 1 PROCEEDINGS IN CAMERA:
2
15:24:23 3 COMMISSIONER: We're in closed hearing again.
4
15:24:29 5 MS TITTENSOR: Now at this stage do you accept, Mr O'Brien,
15:24:33 6 that you've had this conversation with someone at the
15:24:38 7 SDU?---No, I haven't got a note. I was in a meeting with
15:24:46 8 the Deputy Commissioner from 4 o'clock and then at - I got
15:24:52 9 some, I spoke to Senior Detective, at 15:00, "Spoke to
15:24:59 10 Senior Detective Fitzgerald advised re intel re Milad
15:25:03 11 Mokbel". So it may relate to that.
15:25:05 12
15:25:06 13 Sorry, where are you reading from?---My diary.
15:25:09 14
15:25:09 15 Sorry, what time were you - - - ?---14:00. Sorry, I've got
15:25:15 16 the wrong date, this is 4 August, isn't it?
15:25:18 17
15:25:19 18 You say at 2 o'clock in the afternoon you've got a meeting
15:25:23 19 with Deputy Commissioner Overland and a number of
15:25:26 20 superintendents in relation to - - - ?---Excuse me, I was
15:25:32 21 reading from the 14th, I've now gone to the 4th.
15:25:35 22
15:25:35 23 We are on the 14th?---Are we?
15:25:38 24
15:25:38 25 Yes, we are?---On the 14th I was in a meeting with the
15:25:42 26 Deputy Commissioner at 2 o'clock, Superintendent Grant,
15:25:45 27 Superintendent Whitmore, re Purana and the Chief
15:25:49 28 Commissioner briefing, authorised a warrant re - - -
15:25:53 29
15:25:53 30 Then at 15:00 hours?---Spoke to Senior Detective
15:25:58 31 Fitzgerald.
15:25:58 32
15:25:58 33 You've advised in relation to intelligence about Milad
15:26:03 34 Mokbel?---Yes.
15:26:03 35
15:26:04 36 At that stage it seems as though, by 3 o'clock at least
15:26:08 37 you've got intelligence about Milad Mokbel?---Yes.
15:26:13 38
15:26:13 39 You accept you must have gotten that at some stage
15:26:17 40 presumably prior to your 2 o'clock meeting with
15:26:22 41 Overland?---Not necessarily.
15:26:26 42
15:26:27 43 This entry in relation to, in Mr White's diary is a
15:26:33 44 conversation that White has had with Green about a
15:26:40 45 conversation at some stage earlier than that that one of
15:26:44 46 those has had with you about the Milad information. So
15:26:49 47 whilst Mr White's recording this at 14:20 he's recording

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

15:26:55 1 the fact he's had a conversation with Mr Green at 14:20,
15:26:59 2 the information from you may well have come through at some
15:27:02 3 stage earlier than that?---Yes. I don't have a note of
15:27:06 4 that on the 14th and the note I have at 15:00, I'm not sure
15:27:20 5 whether I'm providing him the advice or he's providing me
15:27:23 6 the advice.
15:27:24 7
15:27:24 8 Certainly at some stage that day there's some intelligence
15:27:27 9 in relation to Milad Mokbel that you've got?---Yes.
15:27:30 10
15:27:32 11 And it seems from Mr White's entry here that you've
15:27:37 12 contacted the SDU and you've told them about a telephone
15:27:41 13 intercept showing that Milad Mokbel is trying to get in
15:27:45 14 touch with human source and it appears he [REDACTED]
15:27:49 15 Do you accept that you had that conversation?---I may have.
15:27:54 16
15:27:54 17 And that you have a conversation with them about using it
15:27:59 18 as a possibility or discussion about a possibility of a
15:28:05 19 trap to test if Ms Gobbo is really assisting the
15:28:08 20 police?---I don't know if that's me or it's an add on by
15:28:11 21 them.
15:28:12 22
15:28:12 23 That's fair enough. At this stage you must know that
15:28:26 24 Ms Gobbo was seriously conflicted in relation to any
15:28:29 25 representation of Milad Mokbel?---Yes, she was.
15:28:32 26
15:28:34 27 There's no indication that you're ringing the SDU and
15:28:38 28 telling them that she, there's no way she should be allowed
15:28:45 29 to represent Milad Mokbel?---No, I haven't. They'd have
15:28:55 30 been well aware of that.
15:28:57 31
15:28:57 32 Did you ever have any discussion with anyone at the SDU
15:29:01 33 about her representation of Milad Mokbel that you can
15:29:05 34 recall?---Not that I can recall.
15:29:07 35
15:29:10 36 At about this time or during this time, this is a time when
15:29:16 37 you're dealing with those PII issues?---Yes.
15:29:21 38
15:29:22 39 And the possible need to disclose material which would
15:29:28 40 reveal Ms Gobbo's involvement with the police?---I'm not
15:29:36 41 100 per cent sure of that. As I say you'd have to speak to
15:29:40 42 the crew Sergeants of what the actual issues were.
15:29:45 43
15:29:46 44 If we can go to the ICR at p.393, please.
15:29:53 45
15:29:54 46 COMMISSIONER: 393?
15:29:55 47

.06/09/19

5809

O'BRIEN XXN - IN CAMERA

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

15:29:55 1 MS TITTENSOR: Yes, Commissioner. If we scroll up just so
15:30:01 2 we can see the date. This is the same date, 14 August.
15:30:08 3 And then just near the top of the next page you can see,
15:30:12 4 "Milad Mokbel, instructions to call Purana and get Bateson
15:30:20 5 or Flynn to get him moved away from Carl Williams. She
15:30:25 6 says Carl Williams is getting inside his head and driving
15:30:28 7 him crazy"?---Yes.
15:30:30 8
15:30:31 9 And Carl Williams is fed by Zarah Garde-Wilson and they're
15:30:36 10 calling Ms Gobbo a dog, et cetera?---Yes.
15:30:39 11
15:30:39 12 And it's getting Milad down, do you see that?---Yes, I can.
15:30:44 13
15:30:48 14 There's then a question, [REDACTED] And it's
15:30:53 15 noted that, "The source will see him on a visit on
15:30:57 16 Sunday"?---Yes.
15:30:58 17
15:31:02 18 Underneath that there's a heading of "DSU issue". It
15:31:06 19 includes that - there's a discussion about the personal
15:31:12 20 safety. It seems she's going to meet with Horthy and she's
15:31:18 21 comfortable with that. "The source did not suggest she had
15:31:22 22 specific contact with anyone at Purana and recommend any
15:31:26 23 contact with [REDACTED] be with Flynn or Rowe as they searched
15:31:30 24 [REDACTED] at the time of arrest." It seems from that that
15:31:33 25 she's suggesting that if [REDACTED] has contact with anyone at
15:31:38 26 the police, Flynn or Rowe might be best suited for that
15:31:44 27 because he's familiar with them?---Yes.
15:31:45 28
15:31:52 29 If we can go to p.495, please. On 18 October 2006. You'll
15:32:16 30 see Milad Mokbel down the bottom there. "3838 states she's
15:32:25 31 spoken to Milad who still wants to leave her name on his
15:32:30 32 phone contact list at the prison. She advised that his
15:32:36 33 brief of evidence is due to be served and that this will be
15:32:40 34 a good source of feedback from him to her about what he's
15:32:44 35 thinking." Do you see that?---Yes, I do.
15:32:47 36
15:32:48 37 It seems to be understood that once he gets his brief of
15:32:53 38 evidence, and mind you this is a brief of evidence that in
15:32:56 39 12 days time she'll get to see before he does, that she'll
15:33:03 40 then be able to discuss the brief of evidence with him and
15:33:06 41 then she'll be able to get some feedback from him about
15:33:10 42 what he might do about the matter and then she'll be able
15:33:12 43 to report that on to the police. That seems to be the
15:33:17 44 understanding there?---Well I don't think that's - I mean
15:33:25 45 it says what it says. I can't read any more than that into
15:33:30 46 it.
15:33:30 47

.06/09/19

5810

O'BRIEN XXN - IN CAMERA

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

15:33:31 1 She's at least contemplating that at least for her purposes
15:33:34 2 she'll be able to get some feedback from him about what
15:33:37 3 he's thinking?---This is her thinking. Her thinking wasn't
15:33:43 4 my thinking.

15:33:45 5
15:33:45 6 This is her thinking that she's sharing with the SDU, an
15:33:49 7 area of the police that you're dealing with as
15:33:52 8 well?---She's not in charge of the investigation. And even
15:33:55 9 when she passed on to me that [REDACTED]
15:33:59 10 [REDACTED] I knew it was a joke, I wasn't going to [REDACTED]
15:34:04 11 [REDACTED] for nothing.

15:34:07 12
15:34:09 13 If we can go to p.531, please. I think it's down the
15:34:24 14 bottom there. See down the bottom here there's an
15:34:33 15 indication that, "3838 perused the Purana Task Force brief
15:34:38 16 of evidence and made numerous comments and provided
15:34:43 17 comments in relation to content of the brief of evidence.
15:34:46 18 The following is the feedback she's provided in relation to
15:34:49 19 the brief", do you see that?---Yes, I see that.

15:34:56 20
15:34:56 21 As we go through, various comments by her to handlers about
15:35:04 22 the brief of evidence?---I'm just wondering who Stephen
15:35:12 23 Stravalero, I may be wrong, but I think he was an offender
15:35:19 24 who was incarcerated in New South Wales. I don't think it
15:35:23 25 is anything to do with Victoria.

15:35:24 26
15:35:25 27 To be fair I think there might be a separation of topics
15:35:28 28 from what's above it. There might need to be a line. This
15:35:34 29 area of the ICR I think is actually an audio recording,
15:35:38 30 there is an audio recording of this meeting and this is a
15:35:43 31 written summary by the SDU that's gone into the contact
15:35:46 32 report. Do you understand?

15:35:51 33
15:35:52 34 COMMISSIONER: In other words, Ms Tittensor is suggesting
15:35:53 35 that this entry should really start at, "3838 perused the
15:35:59 36 Purana Task Force brief of evidence"?---Yes, all right.

15:36:00 37
15:36:01 38 There's a heading missing in other words?---Thank you,
15:36:06 39 Commissioner.

15:36:06 40
15:36:07 41 MS TITTENSOR: If we just go down generally you'll see that
15:36:11 42 various comments are made about her assessment of the
15:36:22 43 brief. "She questioned why the video interview was
15:36:30 44 included. There was an explanation provided. Concerned
15:36:32 45 that Milad might suspect she had knowledge of what [REDACTED]
15:36:36 46 [REDACTED] was doing. And that she'll simply tell Milad that she
15:36:40 47 was not aware that he was involved in [REDACTED]" and so

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

15:36:43 1 forth?---Yes.
15:36:44 2
15:36:46 3 She identifies what she perceives might be deficiencies in
15:36:50 4 the brief and informs the SDU handlers about those matters.
15:36:58 5 She's asking questions about concerns about what
15:37:03 6 investigators might say when they're cross-examined. Do
15:37:06 7 you see halfway down there, "Asked Flynn what he's going to
15:37:10 8 say when cross-examined as to why the surveillance units
15:37:12 9 were directed to a [REDACTED] What will Tim Johns say
15:37:16 10 if he's cross-examined about the tape recorded interview in
15:37:20 11 relation to the riots and the requesting of Ms Gobbo and
15:37:27 12 awaiting for her to attend at the police station or the
15:37:31 13 police complex", do you see that?---I can see it, yes.
15:37:42 14 I've never seen this information before.
15:37:44 15
15:37:46 16 If we can continue just further on. There was an
15:38:02 17 expectation there, there's a list of people there that she
15:38:06 18 notes that people that she still thinks are to be charged,
15:38:10 19 do you see that?---Yes, I see that.
15:38:13 20
15:38:15 21 She's explaining or got some concern that those people are
15:38:20 22 all clearly identified and if they're not charged soon
15:38:23 23 they'll be able to argue in relation to any bail that they
15:38:28 24 seek that they knew that they were in jeopardy and didn't
15:38:33 25 flee the jurisdiction. And there at the bottom of that we
15:38:41 26 have, "All the above information was conveyed to Detective
15:38:44 27 Sergeant Flynn verbally". Do you see that?---I see that.
15:38:46 28
15:38:48 29 Were you aware of that?---No, and I would be very surprised
15:38:53 30 if any of it was taken notice of.
15:38:58 31
15:39:05 32 I'm about to jump forward reasonably substantially.
15:39:10 33
15:39:11 34 COMMISSIONER: That might be a good time to adjourn for the
15:39:13 35 week. We'll adjourn until 9.30 on Monday.
36
15:39:44 37 <(THE WITNESS WITHDREW)
38
15:39:47 39 ADJOURNED UNTIL MONDAY 9 SEPTEMBER 2019
40
41
42
43
44
45
46
47