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1 PROCEEDINGS IN CAMERA:

2
10:18:51 3 COMMISSIONER: Yes, Mr Winneke.

4
10:18:54 5 MR WINNEKE: Thanks, Commissioner.

6
10:18:55 7 In your statement, you say that most of the contact that
10:18:59 8 you had with Ms Gobbo was in relation to two accused,
10:19:02 9 ██████████ and ██████████, who were charged as a result of
10:19:06 10 Purana's investigation into the ██████████

10:19:17 11 ██████████ That's right, is it?---Yes.

12
10:19:21 13 Amongst others?---Amongst others, yes.

14
10:19:26 15 You don't believe that you had personal contact with
10:19:29 16 Ms Gobbo until you started at Purana?---Correct.

17
10:19:33 18 Which was in October of 2005?---Well, I think - I actually
10:19:37 19 believe it's - yeah, so ██████████ is when the ██████████
10:19:42 20 ██████████ murder occurred and it was in the days following
10:19:45 21 that, yes.

22
10:19:46 23 Yes, all right. In point of fact, though, when you were at
10:19:51 24 the Homicide Squad, you were on duty when - or went on duty
10:19:58 25 when ██████████ were shot at the ██████████
10:20:03 26 ██████████ on ██████████ 2003?---Yes.

27
10:20:08 28 What you say is that reasonably quickly after that,
10:20:11 29 ██████████ and his associates came under suspicion?---Yes.

30
10:20:19 31 Were they under surveillance at the time?---No, not at that
10:20:26 32 time.

33
10:20:26 34 Not at that time. But I assume because of the victim,
10:20:31 35 there was a fairly strong assumption that ██████████ had
10:20:36 36 something to do with it?---It was certainly the first
10:20:39 37 thought that occurred to me when I got the call. I'd been
10:20:43 38 involved in the investigation of the murder of ██████████

39
10:20:46 40 Yes?---And ██████████ was certainly the first person
10:20:48 41 that came to my mind when I heard ██████████ had been
10:20:51 42 murdered.

43
10:20:53 44 I think fairly shortly after that, you, or members of your
10:20:57 45 crew, went and spoke to ██████████, a number
10:21:02 46 of other people?---We did.

47

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10:21:03 1 You brought them in - or at least you arranged for them to
10:21:09 2 come in and speak to you, I think through their solicitor,
10:21:12 3 [REDACTED], at the time?---I believe so, yes.
4

10:21:17 5 Perhaps it's of some assistance if we can put up your
10:21:21 6 diary. It might be that at this stage if you can look at
10:21:25 7 this, Commissioner, and the witness can look at this. If
10:21:28 8 we can go to VPL.0005.0558.0740. This is your diary. At
10:21:48 9 the bottom of that page, you're on duty at 11.30. If we go
10:21:52 10 to the next page, [REDACTED] and
10:21:56 11 there's a reference to investigations. And if we move on
10:22:01 12 to 742, there's a reference to you speaking to [REDACTED]
10:22:14 13 [REDACTED], solicitor. He arrived with [REDACTED] and [REDACTED]
10:22:17 14 [REDACTED]. You speak to [REDACTED] re whereabouts at the
10:22:23 15 time of the murder, at [REDACTED] hours; is that right?---Yes.
16

10:22:26 17 In relation to that murder, it was apparent that he and
10:22:32 18 [REDACTED] proffered an alibi?---Yes.
19

10:22:37 20 And the alibi was to the effect that they were [REDACTED]
10:22:41 21 [REDACTED] for the purposes of [REDACTED], the
10:22:50 22 both of them, on the other side of town; is that
10:22:52 23 right?---Yes.
24

10:22:54 25 It was through that alibi that things started to fall in
10:23:00 26 place as far as the investigators were concerned - false
10:23:03 27 alibi, you would suggest?---Yes. I'm not sure that that
10:23:09 28 was - certainly it was part of our investigation, but more
10:23:11 29 so the identity of some of the witnesses that later come to
10:23:17 30 fruition, that's really when we started to get some
10:23:20 31 traction in that investigation.
32

10:23:21 33 Is that right? All right. Then one of the people who you
10:23:24 34 brought in was [REDACTED] - I think on [REDACTED]. If we go to
10:23:32 35 745, it seems that at that stage [REDACTED] came into your
10:23:48 36 office, with Nicola Gobbo?---Well, there you go. I didn't
10:23:56 37 realise that she came in at that time.
38

10:23:58 39 Right. So she comes in with [REDACTED] at that stage and it
10:24:03 40 seems to be that she's acting for [REDACTED]?---It does.
41

10:24:10 42 You didn't recall that and, obviously, I take it, you
10:24:13 43 didn't see that page?---No. I apologise. I obviously
10:24:16 44 missed that when compiling my statement. I don't remember
10:24:19 45 that, but that clearly is what happened.
46

10:24:21 47 That's all right. There's a lot of notes that you've gone

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10:24:23 1 through for the purpose of making your statement; is that
10:24:26 2 right?---Yes.
3
10:24:27 4 Did you personally go through your notes to find any
10:24:31 5 reference to Nicola Gobbo or was that done by someone
10:24:34 6 else?---I did.
7
10:24:36 8 At that stage you weren't at Purana, you were in the
10:24:39 9 Homicide Squad and there was an operation, which appears to
10:24:42 10 be called Operation Dozer. That was the Homicide Squad
10:24:45 11 investigation into these killings; is that right?---Yes.
12
10:24:50 13 As that investigation continued - and you were in charge of
10:24:54 14 that investigation?---No, Senior Sergeant Rowland Legg was
10:24:57 15 in charge.
16
10:24:59 17 Okay?---I was one of two Detective Sergeants working on it.
18
10:25:03 19 Okay. It was really through that investigation that you
10:25:10 20 moved over into the Purana Task Force when this
10:25:14 21 investigation was effectively taken over; is that
10:25:16 22 right?---Yes.
23
10:25:19 24 Yeah, okay?---It was really when - that time when Purana
10:25:22 25 got the extra inject of resources. Some of these
10:25:28 26 investigations came with it, but it was that time, October
10:25:31 27 17th, when we increased the amount of resources in Purana.
28
10:25:35 29 All right. Do you understand - do you have a note of what
10:25:41 30 you were told by ██████████ at that time with
10:25:48 31 Ms Gobbo?---I'd have to look at my other handwritten notes
10:25:51 32 to have a look at that day.
33
10:25:53 34 Do you have them there?---Yes, I do. Do you want me to
10:25:59 35 look at them?
36
10:26:01 37 Yes, if you can?---Yes.
38
10:26:49 39 What did you learn on that day?---So I've got his address
10:26:55 40 here, phone number, ██████████ left just after 8, ██████████ and
10:27:00 41 ██████████ the car he drives, who it belongs to, went
10:27:04 42 to ██████████, got there at 8.30, left about 9 am.
10:27:10 43 Travelled to ██████████. Used CityLink. Arrived at 9.50.
10:27:13 44 ██████████. ██████████ and ██████████ on diet. Left at
10:27:18 45 10.20. Picked up ██████████ from ██████████ Name of ██████████
10:27:22 46 ██████████ Dropped ██████████ off at midday. Heard about his death
10:27:25 47 about 1.30, 2 pm. Spoke to Nicola that morning, possibly

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10:27:30 1 [REDACTED] Two calls to Nicola. Used car's phone.
2
10:27:34 3 He was telling you that morning that he had spoken to
10:27:37 4 Nicola on the day of the murder?---He did.
5
10:27:41 6 What time did he say that occurred?---He doesn't. He says
10:27:46 7 "that morning".
8
10:27:49 9 Did you investigate that at the time?---I believe we did.
10
10:27:53 11 Did you investigate any communications that he'd had with
10:28:01 12 Nicola Gobbo at that time?---We would have got all his
10:28:06 13 phone records for that morning.
14
10:28:07 15 Did you investigate the communications that he had with
10:28:09 16 Nicola?---Well, I do know that they spoke that morning, so
10:28:15 17 yes, I would imagine we did.
18
10:28:17 19 Did you speak to her about it or were you simply asking
10:28:22 20 [REDACTED] about it?---I don't have a memory of asking her
10:28:24 21 about it.
22
10:28:25 23 Right?---But I'm sure either I or one of my colleagues
10:28:29 24 would have.
25
10:28:30 26 All right, okay. Were you aware that she was acting for
10:28:35 27 [REDACTED] at that stage, in relation to another matter? I
10:28:40 28 think where a police officer by the name of [REDACTED]
10:28:46 29 was the informant, did you know about that?---Possibly.
10:28:48 30 That does ring a bell. Was it [REDACTED]
31
10:28:54 32 I can't give you the particulars of it, but if you don't
10:28:56 33 know - - -?---I have a faint memory of [REDACTED] being
10:29:02 34 charged with something at - - -
35
10:29:03 36 COMMISSIONER: That will have to be struck from the record.
37
10:29:06 38 MR WINNEKE: We've got to call him - - - ?---I'm sorry.
10:29:10 39 I'm sorry, Commissioner.
40
10:29:13 41 COMMISSIONER: Would it help if you were shown some flash
10:29:16 42 cards for names?---I will be more disciplined. I know
10:29:19 43 their acronyms.
44
10:29:21 45 You know who [REDACTED] is?---Yes.
46
10:29:24 47 Who [REDACTED] is?---Yes.

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1
10:29:26 2 Who [REDACTED] is?---Yes
3
10:29:28 4 And who [REDACTED] is?---I do. My apologies.
5
10:29:29 6 And who [REDACTED] is?
10:29:30 7
10:29:33 8 MR WINNEKE: I think his Christian name was used a couple
10:29:36 9 of minutes ago.
10
10:29:36 11 COMMISSIONER: Yes, it was. Both names were used. Those
10:29:38 12 names will have to be taken from the record.
13
10:29:47 14 MR WINNEKE: On 9 July, you spoke to Mr Veniamin regarding
10:29:58 15 Operation Dozer. He was another suspect, I take it?---He
10:30:02 16 certainly would have been a person of interest, yep.
17
10:30:10 18 At that stage it appears, certainly judging from Ms Gobbo's
10:30:15 19 diaries, that she was at least socialising, going to
10:30:25 20 [REDACTED] birthday at [REDACTED]. She was
10:30:30 21 having lunch with [REDACTED] and his wife on [REDACTED] September.
10:30:36 22 Would you have been aware of those matters? Would he have
10:30:40 23 been under surveillance and would she have come within your
10:30:43 24 radar at that time?---I don't have a memory of that.
10:30:45 25 Certainly I don't believe he was under surveillance in the
10:30:50 26 lead-up to the murder of [REDACTED]. There could be some
10:30:54 27 surveillance. You'd have to check.
28
10:30:56 29 Yes, all right?---But I certainly don't have a recollection
10:30:59 30 of those meetings you just spoke of.
31
10:31:02 32 Assuming that to be the case, and given your evidence
10:31:07 33 earlier about your understanding that she was socialising
10:31:10 34 with associates of Williams, et cetera, it may well be that
10:31:13 35 that's where that information comes from, that sort of
10:31:17 36 socialisation?---Well, certainly I was aware that she was
10:31:21 37 socialising with criminal entities.
38
10:31:23 39 You were aware, I take it, that she was also, around this
10:31:26 40 time, acting for, if you like, opposing forces. Mr Lewis
10:31:34 41 Moran, she was appearing for him in relation to a bail
10:31:38 42 variation?---I don't know if I was aware of that at this
10:31:42 43 time, but I'm certainly aware of it now as I sit here.
44
10:31:44 45 Yes?---That she appeared and was involved in some shape or
10:31:51 46 form.
47

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10:31:56 1 It appears that on 22 September 2003, Mr Swindells had a
10:32:04 2 discussion with Ms Gobbo about a threat that had been made
10:32:08 3 to Gobbo by Veniamin. Do you say you weren't aware of that
10:32:12 4 at the time?---I don't know. I don't know whether I was
10:32:16 5 aware of it at the time. I certainly am aware of it now.
6
10:32:20 7 Yeah, all right. You don't know that there was a meeting
10:32:23 8 between Simon Overland, Mr Purton, Andy Allen and
10:32:29 9 Mr Swindells on the same day as that, at around 2 pm, after
10:32:37 10 Mr Swindells spoke to Ms Gobbo at court?---I think it's
10:32:43 11 Mr Swindells.
12
10:32:45 13 I'm sorry?---I think it's Mr Swindells, that's how you
10:32:47 14 pronounce his name.
15
10:32:48 16 I'm sorry, have I got it wrong?---That's all right.
10:32:50 17 "Swindells" always makes me think of him being nefarious,
10:32:56 18 or in some way - - -
10:32:56 19
20 We wouldn't want that impression to be created. Swindells,
10:33:00 21 I'm sorry. So you weren't or were you aware, because it
10:33:02 22 seems that there are very senior members of Victoria
10:33:08 23 Police, Overland, Purton, Allen, Swindells, at 2 pm, after
10:33:14 24 this court appearance where Gobbo is spoken to by
10:33:18 25 Swindells, having discussions on that very day, one assumes
10:33:24 26 about including these sorts of matters?---M'mm.
27
10:33:28 28 That wasn't conveyed to you at the time?---Well, I don't
10:33:32 29 have a recollection of it being conveyed to me at that
10:33:36 30 time.
31
10:33:37 32 Righto. Do you recall, at any time around the period that
10:33:47 33 you started at Purana, there being any discussions about
10:33:53 34 Ms Gobbo, her role, what she was doing, between you and
10:34:01 35 senior members of Victoria Police?---No, I don't.
36
10:34:04 37 As far as you were concerned, you were aware of her
10:34:07 38 potential involvement/association, but you say there were
10:34:12 39 no sort of formal discussions about her, her role,
10:34:17 40 et cetera?---Not that I recall, no. I think it's important
10:34:24 41 to note as a Detective Sergeant there were several of us in
10:34:28 42 Purana and we all had a role to play.
43
10:34:31 44 Yes?---Where I would hope the people that were sitting
10:34:35 45 perhaps at Andy Allen's level would know, would be across
10:34:40 46 all the detail.
47

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10:34:41 1 Yes?---But I didn't necessarily have to be across the
10:34:44 2 detail of what another Detective Sergeant was doing. I had
10:34:47 3 to concentrate on what I was doing.
4

10:34:49 5 Yes?---So it doesn't necessarily mean that I would know
10:34:52 6 everything that happened in Purana, but we would hope that
10:34:54 7 Andy Allen, and then later Gavan Ryan and then later Jim
10:35:00 8 O'Brien, would be over the complete detail.
9

10:35:02 10 What you're saying is if there were - look, the reality is
10:35:07 11 if a lawyer is potentially engaging in a way which was
10:35:11 12 unprofessional with very serious criminals, it's something
10:35:15 13 that members of Victoria Police would be across and would
10:35:18 14 be concerned about?---Yeah, we were concerned about a
10:35:21 15 number of lawyers doing exactly that.
16

10:35:27 17 I think your notes reveal that on 20 October you briefed
10:35:36 18 the Purana Task Force about the Dozer investigations into
10:35:40 19 the murders of [REDACTED] and [REDACTED]---What date was that,
10:35:44 20 sorry?
21

10:35:47 22 764. If we can put that up?---Where am I looking?
23

10:36:01 24 At briefing at Purana. You'll see the 20th?---Yes. The
10:36:04 25 20th of which month is it?
26

10:36:06 27 The 20th of October?---Yes.
28

10:36:08 29 A briefing of Purana crew, "10.50 clear, with same
10:36:17 30 inspection of [REDACTED] crime scene", et cetera. Was
10:36:21 31 that, in effect, your entree into the Purana Task Force at
10:36:24 32 about that time?---Yes. So when I arrived from Homicide, I
10:36:24 33 was allocated a number of detectives who I knew but I
10:36:28 34 hadn't necessarily worked with, so it was important to get
10:36:32 35 them across the detail of the investigation. So my
10:36:34 36 Homicide Squad crew remained within the Homicide Squad on -
10:36:40 37 you know, responding to new murders, and I went with the
10:36:43 38 investigation and was allocated a new crew.
39

10:36:45 40 Then that brings us to [REDACTED] 2003. That's, obviously,
10:36:50 41 a significant day. That's the murder of [REDACTED]
10:36:56 42 and it's quite clear now that - and was probably tolerably
10:37:01 43 clear shortly afterwards - that the people involved in that
10:37:05 44 murder were [REDACTED] - you know who that is - and
10:37:11 45 [REDACTED]?---Yes.
46

10:37:14 47 And they were picked up later on on that day. There was, I

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10:37:19 1 suppose, pretty compelling evidence against both of those
10:37:22 2 people?--Substantial evidence. Overwhelming, I would say.
3
10:37:29 4 You were involved in the interviewing of, I think,
10:37:36 5 [REDACTED]; is that right?--Yes.
6
10:37:39 7 And Mr Buick was involved in the interviewing of
10:37:43 8 [REDACTED]?--Yes.
9
10:37:46 10 Those interviews were conducted at more or less the same
10:37:50 11 time, but there were breaks during the course of the
10:37:52 12 interview?--Yes.
13
10:37:54 14 And [REDACTED], I think, was the solicitor who both of
10:37:58 15 these people wished to speak to; is that right?--That's my
10:38:02 16 recollection, yes.
17
10:38:05 18 During the course of that interview or interview process,
10:38:09 19 Mr Buick made it clear to you - albeit both records of
10:38:12 20 interview were, in effect, no-comment records of interview;
10:38:17 21 is that right?--Yes.
22
10:38:17 23 But it was your understanding that [REDACTED] had indicated
10:38:22 24 a preparedness to provide information to police only in
10:38:28 25 relation to [REDACTED] if he wasn't charged with
10:38:32 26 [REDACTED] murder?--Correct.
27
10:38:34 28 So it was at that point where you considered that it may
10:38:37 29 well be that you could get a break or a chink in the code
10:38:41 30 of silence and it may well be that you'd be able to solve
10:38:48 31 some of these homicides; is that right?--I think one of
10:38:50 32 the things that we set out to do, you know, and we always
10:38:54 33 believed if we had an overwhelming case against anyone, we
10:38:58 34 would be in a position - a very strong position to get them
10:39:02 35 to turn to a Crown witness. So that was our goal and on
10:39:08 36 [REDACTED], the evidence was such that it was overwhelming.
37
10:39:13 38 Yes?--And it left [REDACTED], and then later [REDACTED],
10:39:17 39 with no choice but to become Crown witnesses to facilitate
10:39:23 40 a reduced sentence.
41
10:39:26 42 Those sorts of - well, a compelling case is a real
10:39:31 43 opportunity for detectives, in effect, to - not so much put
10:39:39 44 pressure on someone, but to give someone the opportunity of
10:39:42 45 getting a significantly reduced sentence if they assist
10:39:45 46 police and that's the way things operate?--Yes.
47

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10:39:50 1 I suppose it didn't matter, as far as you were concerned,
10:39:53 2 whether it was [REDACTED] or [REDACTED] but one of them, you
10:39:57 3 thought - you'd be confident would be prepared to
10:40:01 4 roll?---Absolutely.
5
10:40:04 6 And given [REDACTED] indication, there was a real possibility that
10:40:08 7 he was going to be the one to do it?---Yes.
8
10:40:16 9 After the interview, both of the persons, I assume, were
10:40:23 10 charged and remanded in custody?---Yes.
11
10:40:25 12 At the Melbourne Custody Centre?---Yes.
13
10:40:28 14 Did you take them down?---I took [REDACTED] down, I was in
10:40:34 15 the vehicle that escorted him in. I would imagine others
10:40:39 16 took [REDACTED].
17
10:40:40 18 [REDACTED] was your charge and you were responsible for
10:40:43 19 him?---Ultimately I was responsible for overseeing the
10:40:48 20 whole compilation of the brief, but at that time, I was the
10:40:51 21 one responsible for the custody of [REDACTED].
22
10:40:54 23 Okay. This was a very significant breakthrough, I suppose,
10:41:01 24 a significant step in the investigation, it would have been
10:41:06 25 thought at that time, in terms of solving these gangland
10:41:10 26 killings?---Very much so.
27
10:41:11 28 I take it you would have been keen to know who was visiting
10:41:15 29 these prisoners, lawyers, and who was speaking to
10:41:21 30 them?---Yes, I imagine I would have been.
31
10:41:24 32 And you would have found out if a lawyer went to visit a
10:41:28 33 particular person charged?---I don't - - -
34
10:41:31 35 As a matter of course, you would have been - you wouldn't
10:41:36 36 have been privy to conversations, I assume, but you would
10:41:38 37 have been made aware of who was visiting?---I don't know if
10:41:41 38 I was back then, but I certainly have become aware that
10:41:44 39 Nicola Gobbo visited [REDACTED] the next day - sorry,
10:41:48 40 Commissioner - [REDACTED].
41
10:41:50 42 COMMISSIONER: That will have to be removed from the
10:41:53 43 record.
44
10:41:54 45 MR WINNEKE: Just that word and [REDACTED] in place.
46
10:42:01 47 COMMISSIONER: Yes, substitute "[REDACTED]".

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1
10:42:03 2 MR WINNEKE: That's what I'm getting at. I suggest you
10:42:06 3 would have known, in all probability, very shortly
10:42:08 4 afterwards that Gobbo had attended upon [REDACTED] whilst he
10:42:11 5 was in custody?---I don't know for certain, but it wouldn't
10:42:16 6 have surprised me that I would know that.
7
10:42:18 8 As a matter of probability, if you're investigating and
10:42:21 9 making sure that you're getting all the appropriate
10:42:24 10 intelligence, you would have been made aware of it,
10:42:27 11 surely?---I don't know.
12
10:42:29 13 You subsequently became aware that she did, in any event.
10:42:32 14 And was there at any stage an attempt to get a hold of
10:42:38 15 Ms Gobbo's notes of her visit to [REDACTED] on the
10:42:46 16 [REDACTED]---No, I don't think so.
17
10:42:48 18 You don't believe so?---No.
19
10:42:50 20 All right. Did you speak to Ms Gobbo at about this
10:42:59 21 time?---I think I speak to her a few days later, don't I,
10:43:04 22 when the - can I just refer to my statement?
23
10:43:09 24 Yes, by all means?---Yes, I think it's on the [REDACTED] of
10:43:39 25 [REDACTED] that we did the 464B application and [REDACTED] is
10:43:45 26 represented by Ms Gobbo.
27
10:43:51 28 So at that stage it appears that she's changed from
10:43:56 29 [REDACTED] to [REDACTED]. Do you say you wouldn't have been
10:44:04 30 aware of that change of horses?---I don't know if I was
10:44:09 31 aware of the change of horses. Did she visit both people
10:44:13 32 on the Sunday?
33
10:44:14 34 Well, it appears that she visited [REDACTED] only. We don't
10:44:18 35 have anything to suggest that she visited [REDACTED] on the Sunday.
10:44:27 36 All right. We've also heard evidence that Purana
10:44:31 37 detectives were, by means of - for the purposes of keeping
10:44:40 38 tabs on who was visiting whom, were in communication with
10:44:45 39 the Office of Corrections and being informed of who was
10:44:48 40 visiting prisoners at around this time. Were you aware of
10:44:53 41 that?---Certainly my relationship with Corrections grew
10:44:58 42 over time.
43
10:44:59 44 Yes?---But it wasn't established at that point.
45
10:45:02 46 All right. Does it surprise you that again Gobbo visited
10:45:10 47 [REDACTED] in prison on [REDACTED] of 2003?---It doesn't

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S. BATESON XXN - IN CAMERA

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1 - - -

2

10:45:16 3 So not only does she see him on [REDACTED], she then visits
10:45:21 4 him again on [REDACTED]?---It wouldn't surprise me, no.

5

10:45:27 6 Because as far as you were aware, she appeared to be
10:45:31 7 associating with, or in conjunction with appearing for, if
10:45:37 8 not Carl Williams, associates of Carl Williams?---Yeah, I
10:45:44 9 guess that's a fair statement.

10

10:45:46 11 All right. It appears that in her diary, she had - were
10:45:53 12 you aware that she was also associating with Tony Mokbel
10:46:00 13 socially?---I suspect I was. I don't have any clear
10:46:05 14 recollection of being, you know, informed of particular
10:46:09 15 social occasions, but I suspect I was.

16

10:46:12 17 So if on 1 November her diary records at 8 pm she had
10:46:18 18 coffee with Carl and Tony, it's likely that Purana
10:46:22 19 investigators were probably aware of that?---Not
10:46:26 20 necessarily.

21

10:46:27 22 Not necessarily?---No.

23

10:46:28 24 All right. On [REDACTED] 2003, there's what they call a
10:46:36 25 filing hearing. That was at the Melbourne Magistrates'
10:46:39 26 Court. [REDACTED] appeared for [REDACTED]. A barrister by the name of
10:46:44 27 [REDACTED] appeared for [REDACTED]?---Correct.

28

10:46:47 29 And you were there on that occasion?---Yes.

30

10:46:52 31 And it's on that occasion it's suggested that there was a
10:46:56 32 communication, or at least a verbal stoush, if you like,
10:47:01 33 between you and [REDACTED] and it's suggested that -
10:47:10 34 subsequently it was suggested by Williams that you were
10:47:14 35 baiting [REDACTED] and it was suggested that - are you aware
10:47:17 36 of that?---Which date was that? Was that when he
10:47:23 37 threatened to kill me?

38

10:47:24 38
10:47:25 39 I think that came to light on [REDACTED], but there was a
10:47:28 40 suggestion that on [REDACTED] there was a discussion
10:47:33 41 between you and he?---No, I have no note of that.

42

10:47:41 43 In any event, I think Williams later said that Bateson said
10:47:47 44 to [REDACTED], "I'll see you soon", or something like that,
10:47:50 45 and then there was a mouthing of - that sort of
10:47:53 46 communication. You don't have a recollection of
10:47:55 47 that?---No.

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1
10:47:57 2 All right, okay. And in some way, shape or form, that led
10:48:02 3 to Williams' threat to you, which was made over the
10:48:05 4 telephone on about 15 November?---Who puts it that way?
5
10:48:09 6 I think Williams?---Right.
7
10:48:12 8 I'm not suggesting that's the truth, I'm simply asking
10:48:16 9 you?---I wasn't aware that that's how he put why he made
10:48:21 10 that threat.
11
10:48:24 12 In any event, on [REDACTED], Gobbo has a professional
10:48:32 13 visit to [REDACTED] in prison and there's evidence that
10:48:35 14 we've got that that occurs and Ms Gobbo's court book
10:48:42 15 indicates - just excuse me. Can we just put - rather than
10:48:59 16 put it up, I'll tell you what is indicated. It indicates
10:49:02 17 that she sees [REDACTED], who's in the [REDACTED] Unit at
10:49:05 18 [REDACTED] Prison. She records, "All okay. Told him re
10:49:09 19 [REDACTED] Okay re witnesses. Wants to speak to [REDACTED]. Happy to
10:49:13 20 wait for brief re bail". You say that you weren't aware of
10:49:20 21 that at the time?---I don't recall whether I was or I
10:49:23 22 wasn't.
23
10:49:26 24 Do you know at this stage whether there were any efforts to
10:49:34 25 get access to communications between prisoners such as [REDACTED]
10:49:41 26 and [REDACTED] at the [REDACTED] Prison and their lawyers and/or
10:49:45 27 other visitors?---Communications?
28
10:49:48 29 Yes?---No, we wouldn't be trying to get communications
10:49:51 30 between prisoners and their lawyers.
31
10:49:54 32 Right. That would be something that police simply wouldn't
10:49:59 33 do?---Well, I certainly didn't consider it at that time,
34 no.
35
10:50:04 36 Did you consider it later?---I can't think of a time when
10:50:07 37 I've considered it, but I certainly would like to know
10:50:10 38 sometimes, I must admit, but it's not an investigative
10:50:13 39 avenue that I ever recall pursuing.
40
10:50:18 41 Do you know whether there was a time when attempts were
10:50:21 42 made to get access to those communications?---I don't know
10:50:25 43 what the communications would be. Are you talking about
10:50:28 44 telephone calls?
45
10:50:29 46 Communications between lawyer and client in prisons,
10:50:34 47 whether it be telephone calls or box visits?---Not that I'm

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10:50:38 1 aware of, no.
2
10:50:41 3 What you would say is, "Look, it would be entirely
10:50:44 4 inappropriate to, in effect, intrude upon communications
10:50:48 5 between a lawyer and his or her client"?--Well, there'd
10:50:54 6 have to be some special circumstances. To do so, we would
10:50:58 7 need to get a warrant, of course.
8
10:51:00 9 Yes?--And we would have to convince, you know, the
10:51:02 10 presiding judge of the necessity. So I can't think of
10:51:06 11 circumstances where that would happen.
12
10:51:08 13 Right. It would be - in the normal course of events, it
10:51:16 14 would be entirely inappropriate, without some sort of
10:51:18 15 authority of a court, to intrude on the communications
10:51:22 16 between a lawyer and a client, you would accept?--Well,
10:51:25 17 certainly I can't think we could install a listening device
10:51:30 18 without the approval of the court.
19
10:51:32 20 Right. And you certainly wouldn't seek to intrude upon
10:51:35 21 those communications without the authority of the
10:51:37 22 court?--Well, for a listening - to install a listening
10:51:41 23 device, we would need the authority of the court.
24
10:51:43 25 Yes, okay. You mentioned before that Victoria Police made
10:51:51 26 application, under 464B of the Crimes Act, to take
10:51:55 27 ██████████ out of prison and interview him in relation to
10:51:58 28 the murders of ██████████ and ██████████. Were you present on that
10:52:01 29 day?--Yes.
30
10:52:02 31 And you gave evidence?--Yes.
32
10:52:05 33 And ██████████ attended and he instructed Ms Gobbo on behalf
10:52:11 34 of ██████████?--Yes.
35
10:52:12 36 And you say in your statement this is your first memory of
10:52:17 37 meeting Ms Gobbo?--Yes.
38
10:52:19 39 Well, obviously, that's sort of incorrect insofar as you'd
10:52:24 40 met her before, on 4 July of that year, but you hadn't
10:52:29 41 recalled that?--M'hmm.
42
10:52:31 43 And you certainly don't recall meeting her back in 2001 at
10:52:34 44 any course that you conducted?--No.
45
10:52:37 46 No, all right. And the purpose of your giving evidence was
10:52:40 47 to justify why police ought have the opportunity to

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10:52:45 1 interview a prisoner in relation to another
10:52:50 2 matter?---Correct.
3
10:52:51 4 That's what you did?---Yep.
5
10:52:53 6 And you gave evidence about similarities, or whatever
10:52:55 7 evidence you might have, to justify speaking to [REDACTED]?---Yes.
8
10:53:00 9 Okay. That application was granted and you took [REDACTED] out of
10:53:06 10 custody and spoke to him?---Yes.
11
10:53:10 12 Did you speak to Gobbo, on that occasion, about what you
10:53:15 13 were proposing to do?---I'm sure we did.
14
10:53:20 15 He didn't - I'm sorry, she didn't - she wasn't present for
10:53:24 16 the discussions, I take it?---No.
17
10:53:30 18 Those discussions were conducted by you and who else?---I
10:53:39 19 can't recall. Can I just dig out my notes?
20
10:53:41 21 Yes?---It would have been one of my crew, I'm sure. I
10:54:22 22 actually don't have a note of who sat in the interview with
10:54:25 23 me, but Mark Hatt was there, Boris Buick was there. I
10:54:30 24 remember Mark Nicholls being there as well.
25
10:54:33 26 All right. He was interviewed on tape, was he?---Yes.
27
10:54:39 28 Did he make admissions on tape, as far as you can recall,
10:54:44 29 or not?---So there's two sections to it. When we got him
10:54:52 30 out of the Custody Centre, we had [REDACTED] our
10:54:57 31 car. We gave him his caution and rights.
32
10:54:59 33 Yes?---And he did talk. He continued to talk in the car
10:55:05 34 park of the police building.
35
10:55:08 36 Yes?---And then when we came to put a formal record of
10:55:12 37 interview, he stopped talking, he made a no-comment.
38
10:55:15 39 Right?---Then he continued to speak after that, in the car
10:55:20 40 park and on the way back to the Custody Centre.
41
10:55:23 42 All right?---So he didn't know [REDACTED] in
10:55:28 43 those circumstances, but we were.
44
10:55:31 45 Was there ever [REDACTED] made of that discussion?---Yes.
46
10:55:36 47 Effectively what he told you, he gave you informal

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10:55:41 1 information concerning the murders of [REDACTED], [REDACTED] and
10:55:45 2 [REDACTED]?---I haven't looked at that [REDACTED] for some
10:55:48 3 time, but yes, amongst other matters of other crimes
10:55:54 4 committed by other people.
5
10:55:55 6 Yes. In particular, some of the things he said implicated
10:56:03 7 [REDACTED] and also [REDACTED]---Correct.
8
10:56:08 9 You were aware at that time - I take it by that time, you
10:56:14 10 must have been aware that Gobbo was acting for
10:56:18 11 Williams?---Acting for him in what case?
12
10:56:21 13 Well, were you aware that she had acted for him in any
10:56:24 14 case, or not?---No, I don't think so, at that stage. I
10:56:32 15 know you put to me about his bail application for the
10:56:35 16 threats, which comes a bit later.
10:56:36 17
10:56:36 18 Yes, that was later. Two days later, I think, he was
10:56:38 19 recorded on a listening device threatening - - -?---Two
10:56:40 20 days later?
21
10:56:40 22 Yeah?---Right. Okay. Yes, I don't know of her acting for
10:56:43 23 him in other matters.
24
10:56:44 25 Right?---Did she?
26
10:56:46 27 Well, she appeared - well, certainly she appeared for him -
10:56:50 28 she was associating with him at the time. Do you accept
10:56:53 29 that or not?---I believe so, yes.
30
10:56:58 31 Subsequent to his arrest on [REDACTED], I take it you were
10:57:03 32 aware of his arrest?---Yes.
33
10:57:07 34 And she was visiting him in custody and taking instructions
10:57:10 35 from him and she appeared for him on a bail application on
10:57:14 36 [REDACTED], where he's granted bail. I take it you would
10:57:20 37 have been aware of that?---No, as I said - explained
10:57:23 38 before, that was not an investigation that I was involved
10:57:27 39 in.
40
10:57:27 41 Okay. But you would have been aware that she appeared in
10:57:30 42 court for him later in the year, making an application to
10:57:34 43 cross-examine you and your - I'm sorry, later the following
10:57:39 44 year making an application to the magistrate to
10:57:41 45 cross-examine you and your partner, your then partner, in
10:57:46 46 relation to the threats made. Are you aware of that? That
10:57:50 47 was in February 2004?---I don't know.

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1
10:57:56 2 You would have been, wouldn't you?---As I say, that
10:57:58 3 investigation I was not involved in. I was simply a
10:58:02 4 witness because he threatened to kill me.
5
10:58:04 6 Yes?---I had enough of my own workload to take care of to
10:58:10 7 be worrying about who was appearing for who at that time.
10:58:13 8 I may have been, I just don't recollect whether I was.
9
10:58:17 10 Yeah, all right?---It wouldn't have surprised me.
11
10:58:21 12 In any event, you say it may have been a little while
10:58:24 13 afterwards about her attendance on 7 December at the Crown
10:58:29 14 Casino to celebrate the Christening, you believe that there
10:58:33 15 was some sort of presence, if you like, of Victoria Police
10:58:40 16 to see what was going on there?---Yes.
17
10:58:44 18 COMMISSIONER: Sorry, what year is that?
19
10:58:49 20 MR WINNEKE: 7 December 2003 was the Christening. The bail
10:58:54 21 application was [REDACTED] 2003. Then the appearance in
10:58:59 22 the Magistrates' Court applying to cross-examine witnesses
10:59:01 23 in relation to the threat to kill charge was in February
10:59:07 24 2004.
25
10:59:07 26 COMMISSIONER: Yes.
27
10:59:10 28 MR WINNEKE: Certainly those hearings were public hearings,
10:59:11 29 there was nothing preventing anyone from finding out who
10:59:15 30 was appearing for whom?---No.
31
10:59:25 32 Around this time, it appears that there were other events
10:59:29 33 going on in which Ms Gobbo was involved. I think 27
10:59:39 34 September 2003 there was a burglary at a house in Dublin
10:59:45 35 Street, where there were allegations that there were
10:59:47 36 corrupt police activities going on with informers, and it
10:59:54 37 became aware that Ms Gobbo was involved in - if I can put
11:00:00 38 it this way, involved in that matter, in the sense that she
11:00:03 39 appeared for quite a number of the people around that time.
11:00:07 40 Would you have been aware of that at the time?---I don't
11:00:10 41 recall being aware of that.
42
11:00:12 43 Yes?---That was, once again, an investigation that wasn't
11:00:16 44 mine.
45
11:00:16 46 Yes?---And I'm not sure that I paid particular attention on
11:00:20 47 who was representing who in cases that weren't mine.

.02/07/19

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S. BATESON XXN - IN CAMERA

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1
11:00:24 2 I take it you were aware that Mr Dale was arrested in early
11:00:29 3 December? That's something that police would have been
11:00:32 4 keeping tabs on at the time, but you say you may not have
11:00:35 5 been aware of that specifically?---Aware of what?
6
11:00:38 7 The arrest of Dale?---I'm sure when he was arrested I was
11:00:43 8 aware of it. It was big news in Victoria Police. I can't
11:00:46 9 tell you it was December, but no doubt when he was
11:00:48 10 arrested, I knew.
11
11:00:50 12 Did you know Dale?---Yes.
13
11:00:52 14 How did you know him?---I'm trying to think, but I think
11:00:57 15 our paths may have crossed at Brunswick in the early 1990s.
16
11:01:01 17 Yes?---And I knew a Paul, he played football, I played
11:01:06 18 football, but we weren't - we didn't socialise together.
11:01:10 19 He later came to the Homicide Squad.
20
11:01:12 21 Yes?---I think when I was there, he was in another crew.
22
11:01:16 23 He was involved in the Lorimer Task Force?---Lorimer Task
11:01:19 24 Force, which I was a part of for a short time.
25
11:01:21 26 And Argall was there as well?---Argall was there.
27
11:01:24 28 And so you knew both of those people?---Yep.
29
11:01:26 30 Did you know at that stage that they had - that there was a
11:01:31 31 social relationship between them and Gobbo?---No.
32
11:01:50 33 On [REDACTED], if I can just go back a bit, you attended
11:01:54 34 [REDACTED] Prison to give [REDACTED] [REDACTED] the
11:01:58 35 information that he had provided to you about [REDACTED], [REDACTED]
11:02:02 36 and others. That's what you've got at 38 in your
11:02:06 37 statement?---Yes, that's correct, and I think I actually
11:02:09 38 make note in the chronology that that, for me, is a really
11:02:14 39 important part in him realising, you know, that his choices
11:02:18 40 about cooperating with us are becoming fewer.
41
11:02:22 42 Right?---Because he is now not only facing substantial,
11:02:28 43 almost irrefutable, evidence for the murder of [REDACTED],
11:02:32 44 but he now - that transcript is going to be served as part
11:02:35 45 of the brief and the rest of that crew, the [REDACTED] crew,
11:02:41 46 would know that he's talking.
47

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S. BATESON XXN - IN CAMERA

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11:02:45 1 That transcript would be served as part of the brief?---And
11:02:48 2 it was.
3
11:02:49 4 That is the [REDACTED] transcript in the [REDACTED] after he'd
11:02:53 5 been given the warnings; is that right?---Yes.
6
11:03:04 7 You gave him [REDACTED], then you visited him in
11:03:08 8 prison on several occasions thereafter, and it became clear
11:03:13 9 to you that he was willing to provide information in return
11:03:16 10 for considerable concessions?---Yes, I think at that time
11:03:20 11 he wanted bail, which, obviously, was never going to
11:03:28 12 happen, but yes, he wanted considerable concessions.
13
11:03:32 14 If we can just have a look at VPL.0005.0058.0772, which is
11:03:38 15 again your diary. Just scroll down. On 17 December you're
11:04:04 16 on duty and you're carrying out enquiries in relation to
11:04:14 17 Operation Macaw; is that right?---Yes.
18
11:04:15 19 There's a reference to an audience with Anscombe and
11:04:28 20 Horgan?---Yes.
21
22 Do you recall what the purpose of that meeting was
11:04:29 23 about?---I would imagine - Geoff Horgan's the Crown
11:04:38 24 Prosecutor and Vaile was the instructing solicitor for our
11:04:41 25 matters at Purana, so we were just updating them on the
11:04:42 26 investigation, I'm sure.
27
11:04:43 28 If we can then move into the following year. I think in
11:04:45 29 your chronology, in about February of 2004, Purana
11:04:50 30 detectives served briefs on [REDACTED] in relation to [REDACTED]
11:04:55 31 and [REDACTED] That's set out in your chronology that you prepared
11:05:00 32 - or it was prepared at your request, as I understand
11:05:04 33 it?---Yes.
34
11:05:05 35 Have you - I take it you've looked at the chronology?---Yes
36
11:05:11 37 Examined it and you're satisfied as to the correctness of
11:05:13 38 it?---Well, I'm satisfied it's a good representation of
11:05:19 39 what happened. Is it possible things were missed in it?
11:05:24 40 Possibly - you know, of relevance - but what we tried to
11:05:26 41 get in there is all our contact with Nicola Gobbo.
42
11:05:29 43 Yes?---And, indeed, the circumstances which led to both
11:05:35 44 [REDACTED] and [REDACTED] becoming Crown witnesses. So we
11:05:40 45 hope we've got all that information in there, and I'm sure
11:05:44 46 you'll tell me otherwise if I haven't.
47

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11:05:46 1 All right. Just excuse me. On [REDACTED], there was a
11:06:13 2 mention hearing in the committal proceeding of the murder
11:06:17 3 charges against [REDACTED] and [REDACTED] and it was during that hearing that
11:06:21 4 [REDACTED] made [REDACTED]?---Correct.
5
11:06:27 6 [REDACTED] was represented by a solicitor by the name of [REDACTED]
11:06:32 7 [REDACTED]?---Yes.
8
11:06:33 9 Do you know what firm she was at?---I think she was at
11:06:38 10 [REDACTED]
11
11:06:44 12 And Gobbo was present in the courtroom in relation to
11:06:47 13 another matter, is that your understanding?---I remember
11:06:49 14 her being present, I think we make a note of her being
11:06:53 15 present, but not acting for anyone.
16
11:06:55 17 Right. But after the hearing you had a discussion with
11:06:58 18 Ms Gobbo, was that outside of the court?---I don't recall.
11:07:09 19 It certainly would have either been, if it was inside the
11:07:12 20 court the court must have adjourned
21
11:07:15 22 Yes?---Otherwise it would have been outside the courtroom
11:07:17 23 but not necessarily outside the court building.
24
11:07:20 25 All right. In any event you discussed with her the topic
11:07:22 26 of [REDACTED] and the fact that he may be prepared to cooperate with
11:07:31 27 police?---I knew he was going to cooperate with us at that
11:07:34 28 point. It was about what was the next step for him to do
11:07:41 29 that.
30
11:07:41 31 Albeit she didn't appear was it your impression that she
11:07:44 32 was representing [REDACTED]?---Yes.
33
11:07:47 34 What was the basis of that understanding that you
11:07:50 35 got?---It's hard for me to think back about that now.
36
11:07:53 37 Yes?---But, you know, certainly by the conversation that I
11:07:57 38 noted about what the next steps were, it was clear that I
11:08:00 39 assumed she was acting for him.
40
11:08:02 41 Right. Was it simply based on the fact that she appeared
11:08:07 42 for him on [REDACTED] in the previous year in relation to
11:08:10 43 the 464 application or was it something else?---As I said I
11:08:14 44 don't know what led me to believe that as I sit here now.
45
11:08:17 46 Yes?---But clearly by my conversation that I noted with
11:08:21 47 her, that was my understanding.

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1
11:08:25 2 In any event you had a discussion with her and you said,
11:08:30 3 "Look, the first step for him cooperating and perhaps
11:08:35 4 getting some benefit for it would be to make a can-say
11:08:41 5 statement"?--Correct.
6
11:08:42 7 What's the purpose of that, what's that all
11:08:45 8 about?---Really, if you're going to negotiate, and this is
11:08:47 9 something I've done dozens of times in my career, if
11:08:50 10 someone is going to propose to give Crown evidence then the
11:08:53 11 Crown must know what they're prepared to say.
12
11:08:55 13 Yes?---So what we take is a can-say statement, "This is
11:09:00 14 what I can say if I was given an undertaking or an
11:09:04 15 indemnity not to prosecute me on other matters", [REDACTED]
11:09:09 16 [REDACTED]
17
11:09:11 18 All right. By that stage I suggest it's quite clear to you
11:09:14 19 that she was representing [REDACTED], was acting for
11:09:18 20 [REDACTED]?---Why do you say that?
21
11:09:22 22 Well, I suppose for the reasons that I've set out before,
11:09:27 23 that she'd appeared for Williams in February of that same
11:09:36 24 year a few weeks earlier representing [REDACTED] in relation
11:09:39 25 to [REDACTED]?---Yeah, I don't know
11:09:43 26 that I understood that at that time and I don't know if I
11:09:46 27 understood that she was acting for him in that matter at
11:09:50 28 that time.
29
11:09:50 30 So as far as you were concerned you say you didn't know
11:09:56 31 that she was acting for [REDACTED]?---I don't recall knowing
11:10:00 32 that she acted for him on that day and I certainly don't
11:10:04 33 recall knowing that she had an ongoing engagement to
11:10:09 34 represent him in any matters.
35
11:10:11 36 I wonder if we can look at VPL.0005.0058.0208. Perhaps if
11:10:17 37 it can not go up because I think there are names on it, but
11:10:17 38 just on my screen and the witness's screen and the
11:10:19 39 Commissioner's screen. These are notes out of your
11:10:30 40 Homicide Squad day book for 22 March?---Yes.
41
11:10:33 42 "Spoke to Nicola Gobbo barrister for [REDACTED]. Spoke to the same
11:10:36 43 re [REDACTED] cooperation. She was at pains to point out she would
11:10:41 44 not declare confidential communications to [REDACTED] or anyone
11:10:47 45 else", so one assumes [REDACTED]?---Yes.
46
11:10:50 47 It would be reasonably plain then that she was telling you

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11:10:53 1 that she wasn't going to be declaring any confidential
11:10:56 2 communications to [REDACTED]?---Correct.
3
11:10:59 4 Right? You must have been aware from at least that that
11:11:04 5 she had a relationship with [REDACTED]?---Absolutely, and as
11:11:08 6 I said before we knew they socialised together frequently,
11:11:12 7 yes.
8
11:11:13 9 You say that you didn't know that she had a professional
11:11:15 10 relationship with [REDACTED]?---No, not that I recall.
11
11:11:24 12 Mr Bateson, it would be extraordinarily surprising that you
11:11:27 13 as an investigator at that time wouldn't have been made
11:11:30 14 aware of the fact that she had applied in March to the
11:11:37 15 magistrate to cross-examine you on behalf of [REDACTED] and
11:11:40 16 she'd appeared for him on the bail application, you must
11:11:42 17 have been across that surely?---I don't recall being across
11:11:46 18 that, Mr Winneke.
19
11:11:48 20 You may not recall it now but at the time I would suggest
11:11:50 21 if you're a Homicide investigator and you're not aware of
11:11:53 22 what's going on to that sort of level you wouldn't be doing
11:11:59 23 your job properly?---Why? It's not my case. There's an
11:12:02 24 informant that's running that prosecution. I've got my own
11:12:07 25 issues. I'm working extended hours, weekends on my own
26 cases. I don't need to be worrying about what's going on
11:12:12 27 in others.
28
11:12:13 29 These cases are all tied together, I mean [REDACTED] is
11:12:14 30 associated with [REDACTED], he's associated with [REDACTED]?---I don't care
11:12:18 31 who's representing them.
32
11:12:19 33 Did you say to Gobbo when she said, "I promise I won't tell
11:12:24 34 [REDACTED] about any of these matters that I'm talking to you
11:12:26 35 about [REDACTED]", did you say, "Why would you"?---I knew at that
11:12:31 36 point it was a reasonable statement for her to make because
11:12:34 37 she knew I knew that she socialised with him.
38
11:12:37 39 Did it occur to you in any event there may be some sort of
11:12:41 40 conflictual situation going on there at that time?---I
11:12:45 41 don't know if I turned my mind to it at that time.
42
11:12:48 43 COMMISSIONER: Mr Bateson, were you told by the informants
11:12:50 44 in the charge concerning the threats to kill you and your
11:12:52 45 partner that there was an application to cross-examine
11:12:56 46 you?---I'm sure I would have been and I think at the time
11:13:00 47 they also wanted to cross-examine my then girlfriend, which

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11:13:04 1 I think ultimately it was deemed unnecessary. So I'm sure
11:13:09 2 I would have been told that I was being asked to be
11:13:13 3 cross-examined, yes, Commissioner.
4

11:13:16 5 Wouldn't you have normally been told who the barrister was
11:13:20 6 who was applying to cross-examine you?---I could have
11:13:22 7 been. But I wouldn't have cared who the barrister was,
11:13:24 8 it's not important to me. Of course there's a barrister,
11:13:26 9 who it is, it doesn't matter. Would I have assumed it
11:13:30 10 was one of the small cadre that represents all these
11:13:34 11 individuals? Probably. I don't care who the barrister is.
11:13:37 12 One barrister is the same to the next in these organised
11:13:41 13 crime cases for me.
14

11:13:43 15 Some can be a little more effective in their
11:13:46 16 cross-examination than others?---Perhaps, perhaps. But I
11:13:52 17 don't remember significantly thinking about who's going to
11:13:54 18 be cross-examining me. I never worried about that. I
11:13:59 19 faced that whenever I got into the witness box.
20

11:14:02 21 Thank you. Yes, Mr Winneke.
22

11:14:04 23 MR WINNEKE: Aside from who's going to be cross-examining
11:14:07 24 you, what you're seeking to do is get a statement from [REDACTED] in
11:14:13 25 relation to the involvement of [REDACTED] in a murder,
11:14:16 26 perhaps three murders?---Correct.
27

11:14:19 28 And you are aware that Ms Gobbo at that stage, at the very
11:14:26 29 least, is suspected of being if not criminally involved,
11:14:31 30 unethically involved with [REDACTED]?---Yes, I suspect that
11:14:37 31 would have been my thinking at the time, yes.
32

11:14:39 33 In any event if you did believe that she had a conflicted
11:14:45 34 situation with respect to [REDACTED], it would be a matter of
11:14:47 35 concern to you, do you agree or not?---Look, I think at the
11:14:52 36 time I was so confident that [REDACTED] was going to turn
11:14:58 37 Crown witness, it was only a matter of time. We had such
11:15:02 38 significant overwhelming evidence against him. He now
11:15:06 39 could not return to the [REDACTED] crew after we served that
11:15:09 40 transcript. He was out on a shelf by himself. I knew he
11:15:14 41 was coming to us as a Crown witness. It was only a matter
11:15:17 42 of when. Whether it was Ms Gobbo or another barrister
11:15:20 43 wouldn't have worried me.
44

11:15:21 45 Yes?---I knew what he wanted to do and I knew he was going
11:15:26 46 to do it.
47

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11:15:39 1 You had a meeting I think on 25 March 2004, a few days
11:15:46 2 afterwards. In fact three days afterwards with the OPP and
11:16:00 3 I think Mr Buick, yourself, Gavan Ryan, Andy Allen,
11:16:06 4 Ms Anscombe, Mr Horgan in relation to how things were going
11:16:09 5 with respect to the investigation of ██████████, Operation
11:16:15 6 ██████████ was ██████████, correct?---Yes.
7
11:16:17 8 And you told the meeting that you had informed Ms Gobbo
11:16:22 9 that if ██████████ wished to cooperate then he should
11:16:25 10 prepare a can-say statement, correct?---I'm sure I did. Is
11:16:36 11 that in my - yep, okay, great. Thank you. Yes.
12
11:16:45 13 Do you see that?---Yes, thank you, I agree with that.
14
11:16:48 15 Okay. I think Mr Allen in his diary makes a note to the
11:16:57 16 effect at that meeting that "N Gobbo to be advised of
11:17:01 17 urgency of the situation regarding can-say and to progress
11:17:05 18 the same and the OPP to be briefed", do you agree that that
11:17:10 19 is also an accurate representation of what occurred?---So,
11:17:19 20 can you repeat his diary note?
21
11:17:22 22 "N Gobbo to be advised of urgency of this situation
11:17:25 23 regarding 'can-say' and to progress same and the OPP to be
11:17:31 24 briefed"?---I don't remember the urgency part of that
11:17:35 25 statement but otherwise yes.
26
11:17:37 27 All right. I think in your notes later on the day you'll
11:17:41 28 see there at 14:30 you advised "re update of ██████████" and that,
11:17:50 29 "I may contact Nicola Gobbo for update as I discuss the
11:17:55 30 can-say statement with her on Monday", that was agreed, and
11:18:00 31 that's something that you accept occurred?---Yes.
32
11:18:06 33 Okay. Then on ██████████ you and Mr Buick attended upon
11:18:15 34 ██████████ in the prison and he provided information about
11:18:21 35 some of the murders, in effect the sort of information that
11:18:24 36 he had been provided - he'd provided to you previously and
11:18:29 37 had been ██████████, correct?---Yes.
38
11:18:30 39 And later that day Ms Gobbo called you?---Yes.
40
11:18:34 41 She said that she'd been contacted by ██████████ and told that she
11:18:39 42 had received a call from ██████████ and she said that she and her
11:18:43 43 instructor intended to visit him at the prison the
11:18:47 44 following day?---Correct.
45
11:18:50 46 She said that she agreed that the process from here on in
11:18:54 47 was for her client to provide a can-say statement?---Yes.

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1
11:19:06 2 If we look at her court book on 5 April, again if this can
11:19:11 3 just be put up on secure screens, MIN.0001.0014.0001 at
11:19:19 4 p.162 and there's a reference to - or your name and a
11:19:45 5 telephone number which I assume is yours?--An old one,
11:19:49 6 yes.
7
11:19:50 8 "Leaving the country for five weeks", you were having a
11:19:54 9 break, were you?---No.
10
11:19:57 11 No?---I don't know what that's in reference to. "Leaving
11:20:05 12 country for five weeks." No, because I don't.
13
11:20:11 14 Okay. No rest at that stage?---No.
15
11:20:13 16 In any event there appears to be some details of a
11:20:16 17 conversation, "Needs details otherwise no use. Needs to
11:20:20 18 become a valuable witness. Spoken to bosses who spoke to
11:20:26 19 the DPP", correct? "Reverse caution, can't be used against
11:20:32 20 him. Full disclosure re ██████████'s murder, ██████████ murder.
11:20:37 21 No direct knowledge re any other murders". Does that more
11:20:44 22 or less reflect the conversation that you had with her?---I
11:20:50 23 agree that's what's written there. I don't remember that
11:20:53 24 level of detail around speaking to the DPP but it's not
11:20:57 25 inconsistent with my memory.
26
11:20:59 27 All right. In any event if that - let's assume that that's
11:21:04 28 a contemporaneous record of a discussion with you, it would
11:21:08 29 seem to be about right?---I take no objection to anything
11:21:12 30 in there.
31
11:21:14 32 And the records suggest that the following day she visits
11:21:21 33 ██████████ I think I suggested, I think you've got in your
11:21:41 34 statement that Gobbo called you and told you that she'd
11:21:45 35 been contacted by ██████████, received a call from ██████████. If
11:21:51 36 you have a look at the diary or the court book entry that
11:21:54 37 she's got you can see a telephone call from ██████████, "Police saw
11:21:58 38 him again and want full disclosure". So that seems to be
11:22:02 39 consistent, and then she calls you which is consistent with
11:22:08 40 what you say, correct?---Correct.
41
11:22:10 42 She then visits him. Again, if we can just move up the -
11:22:18 43 scroll to the next page. One more. There appears to be a
11:22:26 44 discussion between Gobbo and ██████████ and there's some
11:22:34 45 considerable information there that she's receiving from
11:22:40 46 ██████████, do you see that?---Yeah, I really like that
11:22:46 47 comment about fear of ██████████ being killed then I'll

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11:22:50 1 have no bargaining power because I think it just reinforces
11:22:54 2 the significance of [REDACTED] being arrested, you know,
11:22:57 3 later that month or in June.
4

11:22:59 5 Yes?---Because that's when he pulled the trigger and made
11:23:02 6 the statements. He thought he held all the cards and he
11:23:05 7 was willing to hold out for major concessions, you know.
11:23:11 8 This was something he was always going to do. He was just
11:23:14 9 trying to play, hold his cards as close to his chest until
11:23:19 10 the last possible minute.
11

11:23:20 12 Yes?---When we arrest [REDACTED] in June he suddenly
11:23:26 13 realises, "I better take whatever they're offering".
14

11:23:31 15 What we can see there is that she's taken significant
11:23:35 16 details from [REDACTED] about various matters and a couple of those
11:23:39 17 matters that you've already referred to. Have you seen
11:23:41 18 that diary entry before?---No, never, first time.
19

11:23:50 20 What does appear quite clear is that she's heavily involved
11:23:55 21 in receiving instructions from [REDACTED]?---Yes.
22

11:23:57 23 She's there with an instructing solicitor, [REDACTED]
11:24:01 24 [REDACTED]?---It appears so, yes. Once again that's
11:24:13 25 significant. "I want a complete indemnity on everything
11:24:17 26 including [REDACTED] or forget it", which goes to show he's
11:24:21 27 still holding out for those concessions that he wants.
28

11:24:24 29 Yes?---But, you know, if we were to provide them he would
11:24:27 30 make that deal. He was always going to make that deal.
31

11:24:31 32 Yeah, all right. Are you aware that there was a further
11:24:37 33 meeting that Gobbo had with Andy Allen on 9 April where
11:24:44 34 they met at Clarendon Street where there was a discussion
11:24:47 35 about issues with respect to Gobbo acting for [REDACTED]?---No, I'm
11:24:53 36 not aware of that.
37

11:24:54 38 At the Wallflower Café?---No.
39

11:24:59 40 And you don't understand at any stage that there were any
11:25:03 41 concerns about Gobbo acting for [REDACTED]?---I don't know anything
11:25:11 42 about that meeting.
43

11:25:13 44 Yes?---I think there was always concerns, I mean, you know,
11:25:18 45 our view was that, you know, her acting for [REDACTED] and receiving
11:25:25 46 his instructions and acting on his instructions would place
11:25:30 47 her in a difficult position because she was considered by

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11:25:33 1 the [REDACTED] crew and others as part of their crew, for
11:25:38 2 want of a better word.
3
11:25:39 4 Right?---So it would be, it would put her in a difficult
11:25:43 5 position no doubt.
6
11:25:45 7 That would be a rather unusual situation. I mean as far as
11:25:51 8 you were concerned Gobbo's doing nothing wrong in this case
11:25:56 9 acting for a person who is in all sorts of strife and who
11:26:03 10 seeks to get an appropriate discount for assisting police
11:26:06 11 and assisting in the smooth operation of the course of
11:26:10 12 justice?---Knowing how much this guy wanted this deal.
13
11:26:13 14 Yes?---I believe Nicola Gobbo acted always in his best
11:26:18 15 interests.
16
11:26:20 17 Right. Ultimately he did plead, he made various statements
11:26:28 18 and he received a significant benefit for doing so?---He
11:26:32 19 received a very good deal with 10 years as a bottom
11:26:37 20 sentence.
21
11:26:40 22 You would accept, I take it, that Ms Gobbo played a
11:26:44 23 significant and active role in that process
11:26:48 24 occurring?---No, I wouldn't agree with that.
25
11:26:50 26 No?---The significance of her involvement in my view is
11:26:53 27 quite minimal. As I said, he was always going to take that
11:26:58 28 deal. It didn't matter who was representing him, and in
11:27:02 29 fact he was still looking for concessions after she stopped
11:27:05 30 acting for him. So we still had to do some work and speak
11:27:10 31 to [REDACTED]. The significance of her involvement
11:27:15 32 in him becoming a Crown witness compared to everything else
11:27:21 33 that got him there in my view is insignificant.
34
11:27:25 35 In any event whether - - -
11:27:29 36
11:27:29 37 MR CHETTLE: Sorry, there was another name mentioned then.
38
11:27:37 39 COMMISSIONER: Which name?
11:27:38 40
11:27:38 41 MR CHETTLE: The first name was mentioned, Commissioner.
11:27:42 42 [REDACTED]'s first name was mentioned.
43
11:27:50 44 MR WINNEKE: It's not on the transcript.
11:27:53 45
11:27:53 46 MR HOLT: I heard [REDACTED].
47

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11:27:55 1 COMMISSIONER: It's not on the transcript?---I don't think
11:27:59 2 I mentioned [REDACTED].
3
11:28:02 4 MR CHETTLE: [REDACTED].
11:28:06 5
11:28:06 6 MR WINNEKE: I didn't hear it. Mr Chettle's hearing
11:28:10 7 things.
8
11:28:10 9 COMMISSIONER: The witness doesn't think he said. I didn't
11:28:12 10 hear it. It's not there, no. I think you're jumping at
11:28:17 11 shadows, Mr Chettle.
11:28:19 12
11:28:19 13 MR CHETTLE: I hear things that aren't said.
14
11:28:22 15 MR WINNEKE: Look, in any event the role she played was a
11:28:30 16 legal representative who was engaging in discussions with
11:28:34 17 Victoria Police and the Crown to resolve their position and
11:28:36 18 to get the best possible deal that he could, that was her
11:28:40 19 role?---Yes.
20
11:28:41 21 And whether you say it's significant in getting him to -
11:28:45 22 I'm not suggesting that she convinced him to do it, what
11:28:50 23 I'm simply saying is that she was representing him?---I
11:28:52 24 agree with that, yes.
25
11:29:02 26 Is it your understanding that she appeared for him
11:29:23 27 subsequently at the [REDACTED] court in relation to [REDACTED]
11:29:30 28 charges and they were matters that predated the matters or
11:29:40 29 the murders, is that right?---Yes. I might stand up, I
11:29:47 30 have a sore back.
31
11:29:51 32 COMMISSIONER: Yes, that's fine.
33
11:29:52 34 MR WINNEKE: You spoke to him prior to that plea, it was a
11:29:54 35 plea in front of I think Judge Smallwood and there was an
11:29:58 36 OPP prosecutor Mr Horgan and she appeared for [REDACTED], he pleaded
11:30:05 37 guilty, sentenced to a period of imprisonment; is that
11:30:08 38 right?---Correct.
39
11:30:10 40 And before that it was [REDACTED] charges. Before that you
11:30:14 41 and Swindells met with [REDACTED] in the cells?---Yes.
42
11:30:20 43 Correct?---Yes.
44
11:30:21 45 He said that he was still willing to cooperate by making
11:30:24 46 statements, right?---Correct.
47

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11:30:26 1 And it was your understanding that there had already been
11:30:29 2 contact between Mr Horgan and Ms Gobbo about a plea deal in
11:30:33 3 relation to the murder charges?---Correct.
4

11:30:40 5 And I think, albeit I haven't mentioned it, the fact that
11:30:47 6 you say that [REDACTED]' arrest in [REDACTED] of 2004 in relation
11:30:51 7 to [REDACTED] in relation to other matters was a
11:30:54 8 significant factor in, you believe, [REDACTED] finally agreeing to
11:31:00 9 make statements and give evidence; is that right?---I know
11:31:02 10 it to be true. He said it.
11

11:31:04 12 [REDACTED] said it - sorry, [REDACTED] said it?---Yep.
13

11:31:07 14 Okay. After that hearing at [REDACTED] on [REDACTED], you had a
11:31:21 15 discussion with Gobbo, right, and she told you that she was
11:31:28 16 concerned for her own welfare if it was to become known
11:31:32 17 that she was acting for [REDACTED] and advising him in
11:31:35 18 relation to his plea deal?---Correct.
19

11:31:49 20 What you would say is, "Look, she was fearful for her
11:31:54 21 welfare because she had a connection with [REDACTED]"
11:32:04 22 and, as far as you were concerned, that may lead [REDACTED]
11:32:07 23 [REDACTED] to be very angry with her?---Yeah, I think my
11:32:10 24 belief at that time is that, you know, [REDACTED] and
11:32:13 25 others looked to her to be part of their network, and
11:32:21 26 acting for [REDACTED] in the manner that she did would be
11:32:28 27 something they'd be upset with.
28

11:32:31 29 That may well be right, but nonetheless, as far as you were
11:32:34 30 concerned, she was simply doing her job?---Absolutely.
31

11:32:37 32 She was acting, you would say, as any barrister should do
11:32:41 33 and acting in the best interests of her clients?---Yes.
34

11:32:44 35 She wasn't an informer, if you like?---No.
36

11:32:49 37 She wasn't acting as your agent?---No.
38

11:32:52 39 She wasn't an undercover operative - - -?---No.
40

11:32:57 41 - - - as far as you were concerned. As far as you were
11:33:01 42 concerned, it would be unusual, wouldn't it, for a
11:33:03 43 barrister to be concerned about his or her welfare by
11:33:07 44 simply advising the client of the available options?---I
11:33:15 45 didn't think it was unusual at the time because I did know
11:33:17 46 that she socialised with them, I did know that she was seen
11:33:22 47 by them as part of their network. So by acting in the best

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11:33:26 1 interests of [REDACTED], I could see that they would be
11:33:30 2 upset. So yes, I did not see that she was concerned about
11:33:35 3 her welfare as surprising.
4

11:33:40 5 Is it the situation that she had put herself in a difficult
11:33:45 6 - a position of conflict between the interests of [REDACTED]
11:33:49 7 [REDACTED] and other people associated with him, by acting
11:33:58 8 appropriately for [REDACTED]?---I'm not sure that conflict sort of
11:34:04 9 tends to bring it back to a lawyer/client relationship. I
11:34:08 10 think what was most concerning is that she was considered
11:34:11 11 to be part of their network.
12

11:34:12 13 Yes?---And they would be upset that a member of their crew,
11:34:19 14 for want of a better word, had facilitated the instructions
11:34:25 15 of [REDACTED] on this occasion.
16

11:34:28 17 Right. So they had facilitated it, but nonetheless done
11:34:33 18 so, as far as you were concerned, appropriately by giving
11:34:36 19 independent legal advice to - - - ?---I know it to be the
11:34:39 20 case. I know [REDACTED] was always going to take that deal.
11:34:42 21 He made it clear from the very start.
22

11:34:44 23 I understand that, but what I'm suggesting is that - - -
11:34:47 24 ?---So for her, she was acting appropriately in those
11:34:51 25 circumstances, facilitating his instructions.
26

11:34:54 27 Yes, all right. Did you take the view that it would be
11:35:26 28 appropriate to protect that information so as no-one found
11:35:33 29 out about Gobbo's role in acting for [REDACTED] and, in
11:35:42 30 effect, facilitating that statement or that plea?---Well,
11:35:46 31 ultimately I redacted her representing [REDACTED] at the
11:35:51 32 [REDACTED] trial from my notes. That was not on the basis of
11:36:00 33 scrubbing that from record, it was still, obviously,
11:36:04 34 clearly on transcripts, but it was done to protect her
11:36:09 35 welfare and safety.
36

11:36:11 37 What did you do? You redacted it from what?---From my
11:36:14 38 notes.
39

11:36:15 40 And how did you redact it from your notes? You redacted
11:36:19 41 the fact that she had appeared for [REDACTED] at
11:36:24 42 [REDACTED]?---Yes, and acted for him. Yes, that became - when
11:36:31 43 we produced our notes, as we always do in homicide trials,
11:36:36 44 the defence counsel gets a redacted copy.
45

11:36:39 46 Yes?---And we also, as it turned out, in this case, provide
11:36:45 47 an unredacted copy to the magistrate and there is an

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11:36:50 1 argument on what remains because of public interest
11:36:55 2 immunity claims that we make.
3
11:37:00 4 I'll come to this in due course, but I'll perhaps ask you
11:37:04 5 now. You redact the fact from your notes that you had
11:37:07 6 spoken to - or, firstly, the fact that Gobbo had appeared
11:37:12 7 for [REDACTED] at [REDACTED], that's redacted?---Yes.
8
11:37:43 9 And that's redacted because of what?---Because of the
11:37:43 10 concerns she had, and I shared, for her safety had that
11:37:43 11 become known by [REDACTED] and [REDACTED].
12
11:37:43 13 Is that on the basis of public interest
11:37:43 14 immunity?---Correct.
15
11:37:43 16 And did you get legal advice about that?---My public
11:37:43 17 interest immunity claims were always prosecuted by the VGSO
11:37:48 18 before the magistrate. So not specifically on that point,
11:37:51 19 but certainly that's who represented me in those - when I
11:37:54 20 made those claims.
21
11:37:57 22 This claim is not because she is an informer,
11:38:02 23 correct?---This is for her safety.
24
11:38:03 25 It is not because she is an undercover operative,
11:38:08 26 right?---Correct.
27
11:38:10 28 It is, you say, because of her safety, correct?---Yes.
29
11:38:15 30 But what she is doing, you say, is nothing more than any
11:38:21 31 proper barrister would do in representing the interests of
11:38:24 32 a client?---Correct.
33
11:38:27 34 Do you say that that forms under the heading of a
11:38:29 35 recognised form of public interest immunity?---The
11:38:33 36 wellbeing and safety, if any person's safety is at risk,
11:38:36 37 yes.
38
11:38:37 39 Do you say you didn't get legal advice about that from
11:38:40 40 anyone? I'm focusing now on the appearance at the [REDACTED]
11:38:44 41 court?---Well, whenever my claims of public interest
11:38:49 42 immunity were made, they were made with me being
11:38:52 43 represented by the Victorian Government Solicitor's
11:38:58 44 offices.
45
11:38:58 46 So in relation to the [REDACTED] court plea, do you say that
11:39:01 47 that was made on the advice of the VGSO?---No, what I'm

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11:39:07 1 saying is it was done in conjunction with the VGSO. It was
11:39:15 2 I that put that claim forward and the VGSO represented me
11:39:19 3 when I made those claims.
4

11:39:20 5 Who at the VGSO represented you?---I don't recall.
6

11:39:23 7 I'll come back to this due in course, but the fact is she
11:39:27 8 appears for him in [REDACTED] on matters in relation to
11:39:31 9 [REDACTED] completely unconnected with any murders and
11:39:35 10 unconnected with [REDACTED], is that right?---Correct.
11

11:39:39 12 And it's not suggested that her appearance at [REDACTED] is in
11:39:43 13 some way contrary to the interests of [REDACTED], is
11:39:46 14 it?---I think what we realised at the time that her
11:39:54 15 holistically facilitating the instructions of [REDACTED]
11:39:57 16 would be something that [REDACTED] would be quite upset
11:40:00 17 with because he considered her to be part of his criminal
11:40:05 18 network.
19

11:40:08 20 He might think that there's a conflicted situation going
11:40:11 21 on, is that right?---Who might think that?
22

11:40:14 23 [REDACTED]?---He may well think that she is being disloyal.
24

11:40:19 25 But as far as you're concerned, the fact that she's
11:40:28 26 appearing at [REDACTED] on a matter completely unrelated to
11:40:31 27 [REDACTED] is something that you would say has got to be
11:40:34 28 protected from public view?---I'm not sure I can make this
11:40:38 29 much clearer, Mr Winneke. What I believed is that
11:40:43 30 [REDACTED] and [REDACTED] would find it objectionable that
11:40:45 31 Nicola Gobbo or Ms Gobbo acted and facilitated the
11:40:49 32 instructions of [REDACTED], because they believed her to be
11:40:54 33 part of their crew, their criminal network. Even though
11:40:59 34 she acted in the best interests of her client, that was
11:41:02 35 what they would think.
36

11:41:05 37 Was this the subject of an affidavit or a confidential
11:41:09 38 affidavit to any court?---I don't recall. I suspect in the
11:41:15 39 Magistrates' Court it was me giving evidence.
40

11:41:17 41 Do you recall in what proceeding this evidence was
11:41:20 42 given?---It was in the committal proceeding and I believe
11:41:24 43 the chief magistrate was the person that - - -
44

11:41:27 45 Mr Lauritson?---I thought it was Mr Grey, but was it
11:41:33 46 Mr Lauritson? I'm not sure.
47

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11:41:34 1 I can't recall who was the chief magistrate. In 2005?---It
11:41:39 2 would have been 2005, yes, whenever the committal was.
3

11:41:44 4 We'll come to that. Ultimately the fact that Ms Gobbo
11:41:51 5 appeared for ██████████ was something that wasn't revealed
11:41:54 6 at the committal at ██████████, correct?---No, but it was
11:42:00 7 certainly, as I understand it, known to counsel Con
11:42:06 8 Heliotis, but it wasn't known - - -
9

11:42:08 10 Counsel for who?---██████████. But it wasn't known by
11:42:12 11 ██████████ and ██████████, I don't believe.
12

11:42:26 13 Subsequent to that plea, between ██████████ and ██████████, you
11:42:30 14 attended at ██████████ Prison to take statements from ██████████,
11:42:36 15 is that right?---Correct.
16

11:42:37 17 Did you explain the process of taking statements from him?
11:42:41 18 In other words, he had to understand that he was obliged to
11:42:46 19 tell you the full truth, is that right?---I'm sure that he
11:42:52 20 understood that that's what I required, yes.
21

11:42:57 22 And did you impress upon him that any - whether it be
11:43:00 23 indemnity or any assurance that he may get or comfort that
11:43:05 24 he may get would depend on him telling you the
11:43:08 25 truth?---Correct.
26

11:43:09 27 Because ultimately in any proceeding it was anticipated,
11:43:14 28 assuming people such as ██████████ and ██████████ determined
11:43:26 29 to contest those proceedings, that ██████████ was going to be
11:43:29 30 heavily attacked in terms of his credit?---Of course.
31

11:43:33 32 Clearly his credit was going to be in issue?---Yes.
33

11:43:37 34 And that was anticipated by you?---Yes.
35

11:43:45 36 On that basis, I assume you would have made it clear to him
11:43:50 37 that it was expected that he would give you the truth and
11:43:53 38 the whole truth in his statements, correct?---Correct.
39

11:44:01 40 COMMISSIONER: We might have a 10-minute break now.
41

42 (Short adjournment.)
43

12:05:02 44 COMMISSIONER: Yes, Mr Winneke.
45

12:05:04 46 MR WINNEKE: Thanks, Commissioner.
47

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12:05:05 1 COMMISSIONER: Mr Bateson, if you want to stand up at any
12:05:08 2 time just feel free to do so.
3

12:05:21 4 MR WINNEKE: In your notes you say on 8 July 2004 you spoke
12:05:26 5 to Mr Horgan about a plea deal, there was a discussion
12:05:32 6 about whether the plea and sentence for the murder of
12:05:36 7 ██████████ should be scheduled after ██████ gives evidence for the
12:05:40 8 Crown in the committal proceeding or before, and the view
12:05:45 9 was taken that he should be - he should give evidence
12:05:49 10 first, is that right?---That's my notes of the meeting.
11

12:06:00 12 And Mr Horgan agreed with you and the idea was to put
12:06:04 13 Nicola off for a while and Mr Horgan agreed and said that
12:06:08 14 he would speak to Ms Gobbo, is that your understanding of
12:06:10 15 the meeting?---Yes.
16

12:06:14 17 Perhaps if we go to VPL.5.58.1, at 116?---The only thing -
18 - -
19

12:06:29 20 COMMISSIONER: What day is this, please?
21

12:06:32 22 MR WINNEKE: 8 July, is that right?---Correct, 8 July 2004.
23

12:06:38 24 And you spoke to Mr Horgan about the plea, put forward case
12:06:44 25 for plea and sentence to be conducted after giving evidence
12:06:50 26 at a contested committal, no problem with transfer because
12:06:55 27 he's sentenced, he'd already been sentenced in
12:07:00 28 ██████████ --For ██████████, yes.
29

12:07:01 30 Sorry?---Yes.
31

12:07:02 32 And that protects against a back flip if he receives a
12:07:06 33 heavy sentence, protects against death. What does that
12:07:11 34 mean?---Well, I wanted to get - I think what I'm referring
12:07:16 35 to there, if we got him cross-examined at a committal,
12:07:22 36 there may be a chance that that evidence would be given at
12:07:25 37 trial should he die.
38

12:07:27 39 Okay. And Mr Horgan agreed, "We'll put Nicola off." What
12:07:36 40 was the point of that? What was your understanding about
12:07:37 41 that, putting Nicola off?---I think it was just about
12:07:41 42 saying that he would talk to her and outline that
12:07:47 43 circumstance. I'm not sure that that - that didn't happen
12:07:51 44 in the end, but that's - looking at that note, that's my
12:07:56 45 recollection of the meeting.
46

12:07:57 47 Did you have draft statements at that stage from ██████?---I

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12:08:06 1 don't think we did.
2
12:08:07 3 You did?---I don't think we did, no.
4
12:08:10 5 All right. When did you get the draft statements?---I'm
12:08:13 6 just having a look at my timeline here.
7
12:08:16 8 What you say is between [REDACTED] and [REDACTED] 2004 you attend [REDACTED]
12:08:22 9 [REDACTED] to take statements from [REDACTED]. One assumes that you
12:08:25 10 would have had statements, at least in draft form, by
12:08:28 11 then?---When you talk about draft, I tend to think of a
12:08:33 12 completed statement that is in draft. I'm not sure that
12:08:39 13 that was the case. They're long statements that take a
12:08:43 14 fair bit of time to go through, so whether they were
12:08:46 15 actually to the point of being in draft, I don't know.
12:08:49 16 They were certainly there, they were started. At what
12:08:53 17 stage they're at, I couldn't tell you as I sit here now.
18
12:08:56 19 Could you explain the process of how the statements were
12:09:00 20 taken? Were they taken on a computer? Was it taken as a
12:09:04 21 result of discussions that were recorded?---They were just
12:09:06 22 taken on a computer.
23
12:09:07 24 So you'd go out to the prison with a computer and you would
12:09:12 25 record - you'd take the statement, would you?---Yes.
26
12:09:16 27 And you'd be typing the statement?---Either me or Mark Hatt
12:09:22 28 I think I went with.
29
12:09:22 30 Either you or Mark Hatt?---Yes.
31
12:09:26 32 You obviously had a laptop computer and you were speaking
12:09:31 33 to him at the same time that you were typing out his
12:09:35 34 statement, is that right?---Correct.
35
12:09:37 36 Did you print that statement off in draft or the statements
12:09:41 37 off, at any time?---Only when we needed him to go back and
12:09:45 38 read them. So I think there's some indications in my notes
12:09:50 39 - we didn't have a portable printer.
40
12:09:51 41 Perhaps if you can go to your notes. Have you got them
12:09:54 42 there? Because I wouldn't mind asking about that
12:09:56 43 process?---Okay. So we've got the 29th, the 25th - sorry,
12:10:02 44 the 22nd, 23rd, 25th
12:10:05 45
12:10:05 46 So on each of those occasions you - - -?---The 29th and
12:10:08 47 30th, yes, we attended.

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1
12:10:10 2 And how many statements were you getting from him?--Well,
12:10:14 3 two primarily at that stage and then we went into the [REDACTED]
12:10:21 4 [REDACTED] I think we started on the [REDACTED].
5
12:10:24 6 In the initial stages you were getting statements in
12:10:26 7 relation to [REDACTED] and [REDACTED], they're the two
12:10:31 8 main statements that you were focusing on at that
12:10:33 9 stage?---That's correct.
10
12:10:34 11 So by then - so [REDACTED] we would have had a printed copy for
12:10:46 12 him to read. It says here, "Review of statements to see if
12:10:50 13 true and correct. Won't sign before going to Nicola for
12:10:52 14 approval. Requested a minor addition, no deletions."
15
12:10:56 16 If I can just focus on that. On [REDACTED] you had printed out
12:11:02 17 two statements, is that right?---I think so, yeah.
18
12:11:06 19 And you gave him drafts of those statements,
12:11:14 20 correct?---Yes.
21
12:11:18 22 He requested that there be minor additions, is that
12:11:23 23 right?---Yes. As I recall and from my notes, I think the
12:11:27 24 last two sentences of paragraph 52 were added.
25
12:11:31 26 The last two sentences in paragraph 52 of the statement
12:11:36 27 were added?---Yes.
28
12:11:37 29 Was that in relation to [REDACTED] or [REDACTED] and [REDACTED]?---I
12:11:41 30 can't remember now as I sit here.
31
12:11:45 32 Right. But in any event, you said that [REDACTED] 2004, minor
12:11:50 33 additions, but he wanted to speak to Ms Gobbo to review his
12:11:54 34 statements prior to him signing them, right?---Correct.
35
12:11:59 36 Were there handwritten notes made on the draft statements
12:12:02 37 that you took out to him on [REDACTED] 2004?---Not that I
12:12:07 38 recall.
39
12:12:09 40 How did you record the fact that he wanted to make minor
12:12:14 41 additions? Was that made on the statement or on the
12:12:16 42 computer?---On the computer.
43
12:12:20 44 You say that you gave him drafts of his statements. Would
12:12:24 45 he have kept those or would you have taken them back?---We
12:12:27 46 would have taken them back. Actually, now that you think
12:12:29 47 of it, I don't know that we didn't get him to read it on

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12:12:34 1 the computer. It was one or the other.
2
12:12:36 3 In any event, you either had hard copies that you gave to
12:12:44 4 him to read, right, or you had a computer which you asked
12:12:49 5 him to read?---Yeah, one or the other.
6
12:12:51 7 Would this have been recorded, this conversation, or
12:12:54 8 not?---No.
9
12:13:00 10 One assumes that you went out there with a view to him
12:13:03 11 signing the statements, I would expect?---I don't know. I
12:13:09 12 mean, it was a pretty common procedure to get your legal
12:13:14 13 representative to review statements when you're a Crown
12:13:17 14 witness, so I'm not - I don't think I would have been
12:13:20 15 expecting that.
16
12:13:21 17 What you're wanting from the witness is to tell you the
12:13:25 18 truth and to set out, to the best of his recollection, the
12:13:28 19 events which involved very, very serious crimes, is that
12:13:33 20 right?---Yes.
21
12:13:34 22 And you're concerned to know what the witness has got to
12:13:37 23 say, not what his lawyer might want to add or change to a
12:13:40 24 statement, is that right? Do you agree with that?---I
12:13:43 25 think, you know, looking back now, and I think about this a
12:13:47 26 bit. Recently - not too recently I bought a property and
12:13:51 27 before I signed the contract, I got my lawyers to review
12:13:55 28 it, so I think in lots of ways, it's a pretty - and through
12:14:00 29 my experience in policing, whenever I've had people turn
12:14:03 30 Crown witness, they get their lawyers to review the
12:14:06 31 statement before signing. It's a pretty common procedure.
32
12:14:12 33 Do you equate a witness who is swearing to tell the truth
12:14:14 34 in a Supreme Court trial about ██████ murders the same as
12:14:19 35 making sure a contract is appropriate in a property
12:14:22 36 transaction, is that what you're saying?---No. In fact, I
12:14:25 37 think it highlights a great difference. If I want my
12:14:28 38 lawyer to review a contract for a property when I'm signing
12:14:31 39 up for a mortgage for 20 years, I'd certainly want my
12:14:34 40 lawyer to review statements that may see me in gaol for 20
12:14:37 41 years.
42
12:14:38 43 Right. In any event, what you said in your statement is
12:14:44 44 that you gave him drafts of his statement. Do you withdraw
12:14:47 45 that and say, "I showed him a computer screen"?---I don't
12:14:51 46 withdraw that. I said in my evidence it was either one or
12:14:56 47 the other.

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1
12:15:02 2 Are you able to say to this Commission the exact changes
12:15:09 3 that were made by him to the statements when you went to
12:15:12 4 visit him on [REDACTED]?---Yes. It's in my notes, I believe,
12:15:17 5 that he wanted added the last two sentences of paragraph
12:15:20 6 52.
7
12:15:22 8 Is there a draft of the statement minus the last two
12:15:26 9 paragraphs - sentences in paragraph 52?---No.
10
12:15:31 11 There isn't? So do I take it that that draft has not been
12:15:36 12 retained?---No.
13
12:15:38 14 Why not?---Because we were operating on the principle that
12:15:43 15 the exhibit was the signed statement and until that point,
12:15:47 16 it was nothing.
17
12:15:48 18 It was nothing, what, because it hadn't been
12:15:55 19 completed?---It hadn't been completed, yes.
20
12:15:56 21 You went out and spoke to this man on a number of days and
12:16:01 22 you prepared a statement on the basis of what he told you,
12:16:05 23 correct?---Correct.
24
12:16:06 25 And you go out to him and he wants changes made to the
12:16:10 26 statement?---Yes.
27
12:16:12 28 And you say you don't keep the earlier draft of the
12:16:17 29 statement because it's not a final version and therefore
12:16:21 30 it's of no particular use at all?---Yes, but I do make a
12:16:26 31 note in my notes of what he wanted added, and that is the
12:16:31 32 last two sentences in paragraph 52, as I recall looking at
12:16:36 33 my notes last night.
34
12:16:39 35 What about saving the drafts that were prepared? I assume
12:16:47 36 they're saved on a computer. If you went out to see him on
12:16:51 37 [REDACTED] 2004, you will have saved a version of a statement,
12:16:56 38 I assume, wouldn't you?---Yeah, we'd just keep the same
12:17:00 39 version going, so we'd re-save it with the same file name.
40
12:17:06 41 So what you're saying now is you don't know whether you
12:17:09 42 gave him a hard or read an electronic copy to him?---No.
43
12:17:13 44 Okay. And you say it's not significant or important as far
12:17:17 45 as you're concerned as to whether he makes changes to a
12:17:20 46 draft statement, is that right?---No. I mean, that's
12:17:24 47 pretty common. We were sitting down and we're typing. We

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12:17:30 1 may say, "All right, is this what you said?" and someone
12:17:33 2 might say, "No, no, that's not what I said", so we've got
12:17:38 3 to continually go over it to make sure that we're
12:17:41 4 representing accurately the account of the witness.
5
12:17:43 6 But isn't the situation if you're out there for three days
12:17:46 7 and you're typing out statements, you type something out
12:17:49 8 and you read it to him and he says, "Yeah, that's
12:17:51 9 right"?---Sometimes. Sometimes you go back, and you might
12:17:56 10 go back as I have in my own work and said, "I haven't
12:17:58 11 really represented that sentence well or it's not
12:18:01 12 accurately reflecting what I'm talking about", so you may
12:18:04 13 well make that change, but - yeah, that's pretty common
12:18:09 14 when we're taking statements.
15
12:18:12 16 In any event, what he said to you is that he's not going to
12:18:15 17 sign the statements before going to Nicola for approval of
12:18:20 18 those statements, is that right?---Correct.
19
12:18:32 20 I take it after he makes those statements and suggests the
12:18:42 21 changes that he wants to those statements, do you then save
12:18:46 22 a copy of those statements with the changes that he wants
12:18:51 23 on them, do you then save a copy of those
12:18:54 24 statements?---Yes.
25
12:18:55 26 And you say you didn't do a read back at that stage because
12:18:58 27 he says he wasn't going to be satisfied until Nicola had
12:19:02 28 read them and given him the all clear?---Yes.
29
12:19:07 30 Do you know - assuming you had given him hard copies of
12:19:13 31 statements, you would say we wouldn't have left them with
12:19:16 32 him in any event?---We certainly wouldn't have left them
12:19:19 33 with him.
34
12:19:19 35 It wouldn't be safe to leave these sorts of things in a
12:19:22 36 prison, I assume?---Correct.
37
12:19:28 38 Nonetheless, the last two lines of paragraph 52 added,
12:19:35 39 nothing deleted - that's with respect to the [REDACTED]
12:19:37 40 statement. [REDACTED] statement, minor issues only,
12:19:42 41 correct?---Sorry, I'll just have to grab out the notes
12:19:46 42 again. I remember the 52. Which - - -
43
12:20:02 44 VPL.0005.0558.0114, perhaps if we can go there?---What are
12:20:11 45 you asking me to agree to?
46
12:20:13 47 "At [REDACTED], [REDACTED] 2004, re [REDACTED], review of statements"?---Yes.

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1
12:20:21 2 Then it says, "[REDACTED]. Allowed to read statement to see
12:20:25 3 if true/correct account"?---Yes.
4
12:20:32 5 What does it say? "Won't sign before going to Nicola for
12:20:35 6 approval. Wanted the last two lines of paragraph 52 added,
12:20:41 7 nothing deleted." Do you know what the last two lines of
12:20:43 8 paragraph 52 were?---Not as I sit here, but no doubt that
12:20:47 9 statement would be available to the Commission.
10
12:20:52 11 Can I just ask what this means, and it may be that - it's
12:20:56 12 not clear. I take it whilst you're there, you type out the
12:21:03 13 last two lines of paragraph 52?---Yes.
14
12:21:09 15 So, in effect, what you've got after the meeting is the
12:21:12 16 statement that you took out to him, with the last two lines
12:21:14 17 of paragraph 52, nothing deleted after that,
12:21:17 18 though?---Correct.
19
12:21:19 20 And then the next line says, "Raised during reading of
12:21:28 21 statement", is that right?---Yes.
22
12:21:33 23 And then there's a name of [REDACTED] and an address, parents'
12:21:41 24 address. "Would like regular patrols", et cetera, and then
12:21:46 25 there's a reference to a person who might know his address
12:21:49 26 and [REDACTED] address, right?---Correct.
27
12:21:52 28 If we go over the page - in fact, no, we might go back to
12:21:59 29 113. Then there's a reference to the [REDACTED]
12:22:08 30 statement. What do we see there?---"Spoke to [REDACTED]
12:22:21 31 [REDACTED]. Helena possibly" - I can't, as I sit here,
12:22:26 32 recall what that's about. Can we go back to the page
12:22:29 33 before?
34
12:22:31 35 Go to 114.
36
12:22:35 37 COMMISSIONER: I think he wants to go backwards.
38
12:22:39 39 MR WINNEKE: They've been scanned in the reverse order. So
12:22:41 40 if you go to 114, to the bottom of the page, that clearly
12:22:46 41 relates to discussions about his address and [REDACTED],
12:22:49 42 et cetera, concerns?---Yes.
43
12:22:50 44 And if we go the other way - I apologise, you're quite
12:22:55 45 right - so then you move on to the [REDACTED] statement,
12:23:00 46 right?---Yeah. I don't know what that's about as I sit
12:23:05 47 here today.

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1
12:23:06 2 But in any event, as to your notes you say there are minor
12:23:13 3 issues?---Where do I say that?
4
12:23:15 5 Do you say that in your statement?---What paragraph are you
12:23:20 6 looking at?
7
12:23:21 8 54?---Where does that say "minor issues"?
9
12:23:34 10 Just excuse me.
11
12:23:35 12 COMMISSIONER: "He requested a minor addition", paragraph
12:23:38 13 54.
14
12:23:50 15 MR WINNEKE: You say at paragraph 54 he requested a minor
12:23:53 16 addition and he said he wanted Gobbo to review his
12:23:55 17 statements prior to signing them. What do you say about
12:23:57 18 the [REDACTED] statement?---I don't say anything about
12:24:01 19 it.
20
12:24:03 21 So according to your statement there is a minor addition
12:24:09 22 and one assumes, therefore, that the minor addition relates
12:24:14 23 to paragraph 52 of the [REDACTED] statement?---Correct.
24
12:24:17 25 And it would follow then that nothing with respect to the
12:24:20 26 [REDACTED] statement?---Correct.
27
12:24:24 28 I'm sorry, [REDACTED]. All right. You've got now two
12:24:34 29 statements which appear to be satisfactory as far as he's
12:24:37 30 concerned, but he wants Gobbo to sign off on them, in
12:24:40 31 effect, first. You contact the prosecution and you give
12:24:45 32 them an update and you later spoke to Gobbo by telephone
12:24:52 33 and she said that she intended to read the statements over
12:24:55 34 the weekend, is that right?---Correct.
35
12:24:58 36 So the following day, you say at paragraph 56 you received
12:25:03 37 a telephone call from Ms Gobbo about you speeding up prison
12:25:07 38 visitor clearance processes. Can you explain what that's
12:25:10 39 about?---Where is that, sorry?
40
12:25:14 41 Paragraph 56?---56. I would imagine that she was asking me
12:25:23 42 to make sure that she could get in to see him to receive
12:25:29 43 instructions.
44
12:25:32 45 All right. And did you have the ability to speed up
12:25:35 46 visitor clearance processes for barristers in particular
12:25:40 47 circumstances?---I had good relationships with Corrections

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12:25:51 1 so it was possible that I may be able to influence that,
12:25:54 2 yes.
3
12:25:54 4 So do you believe you would have contacted Corrections to
12:25:56 5 enable Ms Gobbo to attend expeditiously?---Possibly, yes.
6
12:26:03 7 You understand that Ms Gobbo was provided with statements
12:26:08 8 or shown statements, is that right?---Yes. Detective Hatt
12:26:13 9 did that as I understand it.
10
12:26:14 11 And he goes and sees her on Saturday, [REDACTED], is that
12:26:21 12 right?---[REDACTED]? I'm not sure, actually. Was it [REDACTED]?
12:26:29 13 It would have been around that time - no, we've got that in
12:26:32 14 my notes. Yes, [REDACTED], correct.
15
12:26:36 16 Do you know in what form she was permitted to read the
12:26:40 17 statements?---No.
18
12:26:44 19 Do you know whether they were, at that stage, printed
12:26:48 20 out?---I don't know, but I would assume so.
21
12:26:51 22 And you would have given them - or Mr Hatt would have taken
12:26:54 23 them to see Ms Gobbo in her office, is that right? You
12:26:59 24 understand that's the case?---I think that's the case, yes.
25
12:27:02 26 After that she apparently rang you and said that she was
12:27:06 27 sceptical about her client's claims that he did not get
12:27:10 28 paid for murdering [REDACTED] and that he thought that he was
12:27:14 29 going to - going with [REDACTED] to [REDACTED] to
12:27:19 30 [REDACTED] and not to kill him, correct,
12:27:23 31 that's what she told you?---I think she expressed some
12:27:27 32 scepticism about no payment and not knowing it was a
12:27:32 33 murder, and certainly I shared that scepticism.
34
12:27:35 35 And you say that you recall having the impression that
12:27:37 36 Ms Gobbo was fishing for information from you?---I think I
12:27:40 37 do make a note of that.
38
12:27:42 39 And you don't recall engaging with her on the topic.
12:27:51 40 They're fairly significant matters, aren't they?---How so?
41
12:27:56 42 The scepticism that both you and she have about the claims
12:28:01 43 that he didn't get paid for murdering [REDACTED],
12:28:08 44 firstly?---Well, I think the scepticism that we both shared
12:28:13 45 would ultimately be a matter for the jury to consider his
12:28:20 46 credibility, and I think ultimately he concedes that he
12:28:25 47 possibly knew it was going to be a murder, or there was a

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12:28:29 1 possibility.
2
12:28:30 3 He concedes that, does he?---Yeah, I think you'll see that
12:28:34 4 there's a minor change when we go back to him, around his
12:28:38 5 belief, as I understand it, in the [REDACTED] statement.
6
12:28:40 7 We'll come to that in due course. So that's the first
12:28:43 8 thing. And the second thing was that he thought that he
12:28:46 9 was going there in relation [REDACTED] and not to kill him.
12:28:53 10 That's a fairly significant thing also, isn't it?---Yes, I
12:29:01 11 think it's certainly going to be an issue that he'll be
12:29:04 12 cross-examined about.
13
12:29:06 14 Yes, he would. It will certainly be a matter relating to
12:29:09 15 his credit?---Absolutely.
16
12:29:11 17 If he in fact was saying to a jury that he wasn't going
12:29:17 18 there in the belief that there was going to be a shooting -
12:29:21 19 a killing, but rather it was [REDACTED]?---M'mm.
20
12:29:23 21 Do you agree with that?---Yeah. In fact, I have a clear
12:29:26 22 memory of him being cross-examined on that issue.
23
12:29:36 24 If we can go to - Commissioner, I haven't been tendering
12:29:44 25 these entries as I have been going along. Perhaps I should
12:29:47 26 be doing so and it may well be that - - -
27
12:29:50 28 COMMISSIONER: Do you want to tender them as one bundle?
29
12:29:53 30 MR WINNEKE: I'll tender them as one bundle, diaries and
12:29:58 31 day books, relevant entries, but at this stage,
12:30:00 32 Commissioner, if I can just go through them and in due
12:30:04 33 course we'll - - -
34
12:30:05 35 COMMISSIONER: Tender them at the end, yes, that's fine.
36
12:30:08 37 MS ENBOM: We'll promptly PII them.
38
12:30:12 39 COMMISSIONER: Thanks very much, Ms Enbom.
40
12:30:14 41 MR WINNEKE: If we can go to the diary,
12:31:23 42 MIN.0002.0002.0002_0032. Again, Commissioner, there is
12:30:28 43 material which needs to be confined.
44
12:30:32 45 COMMISSIONER: Yes.
46
12:30:34 47 MR WINNEKE: There's a reference to a meeting - a

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12:30:37 1 discussion at Purana at 2 pm on [REDACTED]?---I take it this
12:30:44 2 is Ms Gobbo's diary?
3
12:30:46 4 Yes?---Yes, I can see that entry.
5
12:30:51 6 And then on the [REDACTED] there seems to be a reference to [REDACTED] at
12:30:57 7 9 am?---Yes.
8
12:31:01 9 If we then go to the court book, MIN.1.14.2_65. You'll see
12:31:36 10 there there's a conference with [REDACTED]. In fact, if we go to
12:31:44 11 the [REDACTED], there are some notes on the [REDACTED], "Knowledge re
12:31:49 12 going to be shot. More than a stand over job, paragraph
12:31:58 13 51." So that's clearly a reference to paragraph 51 of the
12:32:02 14 statement, one assumes?---I think that would be fair.
15
12:32:04 16 Do you know whether paragraph 51 was subsequently
12:32:07 17 changed?---No, only paragraph 52 was otherwise I would have
12:32:10 18 made a note of it.
19
12:32:11 20 You don't believe that at any stage paragraph 51 was
12:32:16 21 changed?---I think when we talk about there is some minor
12:32:19 22 changes to the statement re his belief, they were in the
12:32:21 23 introductory paragraphs of that statement.
24
12:32:24 25 And the minor changes to beliefs were what?---I think, as
12:32:28 26 you can see in the notes that Ms Gobbo makes, he thought it
12:32:34 27 was [REDACTED] but then realised it wasn't, and I
12:32:38 28 think that's about as far as we got with that. That
12:32:42 29 statement would be available. I haven't got it with me but
12:32:44 30 we could easily get that statement.
31
12:32:47 32 So the draft - the statement that Ms Gobbo was provided
12:32:52 33 with and saw, you say, is available?---No, the final
12:32:57 34 version is available.
35
12:32:59 36 So the draft, in which there was a minor change in the
12:33:06 37 introductory paragraphs concerning the belief, you say
12:33:10 38 that's not available, the draft before the change - -
12:33:16 39 -?---I'm saying there's only one version of the statement
12:33:19 40 and that statement contains his signature.
41
12:33:21 42 Okay. In any event, if we go to her notes - clearly, one
12:33:26 43 assumes that this is a reference to a meeting with Mr Hatt
12:33:30 44 on the [REDACTED]. "Knowledge re going to be shot. More than a
12:33:39 45 stand over job." Then we have got, [REDACTED] collection.
12:33:44 46 Payment for me/individual cuts." Paragraph 9, "Believed it
12:33:52 47 would involve a shooting" and then there is references to

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12:33:56 1 [REDACTED] murder, contract killing, [REDACTED]. So it appears
12:34:07 2 that there seemed to be some scepticism that Ms Gobbo had
12:34:14 3 about some of the matters in the statement, correct, and
12:34:18 4 that was your understanding?---I don't see that from the
12:34:20 5 notes that you put before me now, but certainly in my own
12:34:23 6 notes she did express some scepticism.
7
12:34:27 8 And, indeed, what she said is she was sceptical about the
12:34:30 9 client's claims that he didn't get paid for murdering
12:34:32 10 [REDACTED] and that he thought that he was going with
12:34:36 11 [REDACTED] [REDACTED] from him and not to kill him,
12:34:41 12 right?---Is that in my notes?
13
12:34:43 14 It's in your statement?---That's what we thought.
15
12:34:45 16 They're not insignificant scepticisms or insignificant
12:34:49 17 matters, are they?---No, it's definitely matters to go
12:34:53 18 towards his credit.
19
12:34:56 20 Mr Hatt says that he took a hard copy of the statement to
12:35:00 21 see Ms Gobbo, right. Do you accept that, you don't take
12:35:04 22 any issue with that?---If Mark gave that in evidence, then
12:35:10 23 yes, I'm willing to accept that.
24
12:35:12 25 What would have happened to that hard copy draft?---I have
12:35:14 26 no idea. What did Mark say happened to it? He'd know
12:35:18 27 better than I.
28
12:35:19 29 You don't know, is that right?---Yes.
30
12:35:22 31 What you do say is there were minor changes made in
12:35:26 32 relation to his belief in the final draft of the statement,
12:35:30 33 is that correct?---Correct.
34
12:35:31 35 What were the minor changes?---It was just basically him
12:35:35 36 conceding that he thought it might turn into a murder, as I
12:35:38 37 understand it.
38
12:35:41 39 That's a pretty significant matter, isn't it? You accept
12:35:43 40 that?---Look, I accept that that was a matter that he was
12:35:48 41 ultimately cross-examined about, over a period of 10 days,
12:35:52 42 one of a number of matters around his credit, but
12:35:55 43 ultimately that was his position - - -
44
12:35:58 45 What was ultimately his position?---His position was as I
12:36:01 46 just stated, that he believed there could have been a
12:36:06 47 murder I think is what he put in his statement. I don't

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12:36:08 1 have that statement before me, but it was words to the
12:36:11 2 effect, "I acknowledge it could have been."
3
12:36:16 4 What he told you when you visited him, and you went out to
12:36:19 5 see him on a number of occasions and when you finally went
12:36:21 6 to see him on [REDACTED], was that he was happy with the
12:36:24 7 contents of his statement, subject to Nicola signing off on
12:36:27 8 the statement, correct?---Yes.
9
12:36:29 10 Then when Nicola Gobbo looks at it and speaks to you, she
12:36:35 11 tells you that she is sceptical about some of the things in
12:36:41 12 his statement, correct?---Yeah, and I shared that
12:36:43 13 scepticism.
14
12:36:44 15 As a consequence of that there is a change to the
12:36:47 16 statement, correct?---Correct. No, hang on. I shouldn't
12:36:51 17 have conceded that. It's not because of that, it's not a
12:36:55 18 direct lineal line between that. She's expressed
12:36:59 19 scepticism that I shared and ultimately when we went back,
12:37:04 20 we spoke to the witness and the witness altered his account
12:37:06 21 slightly in terms of his belief.
22
12:37:09 23 Mr Bateson, it's not a slight change, it is a significant
12:37:13 24 change about what he is saying in his statement?---Look,
12:37:18 25 Mr Winneke, I have no doubt he knew it was going to be a
12:37:21 26 murder, no doubt whatsoever.
27
12:37:23 28 It may well be that that's what he was telling you,
12:37:24 29 Mr Bateson?---But ultimately, in the end, that's what he
12:37:28 30 was prepared to put in his witness statement, his witness
12:37:31 31 statement, his testimony and that was what he was going to
12:37:33 32 be cross-examined about. I can express scepticism to him,
12:37:38 33 to his barrister, but ultimately, in the end, it is his
12:37:41 34 evidence.
35
12:37:42 36 It may well be, but it is a matter which goes to his
12:37:47 37 credit, does it not, that he's prepared to say, in an
12:37:50 38 initial draft of a statement, he had no idea that a murder
12:37:53 39 was going to take place, correct?---I'm not sure that he
12:37:57 40 ever said that, but he said he was going there for [REDACTED]
12:38:00 41 [REDACTED]
42
12:38:00 43 It would follow if he's going for [REDACTED]
12:38:04 44 [REDACTED]?---You're adding a bit of mayonnaise to the
12:38:07 45 story, Mr Winneke, don't you think?
46
12:38:08 47 Just listen to this. It would follow, wouldn't it, that if

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12:38:09 1 he's going for [REDACTED] he's not going to kill
12:38:14 2 someone, do you agree with that proposition?---It could
12:38:16 3 follow, yes.
4
12:38:16 5 It does follow, do you accept that?---No, I don't accept
12:38:19 6 that.
7
12:38:19 8 In any event there's a change to that statement and what
12:38:27 9 the change is now, he believed that it was possible that
12:38:32 10 [REDACTED] was going to be shot?---Yes - well, murdered, as I
12:38:39 11 understand it.
12
12:38:40 13 On any view, if you're seeking to have him presented as a
12:38:43 14 witness of truth that would certainly make him more
12:38:46 15 believable, wouldn't it?---I thought the evidence was
12:38:51 16 overwhelming that they both knew what they were doing and
12:38:54 17 they undertook this - - -
18
12:38:55 19 Just listen to the question. It would make him more
12:38:58 20 acceptable - his evidence more believable if he was
12:39:00 21 prepared to concede that he was going, at least with - he
12:39:06 22 had it in mind that this fellow was going to be murdered,
12:39:10 23 correct?---I think every time a witness tells the truth the
12:39:13 24 better off they are in terms of their credibility in the
12:39:16 25 witness box.
26
12:39:16 27 Absolutely. And you knew full well that his credibility
12:39:19 28 was going to be on the line, correct?---Absolutely.
29
12:39:22 30 That draft statement, what happened to it?---I don't know.
31
12:39:28 32 Did you make a conscious decision to destroy it?---No, I
12:39:33 33 didn't make a conscious decision. I worked under the
12:39:35 34 proviso that the evidence was the final signed statement.
12:39:39 35 I made notes about what changed and they were available as
12:39:44 36 they were utilised by Con Heliotis to cross-examine
12:39:48 37 [REDACTED] over a period of 10 days on his credit.
38
12:39:50 39 Did you make known to Mr Heliotis the fact that Ms Gobbo
12:39:54 40 had discussed with you and discussed with [REDACTED] her
12:39:59 41 scepticism of the draft statement and that subsequently you
12:40:07 42 went back to see him and changes were made to the
12:40:10 43 statement, was that made known?---Yes, in my notes, it's
12:40:14 44 clear there were minor changes to his belief.
45
12:40:16 46 Was Ms Gobbo's involvement in that process made known?---I
12:40:20 47 don't know if it was Ms Gobbo, but certainly the legal

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12:40:21 1 representative was known.
2
12:40:23 3 So what you say is that Ms Gobbo's involvement - I withdraw
12:40:27 4 that. You say that there was a draft of your notes or a
12:40:33 5 redacted version of your notes which went to Mr Heliotis
12:40:37 6 which made it clear that a legal representative expressed
12:40:40 7 concern or scepticism about the draft statement and
12:40:43 8 subsequently the statement was changed, is that what you're
12:40:46 9 saying?---That's my understanding, yes.
10
12:40:48 11 And that's - - -?---And I also can tell you that Con
12:40:53 12 Heliotis knew that it was Nicola Gobbo that was advising
12:40:56 13 and acting for [REDACTED].
14
12:40:57 15 You say Mr Heliotis knew, but witness - subsequently
12:41:01 16 [REDACTED] - - -?---[REDACTED] didn't know, no. But Con
12:41:05 17 Heliotis, his counsel, knew.
18
12:41:07 19 How did he know that?---Because they're close associates
12:41:12 20 and work together and he had the commonsense to say, "I
12:41:14 21 wonder who acted for [REDACTED]?" and looked up the
12:41:18 22 transcript.
23
12:41:19 24 You say that Mr Heliotis and Ms Gobbo, because they were
12:41:22 25 close associates, you assumed that Mr Heliotis was aware,
12:41:26 26 is that right?---No, I don't assume. I know he knew
12:41:28 27 because he - - -
28
12:41:29 29 How do you know?---Because I was present when a
12:41:31 30 conversation occurred where it was quite clear that he knew
12:41:34 31 who acted for [REDACTED].
32
12:41:36 33 And what transcript are you talking about? He looked up
12:41:39 34 what transcript?---[REDACTED].
35
12:41:41 36 What, he looked up a transcript of, what, a plea in
12:41:45 37 [REDACTED]?---It became a conversation around why are we
12:41:49 38 obscuring or redacting the name of the lawyer that acted
12:41:54 39 and clearly that was around a PII issue and he went away
12:42:00 40 and looked it up.
41
12:42:03 42 Is it the situation that there was reference to, in the
12:42:10 43 transcript of the plea in front of Judge Smallwood was
12:42:17 44 there reference given to or made to the fact that [REDACTED]
12:42:20 45 was going to plead guilty and was going to assist?---I
12:42:24 46 don't think so.
47

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12:42:27 1 So how is it that in that transcript Mr Heliotis would
12:42:31 2 discover that Ms Gobbo was involved in the process whereby
12:42:37 3 the statement was changed?---I think he acted between
12:42:43 4 knowing that she acted for him in [REDACTED], that she acted
12:42:47 5 for him in advancing his instructions in the making of
12:42:52 6 these statements.
7

12:42:53 8 So your notes - if we - your notes where it's suggested
12:43:01 9 that she expressed scepticism about that and the fact that
12:43:04 10 the statement is subsequently changed, they were made known
12:43:08 11 to the court and to barristers representing the accused
12:43:13 12 people, is that right?---Correct.
13

12:43:17 14 Did you prepare a draft affidavit - a confidential
12:43:21 15 affidavit in relation to matters connected to
12:43:27 16 Ms Gobbo?---Not that I recall. I remember giving evidence
12:43:29 17 before Chief Magistrate Gray and I may have when we went to
12:43:38 18 the Supreme Court, because we did continue these arguments
12:43:40 19 in the Supreme Court.
20

12:43:45 21 So if we were to examine a transcript of that committal, it
12:43:48 22 would be quite plain, would it, that everyone was aware of
12:43:52 23 the statement-taking process, the fact that the barrister
12:43:55 24 had examined the statement, expressed scepticism about it
12:44:00 25 and the statement goes back and gets changed, would that be
12:44:02 26 apparent from the transcript if we looked at it?---I don't
12:44:05 27 know. We'd have to review that, Mr Winneke, to see if
12:44:08 28 that's apparent.
29

12:44:09 30 All right. What about the reference to the payment, the
12:44:19 31 [REDACTED], the contract killing payment? Was that a
12:44:24 32 matter which was something that was referred to in the
12:44:29 33 statement?---I don't recall. I'd have to have a look at
12:44:32 34 the statement.
35

12:45:01 36 If we can go to MIN.1.14.2 at 65. We've got that there.
12:45:16 37 If you have a look at [REDACTED], there's a reference to "me
12:45:24 38 and [REDACTED] spoke re [REDACTED] prior to but then realised
12:45:32 39 it wasn't, cover money supply of car, then became murder,
12:45:39 40 prevented deaths, reported false info to [REDACTED] to prevent
12:45:43 41 deaths" and then there are some other matters, "Statement
12:45:48 42 of [REDACTED] re [REDACTED]" and various other things. Is that
12:45:58 43 consistent with your understanding about the meeting with
12:46:04 44 Ms Gobbo and [REDACTED] on the [REDACTED]? Do you understand that?---I
12:46:11 45 understand they're her notes of the instructions she
12:46:13 46 received from him. I can't testify to their accuracy
12:46:19 47 though.

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1
12:46:20 2 Okay. If we go to your notes, VPL.5.58.1 at 111, it
12:46:32 3 appears that on [REDACTED] this reflects a discussion that you
12:46:37 4 had, at 14:00, "Mark Hatt attends office at Nicola Gobbo,
12:46:47 5 allowed same to read statements. rang by Gobbo and asked
12:46:49 6 if I could speed up the process. Also expressed scepticism
12:46:52 7 of no payment, of not knowing it is murder. Will visit [REDACTED]
12:46:59 8 in the morning." And then you arranged the visit the
12:47:02 9 following morning for Ms Gobbo, do you agree with
12:47:07 10 that?---Yes, visit arranged with prison staff, yes.
11
12:47:12 12 So you contacted prison staff to expedite that for
12:47:18 13 Ms Gobbo?---Correct.
14
12:47:19 15 You speak to her on the [REDACTED], the Sunday. She calls you,
12:47:25 16 is that right?---I don't know. I would assume that after
12:47:28 17 she visits him, she would have rung me.
18
12:47:32 19 And states that, "[REDACTED] was worried about sentence and seizure
12:47:36 20 of assets and he will be" and it seems that you have
12:47:40 21 written "more", you've started to write "more truthful" and
12:47:45 22 crossed out "more" and simply said "truthful"?---Yes. I
12:47:50 23 don't know if that's the case or - it does look like
12:47:54 24 "more", but in any case that is crossed out.
25
12:47:56 26 What it does suggest is he's been less than truthful up
12:48:00 27 until now and he's now going to be, if not more truthful,
12:48:04 28 he is going to be truthful, correct?---Yes.
29
12:48:07 30 Do you know whether that note was made available in any
12:48:10 31 subsequent proceedings?---It would have been with the
12:48:13 32 redaction of Nicola Gobbo's name.
33
12:48:16 34 The name. Okay. There appears to be - you had a
12:48:31 35 discussion, I take it - I withdraw that. Who did you
12:48:47 36 discuss these communications with in your immediate
12:48:55 37 sphere?---It would have been primarily my crew and Senior
12:48:59 38 Sergeant Gavan Ryan, who was my immediate supervisor, and
12:49:03 39 ultimately with Geoff Horgan, Vaile Anscombe and the team
12:49:11 40 at the OPP.
41
12:49:12 42 And there appears to be a note, I think, in Mr Purton's
12:49:20 43 diary. Was he made aware of that, as far as you know?---I
12:49:24 44 don't remember briefing Mr Purton about it.
45
12:49:29 46 I wonder if we could put this document up, VPL.5.67.000 - I
12:49:38 47 can't see the last number - it's a diary of - if we can

.02/07/19

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S. BATESON XXN - IN CAMERA

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12:50:10 1 perhaps go to - if we can go to [REDACTED]. I've got a
12:50:15 2 version where the last digit is cut off. [REDACTED], if
12:50:22 3 Mr Skim can do that. It could either be a 1 or a 5. Try
12:50:50 4 0005. Go to [REDACTED]. That's June. You've gone too far.
12:51:20 5 In any event, [REDACTED], what I suggest is it says, "TF.
12:51:29 6 Purana progress meeting S0. GR." So S0 would be Simon
12:51:44 7 Overland, would it?---I don't know. You'd have to ask
12:51:46 8 Mr Purton if it's his notes.
9
12:51:49 10 "JW, SC." You don't know who those people would be?---No.
12:51:58 11 I could guess, of course, but I don't think that that would
12:52:01 12 necessarily assist the Commission.
13
12:52:04 14 Who was in charge - who was leading the executive
12:52:08 15 management team, if you like, in relation to Purana at this
12:52:11 16 stage?---I don't know.
17
12:52:13 18 Mr Overland was involved, was he not?---Mr Overland was the
12:52:17 19 Assistant Commissioner for Crime. At this stage I still
12:52:21 20 think Andy Allen was the Detective Inspector, as I remember
12:52:25 21 it.
22
12:52:28 23 In any event, it says, "[REDACTED] final read of statements today.
12:52:32 24 Shown to Gobbo. One thing to change. Didn't know it's
12:52:36 25 going to be a murder." And then it says, "NG underlined,
12:52:43 26 that's ridiculous." Did that information come from you if
12:52:48 27 that was conveyed to this executive meeting?---I don't
12:52:51 28 know. I would imagine that I was having the conversations
12:52:53 29 with Ms Gobbo, so it may have originated from me. It's
12:52:59 30 certainly not something that I passed on, from my memory,
12:53:02 31 to Mr Purton directly.
32
12:53:04 33 Assuming that it's in Mr Purton's diary on [REDACTED], you
12:53:09 34 might have - GR is there. That would be Gavan Ryan, your
12:53:14 35 immediate - one of your superiors, is that right?---Gavan
12:53:17 36 Ryan was. I don't know if that reflects that he was there,
12:53:20 37 but certainly Gavan Ryan was my - - -
38
12:53:23 39 Let's assume it was. Does it reflect the proposition that
12:53:26 40 you told him that Nicola Gobbo had told you that that was
12:53:29 41 ridiculous?---No, I never said that she said that, that it
12:53:33 42 was ridiculous. I said that she expressed scepticism of
43 that position.
44
12:53:38 45 But in any event, one assumes - you're the only person who
12:53:42 46 was speaking to her at about this time, on [REDACTED]?---I
12:53:45 47 would think so, yes.

.02/07/19

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S. BATESON XXN - IN CAMERA

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1
12:53:46 2 If someone gets the impression that Gobbo had said words to
12:53:51 3 the effect of the assertion that he didn't know it was
12:53:53 4 going to be a murder was ridiculous, it could only have
12:53:56 5 come from you?---Certainly I didn't use those words. I
12:54:02 6 talk about expressing scepticism, I don't talk about
12:54:07 7 "ridiculous", it's not something that I would say. I can't
12:54:11 8 comment on how Mr Purton became aware of that or to
12:54:17 9 understand that, but that's not my position.
10
12:54:20 11 All right. In any event, one assumes then between -
12:54:25 12 because the statement is then signed - there's a note to
12:54:28 13 this effect, I think, in your diary, ██████████ 2004 spoke to
12:54:33 14 Gobbo. ██████████ was right to sign the statement."
12:54:36 15 Correct? That would be fair to say around that
12:54:39 16 time?---Yes, ██████████.
17
12:54:39 18 So I assume that in between Ms Gobbo reading the statement
12:54:42 19 on ██████████ and ██████████, the statement has been changed and
12:54:50 20 it's taken out to ██████████ and he signed the statement, is that
12:54:53 21 right?---Correct.
22
12:54:54 23 And on ██████████ 2004, you gave the statements to the OPP and
12:55:03 24 you had a meeting with prosecutors and others on that day,
12:55:07 25 is that right?---Correct.
26
12:55:14 27 On 27 July 2004, you received a telephone call from
12:55:22 28 Ms Gobbo, telling you that she'd suffered a stroke and was
12:55:25 29 in hospital?---Correct.
30
12:55:26 31 Is it your understanding that she'd been in hospital since
12:55:30 32 the 24th?---No.
33
12:55:33 34 Do you know why she contacted you?---To tell me she'd had a
12:55:37 35 stroke.
36
12:55:39 37 And she told you that she would still be acting for
12:55:42 38 ██████████ correct?---Yes.
39
12:55:45 40 And there was going to be a new solicitor involved, ██████████
12:55:52 41 ██████████, is that right?---Correct.
42
12:56:03 43 On 3 August you had what you say is your last contact with
12:56:13 44 Ms Gobbo in relation to ██████████'s plea and after this time,
12:56:27 45 ██████████ started to act for ██████████ and there
12:56:30 46 were further discussions that you had with him in relation
12:56:32 47 to the preparation of a statement which implicated, I

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12:56:38 1 think, ██████████ in the murder of ██████████, is that
12:56:42 2 right?---Correct.
3

12:56:46 4 When was that statement commenced, the ██████████
12:56:50 5 statement?---I don't recall whether we started - we
12:56:54 6 commenced it in that initial statement block. I think we
12:56:57 7 may have. Did Mark have a recollection of that? Mark sort
12:57:02 8 of had primacy in the ██████████ murder, so he might have a
12:57:06 9 better recollection of when we started that.
10

12:57:10 11 Okay. In any event, the statements of ██████████ in relation to the
12:57:15 12 murders of ██████████ implicated ██████████
12:57:22 13 ██████████
14

12:57:24 15 A person for whom Ms Gobbo certainly had had a relationship
12:57:28 16 with and, in fact, acted for, you agree with that
12:57:31 17 proposition?---I certainly know she had a relationship with
12:57:34 18 him. I'm not quite sure about the acting for.
19

12:57:40 20 Implicated ██████████?---█████████, yes.
21

12:57:44 22 A person who Ms Gobbo had at least visited on a couple of
12:57:48 23 occasions after his murder and was an associate of ██████████
12:57:52 24 ██████████, correct?---I now know that to be true, yes.
25

12:57:54 26 And ██████████?---Yes.
27

12:57:59 28 And at that stage, those statements enabled you to arrest
12:58:11 29 ██████████, correct?---Yes.
30

12:58:19 31 So with that information, you're now able to say that
12:58:24 32 ██████████ was the person who ██████████ to
12:58:32 33 ██████████---Yes.
34

12:58:33 35 And ██████████, and that ██████████ had given the order
12:58:40 36 to carry out the ██████████ of both ██████████ and
12:58:47 37 ██████████?---Correct.
38

12:58:49 39 And therefore you now had clear evidence that ██████████ was
12:58:58 40 implicated in the murders of ██████████ and ██████████?---Yes,
12:59:06 41 certainly the murder of ██████████. ██████████, of course,
12:59:10 42 proved a little bit more difficult because ██████████ said
12:59:14 43 he didn't need to kill him.
44

12:59:16 45 He was certainly charged with the murder of ██████████
12:59:20 46 ██████████ wasn't he?---He was, yes.
12:59:22 47

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12:59:22 1 And there was a legal and proper basis to charge him, at
12:59:24 2 least, wasn't there?--I thought so, but ultimately he just
12:59:27 3 pleaded to the murder of - - -
4
12:59:29 5 Ultimately you accepted a deal which didn't involve the
12:59:30 6 murder of ██████████---Correct.
7
12:59:32 8 But involved the murder of ██████████?---Correct.
9
12:59:39 10 What you now say is that around ██████████, I'm sorry,
12:59:46 11 of 2004, your crew started to focus attention on trying to
12:59:50 12 get ██████████ to cooperate with police also, right?---No.
12:59:57 13 We had started that previously, I think earlier. I think I
13:00:03 14 go to see him at McDonald's, which is on ██████████.
15
13:00:09 16 ██████████ you go and see him and you've got the statement
13:00:12 17 clearly at this stage?--Yes, we certainly know what's in
13:00:15 18 it and what's going on with it. When I tell ██████████ that
13:00:22 19 his time is running out and he should think about
13:00:26 20 cooperating with us, and he expressed some interest in
13:00:31 21 doing so, although I must admit he, like all of these
13:00:35 22 people, needed to feel the overwhelming weight of the
13:00:40 23 evidence before agreeing to do so, but certainly from that
13:00:43 24 point I got a real sense there was a chance that I could -
13:00:47 25 that we, as a team, could get him to roll.
26
13:00:50 27 When you say "we", I take it the decisions that are being
13:00:55 28 made to approach ██████████, for example, at McDonald's,
13:00:59 29 they're not simply made by you?---No.
30
13:01:02 31 They're decisions made within your team?---And the Purana
13:01:06 32 structure.
33
13:01:07 34 So we're going - I assume the Purana structure includes the
13:01:11 35 entirety of the structure of Purana?---Well, from my
13:01:15 36 perspective as a Detective Sergeant, the
13:01:18 37 Detective Inspector was the person in charge of our squad
13:01:22 38 or task force and that's what I was concerned with.
39
13:01:27 40 Who was the executive structure? Who was above you at this
13:01:31 41 time?---It's hard to date it, because I know Andy Allen
13:01:34 42 left at one point, so I don't know where this occurred, but
13:01:40 43 certainly Andy Allen, Gavan Ryan, Jim O'Brien. I think
13:01:46 44 later on Bernie Edwards became the Detective Inspector, but
13:01:51 45 from the beginning it was Andy Allen, moving into Gavan
13:01:55 46 Ryan and then Jim O'Brien.
47

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13:01:57 1 Okay. You go with, I think, Dean Grande to the
13:02:10 2 McDonald's?---Yes.
3
13:02:11 4 You have a conversation with ■?---Yep.
5
13:02:16 6 You're at least floating the idea that you've got a
13:02:19 7 statement?---No, I didn't float the idea that I had a
13:02:21 8 statement, but I certainly indicated to him that time was
13:02:24 9 running out for him to provide us with assistance.
10
13:02:30 11 Was it a recorded conversation?---No - actually, it may
13:02:35 12 have been. "Notes as per IR."
13
13:02:40 14 So there was an IR created by Dean Grande, is that
13:02:45 15 right?---I don't know who did, but I've got, "Notes as per
13:02:49 16 IR."
17
13:02:51 18 So either you or Dean prepared an IR, is that right?---I
13:02:54 19 would think so, yes.
20
21 I'm just told - - -
22
13:03:09 23 COMMISSIONER: We can continue. Do you want to go now? We
24 can do a few more minutes.
25
13:03:12 26 MR WINNEKE: That's probably a convenient time,
13:03:14 27 Commissioner.
28
13:03:14 29 COMMISSIONER: All right then. 2 o'clock.
30
31 <(THE WITNESS WITHDREW)
32
33 LUNCHEON ADJOURNMENT
34
35
36
37
38
39
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41
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13:31:22 1 UPON RESUMING AT 2.06 PM:
2
14:07:12 3 <STUART DAVID BATESON, recalled:
4
5 COMMISSIONER: Yes, Mr Winneke.
6
14:06:51 7 MR WINNEKE: I think we got to about [REDACTED], the
14:06:53 8 statements of [REDACTED], you're able to charge [REDACTED] with the
14:06:59 9 murders of [REDACTED] ---Correct.
10
14:07:02 11 And, indeed, I think [REDACTED] and [REDACTED] were in custody
14:07:05 12 already, but they were served with direct presentments
14:07:16 13 later that month in relation to the murders of [REDACTED],
14:07:19 14 [REDACTED], is that right?---Yes.
15
16 And also on the [REDACTED], armed with the statements of [REDACTED] - or
14:07:23 17 in particular the statement of [REDACTED] concerning [REDACTED] and
14:07:29 18 [REDACTED], you're in a position now to arrest and charge [REDACTED]
14:07:32 19 with the murders of [REDACTED] ---Yes.
20
14:07:35 21 He was cautioned and interviewed. During the interview, he
14:07:37 22 asked to speak to Jim Valos. You tried to get in contact
14:07:42 23 with Valos. Valos was unavailable. He asked to speak to
14:07:48 24 Gobbo instead?---Correct.
25
14:07:53 26 It would have been apparent to you that there was an
14:07:56 27 obvious conflict of interest given that, as we've just
14:08:00 28 determined, it was because you had the statements of [REDACTED] that
14:08:03 29 you were now in a position to [REDACTED] and it would be a
14:08:10 30 flagrant conflict of interest for Gobbo to be acting for
14:08:15 31 [REDACTED], would it not?---I'm not sure that I turned my
14:08:19 32 mind to conflict at that time.
33
14:08:21 34 Did you turn your mind to conflict at a later stage, did
14:08:24 35 you?---Certainly in preparation for sitting here in the
14:08:26 36 Royal Commission, yes, I did, but I'm not sure - - -
14:08:29 37
14:08:30 38 Do you mean to say that at no stage after Gobbo starts to
14:08:34 39 act for [REDACTED] did it occur to you that there may have
14:08:40 40 been a conflict of interest, given that she had been acting
14:08:43 41 for [REDACTED], who was the main source of evidence against
14:08:48 42 him?---Yeah, I think it bears out in the transcript of my
14:08:54 43 conversations with [REDACTED] that I do recognise there's a
14:08:57 44 conflict and he may be better off with other legal
14:09:00 45 representation.
46
14:09:01 47 Right. We'll come to that in due course. What you say is

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14:09:05 1 you made it quite clear, did you, to ■ that Ms Gobbo had a
14:09:13 2 conflict of interest with respect to appearing for
14:09:17 3 him?---I'm not sure that I made it quite clear. I
14:09:19 4 certainly indicated to him, in one of those initial
14:09:22 5 discussions, that he may be better off with other legal
14:09:25 6 representation.
7

14:09:26 8 Because she had a conflict of interest?---Yeah, because she
14:09:29 9 was representing a number of other people.
10

14:09:31 11 Look, you couldn't get a more flagrant conflict or a
14:09:34 12 breathtaking conflict of interest than that, surely?---They
14:09:38 13 were pretty regular in those days, I can tell you, for
14:09:41 14 conflict. There was, as I said, a very small cadre of
14:09:45 15 criminal lawyers representing these people.
16

14:09:47 17 Yes?---So conflicts were pretty common and well-known.
18

14:09:56 19 Do you say that, what, things have changed between then and
14:10:00 20 now and conflicts of interest are more significant these
14:10:04 21 days than they were back in the early 2000s?---No, that's
14:10:08 22 not my testimony. What I was trying to explain is that in
14:10:12 23 those days conflicts of interest were very common, that
14:10:18 24 there was a small group of criminal lawyers that
25 represented the vast majority of organised crime figures
26 here in Melbourne, and that conflict was well known not
14:10:22 27 only to police but the legal fraternity, the OPP and the
14:10:24 28 courts. And I guess when I say I didn't turn my mind to
14:10:29 29 the conflict, I didn't think, as a Detective Sergeant,
14:10:32 30 conflicts of interest were something for me to resolve.
31

14:10:39 32 It would be surprising if you didn't turn your mind to it,
14:10:42 33 but is it really the situation that you turned your mind to
14:10:46 34 it, but it wasn't something that was a matter for you to
14:10:49 35 concern yourself with?---I didn't think it was something
14:10:53 36 for me to resolve, no.
37

14:10:54 38 All right. Mr Bateson, you've been involved - you were an
14:11:04 39 experienced operator at that stage. It would have been
14:11:07 40 apparent that there was a conflict of interest?---Clearly I
14:11:10 41 knew that she'd represented ■ and clearly now she's
14:11:13 42 moving on to ■.
43

14:11:14 44 Yes?---Clearly there was some things that needed to be
14:11:17 45 resolved by herself, by the courts, the DPP and the legal
14:11:28 46 fraternity.
47

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14:11:29 1 Was it the case that, as far as you were concerned, it was
14:11:31 2 not a matter for Victoria Police to concern itself
14:11:33 3 about?---It was not a matter for us to resolve.
4

14:11:35 5 Right. Did you have any discussions with any people - any
14:11:39 6 of your superior officers when you first came to learn that
14:11:42 7 Gobbo was now acting for ██████████, having acted for
14:11:48 8 ██████████, who was the prime source of evidence against
14:11:51 9 ██████████?---I'm sure we talked about it.
10

14:11:54 11 Who would you have spoken to?---It would have been my team
14:11:59 12 and Gavan Ryan, I suspect.
13

14:12:01 14 You certainly would have discussed it with Gavan Ryan?---I
14:12:03 15 would think so, yes.
16

14:12:05 17 Anyone else?---No. That was generally my circle of
14:12:10 18 discussions.
19

14:12:11 20 If you felt that it was, for operational reasons,
14:12:14 21 inappropriate for a person to be represented by a
14:12:17 22 particular lawyer, you could certainly take steps to
14:12:20 23 prevent that from occurring?---How so?
24

14:12:23 25 By communicating with either the Office of Public
14:12:30 26 Prosecutions, or your superior officers, to prevent it from
14:12:34 27 occurring?---I don't think, you know, as a - I think back
14:12:37 28 now, as a Detective Sergeant, I was there as an
14:12:41 29 investigator to investigate and prosecute matters against
14:12:47 30 statute and at common law. I never thought it was my job
14:12:51 31 to be arbitrating or influencing conflict of interest for
14:12:57 32 barristers and solicitors.
33

14:12:59 34 All right?---Especially when those conflicts were well
14:13:04 35 known by the Director, the Office of Public Prosecutions,
14:13:08 36 the courts and, I think, in some circumstances, the Ethics
14:13:13 37 Committee.
38

14:13:15 39 Did you raise it with Ms Gobbo?---I don't have a
14:13:18 40 recollection of raising it with Ms Gobbo, but I suspect I
14:13:23 41 would have, on the basis that, you know, she put herself at
14:13:29 42 risk by doing her duty with ██████████, that it could well
14:13:36 43 be put her in the same position.
44

14:13:38 45 It would mean down the track you may well have a whole lot
14:13:41 46 of other issues about keeping her involvement with
14:13:45 47 ██████████ for example, if matters were to transpire in a

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14:13:49 1 particular way, that would be another issue that might need
14:13:52 2 to be suppressed?---Could be, yeah, but certainly from my
14:13:55 3 point of view, [REDACTED] is the same as [REDACTED] I
14:13:58 4 didn't care who represented them because as [REDACTED] and
14:14:03 5 [REDACTED] they were coming to us.
6

14:14:05 7 Yes?---The overwhelming evidence, the circumstances that
14:14:09 8 built against them, the refusal of his bail application,
14:14:12 9 the way that the trials were being run, the overwhelming
14:14:15 10 evidence, [REDACTED] coming on board, he had no choice and
14:14:19 11 to put it in his words - Commissioner, please excuse my
14:14:25 12 language in advance - he quite clearly stated to me, "I'm
14:14:29 13 fucked".
14

14:14:31 15 You say that you probably would have had a discussion with
14:14:34 16 Ms Gobbo about the difficulties that she may be in. It may
14:14:39 17 not have been in terms of a conflict of interest at a legal
14:14:43 18 issue, but it may have been, "Look, you're putting yourself
14:14:46 19 in real difficulties here", you might have had that
14:14:49 20 discussion with her?---I suspect I would have.
21

14:14:51 22 You've gone through your notes at some length to prepare
14:14:54 23 your evidence. Do you find that sort of note
14:14:57 24 anywhere?---No, I don't.
25

14:14:58 26 It is something that you would have made a note of, surely,
14:15:01 27 if you were that concerned to raise it with her?---But I
14:15:04 28 wasn't that concerned.
29

14:15:05 30 You weren't that concerned?---No, I wasn't that concerned.
14:15:08 31 No, I didn't care who represented [REDACTED], I really
14:15:11 32 didn't.
33

14:15:16 34 What you realised, certainly with respect to Gobbo's
14:15:19 35 involvement with [REDACTED] giving evidence against [REDACTED],
14:15:22 36 is that she put herself at significant harm, put herself in
14:15:29 37 harm's way, for example, if it got out?---Yes.
38

14:15:32 39 And she would be equally putting herself in harm's way, you
14:15:36 40 would say, putting aside legal conflicts and duties to the
14:15:40 41 court and so forth, she would be putting herself in harm's
14:15:44 42 way if then she starts to act for [REDACTED] as well, if [REDACTED] starts to
14:15:48 43 roll and make statements, as you expected that he
14:15:51 44 would?---Yes.
45

14:15:52 46 But is it really the situation that it suited you to have
14:15:55 47 Ms Gobbo acting for [REDACTED]?---As I said, I didn't care

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14:16:01 1 who represented [REDACTED] because the result would have
14:16:05 2 been the same. My thinking, you'll see, in the discussions
14:16:10 3 I had with [REDACTED], that he waives and he's worried, but
14:16:14 4 he ultimately trusts Ms Gobbo to represent his interests,
14:16:17 5 and I agreed with that. I actually think - and even
14:16:22 6 looking back now at the end result, I believe that Ms Gobbo
14:16:26 7 acted in the best interests of her client, in this case
14:16:28 8 [REDACTED], in her dealings with the OPP and, of course, us.
9
14:16:35 10 Well, certainly it was in your interests to have [REDACTED]
14:16:40 11 plead guilty and give evidence against [REDACTED].
14:16:42 12 wasn't it?---I didn't - to be honest, by the time we got
14:16:47 13 [REDACTED] on board, and you'll see this through my notes, I
14:16:53 14 was just as happy to prosecute him, I was just as happy for
14:16:56 15 him to get his right whack in sentence. I thought we had a
14:16:59 16 strong case. Was it better? Certainly, you know, in the
14:17:01 17 end result, you know, pleas of guilty are better than
14:17:06 18 trials, there's no doubt about that.
19
14:17:08 20 Pleas of guilty and indemnities in relation to a number of
14:17:13 21 murders which were committed which would never be
14:17:15 22 prosecuted, correct?---Sorry, can you repeat that question?
23
14:17:19 24 A number of murders which these people pleaded guilty to -
14:17:22 25 - -?---Yes.
26
14:17:22 27 - - - were, in effect, forgiven, they weren't ever charged
14:17:26 28 with them?---Who wasn't charged with them?
29
14:17:29 30 Were there not a number of people, for example, who - take,
14:17:35 31 for example, [REDACTED]. Was he not charged with murders
14:17:40 32 that he committed?---Yes, he wasn't.
33
14:17:43 34 He wasn't?---Yes.
35
14:17:44 36 Right. So, obviously, yes, it's good to get pleas and we
14:17:49 37 accept that, but can I put this proposition: you're saying
14:17:56 38 that prior to the arrest of [REDACTED], you started to focus
14:18:06 39 attention on trying to get him to cooperate with the
14:18:09 40 police, right?---Prior to his cooperation?
41
14:18:14 42 Prior to his arrest. You go and see him on [REDACTED] 2004 -
14:18:19 43 - -?---Yeah, yeah. No, I agree with that.
44
14:18:21 45 - - - with a view to trying to get him on board?---Yeah,
14:18:23 46 agreed.
47

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14:18:25 1 And at that stage you had [REDACTED]'s statement?---Yes.
2
14:18:27 3 So the assertion that you make now is, "Look, we had
14:18:30 4 [REDACTED] we don't need to worry about [REDACTED] coming on
14:18:34 5 board" is not correct?---I thought my assertion was
14:18:37 6 [REDACTED], actually, [REDACTED] and [REDACTED] was the
14:18:42 7 assertion I made, which led me to the belief that I was
14:18:44 8 just as happy to prosecute him. Yes, did I approach him
14:18:48 9 beforehand to get on board? Yes, I did. Was I happy for
14:18:53 10 him to get on board? Eventually, yes, I was. If he didn't
14:18:55 11 get on board, did I care? No.
12
14:19:01 13 You'd had a significant degree of success with respect to
14:19:04 14 Ms Gobbo and [REDACTED]. She told you about matters with
14:19:07 15 respect to [REDACTED]'s statement which both you and she thought
14:19:11 16 were unlikely and dubious and you got the statements fixed
14:19:14 17 up. I suggest to you that you expected a similar degree of
14:19:18 18 cooperation with respect to [REDACTED]?---Well, I disagree
14:19:21 19 with your proposition that's contained within the question,
14:19:26 20 that she assisted. [REDACTED], it was his statement, his
14:19:29 21 evidence and it was his credibility that was on the line.
14:19:32 22 And ultimately that's why a judge gives a direction and a
14:19:34 23 warning around accomplice evidence. Yes, the credibility
14:19:39 24 was going to be a huge issue at the case, but it was his
14:19:43 25 evidence.
26
14:19:44 27 Yes. Between you and Ms Gobbo and [REDACTED], there was a
14:19:50 28 significant stumbling block to his credibility removed, I
14:19:58 29 suggest - that is the fact that he went there expecting
14:20:01 30 that there wasn't going to be a murder?---You put Ms Gobbo
14:20:04 31 in that question and expect me to agree to it. I don't.
14:20:08 32 Absolutely I had some scepticism, that was shared by
14:20:12 33 Ms Gobbo, about his belief. This happens nearly every time
14:20:16 34 I have recruited a Crown witness. They try to lessen their
14:20:19 35 involvement in the crime, and that's why the importance of
14:20:22 36 the accomplice warning is so critical to criminal trials.
14:20:25 37 This was the case for him. It was the case for [REDACTED].
14:20:30 38 It was the case for all of them. They all tried to get out
14:20:34 39 and say, "I didn't do as much as I actually did", they try
14:20:38 40 it. It's up to us, as investigators, to put those
14:20:42 41 propositions to them and get them to the point where
14:20:44 42 they're happy to give that evidence.
43
14:20:46 44 Yes. Now, subsequent to the interview - after the
14:20:52 45 interview, you contacted Ms Gobbo, you told her that he
14:20:56 46 would be remanded. She said that she would arrange for Jim
14:21:01 47 Valos to be brought in as the solicitor; is that

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14:21:07 1 right?---Yes, I did contact her at the completion of the
14:21:11 2 interview, yes, and we'll get Jim Valos, Jim Valos would
14:21:16 3 come to the remand hearing.
4

14:21:17 5 So, in effect, as far as you were aware, Gobbo was now
14:21:22 6 going to be acting for [REDACTED], with [REDACTED]?---Yes.
7

14:21:31 8 Can I ask you this: on [REDACTED] 2004, later on that
14:21:35 9 year, you had noticed that a Corrections log had shown that
14:21:46 10 [REDACTED] had been in to see [REDACTED] on [REDACTED] 2004. Do
14:21:58 11 you recall that?---I recall that, yes, I recall that note.
12

14:22:03 13 How was it that you came to be looking at that
14:22:08 14 note?---Generally when I signed into the prison, the names
14:22:12 15 appeared before me of who had signed in.
16

14:22:14 17 Right. Well, is it the case that when you went in to see
14:22:21 18 the prisoner on [REDACTED], you had looked back through
14:22:26 19 the log and noted that [REDACTED] had been to see [REDACTED]
14:22:34 20 on [REDACTED] of that year, the previous - - - ?---I think
14:22:37 21 that's on the [REDACTED], but that is possibly the scenario, how
14:22:40 22 I obtained that information, most likely.
23

14:22:43 24 You contacted [REDACTED] to find out what he was doing
14:22:46 25 visiting [REDACTED] didn't you?---Yes.
26

14:22:48 27 Why did you do that?---Well, he wasn't the solicitor of
14:22:53 28 record. I wanted to know why he was visiting and the best
14:22:58 29 way I find to find out why someone - people do something is
14:23:03 30 to ask them. He, of course, denied it, said it was a
14:23:06 31 mistake in the records, and I accepted that.
32

14:23:08 33 What does it matter whether [REDACTED] would have gone to see [REDACTED]
14:23:13 34 in [REDACTED] of 2004?---Well, I wanted to know why. He wasn't
14:23:19 35 representing him.
36

14:23:20 37 What concern was it of yours?---What do you mean?
38

14:23:24 39 What concern was it for you to ring [REDACTED] to find out why
14:23:28 40 he was visiting, or apparently visiting?---I'm the
14:23:30 41 informant in the matter. Why wouldn't I be interested in
14:23:33 42 that?
43

14:23:35 44 Was it because you would be concerned that [REDACTED] would have
14:23:39 45 no role in seeing him?---Well, I'd wonder why he has. I
14:23:46 46 mean, my curiosity is piqued to say, "Why is he there? Why
14:23:54 47 is he visiting?"

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1
14:23:55 2 Was it because, "What's [REDACTED] doing seeing [REDACTED]? He's acting
14:23:58 3 for [REDACTED]. How can he possibly go out and be visiting [REDACTED]?"
14:24:02 4 That would be in clear conflict, wouldn't it? That's what
14:24:04 5 you were wondering about?---I didn't really, as I said,
14:24:07 6 worry too much about the conflict, but I wanted to know why
14:24:11 7 someone who wasn't representing one of our key witnesses
14:24:16 8 was visiting him.
9
14:24:18 10 Yes?---And it was no more than that, so I asked him. He
14:24:23 11 denied being there.
12
14:24:23 13 It was a matter of curiosity?---You never know the answer
14:24:26 14 to a question until you ask it.
15
14:24:28 16 Yes?---So what was he doing? I don't know. That's why I
14:24:31 17 asked him.
18
14:24:32 19 He may well have an interest which didn't align with
14:24:35 20 [REDACTED] and you'd be very concerned that he would be
14:24:39 21 visiting a prisoner who he was, in effect, giving evidence
14:24:47 22 against [REDACTED] client?---If he was prepared to go and visit
14:24:51 23 a witness and try and pervert the course of justice, yes,
14:24:55 24 that would be something that concerned me.
25
14:24:57 26 And how could that occur?---Well, say - and I'm not making
14:25:02 27 this - and I should take [REDACTED] out of this equation
14:25:07 28 because - - -
29
14:25:07 30 [REDACTED] said, "Look, it was a mistake. I went out there with
14:25:11 31 Gobbo and saw someone else", but I'm more interested in
14:25:16 32 what you're doing ringing up [REDACTED] and asking him what he's
14:25:20 33 doing?---I want to know what he's doing. I want to know
14:25:25 34 what he's talking to my key witness about.
35
14:25:28 36 It didn't concern you that Gobbo was acting for [REDACTED] at the
14:25:33 37 same time and visiting [REDACTED], but you were concerned to know
14:25:35 38 what [REDACTED] was doing?---When was Gobbo visiting?
39
14:25:42 40 Gobbo was acting for [REDACTED] at the same time and she went out to
14:25:43 41 visit [REDACTED] on that day?---Was she? I don't think she was
14:25:44 42 acting for [REDACTED]. By that time [REDACTED] was acting
14:25:51 43 for [REDACTED].
44
14:25:53 45 What I suggest to you is that Gobbo was visiting [REDACTED].
14:25:57 46 Can we put up - - -
47

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14:26:00 1 COMMISSIONER: Whoops. Okay. Let's remove that name from
14:26:03 2 the record, thank you.
3

14:26:06 4 MR WINNEKE: I've done it too. If we can put up
14:26:14 5 MIN.0001.0014.0002, at p.15, 015; ██████████ 2004 -
14:27:16 6 CNS.0001.0003.0037. If you can go to ██████████ 2004 - sorry,
14:27:46 7 74. So far as you were aware, he wasn't being represented
14:27:57 8 by Gobbo at that stage. Perhaps if we try a different
14:28:12 9 number, CNS.0001.0003.0874. In any event, what we see
14:28:37 10 there is on ██████████, Gobbo and ██████████ visit ██████████ ---How
14:28:50 11 am I to discern that?
12

14:28:52 13 Just have a look at it. Is that the document that you
14:28:55 14 looked at?---No, that's a computer printout, I suggest.
15

14:29:04 16 Perhaps if we go to 052, the one that we were looking at
14:29:15 17 previously, 052, p.52. Just before we move there, do you
14:29:29 18 say that when you went out on the ██████████ - you say the ██████████
14:29:42 19 ██████████, you were just flicking back through the book to
14:29:46 20 see who attended?---I suggest that's what I did, yeah.
21

14:29:50 22 And you would have noticed that ██████████ went to visit
14:29:59 23 ██████████ correct, on that day?---On ██████████?
24

14:30:04 25 Yes?---That's what I took a note of.
26

14:30:07 27 One assumes you also would have noted that Ms Gobbo was
14:30:10 28 visiting him on the same day?---I don't know if I noted
14:30:18 29 that. I just noted him because he was - - -
30

14:30:21 31 One assumes, if you're going back and looking at the log
14:30:24 32 and seeing who is visiting, you would have realised that
14:30:28 33 both of them were visiting?---Well, I can't assume that
14:30:31 34 because I don't know what I looked at. What I can tell you
14:30:34 35 is what I made a note of.
36

14:30:36 37 If you're looking at a log by flicking back to see who was
14:30:40 38 visiting, I suggest to you that you would have noted that
14:30:44 39 Gobbo was visiting as well?---Well, I didn't note it
14:30:48 40 because it's not in my notes.
41

14:30:50 42 But you did note that he contacted - you contacted him,
14:30:54 43 right, and found out that - what he said was, "Look, I was
14:31:01 44 going to visit someone else, I was with Ms Gobbo, went to
14:31:05 45 visit ██████████ but I wasn't visiting ██████████"?---Is that what he says?
14:31:13 46 Because that's not what my note says.
47

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14:31:17 1 What does your note say?---He visited the prison that day
14:31:19 2 with Gobbo, but didn't see [REDACTED]
3
14:31:22 4 Right. In any event, what you say is despite the fact that
14:31:24 5 Gobbo visited on that day, the only person who you noted
14:31:29 6 visiting was [REDACTED] and you contacted him to say, "What were
14:31:34 7 you doing"?---What I'm saying is that what I took a note of
14:31:38 8 at that time was something I thought was out of the
14:31:43 9 ordinary. So [REDACTED] visiting [REDACTED] at that time
14:31:49 10 appeared to be something that was out of the ordinary and I
14:31:51 11 wanted to know why.
12
14:31:54 13 If you'd noticed that Gobbo was visiting, you would have
14:31:57 14 thought to yourself, "Apparently Gobbo is no longer acting,
14:32:02 15 [REDACTED] is acting." Why wouldn't you contact
14:32:07 16 Gobbo and say, "What were you doing visiting" - - -
14:32:08 17 ?---Sorry, I think I might have that confused, because I
14:32:11 18 thought you were referring to [REDACTED], when [REDACTED]
14:32:16 19 [REDACTED] was definitely - - -
20
14:32:19 21 Right?---I'll just take note of when, if I can, we moved
14:32:24 22 from Ms Gobbo to [REDACTED]. 3 August is the last
14:32:30 23 time, so - - -
14:32:30 24
14:32:30 25 It was subsequent to that?---So she was still acting for
14:32:33 26 him back in May.
27
14:32:34 28 That's right. But the point that I make is you're
14:32:37 29 concerned about [REDACTED] and you're wondering what he's doing
14:32:40 30 visiting?---Yeah.
31
14:32:42 32 Yeah, okay. What you're concerned about is the possibility
14:32:51 33 that he might be influencing what [REDACTED] might have to
14:32:55 34 say, or conveying information to [REDACTED] that he
14:32:57 35 shouldn't be conveying?---I don't know if it that was
14:33:00 36 formed. He wasn't his solicitor, so why was he visiting?
14:33:03 37 I wanted to know that, and I asked him.
38
14:33:06 39 Okay. You were aware, I take it, were you - well, perhaps
14:33:21 40 I'll ask you this. There was a committal mention in
14:33:23 41 relation to the charge laid against [REDACTED] for
14:33:28 42 [REDACTED] and that was proceeding on. So
14:33:33 43 around [REDACTED] of 2004, that was moving on towards
14:33:38 44 committal?---Have I got that in my notes?
45
14:33:44 46 No. I'm putting to you that there was a committal mention,
14:33:47 47 which Gobbo appeared at, on [REDACTED] 2004. As a general

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14:33:53 1 proposition, you would have been interested to know what
14:33:55 2 was happening with that committal because you were the
14:33:57 3 victim in that offence?---Look, I don't. I'm sure someone
14:34:02 4 would have passed it on to me. I wasn't particularly
14:34:04 5 interested. It was something that was going on on another
14:34:12 6 crew. I was happy for them to run it and let me know what
14:34:17 7 I needed to do and when I needed to do it.
8
14:34:20 9 Were you still unaware that Gobbo was acting for
14:34:24 10 [REDACTED]---I don't remember it. I could have been told
14:34:26 11 that, but I certainly don't remember being aware of it.
12
14:34:30 13 I accept that proposition. It's likely you would have been
14:34:33 14 aware that Gobbo was acting for [REDACTED] at that stage,
14:34:37 15 albeit you can't recall now?---I don't accept that
14:34:39 16 because I don't recall it.
17
14:34:40 18 You're not even prepared to entertain the possibility
14:34:42 19 because you can't recall it now?---I'm more than prepared
14:34:45 20 to entertain the possibility. What you're putting to me, I
14:34:49 21 think, is much more than that.
22
23 I'm suggesting it's likely that you would have been aware
14:34:50 24 who was acting for [REDACTED] in a case where he's [REDACTED]
14:34:52 25 to - - - ?---I don't know. I mean, I certainly wouldn't be
14:34:55 26 interested.
27
14:34:55 28 You wouldn't be?---I wouldn't care who's representing him
14:34:58 29 on charges laid against - - -
30
14:35:00 31 There was publicity about it, I think, because there was -
14:35:03 32 on the committal mention date there was publicity because
14:35:06 33 there was an application - in the newspaper I think it
14:35:08 34 was - there was an application by Gobbo to cross-examine
14:35:11 35 you, which was upheld?---Was there?
14:35:15 36
14:35:15 37 You don't know?---I know ultimately that - I think I was
14:35:20 38 cross-examined. I don't know by who. I think Con Heliotis
14:35:24 39 cross-examined me ultimately in that case.
40
14:35:28 41 Was Gobbo there at the court?---I don't think so. I was in
14:35:32 42 and out of the witness box so often in those years, that
14:35:35 43 it's hard to remember for what purpose I was being
14:35:38 44 cross-examined for, on what day and by whom.
45
14:35:40 46 On 31 August you apply, under 464B, to take [REDACTED] out
14:35:44 47 of prison to interview him in relation to the murder of

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14:35:47 1 [REDACTED]?---No.
2
14:35:49 3 No?---I don't do that, no.
4
14:35:54 5 Do you know about that application or not?---Yes.
6
14:35:59 7 In relation to which murder?---Well, I believe it was in -
14:36:04 8 looking at the chronology, I'm assisted by Boris Buick's
14:36:08 9 notes, and it was in relation to [REDACTED]' murder.
14:36:11 10 That was being handled by another crew. As I said, we were
14:36:14 11 all Detective Sergeants managing different investigations.
12
14:36:17 13 You say you weren't aware of it. You accept the
14:36:21 14 proposition that that occurred but you didn't know about
14:36:23 15 it, though?---I did know about it because ultimately I
14:36:26 16 speak to [REDACTED] that day.
17
14:36:27 18 Yes?---At where he was being interviewed and talk to him
14:36:33 19 again around the possibility of giving evidence.
20
14:36:34 21 Were you aware that Gobbo represented him on that
14:36:37 22 application?---I'm assisted by the chronology and Boris
14:36:41 23 Buick's notes, which says that's what happened.
24
14:36:56 25 Is it the case that you were aware that [REDACTED] was
14:37:00 26 summonsed to appear at the ACC on [REDACTED] 2004?---[REDACTED]
14:37:08 27 [REDACTED]? I'm not quite sure of the date. I know he
14:37:11 28 ultimately was. [REDACTED], do you say?
29
14:37:14 30 [REDACTED] 2004?---[REDACTED] 2004. Is that [REDACTED]?
31
14:37:29 32 [REDACTED]. Subsequently he was called back in [REDACTED]
14:37:34 33 as well, but I suggest to you that he was summonsed to
14:37:39 34 appear at the ACC on [REDACTED] and then he came back on [REDACTED]
14:37:44 35 [REDACTED]?---The only note I seem to have is on [REDACTED]
14:37:53 36 2004 I'm at an ACC hearing re [REDACTED] and represented by
14:37:58 37 Ms Gobbo.
38
14:37:59 39 She appeared for him, and do you know who was asking
14:38:02 40 questions of [REDACTED]?---I don't know, but I suspect it
14:38:08 41 was Geoff Horgan QC.
42
14:38:18 43 Do you know what that related to, that matter on [REDACTED]
14:38:23 44 [REDACTED]?---I don't have a strong memory of it. No, I
14:38:26 45 don't, I'm afraid.
46
14:38:26 47 Did you get transcripts of those

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14:38:28 1 examinations?---Ultimately, if I needed them, I could have.
2
14:38:33 3 Yes?---I don't know whether I did in this case. Certainly
14:38:39 4 a transcript would have been prepared.
5
14:38:40 6 Which case are you talking about?---Well, the only one I've
14:38:43 7 got a note of, I believe, unless you can point me to
14:38:48 8 another note of mine, is being at a hearing with him on
14:38:51 9 [REDACTED]
10
14:38:52 11 You don't know what that was about?---I don't recall what
14:38:56 12 it's about. Obviously, it was around organised crime. I
14:39:00 13 don't remember the specific topics on that occasion.
14
14:39:02 15 Look, the reality is, though, if there was - if [REDACTED],
14:39:07 16 your witness, was called to appear before an organisation
14:39:14 17 such as the ACC and questioned, as the investigator of
14:39:21 18 offences and the person who's taking statements from
14:39:24 19 [REDACTED], you would make it your business to get a hold of
14:39:28 20 those transcripts to see what he said?---Well, I was
14:39:31 21 present on [REDACTED], so I don't necessarily know that I'd
14:39:36 22 pursue the transcript, but I agree with your general
14:39:39 23 proposition, that I would like to know what he's saying in
14:39:43 24 those hearings.
25
14:39:44 26 Insofar as those enquiries are concerned, you don't take
14:39:49 27 any issue with the proposition that Ms Gobbo appeared for
14:39:52 28 [REDACTED] and Mr Horgan, as a general proposition, was
14:39:57 29 examining him?---That's certainly my note of [REDACTED],
14:40:02 30 that he's represented by Ms Gobbo.
31
14:40:04 32 Yes?---I don't have a note of Geoff Horgan asking the
14:40:07 33 questions, but my memory is that he did most of that at
14:40:12 34 that time.
35
14:40:13 36 Righto. Did you ever see an ACC transcript of questions
14:40:21 37 put to [REDACTED] about murders of [REDACTED]?---I don't
14:40:34 38 recall - - -
39
14:40:35 40 The murder of [REDACTED]?---I don't recall seeing that.
14:40:38 41 It would not be something that would particularly interest
14:40:42 42 me, because that was another crew's investigation and
14:40:45 43 responsibility.
44
14:40:45 45 Was that Mr Buick who was looking into that?---I believe
14:40:51 46 Boris had responsibility for that murder.
47

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14:40:57 1 Okay. All right. Can I ask you about an entry in your day
14:41:01 2 book on 15 September 2004. It says it's at 10.40 am. It
14:41:13 3 seems to be, "Spoke to Hutch", and it seems to be, "CORE
14:41:20 4 may be able to record legal calls if, and only if, Mr Allen
14:41:24 5 pushes it with CORE Intel". Does that ring a bell?---No.
14:41:30 6 Could you bring that note up or can I look for it?
14:41:31 7
14:41:32 8 Can we put that up. Thanks. Take a look at that note, at
14:41:38 9 10.40?---Yes.
10
14:41:43 11 I take it you know who Hutch is?---Yes.
12
14:41:46 13 And who is Hutch?---He was employed by Corrections - he
14:41:51 14 still may be.
15
14:41:52 16 Can you think of his name?---Hutchinson.
17
14:41:55 18 That'd be a good - that'd be a fair bet, I suppose?---I
14:41:59 19 just can't remember his Christian name, I'm sorry.
20
14:42:02 21 Were you seeking to access telephone calls between lawyers
14:42:06 22 and their clients?---By this stage we had - some Intel came
14:42:13 23 in that **Solicitor 2** was abusing her legal
14:42:18 24 professional privilege and facilitating calls - - -
25
14:42:21 26 COMMISSIONER: Just a minute, please. We'll just take that
14:42:24 27 from the record and could you be shown the flash card for
14:42:27 28 that person, please. Yes, it's Solicitor 2. If you could
14:42:34 29 refer to that - so you can repeat it now, but refer to it
14:42:40 30 as "Solicitor 2"?---Yes, by this stage I believe we'd had
14:42:44 31 some Intel that Solicitor 2 had been abusing her legal
14:42:50 32 professional privilege and facilitating calls from the
14:42:52 33 prison between Williams and the likes of Tony Mokbel.
34
14:42:58 35 MR WINNEKE: So as a consequence, what you did was to speak
14:43:01 36 to Hutch, with a view to seeing if you could listen to
14:43:04 37 telephone calls?---If he could record them.
38
14:43:09 39 Peter Hutchison; is that right?---It could be Peter. Yeah,
14:43:13 40 actually, that does ring a bell.
41
14:43:16 42 What you discovered was that legal calls could be listened
14:43:20 43 to, but only if Mr Allen pushes it?---Yeah, I think it was
14:43:26 44 a bit more than that. I think what Hutch was conveying to
14:43:31 45 me was that there was the technical possibility of having
14:43:34 46 that done.
47

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14:43:34 1 Yes?---But Mr Allen would, as the officer in charge of
14:43:39 2 Purana at that time, would have to make some very
14:43:43 3 high-level representations and, from memory, you know, that
14:43:48 4 didn't happen.
5
14:43:48 6 Didn't happen. Okay. I notice that there's a note
14:43:54 7 immediately below. At 11 am, you spoke to a person about
14:43:59 8 informer management. I'm not too sure if there's a problem
14:44:01 9 with the name. Just excuse me?---I think I can talk about
14:44:19 10 that without mentioning his name.
11
14:44:21 12 It's not a problem in any event. You spoke to Glen Owen
14:44:24 13 about informer management?---Yes. I'm not quite sure what
14:44:28 14 that would relate to. Obviously there's a notation he's on
14:44:32 15 afternoon shift, so I'm not sure if there's another note
14:44:35 16 later in the day of me contacting him.
17
14:44:37 18 In any event, do you recall what that was about?---Well, I
14:44:40 19 don't, I don't recall what that's about. I'm just trying
14:44:47 20 to have a look at what may be around in the chronology.
21
14:44:54 22 Perhaps if we go down. There's a reference to "not happy
14:44:59 23 with approach to solicitor. We have to show that she was a
14:45:07 24 real threat. Not happy with approach to solicitor". Do
14:45:10 25 you know what that's all about?---Yes. I guess that
14:45:14 26 may - - -
27
14:45:14 28 Is that relevant to Gobbo at all?---No. It may well reveal
14:45:18 29 some police methodology.
30
14:45:25 31 Is it relevant to anything that this Commission is looking
14:45:26 32 into? Can you explain it in such a way without - - -
14:45:33 33 ?-- [REDACTED]
34
14:45:42 35 All right. Is it of any relevance to Gobbo or the matters
14:45:46 36 that we're looking into? In a round about way it is, isn't
14:45:52 37 it?---I just find the scope is surprising, to me, of what
14:45:56 38 you're asking me about, so I'm reluctant to say no because
14:46:00 39 you seem to be, you know - - -
40
14:46:03 41 Casting it wide?---Casting it wide.
42
14:46:06 43 We're concerned about Ms Gobbo's involvement in - - -
14:46:10 44 ?---No, no, that was something different to Ms Gobbo.
45
14:46:13 46 Right. All right. Okay. Although we are aware that
14:46:27 47 Williams was making threats at some stage towards Gobbo,

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14:46:31 1 but that's at a later time, is it?---That's later, I think.
2
14:46:35 3 That's not an issue here at this stage?---No.
4
14:46:48 5 Around [REDACTED], it appears that [REDACTED] - hearings are
14:46:57 6 commencing in the Supreme Court and there's an entry in
14:47:03 7 Ms Gobbo's diary that on [REDACTED] she appears in the
14:47:08 8 Supreme Court on behalf of [REDACTED]. On [REDACTED] she
14:47:14 9 appears at a Supreme Court mention on behalf of [REDACTED]
14:47:21 10 before Justice Teague and one of the issues that was raised
14:47:30 11 was whether it was appropriate to proceed to hearing before
14:47:33 12 a committal. Are you aware of that?---The note I have of
14:47:37 13 [REDACTED] talks about, "At the Supreme Court.
14:47:43 14 Discussion re defence subpoena. My notes need to be
14:47:46 15 produced next week", that's my note of that hearing.
16
14:47:49 17 That's a defence subpoena?---Yes.
18
14:47:58 19 Ultimately you gave evidence, I think - I think you gave
14:48:02 20 evidence on that day, on [REDACTED], didn't you?---Did I?
14:48:05 21 I'm not sure.
22
14:48:06 23 You know that there was an issue with respect to subpoena
14:48:12 24 of your investigative notes and the product of your
14:48:17 25 enquiries?---Sorry, can you put that question to me again?
26
14:48:19 27 Yes. Around this time, defence, and I think [REDACTED]
14:48:23 28 had - on behalf of [REDACTED], there had been subpoenas
14:48:32 29 issued - or at least requests made for disclosure?---There
14:48:34 30 was a barrage of subpoenas during this period between 2004
14:48:38 31 and 2007, when he ultimately pled guilty. They were
14:48:44 32 raining on us like confetti.
33
14:48:49 34 The idea was to have produced or disclosed material which
14:48:53 35 related to your investigations?---Yes, I think that was
14:49:01 36 their stated intent.
37
14:49:09 38 One of the issues that arose was whether there should be
14:49:13 39 disclosure of materials, including members' notes; is that
14:49:22 40 right?---Look, I remember quite clearly conversations
14:49:26 41 around the redaction because they'd already got our notes,
14:49:30 42 it was just around the redactions that were made. So that
14:49:35 43 was re-prosecuted in the Supreme Court.
44
14:49:40 45 If we have a look at court book MIN.0001.0014.0002, at
14:49:55 46 p.121. What that appears to be is a note or a court book
14:50:12 47 of Ms Gobbo. It refers to a mention before Justice [REDACTED]

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14:50:20 1 in the matter of [REDACTED] - I'm sorry, [REDACTED]. I've done it
14:50:28 2 again.
3
14:50:29 4 COMMISSIONER: Yes, that will have to be removed. Thank
14:50:31 5 you.
6
14:50:43 7 MR WINNEKE: You've given evidence and you were
14:50:46 8 cross-examined, do you see that?---I see there's my name
14:50:51 9 there. Is that a common acronym, "XXN", for
14:50:56 10 cross-examination?
14:50:56 11
14:50:57 12 Cross-examination, yes. And, "The DPP has asked me for a
14:51:00 13 full brief, which I'm endeavouring to get. No statements
14:51:05 14 of [REDACTED] which are relevant to these proceedings. Is editing
14:51:11 15 members' notes at present", and there's a reference to
14:51:15 16 public interest immunity, do you see that?---I see that,
14:51:23 17 yes.
18
14:51:23 19 Were you, at that stage, editing members' notes?---Look, I
14:51:27 20 don't know. Obviously that occurred on numerous occasions,
14:51:34 21 so it may well be that the notes were produced up to
14:51:38 22 committal and they've asked for notes since that committal,
14:51:41 23 that required further editing. That's the only best guess
14:51:48 24 that I have that that may relate to.
25
14:51:52 26 What I'm interested in knowing is this: you made every
14:51:57 27 endeavour to remove from your notes any reference to
14:52:02 28 Ms Gobbo's involvement in the investigation and
14:52:05 29 statement-taking process of [REDACTED], you accept
14:52:09 30 that?---She had no involvement in the investigation.
31
14:52:14 32 What you did was to remove any time the name "Gobbo"
14:52:23 33 appeared in your investigation notes concerning [REDACTED],
14:52:25 34 they were removed?---Yes, redacted.
35
14:52:29 36 And the purpose of that, you say, was because she was
14:52:32 37 concerned about her welfare?---More so than that. There
14:52:38 38 was a real threat to her safety should it be known [REDACTED]
14:52:47 39 [REDACTED] and their crew that she'd assisted.
40
14:52:56 41 Did you have any discussions with your fellow police
14:53:02 42 officers about the redaction of those notes?---I would
14:53:06 43 have, I'm sure.
44
14:53:07 45 And who would you have discussed those redactions
14:53:12 46 with?---With the people whose notes they were.
47

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14:53:14 1 So if any police officer at all, whether it be Mark Hatt,
14:53:18 2 yourself, Mr Buick, anyone who had a note of Gobbo being
14:53:25 3 involved, they would have been spoken to and those notes
14:53:30 4 would have been redacted?---Yes.
5

14:53:35 6 On the basis of public interest immunity?---Yes.
7

14:53:38 8 That being there was a concern as to the safety of a
14:53:43 9 barrister who was involved in acting for a client who turns
14:53:48 10 out to be a witness?---Well, I think the threat really
14:53:54 11 revolved around her association with [REDACTED] and
14:53:59 12 the real threat to her safety should they come to
14:54:04 13 understand that she acted for [REDACTED]. Their expectation
14:54:09 14 would have been that she pervert [REDACTED] from giving
14:54:14 15 statements and if they were to find out that she didn't do
14:54:18 16 that, if she didn't pervert it and she facilitated his
14:54:22 17 instructions, we believe there'd be a real risk to her
14:54:25 18 safety.
19

14:54:26 20 If it wasn't Nicola Gobbo and another barrister, the name
14:54:33 21 wouldn't have been removed?---No, because I think, you
14:54:38 22 know, the idea that she was part of that group was the real
14:54:44 23 kicker in terms of the risk. So say, Mr Winneke, if you
14:54:51 24 had have been that barrister.
25

14:54:53 26 My name wouldn't have been removed?---Not that I wouldn't
14:54:56 27 care about your safety by any means.
28

14:54:58 29 I'm sure you would?---I don't think that risk would evolve
14:55:02 30 because you weren't socialising, you weren't seen as part
14:55:06 31 of their crew.
32

14:55:07 33 And I might not have been conflicted?---You might not have
14:55:10 34 been conflicted.
35

14:55:11 36 Because, ordinarily, a barrister doing his or her job ought
14:55:14 37 be able to go about their business of advising people as to
14:55:21 38 their rights without putting themselves in harm because
14:55:25 39 they are doing no more than advising, their loyalties
14:55:28 40 aren't - - -?---Absolutely, but she wasn't just a
14:55:30 41 barrister, that's the issue, she wasn't just a barrister.
42

14:55:33 43 I understand?---She wasn't perceived to be just a barrister
14:55:36 44 by that crew.
45

14:55:37 46 Your view initially was that she wasn't just a barrister,
14:55:41 47 she was potentially involved as a criminal?---Well, I

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14:55:46 1 definitely thought that she was part of that small network
14:55:49 2 of lawyers in Melbourne that help keep organised crime
14:55:53 3 figures operating.
4
14:55:56 5 Which would mean that she was engaged in criminal
14:55:59 6 activity?---Potentially.
7
14:56:01 8 Wouldn't it be appropriate to prevent that from
14:56:05 9 occurring?---If I had of had evidence to charge any of
14:56:10 10 those barristers and solicitors, I would have.
11
14:56:13 12 Would there be anything that you could do to prevent them
14:56:16 13 from engaging in these activities, other than charging
14:56:20 14 them?---No, not from a Detective Sergeant's point of view.
14:56:24 15 You keep talking about conflict - - -
16
14:56:26 17 Yes?---But the conflict that was known was already known by
14:56:32 18 the OPP. It was already known by the Director. It was
14:56:36 19 already known by the courts.
20
14:56:37 21 Yes?---You know, a Detective Sergeant's going to stand up
14:56:44 22 and say, "This is an outrage. There's a conflict here"?
14:56:48 23 That conflict should have been managed in a professional
14:56:53 24 sense by the profession. It wasn't up to me, in my view,
14:56:56 25 to manage the conflict on behalf of a legal representative.
26
14:56:59 27 Was there any consideration given to perhaps not you but
14:57:02 28 more senior officers notifying her professional
14:57:05 29 organisation and providing them with information? Was that
14:57:08 30 something that was considered?---I don't know what senior
14:57:10 31 officers considered, but I certainly didn't worry about
14:57:13 32 that because I knew very senior people in the legal world
14:57:18 33 knew of these conflicts and weren't trying to resolve them
14:57:22 34 in any way that I could see.
35
14:57:25 36 Yes?---I do know since that there was submissions or there
14:57:31 37 was a request for rulings from the legal Ethics Committee.
14:57:36 38 I'm not sure that I knew that at the time. But, for me,
14:57:41 39 those conflicts, although they may be real, would have been
14:57:45 40 something that was best managed by the profession because
14:57:47 41 many of them were known quite clearly by the profession, so
14:57:51 42 I didn't think it was a matter for Victoria Police, and
14:57:54 43 indeed a Detective Sergeant, to resolve.
44
14:57:56 45 As far as you were concerned, if, for example, the court
14:57:59 46 said that Ms Gobbo wasn't to appear for [REDACTED], that
14:58:04 47 would have been something that you would be grateful for,

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14:58:07 1 because it meant that you could get her out of the way. If
14:58:12 2 the court had in fact pointed out to Ms Gobbo that she had
14:58:15 3 no business appearing for [REDACTED] because of the conflict
14:58:18 4 situation, you'd be quite happy with that, I take it,
14:58:21 5 then?--I don't think I would care one way or the other,
14:58:24 6 because if she'd already acted for him, then the threat to
14:58:28 7 her safety was still real. In terms of representation of
14:58:32 8 him, I wouldn't care because any barrister, any legal
14:58:36 9 professional, would have represented him in exactly the
14:58:39 10 same fashion because there was overwhelming evidence
14:58:43 11 against him and his choices were limited. If he wanted to
14:58:47 12 get out of gaol in time to see [REDACTED] before [REDACTED] were
14:58:52 13 [REDACTED] then he had to make a deal.

14 14
14:58:55 15 If we can come back to a situation whereby the court had
14:58:59 16 taken steps to prevent or at least to strongly advise and
14:59:05 17 thus prevent Ms Gobbo, or indeed Solicitor 2, from acting
14:59:10 18 for a particular client, would you respect that, wouldn't
14:59:12 19 you?--I'm not quite sure what you mean by "respect". I
14:59:19 20 mean, I respect all the decisions of the court.

21 21
14:59:21 22 If the court said, for example, "Ms Gobbo, it is simply not
14:59:26 23 appropriate for you to act for [REDACTED]", then you would
14:59:29 24 do your best endeavours to ensure that didn't occur?--Well
14:59:36 25 I certainly would think that's a matter for her and the
14:59:39 26 legal profession, but from my point of view if that ruling
14:59:43 27 was made and it was clear then I would certainly put that
14:59:46 28 forward I would like to hope. But ultimately in the end
14:59:51 29 that is a matter for the profession.

30 30
14:59:54 31 You know, don't you, that Justice [REDACTED] did say to Ms Gobbo
15:00:00 32 that she couldn't act for [REDACTED]?--And I think from
15:00:03 33 that point on she doesn't, does she?

34 34
15:00:08 35 We'll come to that in due course but you are aware of that;
36 aren't you?--I think at one stage, and I've said this
15:00:16 37 before, I have a memory of Justice [REDACTED] saying, "You're
15:00:21 38 hopelessly conflicted."

39 39
15:00:24 40 Yes?--And I think as a result of that Ms Gobbo went to the
15:00:26 41 Ethics Committee for a ruling.

42 42
15:00:29 43 As I say, we'll come to that?--But I certainly don't think
15:00:35 44 it was a matter for me to be prosecuting conflicts.

45 45
15:00:47 46 There's a note in your chronology on 4 October to this
15:00:51 47 effect, that - 2004 - that you served documents not forming

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15:00:58 1 part of the brief on solicitors, [REDACTED],
15:01:02 2 [REDACTED] and - - -
3
15:01:06 4 COMMISSIONER: Do we need to take that name from the record
15:01:09 5 or not? Any names from the record there? Not necessary,
15:01:14 6 thank you.
7
15:01:15 8 MR WINNEKE: Not in the context, no.
9
15:01:18 10 COMMISSIONER: Thank you.
11
15:01:22 12 MR WINNEKE: And then your diary at VPL.0005.0058.0064,
15:01:36 13 you'll see that you're on duty. There's brief preparation.
15:01:41 14 You're with Mr L'Estrange and then you serve documents not
15:01:47 15 forming part of the brief of evidence on [REDACTED]. Then
15:01:51 16 at 11.38 you serve [REDACTED] as above, plus judge's
15:01:56 17 copy. "Advised her to tell the court that we would not be
15:01:59 18 supplying TI material or any documents relating to the
15:02:02 19 investigation of [REDACTED]" and then you serve [REDACTED]
15:02:10 20 for [REDACTED] and the same material with respect to
15:02:16 21 [REDACTED]. Can I ask you this, whose decision was it not
15:02:29 22 to produce any documents in relation to the investigation
15:02:31 23 [REDACTED]?---Yeah, I'm not sure what that actually relates to,
15:02:34 24 because obviously that's - what date is that?
25
15:02:36 26 That's 4 October 2004?---4 October, there's already
15:02:43 27 significant information that's been served.
28
15:02:43 29 Yes?---It may well be that we weren't going to supply any
15:02:46 30 of the - all of the TI material that was requested and
15:02:51 31 that's what resulted in subpoenas. I'm not sure. It
15:02:55 32 certainly wasn't the case that we didn't supply any
15:02:57 33 documents relating to [REDACTED].
34
15:03:01 35 Certainly TI material with respect to the investigation of
15:03:06 36 [REDACTED]?---Yeah, I think there may have been a request for every
15:03:12 37 phone call, a summary of every phone call or every - and
15:03:16 38 I'm just not quite sure now as I sit here what that
15:03:20 39 actually relates to.
40
15:03:21 41 There might be a whole raft of reasons why significant
15:03:25 42 material wasn't provided but at least to some extent some
15:03:29 43 of that material related to Ms Gobbo's acting for
15:03:35 44 [REDACTED]?---No, because that was part of my notes and my
15:03:38 45 notes were provided during the committal and argued in
15:03:41 46 front of the magistrate, so that would have been part, that
15:03:46 47 would have already been served.

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1
15:03:48 2 Yes?---So not necessarily.
3
15:03:51 4 The committal proceeding occurs in 2005, so the committal
15:03:55 5 proceeding hasn't - - - ?---Oh, okay. I would think this
15:04:00 6 is all part of that leading up to that process.
7
15:04:04 8 Bearing in mind what was anticipated was it was going to be
15:04:07 9 a direct presentment, it was going to go to trial, directly
15:04:11 10 to the Supreme Court and then there was an application in
15:04:13 11 December to stay the trial and further charges were then
15:04:15 12 laid and there was a committal proceeding in the
15:04:18 13 Magistrates' Court?---Correct.
14
15:04:21 15 Initially these materials were being served and there
15:04:24 16 hadn't been a committal at this stage?---Okay.
17
15:04:40 18 That's why disclosure is being sought in the Supreme Court,
15:04:45 19 proper disclosure because at this stage there's going to be
15:04:49 20 a trial, there's a direct presentment?---I'm just
15:04:52 21 struggling to remember the sequence of events.
22
23 I put it to you that the sequence of events was that there
15:04:56 24 was - shortly after the arrest in August there were direct
15:04:57 25 presentments filed with respect to [REDACTED] and [REDACTED]
15:05:02 26 and [REDACTED] and there was a trial date listed in due course and
15:05:06 27 there was arguments about subpoenas and disclosure which
15:05:10 28 occurs throughout the remainder of 2004?---Yes, that's
15:05:13 29 correct.
30
15:05:15 31 At the hearing on [REDACTED], which I've taken you to,
15:05:20 32 there was argument about whether there ought be a
15:05:22 33 committal, there ought be a stay and it was mooted that
15:05:24 34 there would be an application for a stay but in part there
15:05:29 35 was also a discussion about disclosure of materials,
15:05:31 36 right?---Yes, I have a note about that being around my
15:05:35 37 notes at that time.
38
15:05:36 39 Documents are produced subject to requests of disclosure,
15:05:39 40 they're produced to the Supreme Court and there is an
15:05:42 41 assertion there that you won't be providing documents to
15:05:45 42 the Supreme Court relating to the investigation of
15:05:48 43 [REDACTED] right?---Yes.
44
15:05:51 45 I take it that - subsequently you give, or at least you
15:05:57 46 have given Ms Gobbo an assurance that her name will not
15:06:01 47 come out during the course of proceedings; is that

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15:06:04 1 right?---I don't know that I gave her an assurance but I
15:06:07 2 certainly would have conveyed to her that I would attempt
15:06:11 3 to keep her name redacted.
4

15:06:14 5 Right. If we can come to the disclosure around this time.
15:06:22 6 What I'm asking you is whose decision was it not to produce
15:06:27 7 any documents in relation to the investigation of
15:06:31 8 ██████████, and in particular in relation to Ms Gobbo's
15:06:34 9 previous involvement with ██████████, whose decision was it?---It
15:06:37 10 was a decision of Purana, so it was made in conjunction
15:06:40 11 with Gavan Ryan and we were assisted by the VGS0 with any
15:06:49 12 argument around PII issues.
13

15:06:51 14 Yes?---So it was a decision that was made at that level.
15

15:06:55 16 So you had discussions with your senior officer Mr Ryan, as
15:07:00 17 to whether he spoke to anyone more senior to him you don't
15:07:03 18 know?---No, I don't know.
19

15:07:06 20 You had discussions with the VGS0?---VGS0, yes.
21

15:07:11 22 You prepared a confidential affidavit?---I'm not sure that
15:07:14 23 I did at this point in time. Certainly as I said I have a
15:07:20 24 clear memory of giving evidence around these things,
15:07:22 25 whether I gave a confidential affidavit I don't know.
26

15:07:53 27 We've heard evidence that Purana was keeping tabs on who
15:08:01 28 were carrying out visits, professional visits upon suspects
15:08:09 29 in some of these gangland crimes. Is that something that
15:08:16 30 you're aware of?---No, not in an organised systematic way.
15:08:20 31 I wasn't aware of that. It's possible.
32

15:08:23 33 Right?---But certainly from my point of view I'd always
15:08:27 34 have a look at who was visiting those people when I visited
15:08:32 35 them.
36

15:08:32 37 Did you know, for example, that the day after you visited
15:08:35 38 and noted that ██████████ had been in to see ██████████ in ██████████ of that
15:08:40 39 year, that Gobbo was conducting visits to both ██████████ and ██████████
15:08:46 40 ██████████ on ██████████, for example?---No, I don't know as
15:08:51 41 I sit here now that I knew that. Whether I knew that back
15:08:55 42 then I don't know.
43

15:08:57 44 Right. That would be a concern, wouldn't it, if that was
15:09:00 45 occurring?---I don't know if it would have overly concerned
15:09:10 46 me. I think it probably would have been expected at that
15:09:13 47 point.

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1
15:09:16 2 You think it probably would have been?---I think it
15:09:19 3 probably would have been expected - - -
4
15:09:21 5 You would be expecting Gobbo to be visiting [REDACTED]
15:09:25 6 [REDACTED]---And [REDACTED], I don't think I would have been
15:09:29 7 surprised at that.
8
15:09:31 9 You may not be surprised but what reason do you think Gobbo
15:09:34 10 would be having to visit [REDACTED] in circumstances where
15:09:37 11 she's acting for [REDACTED] has acted for [REDACTED], both of whom have made
15:09:45 12 statements against [REDACTED]?---Has he made statements at
15:09:50 13 the time?
14
15:09:51 15 No, sorry, I withdraw that. You'd expect him to do, you'd
15:09:55 16 like him to do so?---I'd like him to do so, yeah.
17
15:09:59 18 Why would you expect her to do that?---Because I know that
15:10:02 19 she was a close associate of [REDACTED] and I know she was
15:10:06 20 representing [REDACTED] at that time.
21
15:10:09 22 But you were concerned why [REDACTED] went out to see
15:10:14 23 [REDACTED] earlier in the year and you rang him to find out
15:10:17 24 and yet you wouldn't be concerned that Gobbo was visiting
15:10:20 25 [REDACTED]---No, I think I would have been expecting that
15:10:27 26 that would occur, whereas I didn't expect [REDACTED] to make
15:10:31 27 that visit to - - -
28
15:10:33 29 Because you considered that [REDACTED] was an honest broker
15:10:38 30 whereas Ms Gobbo may well be a participant in criminal
15:10:41 31 activities or running information?---No, I think what my
15:10:44 32 thinking was then is what's out of the ordinary? What
15:10:48 33 doesn't fit with the pattern of expected behaviour? And
15:10:51 34 [REDACTED] visiting [REDACTED] was certainly outside that
15:10:55 35 norm. So that was my thinking at that point.
36
15:11:05 37 So it would be expected for Ms Gobbo to continue to engage
15:11:09 38 in conduct which was potentially unethical, potentially
15:11:16 39 improper and may well have some adverse impact on your
15:11:20 40 investigation?---Well, look, all of those things are
15:11:25 41 possible. I just don't know whether they're probable.
15:11:29 42 What I do know is it wouldn't have been a surprise to me to
15:11:32 43 find out she's visiting with [REDACTED].
44
15:11:36 45 If you had have found out would you have done what you did
15:11:39 46 with [REDACTED] and contacted Gobbo and said, "What's going on
15:11:43 47 here, what are you doing"?---Not necessarily because I

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15:11:46 1 don't think I would have been surprised. As I said, the
15:11:48 2 [REDACTED] scenario was one that was outside that pattern of
15:11:53 3 normal behaviour that I found to be extraordinary so that's
15:11:55 4 why I rang him.
5

15:11:59 6 Her conduct, which might be regarded by regular legal
15:12:04 7 practitioners as extraordinary, wouldn't have surprised
15:12:08 8 you?---No.
9

15:12:19 10 Perhaps if we can have a look at document
15:12:29 11 MIN.0001.0014.0002 at 157. Do you see on the left-hand
15:12:44 12 side there, "Conference with [REDACTED] on [REDACTED],
15:12:53 13 [REDACTED] subpoena to Supreme Court, waiting for documents
15:12:59 14 regarding appeal" and then there's a telephone number of a
15:13:04 15 person, do you know that person?---I do.
16

15:13:09 17 He is?---He was employed by the ACC as I remember it.
18

15:13:13 19 Yes. Discussions you overheard re [REDACTED] death and
15:13:24 20 then there's a reference to 10.30, [REDACTED] 2004 ACC.
15:13:32 21 What we do know - and then you see underlined there she's
15:13:40 22 gone to visit [REDACTED] in a different, or at least in an apparent
15:13:45 23 unit of a prison, do you see that?---I see that his name is
15:13:51 24 written there and [REDACTED] is beside it.
25

15:13:59 26 You can take it that the Corrections log indicates that she
15:14:00 27 sees both these people or at least she's recorded as
15:14:00 28 visiting those people on that day, [REDACTED] and [REDACTED].
15:14:04 29 Firstly, she appears to be talking to [REDACTED] about an ACC
15:14:09 30 hearing occurring the following day at which you're
15:14:19 31 present. It's your hearing, isn't it?---I'm not sure if
15:14:22 32 it's my hearing but I was definitely present on [REDACTED]
15:14:26 33 2004.
34

15:14:27 35 Right?---Is she talking to [REDACTED] about that or is that a
15:14:34 36 note - - -
37

15:14:35 38 These seem to be notes of a discussion that she has with
15:14:42 39 [REDACTED] discussion - a conference with [REDACTED]
15:14:48 40 it says. "A discussion you overheard re [REDACTED]'s death"
15:14:54 41 and then ACC hearing the following day, which is clearly a
15:14:57 42 reference, it would seem, to [REDACTED] attending at a
15:15:02 43 hearing the following day?---Yeah. I don't know what they
15:15:05 44 mean but it's possible that that's - - -
45

15:15:08 46 What does it mean is that there's a leaking of information
15:15:11 47 from Gobbo with respect to absolutely confidential hearings

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15:15:15 1 which are occurring, correct?---Why do you say that?
2
15:15:20 3 Well ACC hearings, so you're not obliged to keep that
15:15:27 4 information to yourself on pain of all sorts of - - -?---As
15:15:31 5 I understand your proposition you're putting to me that
15:15:37 6 [REDACTED] told her about that.
7
15:15:38 8 One way or the other it seems that [REDACTED] is aware of it,
15:15:40 9 either by virtue of Gobbo telling him or [REDACTED] telling
15:15:45 10 her?---Correct.
11
15:15:47 12 One would assume that Gobbo would have known about it
15:15:51 13 because she's representing [REDACTED]?---Yes.
14
15:15:57 15 It does appear at least at face value that she's conveying
15:16:00 16 that sort of information to [REDACTED]?---I don't think I'm
15:16:19 17 prepared to, you know, draw that long bow. There's a note
15:16:19 18 of the ACC hearing, there's a phone number for a person
15:16:19 19 working with the ACC, but I'm not quite willing to concede
15:16:19 20 that she's told [REDACTED] about that.
21
15:16:23 22 But in any event, what you do accept is that this barrister
15:16:27 23 engages in extraordinary behaviour when it comes to
15:16:33 24 conflicts, you accept that?---Well, extraordinary means it
15:16:40 25 stands out on its own. It didn't in this time. There was
15:16:44 26 lots of lawyers acting in this fashion, in my view.
27
15:16:47 28 Illegal behaviour, if we accept the proposition that your
15:16:52 29 view is that she's engaging potentially in unlawful
15:16:55 30 activities with these people?---Sorry, the question?
31
15:17:00 32 Engaging in potentially unlawful activities?---I still
15:17:06 33 don't understand the question, I'm afraid.
34
15:17:09 35 Do you accept that at this time Ms Gobbo is potentially
15:17:13 36 engaging in unlawful activities?---I don't know. Certainly
15:17:18 37 not from that note.
38
15:17:19 39 Was there anything which had occurred since the previous
15:17:22 40 year where you had indicated that as far as you were
15:17:25 41 concerned Ms Gobbo was potentially engaging in unlawful
15:17:29 42 activities with respect to her clients?---Not that I'm
15:17:33 43 aware of, that stands out in my memory as I sit here.
44
15:17:38 45 In any event, you say that you were quite content for
15:17:40 46 Ms Gobbo to be acting for [REDACTED] and you took no steps
15:17:45 47 to prevent her from doing so?---I did advise him, "Perhaps

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15:17:49 1 you should engage with another lawyer."
2
15:17:51 3 But that's in 2006, some years later?--But at that stage
15:17:57 4 there, no, I didn't care. He was another criminal we
15:18:00 5 charged. Who represented him I wasn't that concerned about
15:18:05 6 it. It wasn't surprising that it was one of the small
15:18:09 7 cadre of criminal lawyers that seemed to be the ring of
15:18:14 8 protection around these organised crime figures.
9
15:18:17 10 So as far as you were aware, if Gobbo continued to
15:18:23 11 communicate with both [REDACTED] and [REDACTED], that
15:18:26 12 wasn't a matter that concerned you?--Well, look, I don't
15:18:30 13 think it was a matter for me to resolve. I think that's my
15:18:37 14 position, Mr Winneke.
15
15:18:38 16 There was an application to stay the committal and she
15:18:40 17 appeared in that and ultimately I think on [REDACTED],
15:18:44 18 Justice [REDACTED] ordered that there be a
15:18:49 19 committal?--Correct.
20
15:18:50 21 And new charges were filed and a committal proceeding was
15:18:54 22 heard the following year, you accept that?--Yes.
23
15:18:57 24 In the meantime, [REDACTED] had been to court on [REDACTED] 05. He
15:19:00 25 pleaded guilty to the [REDACTED] murder, indemnified for
15:19:04 26 [REDACTED] and [REDACTED] so he never faced a charge?--He was
15:19:07 27 given an undertaking not to be prosecuted, which I think is
15:19:10 28 a little different to an indemnity.
29
15:19:11 30 In any event, he never was?--Yes.
31
15:19:13 32 And he's sentenced to [REDACTED] with [REDACTED]?--Correct.
33
15:19:19 34 About as light as you could get for an execution?--A very,
15:19:23 35 very good deal.
36
15:19:31 37 On [REDACTED] 05 [REDACTED] is charged with [REDACTED]
15:19:37 38 murder on the basis of a statement from [REDACTED]?--And other
15:19:39 39 supporting evidence, yes.
40
15:19:41 41 The committal proceeding goes ahead on [REDACTED] 2005?--I
15:19:50 42 don't know the dates without looking but I'm willing to
15:19:53 43 accept that proposition.
44
15:19:53 45 And you're involved in that proceeding?--Yes.
46
15:19:58 47 As a witness or an informant?--I do believe I gave

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15:20:02 1 evidence during that committal, yes.
2
15:20:06 3 And you understand that Ms Gobbo didn't participate in the
15:20:11 4 committal because she had a conflict of interest, having
15:20:16 5 represented [REDACTED]?---I don't understand that. What I
15:20:20 6 do know is my clear recollection is Con Heliotis appeared
15:20:28 7 for [REDACTED] and was instructed by Solicitor 2.
8
15:20:40 9 [REDACTED] was cross-examined up hill and down dale for
15:20:47 10 about five days?---I can't remember how long. Certainly
15:20:51 11 his credit became scrutinised not only during that
15:20:54 12 committal but during the trial.
13
15:20:55 14 And at no stage during that committal was Ms Gobbo's name
15:21:01 15 mentioned as representing [REDACTED]?---I don't recall that
15:21:05 16 happening. I think I would have - - -
17
15:21:08 18 Subsequently she rang you and thanked you for keeping her
15:21:11 19 name out of it, didn't she?---Yes, she did.
20
15:21:14 21 I think Mr [REDACTED] acted for [REDACTED]?---That's a separate
15:21:20 22 committal to the [REDACTED] one, but yes.
23
15:21:22 24 No, I'm talking about the [REDACTED] - - -?---[REDACTED] one.
25
15:21:28 26 [REDACTED] and [REDACTED]?---[REDACTED] was there and [REDACTED].
15:21:33 27 I'm not sure who represented who.
28
15:21:36 29 I think [REDACTED] instructed [REDACTED] for [REDACTED]. What you say is
15:21:50 30 that she contacted you by telephone to thank you for
15:21:53 31 ensuring that her name was not mentioned during the
15:21:56 32 committal proceeding, and you made a note of that, is that
15:22:00 33 right?---What date was that?
34
15:22:01 35 [REDACTED] 2005?---[REDACTED] 2005. No, I made a note of
15:22:10 36 receiving a call from Nicola Gobbo thanking me for keeping
15:22:14 37 her name out of the committal hearing.
38
15:22:15 39 On what date was that?---That's [REDACTED].
40
15:22:17 41 I think that's what I said. In any event, you did take
15:22:21 42 steps, active steps, to ensure her name didn't appear?---I
15:22:25 43 redacted her name from my notes, yes.
44
15:22:32 45 Do you know whether there was any argument before the
15:22:36 46 magistrate about that? I think you mentioned that you
15:22:40 47 considered that the magistrate was the Chief

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15:22:44 1 Magistrate?---Yes, and I think I've got a note back on ■
15:22:49 2 ■ that says that, "At the Magistrates' Court re
15:22:53 3 committal, ■, ■ and ■, argument
15:22:58 4 before Chief Magistrate on edited police notes".
5
15:23:00 6 So there was argument about that, and you gave evidence
15:23:03 7 about that?---Yes, and I think I was represented by the
15:23:07 8 VGSO on that occasion.
9
15:23:08 10 Do you recall who represented you?---I recall the
15:23:11 11 solicitor. I'm not sure who it was that was there.
12
15:23:17 13 Ultimately what you say is that the name Gobbo was removed
15:23:21 14 and that's all, from your notes. Certainly there was no
15:23:26 15 removal of what the lawyer was doing?---No.
16
15:23:30 17 What the lawyer said, whether the lawyer expressed
15:23:34 18 scepticism, et cetera, that wasn't removed, only the
15:23:36 19 name?---That's my memory, yes.
20
15:23:38 21 That's your recollection. Because you would accept that it
15:23:40 22 would be important for those representing ■, ■ and ■
15:23:46 23 to understand what was going on with respect to the
15:23:49 24 statements?---Yes.
25
15:23:50 26 Do you know whether the draft statement was produced at the
15:23:55 27 committal?---As I said to you before, there was only one
15:23:58 28 version of the statement and that was the one with his
15:24:01 29 signature on it.
30
15:24:02 31 There was one version - a final version which was tendered
15:24:06 32 in the hand-up brief. There was another version which was
15:24:08 33 given to Ms Gobbo to read. What happened to that
15:24:12 34 version?---As I said earlier, we re-saved that every time
15:24:19 35 we altered it, so there was only one version in my mind. I
15:24:22 36 know the proposition you're putting to me, but what I'm
37 - - -
38
15:24:30 39 Mr Hatt said that he gave her a hard copy?---I'm sure he
15:24:32 40 did if he said that, but what I'm saying to you is that
15:24:35 41 ultimately, in the end, there was only one version that was
15:24:39 42 saved and that was the one that had his signature appearing
15:24:42 43 on it.
44
15:24:42 45 Did you speak to ■ about whether or not he should mention
15:24:45 46 Gobbo's name?---I don't recall doing that, no.
47

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15:24:50 1 One assumes that that would have been made clear to ■, that
15:24:54 2 there were attempts being made to prevent her name from
15:24:57 3 coming out. You would have had to have mentioned that to
15:25:00 4 him?---I don't know. I don't recall that.
5

15:25:02 6 If you were making efforts to have her name excluded or not
15:25:06 7 come up, you would have at least had to have done that,
15:25:09 8 wouldn't you?---I don't know. I don't know that I did. I
15:25:14 9 think probably we could get a sense of that from the
15:25:17 10 transcript of his cross-examination, whether he was asked
15:25:22 11 questions in relation to that, but I don't have a memory of
15:25:25 12 talking to him about that.
13

15:25:28 14 All right. Okay. Now, during that conversation -
15:25:35 15 Commissioner, I don't know whether the shorthand writers
15:25:39 16 need a break. I'm content to keep going. I haven't got a
15:25:45 17 great deal more, but I think I can finish.
18

15:25:48 19 COMMISSIONER: We usually sit through from 2 until 4, but
15:25:54 20 if you want a break.
21

15:25:55 22 MR WINNEKE: I'm fine. I'm concerned that no-one else's
15:25:59 23 hands are going to seize up, that's all.
24

15:26:03 25 COMMISSIONER: We usually sit from 2 to 4 without a break.
15:26:06 26 I just wondered what the sudden concern was for.
27

15:26:09 28 MR WINNEKE: I'm obviously concerned about the interests of
15:26:11 29 the shorthand writers.
30

15:26:12 31 COMMISSIONER: If you need a break, let me know.
32

15:26:14 33 MR WINNEKE: I don't need a break, I'll keep going.
34

15:26:27 35 This was a rather extraordinary conversation that you had
15:26:30 36 with Ms Gobbo, wasn't it?---When? Which conversation?
37

15:26:33 38 The one on ■■■■■?---■■■■■h.
39

15:26:39 40 She rang you, she reached out to you to thank you for
15:26:43 41 keeping her name out of the committal proceeding?---Yes.
42

15:26:55 43 And in addition to that, she started telling you about her
15:27:02 44 concerns about various lawyers in Melbourne. She provided
15:27:10 45 you with information?---Correct.
46

15:27:16 47 And after this day, she repeatedly called you to provide

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15:27:20 1 you with information?---Yeah, I think on half a dozen or so
15:27:24 2 occasions, yes.
3
15:27:27 4 And she provided you with information which you acted on as
15:27:33 5 an investigator of criminal activity?---Yeah, I was
15:27:37 6 particularly interested in the money laundering from some
15:27:41 7 of these criminal barristers and solicitors. I was
15:27:43 8 concerned that they were accepting fees that came from
15:27:50 9 proceeds of crimes knowingly and in doing so, I think, were
15:27:57 10 liable for criminal offences. So I was definitely
15:28:01 11 interested in the criminal offending by that small number
15:28:04 12 of barristers and solicitors. So when she spoke to me
15:28:08 13 about that, it definitely piqued my interest.
14
15:28:12 15 In effect she was becoming your informer?---She provided me
15:28:16 16 with information. I don't want to, you know, pick hairs.
15:28:21 17 Ultimately by definition at that time was around when you
15:28:25 18 start to task people to obtain information on your behalf
15:28:29 19 that would fit that definition, but there's no doubt she
15:28:31 20 provided me with information, yes.
21
15:28:34 22 I don't know if we're splitting hairs, but an informer
15:28:38 23 isn't a person who is tasked. An informer may be tasked,
15:28:43 24 but an informer provides information, a human
15:28:47 25 source?---Ultimately the definition I think at that time
15:28:49 26 was around someone who is tasked with obtaining
15:28:52 27 information, but I do agree with you that she could also
15:28:54 28 fit a more general description of an informer because she
15:28:59 29 did provide me with information that she believed would be
15:29:04 30 kept confidential.
31
15:29:06 32 And you had run informers before, I take it, in your
15:29:10 33 time?---Look, limited. It wasn't my strong suit. I was
15:29:14 34 much more an up-front type of Detective, I wasn't good in
15:29:19 35 the shadows. There was some really good, qualified people
15:29:22 36 in Victoria Police to do that work.
37
15:29:24 38 The SDU had commenced by then, hadn't it?---I'm not sure,
15:29:28 39 but it was around about that time, if not a bit earlier.
15:29:31 40 But my strong suit was certainly tapping on people's doors
15:29:37 41 and asking overtly. I wasn't really one that was
15:29:43 42 comfortable operating covertly.
43
15:29:46 44 All right. So I take it you then would have spoken to
15:29:50 45 people who had more experience with covert information
15:29:54 46 sources?---Well, I certainly talked to Gavan Ryan about
15:29:58 47 this information and ultimately, as we know, she was

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15:30:04 1 ultimately managed by the SDU, people with great experience
15:30:08 2 and great knowledge in this area.
3
15:30:11 4 Mr Ryan said that he recalled having a discussion with you
15:30:15 5 about Ms Gobbo. "He came into my office and stated that
15:30:20 6 Ms Gobbo seemed to want to provide information about the
15:30:22 7 underworld and defence lawyers representing them." Do you
15:30:28 8 accept that? That's what Mr Ryan says?---Certainly from my
15:30:32 9 point of view she concentrated on providing information
15:30:36 10 around those small cadre of lawyers, so I agree with that
15:30:40 11 proposition. The terms of her providing information more
15:30:44 12 broadly about the underworld I'm not sure I'd agree with,
15:30:48 13 but certainly from my experience she seemed willing to
15:30:53 14 provide me with information that dealt directly with
15:30:57 15 lawyers engaging in criminal activity.
16
15:31:00 17 She told you about George Williams, didn't she?---She told
15:31:03 18 me - she mentioned George Williams in the context of legal
15:31:09 19 fees being generated by fraudulent activity at the behest
15:31:14 20 of criminal lawyers.
21
15:31:19 22 George Williams would well and truly fall within the
15:31:20 23 category of an underworld figure, wouldn't
15:31:23 24 he?---Absolutely, but I didn't really care too much about
15:31:25 25 George. I cared about whether that was at the behest of
15:31:29 26 those criminal lawyers.
27
15:31:30 28 In any event, have you spoken to Mr Ryan recently?---I
15:31:34 29 speak to him occasionally on the phone. We're just talking
15:31:37 30 about how we're going, supporting each other. We haven't
15:31:39 31 spoken directly about the evidence.
32
15:31:41 33 When was the last time you spoke to him?---I got a text
15:31:43 34 from him yesterday, actually.
35
15:31:45 36 When was the last time you spoke to him?---Maybe the
15:31:48 37 weekend.
38
15:31:49 39 The weekend?---Yeah.
40
15:31:50 41 The day before or the day before that?---I can't really
15:31:53 42 recall, but we have been - Gavan and I are great friends.
15:31:58 43 I have the greatest respect for Gavan Ryan and we're in
15:32:01 44 regular contact.
45
15:32:02 46 Have you seen his statement?---No, I have not.
47

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15:32:05 1 Has he seen yours?---Not that I'm aware of.
2
15:32:09 3 Are you aware of what's in his statement?---Not really, no.
15:32:14 4 I would imagine we're very similar in our statements.
5
15:32:18 6 You say "not really". Have you discussed in general
15:32:22 7 terms - - -?---I did know there was a proposition that I'd
15:32:24 8 spoken to him about Ms Gobbo and certainly that is accurate
15:32:31 9 from my point of view. After every contact I had with
15:32:35 10 Ms Gobbo, I spoke to Gavan.
11
15:32:40 12 So you have discussed that with Mr Ryan?---No, that was a
15:32:43 13 conversation I had with my lawyers.
14
15:32:45 15 They told you what was in his statement?---They told me,
15:32:47 16 "Was it the case that you told Gavan Ryan about this", and
15:32:52 17 exactly the way you phrased that question, and I said,
15:32:54 18 "Yeah, absolutely", that was - - -
19
15:32:56 20 What else did they tell you?---That's it.
21
15:32:58 22 Did they tell you anything about the DSU or the SDU?---No.
23
15:33:04 24 In any event what Mr Ryan says is, "I was very dubious as I
15:33:08 25 had the opinion that she was very close to Carl Williams
15:33:11 26 and Tony Mokbel. I was worried she could be a double
15:33:15 27 agent." Is that a discussion that you ever had with
15:33:20 28 Mr Ryan?---I don't remember talking about her being a
15:33:24 29 double agent, but it was certainly something that I thought
15:33:28 30 too, so it's not inconsistent with my thinking.
31
15:33:31 32 It seems to be consistent with that court book note where
15:33:35 33 she goes and visits ██████████ and tells him, apparently,
15:33:40 34 what's going on with ██████?---Yeah - well, I don't know that I
15:33:44 35 accept that she apparently tells him what's going on with
15:33:47 36 ██████ but I do - - -
37
15:33:50 38 It would be consistent with what you - - -?---- - -
15:33:53 39 recognise the risk of her providing information not only to
15:33:55 40 me but back to other people, and I was conscious of that.
41
15:33:59 42 Okay. He goes on and he says, "I recommend that Detective
15:34:04 43 Sergeant Bateson should introduce Ms Gobbo to the Dedicated
15:34:07 44 Source Unit, later known as the Source Development Unit,
15:34:10 45 because it was their job to assess and register her as a
15:34:14 46 source if she was found to be suitable." That is what he
15:34:18 47 says. What do you say to that proposition?---I don't

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S. BATESON XXN - IN CAMERA

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15:34:21 1 recall that conversation at all. My recollection of that
15:34:25 2 time is that that was taken out of my hands, and I'm not
15:34:30 3 quite sure how I became aware of it, but at one stage
15:34:35 4 there, I think the last meeting - the second last meeting I
15:34:38 5 have with her, I ask her to find out some more information
15:34:43 6 about a stolen car driven - apparently being driven by
15:34:48 7 Solicitor 2, a \$300,000 Porsche, and I also asked her to
15:34:54 8 find out any more information about how Barrister 1 was
15:35:00 9 getting paid by bookmakers. So when I start to task her, I
15:35:05 10 certainly, in my mind - - -
11
15:35:06 12 COMMISSIONER: Excuse me just a minute. Mr Winneke, should
15:35:10 13 we have that name of - - -
14
15:35:14 15 MR WINNEKE: I think he does have a - - -
16
15:35:20 17 COMMISSIONER: Yes, I know who he is, but - - -
18
15:35:26 19 MR WINNEKE: Barrister 1, I'm told.
20
15:35:27 21 COMMISSIONER: He already has a name?
22
15:35:29 23 MR WINNEKE: Yes.
24
15:35:30 25 Barrister 1 was never charged with any offence, was
15:35:34 26 he?--No, much to my chagrin.
27
15:35:37 28 In any event, that may or may not be the case, but you
15:35:41 29 didn't gather evidence to charge him with any offence?--I
15:35:44 30 thought we were close. I made some recommendations that he
15:35:47 31 was charged. That wasn't accepted.
32
15:35:50 33 COMMISSIONER: I think we better remove the name and just
15:35:52 34 put "barrister". So I direct that that be removed and just
15:35:58 35 "barrister" be published in the transcript, and the name,
15:36:04 36 of course, can't be published.
37
15:36:06 38 MR WINNEKE: I take it from what you said then that you did
15:36:09 39 in fact task her to get information?--I did in that last
15:36:11 40 meeting, and I think that's reflected in the chronology of
15:36:13 41 my notes. I didn't get that information back and by that
15:36:18 42 stage, I believe, looking back now, I'm not quite sure how
15:36:24 43 this came about, by that stage - she rings me, actually,
15:36:27 44 and this is indicated in my notes, and says she is going to
15:36:31 45 meet with Detective Sergeant Mansell. I say to her, "Go
15:36:35 46 right ahead." And then that meeting occurs and I think
15:36:38 47 from that process on I know she is being transferred into

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15:36:42 1 the management of the SDU, although I don't remember clear
15:36:47 2 conversations about it, but it was around about that time
15:36:51 3 when I was trying to get Barrister 1 examined before the
15:36:54 4 ACC, unsuccessfully, that I was more than happy for her to
15:37:00 5 be managed by the experts.
6
15:37:08 7 At no stage did you, in the period from 23 March right
15:37:15 8 through to August, register her as an informer?---No, I
15:37:19 9 didn't.
10
15:37:20 11 At no stage in that period did you speak to the SDU?---No.
12
15:37:27 13 And despite, if we accept what Mr Ryan says, and I'm not
15:37:32 14 suggesting that we do, the assertion that he makes, that he
15:37:37 15 told you to introduce her to the SDU, you say you didn't do
15:37:42 16 so?---No, that I believe, and I understand now that was
15:37:48 17 done by members of the Drug Squad.
18
15:37:55 19 In that conversation on the 23rd, you said that Solicitor 2
15:38:01 20 was bad mouthing her to Williams et al, Barrister 1 was
15:38:06 21 earning 5,500 a day and would not attend court if not paid.
15:38:14 22 Also stated that none of the barristers involved could be
15:38:17 23 trusted and that any approaches to potential witnesses
15:38:21 24 should not be made through them. That's the information
15:38:25 25 that she provided you with on 23 March?---Yes.
26
15:38:32 27 Not particularly significant information, as far as you
15:38:34 28 were concerned?---No, nothing particularly startling in
15:38:41 29 that.
30
15:38:41 31 Did you think, though, that it was somewhat extraordinary
15:38:44 32 that this woman would be contacting you and making these
15:38:46 33 sorts of statements?---Well, look, extraordinary in the
15:38:53 34 part that I hadn't had a barrister approach me in that
15:38:57 35 fashion before in my career, but not extraordinary in the
15:39:00 36 way that I'd had many, many associates of criminal figures
15:39:04 37 approach me in such a fashion. So when you look at her
15:39:10 38 dual roles that are quite clear when we look at her
15:39:15 39 complexity, if she was just a barrister, yes, I'd go, "Yes,
15:39:22 40 that is extraordinary", but she's not, she's more than
15:39:25 41 that, she's an associate, and many, many associates
15:39:28 42 approached me with information about their associates
15:39:31 43 during those years.
44
15:39:34 45 Do you know that she attended Homicide Squad functions
15:39:38 46 around this time?---No, I don't. I did hear that testimony
15:39:41 47 via the live streaming but I don't recall that.

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1
15:39:50 2 In any event she calls you on 19 May 2005, she wanted to
15:39:56 3 speak to you about a confidential matter and she spoke to
15:40:01 4 you about Solicitor 2. She makes a parting comment, "It's
15:40:05 5 hard to get paid by someone who doesn't have a trust
15:40:07 6 account." And you advised DDI Ryan about that?---Correct.
7
15:40:15 8 Then you return her call the following day, after she
15:40:18 9 leaves a message, and she says she wants to meet you the
15:40:22 10 following day, the 21st, but that apparently falls through.
15:40:27 11 She calls on 22 May, she apologises for not meeting,
15:40:34 12 correct?---Correct.
13
15:40:34 14 And she says she's concerned for her safety if Hatt is
15:40:38 15 cross-examined re the statement process, that is the
15:40:41 16 statement process leading to the statement made by [REDACTED] which
15:40:47 17 brings - at least is designed to bring [REDACTED] unstuck
15:40:52 18 with respect to [REDACTED]?---Correct.
19
15:40:54 20 And you stated that this has been ruled upon by the Chief
15:40:58 21 Magistrate?---Correct.
22
15:40:59 23 And she also had information to pass on about Solicitor 2
15:41:04 24 and you said you'd contact her on the following
15:41:10 25 day?---Correct.
26
15:41:12 27 Anyway, you speak to her on 23 May?---Yes.
28
15:41:19 29 And you meet her at the Emerald Hotel?---Correct.
30
15:41:26 31 And she's providing you information about Solicitor
15:41:30 32 2?---And Barrister 1.
33
15:41:34 34 And she's clearly not happy with Solicitor 2?---Yes, I
15:41:38 35 agree with that.
36
15:41:39 37 Did you take it that there was some sort of animosity
15:41:44 38 between the two of them?---I suspected there was
15:41:47 39 professional and personal rivalry, yes.
40
15:41:55 41 That was the motivation that Gobbo had for providing that
15:41:57 42 information?---I don't think it's as simple as that. I
15:42:03 43 also believe that in her own way she was trying to do the
15:42:10 44 right thing about other lawyers that she saw doing the
15:42:13 45 wrong thing. I think we've come to know she's a pretty
15:42:18 46 complex individual, so I don't think it's as simple as a
15:42:21 47 professional and personal rivalry.

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1
15:42:25 2 In any event, you meet her again on 4 June in South
15:42:29 3 Melbourne?---Yes.
4
15:42:32 5 And you can't recall how it was arranged, but she told you
15:42:39 6 about a private investigator who'd been employed by
15:42:43 7 Solicitor 2 to review your work, is that right?---Yes, and
15:42:49 8 also, as I understand - that is a direct quote from my
15:42:53 9 notes, but he'd also allegedly been employed to follow us,
15:42:58 10 as Detectives.
11
15:43:04 12 You understand that Solicitor 2 had been charged, in May of
15:43:11 13 2005, with criminal offences concerning the possession of a
15:43:16 14 firearm?---I don't remember the date, but I do remember she
15:43:19 15 was charged with that offence.
16
15:43:22 17 And we understand from your chronology that Ms Gobbo was in
15:43:26 18 fact acting for her. She wanted to speak to, I think,
15:43:31 19 another barrister but wasn't available so Ms Gobbo ended up
15:43:37 20 attending to her, is that right?---What - is that date in
15:43:41 21 my chronology?
22
15:43:42 23 I think it is. Just excuse me. 10 May Solicitor 1 is
15:44:08 24 arrested?---Yes, I see that. That is from Michelle
15:44:12 25 Kerley's diary, yes, I've got that.
26
15:44:13 27 You would have been aware of that, I assume, wouldn't
15:44:17 28 you?---I was certainly aware of arrest but, as I say, I'm
15:44:20 29 not sure that I was aware that Ms Gobbo represented her,
15:44:23 30 but no doubt - - -
31
15:44:26 32 Did you ask her where she was getting this information
15:44:29 33 from?---I don't know if I asked, but it was clearly asked.
15:44:32 34 I don't know if I asked her that question, but it was clear
15:44:35 35 to me and my belief now, as it was then, that it was coming
15:44:42 36 predominantly from [REDACTED] - from Solicitor 2.
37
15:44:48 38 COMMISSIONER: We'll remove that name from the
15:44:52 39 record?---Sorry Commissioner.
40
15:44:55 41 MR WINNEKE: The probability is that you were aware that it
15:44:57 42 was coming from her and whether or not it was acting for
15:45:00 43 her or speaking to her, it wouldn't have been a matter of
15:45:03 44 great concern to you, you were happy to get the information
15:45:05 45 and you acted upon the information?---I didn't consider for
15:45:08 46 one moment that that information was coming from legal
15:45:12 47 instructions.

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1
15:45:14 2 But you did know that Gobbo had turned up to advise her
15:45:19 3 when she was arrested at St Kilda?---I don't know that I
15:45:23 4 knew, but even if I did that was in relation to the
15:45:27 5 possession of a firearm, so, yes, I didn't for one second -
15:45:34 6 and certainly the context of the conversation was that
15:45:36 7 these things were being told to Ms Gobbo not under the
15:45:44 8 guise of providing legal instruction or legal advice.
9
15:45:47 10 All right. In any event, she also told you about Solicitor
15:46:00 11 2 having a caveat on George Williams' own property that is
15:46:07 12 not restrained?---Yes.
13
15:46:09 14 She told you about Solicitor 2 buying a Porsche - a
15:46:14 15 \$300,000 Porsche and a motorbike?---She told me she was
15:46:18 16 living at Tony Mokbel's apartment and that she - other
15:46:26 17 things, of course.
18
15:46:28 19 You knew she was representing Mokbel?---I knew she had. I
15:46:32 20 don't know that I was conscious of her representing him at
15:46:35 21 that time.
22
15:46:36 23 Did you bother to find out whether she was or not?---I
15:46:38 24 didn't. Once again, this information, I believe, was
15:46:44 25 coming from Solicitor 2, not directly from Mr Mokbel.
26
15:46:53 27 Did you know that she was also acting for George Williams
15:46:56 28 at about the same time?---I don't.
29
15:46:59 30 Around April 2005, at committal?---No, I don't recall that,
15:47:06 31 but once again this information, I am certain, was not
15:47:11 32 coming from George Williams or Tony Mokbel, it was coming
15:47:14 33 from Solicitor 2.
34
15:47:15 35 That's your belief, is it?---Strong belief.
36
15:47:18 37 Did you ask her?---I'm sure - looking back now, I'm sure
15:47:23 38 the context of the conversation was really clear. I have a
15:47:27 39 strong belief that I'm not mistaken. I can't remember
15:47:31 40 exactly asking her, but it was clear to me that it was
15:47:35 41 coming from Solicitor 2.
42
15:47:36 43 In any event the information was clearly adverse to the
15:47:39 44 interests of George Williams for whom she was
15:47:44 45 acting?---Possibly, yes.
46
15:47:46 47 That wasn't a matter of - - -?---Actually, at that point it

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15:47:51 1 does come a little bit further on, when he's taken out a
15:47:55 2 dodgy loan, but at that point all that she's told me that
15:47:59 3 we've got up to is Solicitor 2 has put a caveat on his
15:48:03 4 home, so it is not really adverse to him. I think when you
15:48:07 5 get to 29 June, where she says that George Williams has
15:48:10 6 taken out a bodgie loan against that to pay legal fees,
15:48:15 7 that's when you - perhaps that proposition becomes real.
8
15:48:19 9 I take your point. In any event, what you do know is that
15:48:22 10 she's quite prepared to provide information which is
15:48:25 11 contrary to the interests of people she knows, firstly, and
15:48:31 12 closely associates with, secondly?---Certainly what piqued
15:48:37 13 my interest at that time was how was Barrister 1 and
15:48:41 14 Solicitor 2 getting their legal fees, because it was my
15:48:47 15 strong belief that they were getting paid on the proceeds
15:48:51 16 of crime, remembering we had every asset of Carl Williams
15:48:56 17 restrained, every future asset of Carl Williams restrained,
15:49:00 18 there's no possible way that they could be getting paid.
15:49:05 19 And as I later find out, Barrister 1 is getting paid at
15:49:10 20 least \$100,000 in two separate cheques from bookmakers.
21
15:49:25 22 That was according to Gobbo?---No, we actually executed a
15:49:30 23 search warrant on his clerks and found those cheques.
24
15:49:34 25 Based on information provided by Gobbo?---Correct.
26
15:49:43 27 The fact that you were speaking to Nicola Gobbo, I take it,
15:49:49 28 was something which your superior officers were aware
15:49:54 29 of?---Certainly, as you'll see by my chronology and notes,
15:49:57 30 I kept Gavan Ryan informed after every contact.
31
15:50:02 32 Would it surprise you to know that Mr Purton's diary
15:50:06 33 records attending - on 6 June 2005 records him attending a
15:50:11 34 Task Force Purana meeting with, apparently Simon Overland,
15:50:16 35 SO, and PS, Phil Swindells, June, where there were
15:50:23 36 discussions relating to a solicitor about money laundering
15:50:27 37 which involved gambling and Nicola Gobbo, to meet with
15:50:30 38 Stuart Bateson?---It wouldn't surprise me. We work in a
15:50:35 39 hierarchical organisation. I would expect that Gavan
15:50:38 40 wouldn't keep that information to himself.
41
15:50:40 42 You wouldn't expect him to?---No.
43
15:50:42 44 And it wouldn't surprise you that the higher ups were aware
15:50:46 45 of it?---Not at all.
46
15:51:02 47 You meet with her on a number of occasions. 29 June is one

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15:51:05 1 of them. You've mentioned that. And you met with her on
15:51:10 2 14 September 2005?---No, I don't think so. I get a call
15:51:17 3 from her on 14 September.
4
15:51:20 5 I withdraw that?---And that's when she tells me that she's
15:51:25 6 going to be meeting with Steve Mansell of the MDID.
7
15:51:34 8 Commissioner, I think we've probably got to a point in time
15:51:38 9 where - - -
10
15:51:40 11 COMMISSIONER: You've gone about as far as you can go at
15:51:42 12 the moment.
13
15:51:43 14 MR WINNEKE: I think we've got to just about the point of
15:51:46 15 registration, which is probably reasonably neat,
15:51:48 16 Commissioner, given the time, so I think if we can cease
15:51:53 17 the evidence of Mr Bateson now. He'll be back in due
15:51:56 18 course - unless there's any cross-examination at this
15:51:58 19 stage.
20
15:51:59 21 COMMISSIONER: Is there any cross-examination at this stage
15:52:00 22 or are people content to reserve their right?
23
15:52:05 24 MR NATHWANI: We're in the Commissioner's hands. If I was
15:52:07 25 to deal with this period I think I'd be about 15 to 20
15:52:10 26 minutes, but it is ultimately a matter for you.
27
15:52:12 28 COMMISSIONER: Do you have a preference?
29
15:52:14 30 MR NATHWANI: I'm happy to get on with it now, seeing as
15:52:27 31 we're ready to deal with it, Of course bearing in mind the
32 shorthand writers, using the same empathy as Mr Winneke.
33
15:52:27 34 COMMISSIONER: Ms Wallace, I'm not sure if you have got
15:52:29 35 leave to cross-examine?
36
15:52:32 37 MS WALLACE: No, Your Honour, we reserve that right if we
15:52:33 38 can to a later date and consider our position.
39
15:52:37 40 COMMISSIONER: All right. Mr Chettle, do you have much?
41
15:52:39 42 MR CHETTLE: I do, but I'll do it later, Commissioner. I'm
15:52:40 43 prepared to wait. By the time Mr Nathwani finishes we
15:52:43 44 won't have any time anyway.
45
15:52:45 46 COMMISSIONER: And there's not much point doing any
15:52:47 47 re-examination until the evidence is finished.

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1
15:52:50 2 MS ENBOM: I don't have any at this stage.
3
4 COMMISSIONER: Sorry, Mr Doyle.
5
15:52:53 6 MR DOYLE: If I could just approach counsel assisting?
15:52:56 7 Whether we have got any cross-examination now depends on
15:52:58 8 what is to be adduced on the next occasion.
9
15:53:00 10 COMMISSIONER: Why don't we just have a few minutes - a two
15:53:05 11 or three minute break just so everyone can have a stretch.
15:54:26 12
13 (Short adjournment.)
14
15:58:09 15 COMMISSIONER: Yes, Mr Nathwani.
16
15:58:11 17 MR NATHWANI: Thank you, Commissioner.
18
19 <CROSS-EXAMINED BY MR NATHWANI:
20
15:58:22 21 Mr Bateson, I'm one of the counsel for Ms Gobbo. I take it
15:58:25 22 from some of the documents you've got, you've actually got
15:58:28 23 a hard copy of your chronology in front of you?---Yes.
24
15:58:30 25 If you have it to hand, because I might take you through
15:58:32 26 bits of that, okay?---Yes.
27
15:58:35 28 You were asked at the very beginning of today by
15:58:41 29 Mr Winneke, and let's be clear, the suggestion is you may
15:58:44 30 have had a suspicion that Ms Gobbo was involved in criminal
15:58:46 31 activity with the likes of Mokbel, Williams et al. I just
15:58:50 32 want to focus on that to a degree. You mentioned that -
15:58:56 33 and I'm using a couple of quotes from you - they, and
15:59:00 34 that's Mokbel, Williams, et cetera, assumed she was part of
15:59:03 35 the crew, which put her in a difficult position, no doubt,
15:59:10 36 is that correct?---Yes.
37
15:59:10 38 Another quote from you. "They perceived her to be part of
15:59:13 39 the ring of protection", I think you used that in relation
15:59:16 40 to the lawyers they instructed?---I don't remember using
15:59:20 41 that phrase. Certainly I considered it to be that ring of
15:59:25 42 protection. I'm not sure that I used that in what they
15:59:29 43 perceived her to be, but certainly they perceived her to be
15:59:32 44 part of their broader network.
45
15:59:34 46 Just to develop that, what you meant by the expectations of
15:59:36 47 the broader network, because you dealt with the likes of ■

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15:59:41 1 ■ Williams, you had an insight into how they ran their
15:59:43 2 groups, what you were getting at is this: let's use Carl
15:59:48 3 Williams as an example. Carl Williams expected Ms Gobbo to
15:59:53 4 represent everybody within his crew?---Correct.
5
15:59:58 6 Part of the reasoning that he wanted that was so that she
16:00:01 7 would report back to him if one of the crew was considering
16:00:05 8 rolling on Mr Williams?---I certainly think that's what his
16:00:11 9 expectation was. I obviously haven't had a discussion with
16:00:14 10 Carl Williams about this, but certainly from my point of
16:00:17 11 view that's what I believed his expectations of her were.
12
16:00:22 13 And just following through, because you also had
16:00:25 14 conversations with Ms Gobbo, so I'm using them to inform
16:00:28 15 this as well?---Yes.
16
16:00:33 17 The position, because you said she was obviously in a
16:00:35 18 difficult position no doubt, am I right in saying you were
16:00:37 19 alluding to the following, ■ as an example - she goes
16:00:41 20 down to represent ■ says, as he did to you the police
16:00:46 21 officers, pretty much off the bat, "I want to assist".
16:00:49 22 Gobbo's position is either do the best by ■ and assist, do
16:00:54 23 you agree, that's one of the options?---Yes.
24
16:00:57 25 Option 2 is to go back, tell him not to, report back to
16:01:00 26 ■ that that's happening, do you agree with
16:01:03 27 that?---Correct.
28
16:01:04 29 The fallout from that would be ■'s life would be in
16:01:10 30 jeopardy?---Yes.
31
16:01:12 32 The prosecution of the murder would be in jeopardy?---Look,
16:01:17 33 I doubt it in the case of ■ because as I said, ■ was always
16:01:21 34 going to cooperate.
35
16:01:23 36 Understood. Okay. As an example, though, the use of ■ as
16:01:26 37 a witness in the prosecution would be in
16:01:29 38 jeopardy?---Possibly.
39
16:01:30 40 You referred earlier to lawyers who would do that,
16:01:34 41 potentially themselves be committing the offence of
16:01:38 42 perverting the course of justice by reporting back?---Yes.
43
16:01:43 44 Had Gobbo withdrawn, in other words stopped representing ■,
16:01:46 45 do you agree it would have tipped off the likes of ■
16:01:50 46 that in fact ■ was helping, or may be helping?---She'd
16:01:54 47 certainly be questioned on why she did that I believe.

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1
16:01:58 2 So in many respects she was in a vicious circle. I'm not
16:02:02 3 saying she didn't, by some degree, put herself in that
16:02:06 4 position, but do you agree once she was in that position
16:02:08 5 there was very few places for her to turn?---Yes, and in
16:02:11 6 lots of ways the decision she made I saw as quite
16:02:16 7 courageous, and that was to represent the best interests of
16:02:19 8 her client, in this case Witness [REDACTED]
9
16:02:21 10 And let's be clear, because I've got Witness [REDACTED]'s sentencing
16:02:26 11 remarks. You gave evidence there?---I did.
12
16:02:30 13 Justice Teague says this, "The information that you've
16:02:35 14 provided has put you in the highest category of risk. Your
16:02:39 15 past cooperation and promises of future cooperation make
16 16 you very vulnerable. Your security in the short and long
16:02:46 17 term is a matter of extreme importance." He was
16:02:50 18 indicating, I assume in line with your evidence, that [REDACTED]'s
16:02:52 19 life was forever more in jeopardy?---Yes.
20
16:02:57 21 Same rules apply to Ms Gobbo. Had [REDACTED] found out,
16:03:02 22 do you agree, that she was involved in [REDACTED] in anyway giving
16:03:05 23 evidence as against - - - ?---Look, I certainly believe she
16:03:08 24 was in danger and that's why I took the steps I did to
16:03:11 25 redact her name from my notes. I don't agree that she was
16:03:13 26 at the same risk as [REDACTED]. I mean [REDACTED] is the only one who could
16:03:18 27 stand in that witness box and give the evidence. The idea
16:03:20 28 that he wouldn't be able to do that because he was
16:03:23 29 incapacitated or dead would be an attractive one to [REDACTED]
16:03:28 30 [REDACTED] and his crew. That doesn't necessarily apply to
16:03:32 31 Ms Gobbo.
32
16:03:33 33 I understand?---But I do agree that she was at risk for her
16:03:37 34 safety had they known, and as they did become known, that
16:03:42 35 she acted for [REDACTED]
36
16:03:44 37 You asked and you were pushed, I think, this morning and
16:03:47 38 then this afternoon about whether or not your view was she
16:03:50 39 was involved in - that is Gobbo - involved in criminality
16:03:53 40 with these people and ultimately you said if you had the
16:03:56 41 evidence to charge those barristers and solicitors you
16:03:59 42 would have?---Correct.
43
16:04:01 44 And earlier you gave examples of why you suspected she may
16:04:05 45 have been or potentially have been involved in criminality.
16:04:08 46 You said this, she issued subpoenas?---Yes.
47

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16:04:15 1 That she got people bail?---Yes.
2
16:04:17 3 Obviously both court processes - this is a statement of
16:04:22 4 fact?---I get your point. I don't think I was necessarily
16:04:25 5 saying that her acting as a barrister was necessarily
16:04:30 6 acting illegally, but certainly there was a train of
16:04:35 7 thought within Purana and Victoria Police at the time that
16:04:40 8 those sorts of things were done to get people out so they
16:04:45 9 can continue to operate their criminal enterprise, to
16:04:48 10 identify informers and to do things to subvert the course
16:04:55 11 of justice. They are also, as you quite rightly put,
16:04:58 12 legitimate things for a barrister to do.
13
16:05:00 14 I understand. Just what made it slightly different as far
16:05:03 15 as she was concerned, and also others, is she also
16:05:07 16 socialised with them?---That was the big difference.
17
16:05:10 18 So those were headline factors, I'm sure there were others,
16:05:12 19 but headline factors that gave you the suspicion, but
16:05:14 20 ultimately no evidence, as you've said?---No evidence in my
16:05:18 21 memory and recollection of her committing a criminal
16:05:23 22 offence.
23
16:05:24 24 By the time of the Marshall murder, so October 2003, there
16:05:27 25 were, I think, nine murders I counted on your document that
16:05:31 26 had been in progress or in investigation. It's right,
16:05:35 27 isn't it, you - and I mean that globally of Purana and your
16:05:38 28 colleagues, Homicide as well - devised the tactic of divide
16:05:46 29 and conquer?---Yes, I believe that's a fair summation of
16:05:50 30 one of the tactics we employed.
31
16:05:53 32 And the example being ultimately you struck gold in many
16:05:57 33 respects when ■ is arrested with overwhelming evidence and
16:06:00 34 indicates almost immediately, "I want to help
16:06:02 35 out"?---Correct.
36
16:06:02 37 Then what follows just in the sequence is you get the
16:06:04 38 ruling that you can run the trials how you want, run the
16:06:08 39 strongest one in many respects, get the conviction and then
16:06:12 40 I think it is ■ comes to the party and engages with you and
16:06:16 41 ■ as well and it is again more of the same. It was getting
16:06:19 42 those lower down and putting pressure on them, through
16:06:22 43 evidence, to assist you?---Absolutely it was a tactic and
16:06:26 44 it wasn't just with the people we ended up charging with
16:06:29 45 murder. We charged many, many people with a variety of
16:06:32 46 offences and every time we got them between a rock and a
16:06:35 47 hard place, we used that to get further information to

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16:06:38 1 advance our investigations. Most critically it was
16:06:44 2 employed with the witnesses you spoke of, but it was a
16:06:47 3 tactic that we used on many, many occasions with many
16:06:50 4 different people.
5
16:06:52 6 It's a common police tactic?---Very.
7
16:06:55 8 Just to deal with that, the sense of your evidence - you
16:06:58 9 correct me if I am wrong - was they were already in the
16:07:02 10 process of rolling so it didn't matter who represented them
16:07:05 11 as far as you were concerned?---Absolutely. Very much that
16:07:08 12 in the case of ██████████. By the time of ██████████, he'd
16:07:13 13 expressed a willingness to cooperate potentially but it was
16:07:17 14 only when a number of things went against him and it become
16:07:20 15 insurmountable and he saw no other way out that he rolled
16:07:24 16 and once again, he would have done that regardless of who
16:07:28 17 his barrister was.
18
16:07:30 19 And let's just focus on ██████ again, just to go through his
16:07:32 20 statement taking and notes and Ms Gobbo's comments to you
16:07:37 21 about not believing parts of it. I'm using my words. Do
16:07:43 22 you agree the process is this: Gobbo is representing ██████ and
16:07:47 23 for him to get the best discount by assisting you his
16:07:50 24 statement needs to be truthful?---Absolutely.
25
16:07:53 26 Because you need to get in the witness box, as you did in
16:07:56 27 ██████████ 2005, on his behalf and say, "We have his evidence,
16:08:01 28 we believe it's truthful for the following reasons"?---I
16:08:04 29 think it's even more so than that. Yes, I have to be
16:08:07 30 convinced, but ultimately it's the sentencing judge that is
16:08:11 31 sitting there and looking at the evidence that's provided
16:08:13 32 in those statements and being able to say this is a
16:08:19 33 significant piece of evidence that will go towards many,
16:08:23 34 many convictions. So it's not only convincing me, it is
16:08:27 35 convincing the sentencing judge that they're being fully
16:08:31 36 cooperative and telling the truth.
37
16:08:35 38 In fact you said earlier it wasn't unusual back then for
16:08:39 39 the representatives of someone who was assisting the
16:08:42 40 authorities to be provided the statement in advance?---It
16:08:44 41 was normal practice.
42
16:08:46 43 And the reasoning was this: it was for the lawyer - I'm
16:08:50 44 just using this as a generality - to advise, let's say ██████,
16:08:54 45 to say, "Actually, I don't think they're going to believe
16:08:58 46 those parts of your statements"?---I think it is more so to
16:09:01 47 be able to say, "These are the offences you've admitted to,

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16:09:04 1 these are the undertakings we're going to require before
16:09:06 2 you sign these statements", so it's about protecting the
16:09:09 3 legal rights of their client. Yes, absolutely in the case
16:09:13 4 of Ms Gobbo she expressed some scepticism. I don't know
16:09:16 5 what advice she gave back to him.
6
16:09:19 7 We have the notes. You were taken to them earlier.
16:09:22 8 There's no need to. We have the notes on, I think it is 10
16:09:26 9 July where Mr Hatt's statement confirms he went into
16:09:30 10 Ms Gobbo's chambers and was shown the statement. We see on
16:09:34 11 the left-hand side she writes down the concerns, [REDACTED],
16:09:37 12 whether it was for [REDACTED], and then we see the
16:09:41 13 advice and [REDACTED] response - sorry, [REDACTED]
14
16:09:47 15 COMMISSIONER: That will have to be removed from the
16:09:49 16 record, that name. |
17
16:09:51 18 MR NATHWANI: Do you think there is anything unusual in
16:09:53 19 that process with the barrister, in effect, saying I
16:09:55 20 question these - - -?---I don't because, you know, as I've
16:09:58 21 said earlier, when I've worked with Crown witnesses,
16:10:02 22 accomplices, in the past, nearly on every occasion without
16:10:07 23 exception the accomplice will try and lessen their
16:10:13 24 involvement to get a better deal. It is up to us, as
16:10:16 25 investigators, to make sure that they're aware that
16:10:18 26 sometimes that's just a load of crap. But ultimately when
16:10:21 27 they put their signature on that statement, that's their
16:10:24 28 evidence that they have to give and it will be their
16:10:27 29 credibility in the witness box that will be important when
16:10:30 30 they're giving that evidence.
31
16:10:33 32 COMMISSIONER: What is a bit unusual is the lawyer
16:10:37 33 reporting to the police officer about the statement and
16:10:39 34 what she considers is not - - -?---It's happened to me
16:10:44 35 before, Commissioner, where lawyers have said to me, "Come
16:10:48 36 on, is he really expecting us to believe this?" That's the
16:10:51 37 circumstances. It's not unusual and for her to express
16:10:58 38 scepticism in the way she did, it was certainly scepticism
16:11:01 39 that we all shared.
40
16:11:04 41 I understand.
42
16:11:05 43 MR NATHWANI: Do you agree part of that is the lawyer
16:11:06 44 fishing for your view?---Possibly, because I think I make
16:11:10 45 that note, whether she was or she wasn't.
46
16:11:12 47 Because obviously they want your view to see whether or not

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16:11:15 1 you're likely to say that statement was reliable when it
16:11:17 2 comes to a judge sentencing a person?---Yeah.
3
16:11:21 4 And just following [REDACTED] through, because what is said in the
16:11:28 5 sentence by [REDACTED] is this, in relation to his count, "As
16:11:32 6 to some matters I must allow for your spin, that is the
16:11:35 7 presentation of some matters in a way calculated to provide
16:11:37 8 a more favourable impression of your role. The accuracy of
16:11:41 9 some aspects of what you've said may later be challenged.
16:11:44 10 Defence counsel have their ways of dealing with spin as you
16:11:46 11 will have further occasion to learn. As to many
16:11:49 12 significant matters, your account is supported by
16:11:54 13 information obtained from other sources." He then goes on
16:11:58 14 to say it is reliable or it is an indication of
16:12:01 15 reliability. Just to be clear, the statements provided
16:12:04 16 even to [REDACTED] indicated that there was some spin involved
16:12:09 17 in his statement?---Yes.
18
16:12:10 19 And you didn't present them in any other way to [REDACTED] when
16:12:14 20 you gave evidence?---No.
21
16:12:15 22 When it comes to the committal of [REDACTED] now going
16:12:18 23 forward, let's just get the sequence right. I understand
16:12:22 24 there was an in camera hearing before the start of the
16:12:26 25 actual committal hearing, is that right?---There was many
16:12:30 26 over the journey. There certainly was one around PII
16:12:37 27 issues from the committal, as I remember it.
28
16:12:40 29 Gavin Silbert, is that right, may have represented you
16:12:43 30 initially?---Yes, I think that might be right.
31
16:12:45 32 He told you to provide your notes redacted and unredacted
16:12:49 33 to the Chief Magistrate?---Yes.
34
16:12:51 35 You did that?---Yes.
36
16:12:54 37 24 hours later, Mr Cinelli comes down and deals with the ex
16:13:02 38 parte hearing with you giving evidence?---Look, that could
16:13:05 39 be true. I don't remember Morris being there on the day,
16:13:08 40 but certainly someone from the VGSO was there.
41
16:13:13 42 What happened was you in effect went through the judge.
16:13:15 43 The magistrate had the redacted and unredacted in front of
16:13:18 44 him and considered each redaction as a usual PII hearing,
16:13:22 45 in effect?---Yes.
46
16:13:23 47 Just to be clear, your notes obviously redacted the name of

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16:13:29 1 Nicola Gobbo, but those notes included, didn't they, the
16:13:31 2 following: the fact that she had made comments about [REDACTED]'s
16:13:36 3 statement?---As they appear, the only thing that was
16:13:41 4 redacted was her name.
5
16:13:42 6 So there was no attempt to hide necessarily that the
16:13:44 7 barrister was saying what they were saying?---No.
8
16:13:46 9 There was no attempt, for example, to hide any of the
16:13:51 10 meetings with [REDACTED] because there was several and what was
16:13:54 11 being said, as reflected in your notes?---No.
12
16:13:59 13 So there was material that the barristers could
16:14:02 14 cross-examine [REDACTED] on relating to his credibility, that's why
16:14:06 15 you provided the notes?---Yes.
16
16:14:08 17 I just want to show you the transcript - or a transcript of
16:14:11 18 the hearing. It is not all of it because it went for days.
16:14:49 19 Just have a look. You see at the bottom of that
16:14:53 20 document?---The first page?
21
16:14:56 22 Just go to the first page to begin with. [REDACTED] 2005,
16:15:00 23 [REDACTED], the bottom right-hand side, obviously your
16:15:05 24 cross-examination. You can have a flick through but the
16:15:09 25 page we're interested in is p.844 and 845, which are the
16:15:16 26 last two pages. You'll see that Mr Lovitt is
16:15:22 27 cross-examining you?---Is it Lovitt? I don't know.
28
16:15:30 29 We'll go through and I'll show you?---That's all right, I'm
16:15:33 30 willing to accept it was Lovitt.
31
16:15:36 32 If we pick it up on p.844, line 11. It says, "Did he get
16:15:46 33 an estimate from Mr Horgan?" You say, "No, well certainly
16:15:47 34 not through me. I mean if there are any communications
16:15:51 35 between the Director or the Director's office it was done
16:15:54 36 through lawyers, through his lawyers." We see it carries
16:15:59 37 on through. When you go through all of it you'll see
16:16:02 38 you're being asked about the notes. If we turn to p.845,
16:16:06 39 the top of the page. You say: "It's an issue that I've
16:16:11 40 raised with His Honour." Question: "It is?" Answer:
16:16:15 41 "Yes. It's a matter of public record, isn't it?" Your
16:16:18 42 response: "Well, it may well be but it was." "The name of
43 the lawyer who appeared for him, [REDACTED] is crossed out. That's
44 basically what I inferred from that", this is Mr Lovitt.
45 "You've got the name of the prosecutor, the name of the
16:16:30 46 judge but the middle line was blacked out." Your response:
16:16:33 47 "Yes." Then you say this - it's not clear who says that:

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16:16:37 1 "Your Honour, I can't for the life of me see how that could
16:16:43 2 be" so I think that's Lovitt. The Chief Magistrate's
16:16:44 3 response, "I take it, Mr Lovitt, I have to go back through
4 it, but the evidence for this matter is dealt with in a
16:16:49 5 closed session, of course, and some matters were let back
16:16:52 6 in and others were left out." Mr Lovitt responds: "I
16:16:56 7 understand that." His Honour: "That's been left out. To
16:17:01 8 assist you I can't recall the precise reason why the name
16:17:05 9 was left out but it was". Mr Lovitt: "It's not of great
16:17:06 10 moment." The magistrate responds: "But at this stage
16:17:09 11 certainly Mr Bateson can't answer that question because
16:17:13 12 I've ruled on it in that session. I'm not saying that on
16:17:16 13 no further reflection on his part or Mr Horgan's part or an
16:17:19 14 application on my part that can be changed, but that's the
16:17:23 15 way it stands at the moment." Mr Lovitt responds: "Your
16:17:26 16 Honour, I must say we certainly seem, I don't know and I
16:17:29 17 don't care, but it just seems odd to me that it was crossed
16:17:32 18 out." His Honour says: "It must be innocuous." Does that
16:17:37 19 jog any memories of what happened?---Yes, I think that's
16:17:40 20 consistent with the testimony I gave earlier and thank you
16:17:43 21 for finding that transcript.
22
16:17:44 23 So in effect you went through the usual legal means PII for
16:17:49 24 a judicial officer to determine whether your application
16:17:52 25 had any force and in the circumstances it did?---Yes.
26
16:17:58 27 The next day Ms Gobbo calls you and thanks you for
16:18:06 28 keeping - - -
29
16:18:06 30 COMMISSIONER: Did you want to tender this?
31
16:18:09 32 MR NATHWANI: Yes, Commissioner.
33
16:18:10 34 COMMISSIONER: It will have to be in two - - -
35
16:18:14 36 MR NATHWANI: I have given it to my friends for Victoria
16:18:16 37 Police. I imagine it will be given the usual redaction.
16:18:21 38
16:18:21 39 #EXHIBIT 271A - Unredacted extracts of the transcript of
16:18:24 40 9/3/2005.
16:18:33 41
16:18:35 42 #EXHIBIT 271B - Redacted extracts of the transcript of
16:18:43 43 9/3/2005.
44
16:18:43 45 COMMISSIONER: Is this the Bendigo Magistrates' Court, is
16:18:47 46 it?
16:18:47 47

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16:18:48 1 MR NATHWANI: No, this is the [REDACTED] Magistrates'
16:18:50 2 Court committal.
3
16:18:51 4 COMMISSIONER: Right. Thank you.
5
16:19:00 6 MR NATHWANI: So after that committal hearing, the evidence
16:19:03 7 is that Ms Gobbo rang you the next day - this is at p.18 of
16:19:08 8 your chronology?---Sorry, what date was that?
16:19:14 9
16:19:15 10 [REDACTED] 2005. She thanked you for keeping her name out of
16:19:19 11 the committal hearing?---Yes.
12
16:19:20 13 And she had by that stage expressed concern about her name
16:19:23 14 being revealed to you, in the sense that she was worried
16:19:27 15 that she would suffer injury or worse if it became obvious
16:19:31 16 that she'd assisted [REDACTED] when he assisted you, do you agree
16:19:34 17 with that?---Yes.
18
16:19:35 19 The content in fact of that entry also says she started
16:19:41 20 revealing information to you about Solicitor 2, bad
16:19:46 21 mouthing her?---That's my note of the conversation, yes.
22
16:19:49 23 And also the last sentence there is that she was telling
16:19:53 24 you that the solicitor acting for [REDACTED], in the end, had
16:20:00 25 received a big backlash for assisting [REDACTED]?---Correct.
26
16:20:03 27 That was a theme that was present throughout what Ms Gobbo
16:20:06 28 was saying to you. Could we go to p.7?---Pardon me?
16:20:15 29
16:20:16 30 If we go to p.7 of the chronology, so 18 June. This is [REDACTED]'s
16:20:24 31 sentence for [REDACTED], ---Yes.
32
16:20:26 33 And just pausing there, because you were asked earlier
16:20:28 34 about whether Ms Gobbo was or wasn't acting for [REDACTED] in any
16:20:34 35 matters around - I think it was [REDACTED] 2004 or [REDACTED] 2004. It
16:20:41 36 is right she was acting for him in [REDACTED] certainly
16:20:43 37 in [REDACTED] 2004, do you agree?---Yes.
38
16:20:45 39 Because she appeared at the plea. The last entry there you
16:20:49 40 have, "After hearing spoke to Gobbo, who stated she was
16:20:52 41 concerned for her own welfare"?---Yes.
42
16:20:55 43 That is when you told her your door is open any
16:20:59 44 time?---Yes.
45
16:20:59 46 That is one example. If we go, please, to p.20, because
16:21:06 47 we've dealt with 18, p.20, on 22 May 2005?---Sorry, what

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S. BATESON XXN - IN CAMERA

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16:21:11 1 date was that again?
2
16:21:14 3 22 May 2005?---Yes.
4
16:21:25 5 Again, do you agree she was outlining concerns about her
16:21:29 6 safety?---Yes.
7
16:21:31 8 And you told her, correctly, that this had been ruled on
16:21:35 9 already by the Chief Magistrate?---Yes.
10
16:21:38 11 Moving on then, please, to 1 September 2005, p.23?---Yes.
12
16:21:48 13 Can you read that entry out, please?---"Received call from
16:21:52 14 Nicola Gobbo. Initially stated she was concerned re Zarah
16:21:56 15 comments that she would be" - - -
16
16:21:59 17 Solicitor 2?---Solicitor 2. My apologies.
18
16:22:03 19 COMMISSIONER: That will have to be taken from the
16:22:05 20 record?---"Receiving unedited notes. Reassured her that
16:22:07 21 would be resisted and then spoke of run-in with the
16:22:11 22 Drug Squad which ended in her crying. Obviously wanted
16:22:15 23 to" - - -
24
16:22:17 25 MR NATHWANI: My fault. And that was Gobbo crying?---Yes.
26
16:22:22 27 So she was again expressing to you her concerns about it
16:22:27 28 being revealed that she would be identified as involved
16:22:32 29 with█ providing a statement?---Yes.
30
16:22:34 31 And again expressing how she had cried as a result?---Yeah.
16:22:39 32 I'm not sure whether the tears were in relation to a run-in
16:22:43 33 with the Drug Squad, but no doubt she was feeling pressure,
16:22:48 34 whatever it was.
35
16:22:50 36 This wasn't the only example of people expressing fear.
16:22:54 37 Solicitor 2, were you involved in her contempt
16:22:58 38 proceedings?---I was aware of them, yes.
39
16:23:02 40 Were you aware that Mr Heliotis appeared on her
16:23:06 41 behalf?---Yes.
42
16:23:07 43 When she refused to give evidence and expressed her
16:23:10 44 absolute fear and concern as to the safety of her life if
16:23:13 45 she did?---Yes.
46
16:23:15 47 And that's why she was held in contempt and ultimately

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16:23:18 1 convicted with no punishment?---Correct.
2
16:23:27 3 Thank you, Mr Bateson.
4
16:23:32 5 COMMISSIONER: We don't need to hear from the witness
16:23:34 6 again, or do you want to - - -
7
16:23:36 8 MR WINNEKE: Just a couple of matters, Commissioner.
9
10 <RE-EXAMINED BY MR WINNEKE:
11
16:23:44 12 Can I just ask you about that entry in your diary on 1
16:23:48 13 September?---2005?
14
16:23:53 15 The chronology, rather, 1 September 2005. You received a
16:23:59 16 call from Nicola, initially stating that she was concerned
16:24:03 17 re Solicitor 2's comments that she would be receiving
16:24:07 18 unedited notes. "Reassured her that that would be
16:24:11 19 resisted. Spoke of the Drug Squad run-in which ended in
16:24:15 20 her crying and she obviously wanted it to push that she
16:24:18 21 would not be involved or not involve herself in any
16:24:21 22 criminal activity and you allowed her to vent." That's the
16:24:24 23 full note of that meeting, is it?---Yeah. The "it" was a
16:24:29 24 typo. "Obviously wanted to push she would not be involved,
16:24:33 25 not involve herself in any criminal activity".
26
16:24:36 27 She wanted to make it clear that she would not involve
16:24:38 28 herself in any criminal activity?---Yes.
29
16:24:41 30 You were asked about a redacted - or at least a transcript
16:24:44 31 of a committal proceeding in the Melbourne Magistrates'
16:24:48 32 Court in which you were cross-examined by Mr Lovitt.
16:24:52 33 Mr Lovitt was acting for [REDACTED] ---I don't remember who
16:24:55 34 was he was acting for.
35
16:24:58 36 I can assure you that he was?---Then I take that assurance.
37
16:25:02 38 What was apparent from that transaction is that Mr Lovitt
16:25:06 39 couldn't, for the life of him, work out who it was that was
16:25:12 40 blanked out and couldn't work out why it was blanked out,
16:25:16 41 that seems to be correct, doesn't it?---I think we can take
16:25:18 42 from that he couldn't see why it would be blanked out. He
16:25:23 43 says it's a matter of public record, isn't it?
44
16:25:27 45 "You've got the name of the prosecutor, the name of the
16:25:30 46 judge, but the middle name is blacked out." It would
16:25:33 47 follow, wouldn't it, that - it would seem that he didn't

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S. BATESON RE-XN - IN CAMERA

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16:25:37 1 know and his client didn't know what the blackout
16:25:45 2 was?---Probably at that time, yeah.
3
16:25:46 4 And this is the person - so this is [REDACTED] whose lawyer
16:25:51 5 doesn't know who it is and yet he's the person subsequently
16:25:54 6 who you - - -?---[REDACTED] - -
7
16:25:59 8 - - - seem to be content for Ms Gobbo to act for
16:26:02 9 subsequently?---Sorry, I'm confused. [REDACTED] or
16:26:05 10 [REDACTED]
11
16:26:05 12 [REDACTED]?---You might have to put that question again, I'm
16:26:11 13 sorry.
14
16:26:12 15 Mr Lovitt, acting for [REDACTED], is trying to find out - or
16:26:16 16 doesn't know who the lawyer is who appears for [REDACTED]
16:26:25 17 correct?---Yes, I think he's more so remarking why is it
16:26:28 18 redacted when it would be a matter of public record.
19
16:26:32 20 Because he doesn't know who it is?---I suspect at that
16:26:35 21 point he doesn't.
22
16:26:36 23 And his client doesn't know who it is who's providing the
16:26:39 24 advice to [REDACTED]---I would assume that to be true.
25
16:26:44 26 The very person who then comes to act for him subsequently,
16:26:47 27 after that - who is acting for him subsequently,
16:26:58 28 [REDACTED]---Yes.
29
16:27:02 30 Do you think it's appropriate that a legal practitioner
16:27:08 31 acts for a person in circumstances where there is a
16:27:12 32 conflict and a quite apparent conflict of interest?---What
16:27:17 33 I know is in those days, that was common. What I thought
16:27:21 34 was appropriate didn't really matter too much to me because
16:27:24 35 it certainly didn't seem to worry the OPP or the courts.
36
16:27:31 37 It didn't worry the OPP or the courts as far as you were
16:27:34 38 concerned and it didn't worry you?---As I've said
16:27:38 39 repeatedly today, Mr Winneke, I didn't think that was a
16:27:43 40 matter for me, as a Detective Sergeant, to resolve when
16:27:45 41 others in the legal profession, with much more standing,
16:27:48 42 were aware of that conflict.
43
16:27:54 44 Do you see any problem with a lawyer who is a police agent
16:27:57 45 also representing clients that those police are
16:28:00 46 investigating, that she's provided information
16:28:05 47 about?---Certainly here we are sitting in a Royal

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16:28:07 1 Commission, so I think there is concerns that have been
16:28:10 2 well articulated by the High Court. Back in those days,
16:28:16 3 you know, it's possible, looking back on what I was
16:28:20 4 thinking at that time, that just as she could be an
16:28:24 5 associate and a barrister, a friend and a barrister, she
16:28:27 6 could also be informing on the association part of her life
16:28:32 7 by providing legal advice.
8
16:28:35 9 You're asked questions about Solicitor 2 being arrested for
16:28:46 10 contempt. Do you know that Ms Gobbo appeared for her as
16:28:50 11 well?--On the contempt?
12
16:28:54 13 Yes?---No, I didn't know that.
14
16:28:57 15 Again, if you - and this is a person who is providing you
16:29:03 16 with information?---Yep. Pardon me?
16:29:08 17
16:29:08 18 This is a person - Ms Gobbo is providing you information
16:29:09 19 about Solicitor 2, who gets arrested and Ms Gobbo then
16:29:13 20 appears for her?---But you can receive information in the
16:29:18 21 aspect of a personal relationship that doesn't prohibit
16:29:24 22 that and doesn't prohibit it just because you're a lawyer,
16:29:28 23 doesn't prohibit you giving that information. It's not
16:29:31 24 protected by legal professional privilege, in my view and
16:29:34 25 understanding, if you obtain that information in the midst
16:29:39 26 of your personal relationship or your association or you
16:29:42 27 overhear it in a bar or you're talking about it over
16:29:45 28 coffee. If the dominant purpose of that information that's
16:29:49 29 provided to you is seeking legal advice, then yes, that is
16:29:52 30 an issue, but there's two different things there, I think,
16:29:56 31 that can coexist. Complex, no doubt, and certainly, from a
16:30:01 32 Victoria Police point of view, we've learnt a lot and moved
16:30:04 33 on and changed our procedures. But I believe, as I sit
16:30:10 34 here today, that just because you're a lawyer by profession
16:30:14 35 doesn't mean you'll get information that's important to a
16:30:18 36 police investigation in the midst of your personal
16:30:21 37 relationships, your associations with criminals,
16:30:25 38 overhearing it, whether you're standing around in a bar
16:30:28 39 having drinks or you're at a party or someone reaches over
16:30:31 40 while you're having a drink and tells you something,
16:30:34 41 there's a difference.
42
16:30:36 43 COMMISSIONER: I think Mr Winneke was asking a different
16:30:38 44 point?---I'm sorry.
45
16:30:39 46 That Ms Gobbo had been providing you with information about
16:30:44 47 possible criminal behaviour on behalf of Solicitor 2 and

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16:30:48 1 then when Solicitor 2 was charged with the possession of
16:30:50 2 the firearm, Ms Gobbo acted for her, so that's a different
16:30:54 3 point; it's a conflict point.
4

16:30:59 5 MR WINNEKE: Mr Bateson, do you honestly accept that for a
16:31:02 6 person who is, in effect, an informer who provides
16:31:06 7 information against another person, it's then appropriate
16:31:09 8 for that person to go on and act for that person and be
16:31:12 9 acting in their best interests, you think that's okay, do
16:31:17 10 you?---Well, look, you know, here we are in the Royal
16:31:23 11 Commission 16 - 15 years later. I don't think that that
16:31:26 12 would occur again, through the changes of procedures in
16:31:30 13 Victoria Police.
14

16:31:32 15 Looking back now, you accept that it's not appropriate.
16:31:36 16 Back then, you consider that it's appropriate?---Look, as I
16:31:40 17 said, I think there's two different things. Legal
16:31:45 18 professional privilege is, in my understanding, confined to
16:31:47 19 the dominant purpose test. You can obtain information
16:31:50 20 outside of that, of course. The complexity of that is what
16:31:57 21 we're seeing play out here.
22

16:31:59 23 It may be that there are two different concepts, acting in
16:32:03 24 a person's best interests and legal professional privilege,
16:32:06 25 which might be two different things. I take it you're not
16:32:09 26 talking about the difference between those two concepts,
16:32:12 27 are you?---No, I was talking about legal professional
16:32:15 28 privilege.
29

16:32:17 30 All right. Thanks very much.
31

16:32:19 32 COMMISSIONER: Did you want to tender any of
16:32:21 33 those documents?
34

16:32:22 35 MR WINNEKE: Yes, I do. I'm going to tender some diary
16:32:24 36 entries. Just excuse me, Commissioner. I've got a note of
16:32:30 37 them. Commissioner, I can - do you want me to identify
16:32:45 38 them now?
39

16:32:46 40 COMMISSIONER: Yes, let's do them now, because the next
16:32:49 41 tranche of hearings isn't for a few weeks, so we should be
16:32:52 42 able to get them up on the website in a redacted form
16:32:56 43 before then. So there are the witness' diary - - -
44

16:33:01 45 MR WINNEKE: I tender a bundle of Commander Bateson's diary
16:33:08 46 entries and I'll tender a bundle of Ms Gobbo's court book
16:33:13 47 and diary entries.

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1
16:33:16 2 COMMISSIONER: All right. The unredacted bundle of
16:33:19 3 Mr Bateson's diary entries will be 272A and the redacted
16:33:24 4 version to come will be 272B.
16:33:27 5
16:33:18 6 #EXHIBIT RC272A - Unredacted bundle of Mr Bateson's diary
16:33:20 7 entries.
16:33:27 8
16:33:27 9 #EXHIBIT RC272B - Redacted bundle of Mr Bateson's diary
16:33:20 10 entries.
16:33:29 11
16:33:32 12 COMMISSIONER: And Exhibit 273 will be Ms Gobbo's diary and
16:33:35 13 court book - - -
16:33:27 14
16:33:39 15 MR WINNEKE: I think there's diary and day books of
16:33:46 16 Mr Bateson and insofar as Ms Gobbo is concerned, I think
16:33:49 17 there is a diary and court books, but there's a combination
16:33:52 18 of the two.
16:33:52 19
16:33:53 20 COMMISSIONER: Diary and day books of Mr Bateson it will be
16:33:55 21 then and the diary and court books of Ms Gobbo, 273A for
16:33:59 22 the unredacted and B for the redacted.
16:34:06 23
16:33:29 24 #EXHIBIT RC273A - Unredacted Diary and day books of
16:33:55 25 Mr Bateson and the diary and court books
16:33:56 26 of Ms Gobbo.
27
16:34:08 28 #EXHIBIT RC273B - Redacted Diary and day books of
16:33:55 29 Mr Bateson and the diary and court books
16:33:56 30 of Ms Gobbo.
16:34:08 31
16:34:09 32 COMMISSIONER: What about the chronology? Has that been
16:34:11 33 tendered?
34
16:34:12 35 MR WINNEKE: It hasn't. I will tender that also,
16:34:14 36 Commissioner.
37
16:34:15 38 COMMISSIONER: Chronology of Mr Bateson - prepared by
16:34:18 39 Mr Bateson - - -
40
16:34:20 41 MR WINNEKE: It is an exhibit, I'm told.
42
16:34:22 43 COMMISSIONER: It is already an exhibit?
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16:34:24 45 MR WINNEKE: Yes.
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16:34:24 47 COMMISSIONER: All right. Thank you. You're free to go,

.02/07/19

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S. BATESON RE-XN - IN CAMERA

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

16:34:34 1 thank you, Mr Bateson. You will be informed when we need
16:34:37 2 you next. It will probably be around about 22 July, or not
16:34:41 3 long thereafter, I imagine?---Thank you, Commissioner.
4
5 <(THE WITNESS WITHDREW)
6
16:34:45 7 COMMISSIONER: There are a few housekeeping matters to
16:34:47 8 attend to. Mr Chettle, I've got your order.
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16:34:51 10 MR CHETTLE: Thank you, Commissioner.
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16:34:54 12 COMMISSIONER: Or proposed order.
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16:34:56 14 MR WINNEKE: Mr Woods is going to deal with these matters,
16:34:58 15 Commissioner.
16
16:34:59 17 COMMISSIONER: Thank you. The proposed order that
16:35:00 18 Mr Chettle seeks is that the evidence of witnesses known as
16:35:03 19 Detective Senior Sergeant Jones, Detective Sergeant
16:35:08 20 Brennan, Detective Sergeant Klein, Detective Sergeant
16:35:11 21 Bourne, Detective Sergeant Stanton and Detective Senior
16:35:15 22 Sergeant Curry be given from a remote witness facility
16:35:19 23 located at a police complex. I have been provided with
16:35:25 24 reasons supporting the making of that order. Do any of the
16:35:29 25 parties want to speak against it?
26
16:35:31 27 MR WOODS: No, Commissioner.
28
16:35:33 29 COMMISSIONER: In that case, I so order.
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16:35:35 31 MR CHETTLE: Thank you, Commissioner.
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16:35:39 33 MR WOODS: Commissioner, this can be done in open hearing,
16:35:41 34 albeit it will be quite brief.
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16:35:44 36 COMMISSIONER: Yes.
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