

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

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria
On Friday 14 February 2020

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting: Mr C. Winneke QC
 Ms M. Tittensor

Counsel for Victoria Police Mr S. Holt QC
 Ms R. Enbom SC
 Mr A. Purton

Counsel for State of Victoria Mr C. McDermott

Counsel for Nicola Gobbo Mr R. Nathwani

Counsel for DPP/SPP Mr P. Doyle

Counsel for CDPP Ms A. Haban-Ber

Counsel for AFP Ms I. Minnett

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

Counsel for Chief
 Commissioner of Police Mr A. Coleman SC
 Mr P. Silver

Counsel for Noel Ashby and
 Paul Mullett Ms J. Condon QC

Counsel for Ron Iddles Mr R. Richter QC

Counsel for The Age Mr S. White

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09:40:24 1 COMMISSIONER: The appearances are as they were yesterday
09:40:27 2 save that we have Mr Nathwani this morning for Ms Gobbo,
09:40:31 3 Ms Condon for Mr Ashby and Mr Mullett and Mr White for The
09:40:39 4 Age. A number of matters we have to deal with. The first
09:40:42 5 one on my list is the suppression order issue in an
09:40:48 6 outstanding matter before the Commission. The major
09:40:52 7 problem is that it's necessary for counsel assisting and
09:40:56 8 for me to be given access to some Court of Appeal
09:41:00 9 affidavits upon which Victoria Police and perhaps
09:41:03 10 PII [REDACTED] are relying, and counsel assisting includes
09:41:07 11 Mr Mukerjea who is involved in this application. So we
09:41:14 12 need access to that before we can progress other issues.
09:41:17 13 We still need to know whether the matter can be determined
09:41:21 14 on the papers or requires oral argument. Mr Holt, you
09:41:25 15 probably want to see Mr Mukerjea's reply submissions before
09:41:28 16 you decide that I suppose.
09:41:28 17
09:41:30 18 MR HOLT: I would think so, Commissioner. But in terms of
09:41:30 19 that first issue, in terms of access to documents, we were
09:41:34 20 provided with a list via those assisting you of the precise
09:41:39 21 people who need to have access, I think yesterday morning.
09:41:42 22 Those steps are now being urgently taken. We expect to
09:41:45 23 have the particular requirements in place certainly by
09:41:48 24 Monday. Commissioner, our view is that there is no
09:41:53 25 difficulty with you and Ms Tighe having the documents in
26 any event because of orders that have previously been made
09:41:57 27 and we have copies of those available for you and Ms Tighe.
09:41:58 28 Today they can be provided straight away in hard copy and
09:42:01 29 the remainder are being progressed urgently.
09:42:07 30
31 COMMISSIONER: Yes.
32
33 MR HOLT: We expect that to be Monday.
34
09:42:07 35 COMMISSIONER: I expect you've already considered this but
09:42:07 36 the Court of Appeal material is now not fresh.
09:42:10 37
09:42:10 38 MR HOLT: There's an updated affidavit, Commissioner.
09:42:13 39
09:42:13 40 COMMISSIONER: I was going to say if there was an updated
09:42:15 41 affidavit you might not even need to rely on the other
09:42:19 42 material.
43
44 MR HOLT: No, there's - - -
45
09:42:19 46 COMMISSIONER: There are things in it that you do, okay.
09:42:19 47 It was just something I wanted to raise with you.

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2 MR HOLT: No, thank you.
3
4 COMMISSIONER: We should get that sorted Monday to progress
09:42:22 5 that.
09:42:25 6
09:42:25 7 MR HOLT: Yes, Commissioner.
09:42:27 8
09:42:27 9 COMMISSIONER: The next matter on my list is production
09:42:30 10 issues. There's been no response to four Notices to
09:42:40 11 Produce. NTP447, 22 November 2019. NTP478, 29 November
09:42:45 12 2010. NTP496, 9 December 2019. NTP529, 31 January 2019.
09:42:53 13 And only a partial response to two Notices to Produce,
09:42:59 14 NTP451, 26 November 2019, and NTP515, 17 January 2019. The
09:43:10 15 Commission is continuing to evaluate the extent of Victoria
09:43:12 16 Police's compliance with other NTPs but notes that Victoria
09:43:17 17 Police has failed to supply numerous documents in an
09:43:20 18 unredacted form and there has been some correspondence
09:43:23 19 relating to that this year.
09:43:24 20
09:43:25 21 MR HOLT: Commissioner, can I address those NTPs because a
22 number of them - - -
23
24 COMMISSIONER: If you're able to now.
25
09:43:27 26 MR HOLT: I am. There are a number of matters that were
09:43:29 27 raided in a lengthy letter we received last night and with
09:43:32 28 respect they're incorrect. So NTP478 has been complied
09:43:35 29 with, that occurred on 6 December 2019. NTP447 related to
09:43:40 30 a witness who we were advised very late was not to be
09:43:44 31 called.
09:43:44 32
09:43:45 33 COMMISSIONER: Sorry, was this 447 did you say?
09:43:47 34
09:43:47 35 MR HOLT: 447, and not tendered. So the statement wasn't
09:43:50 36 tendered, he was not made available for cross-examination,
09:43:53 37 and we were advised the matter wasn't being otherwise
09:43:57 38 pressed. If it's still pressed that's no difficulty, that
09:43:58 39 can be dealt with. NTP495, we received correspondence - -
09:44:05 40 -
09:44:05 41
09:44:05 42 COMMISSIONER: 496 is it?
09:44:07 43
09:44:07 44 MR HOLT: 495 Commissioner.
09:44:08 45
09:44:09 46 COMMISSIONER: It's not on my list.
09:44:10 47

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09:44:10 1 MR HOLT: It was on the letter, Commissioner, and we
09:44:13 2 received correspondence from those assisting you on 6
09:44:16 3 February, in fact told us that compliance with that NTP was
09:44:19 4 not required.
09:44:20 5
09:44:20 6 COMMISSIONER: 495. It's a typo on my list I think.
09:44:23 7
09:44:23 8 MR HOLT: We were told on 6 February that compliance wasn't
09:44:28 9 required with that NTP and we've relied on that
09:44:31 10 representation which was provided in writing. 529 is an
09:44:34 11 NTP where we had requested a narrowing, it's about position
09:44:38 12 descriptions because it looked like an unsustainable task.
09:44:41 13 The response to that, which with respect was very helpful,
09:44:44 14 was only received two or three days ago and that's now
09:44:47 15 being progressed. NTP451 had been completed and then a
09:44:52 16 further addition was made to it for further information
09:44:55 17 that was received three days ago and is being progressed.
09:44:59 18 NTP515, contrary to the indication in the letter is in fact
09:45:05 19 complete and the relevant statement was produced on 24
09:45:08 20 January 2020, VPL.0005.0260.0035. And the response to the
09:45:17 21 notice was produced on 5 February 2019. I think that's all
09:45:23 22 of the NTPs, Commissioner.
09:45:26 23
09:45:26 24 COMMISSIONER: So you say that there's no outstanding
09:45:29 25 requirements for you in respect of these, or if they are
09:45:33 26 they've only been requested recently.
09:45:35 27
09:45:36 28 MR HOLT: Precisely so, Commissioner. Other than the
09:45:38 29 potential misunderstanding in relation to the witness which
09:45:42 30 can be remedied very quickly.
09:45:42 31
09:45:42 32 COMMISSIONER: Yes. We'll look into that and mention it
09:45:44 33 further if it's necessary.
09:45:46 34
09:45:46 35 MR HOLT: Thank you, Commissioner.
09:45:47 36
09:45:48 37 COMMISSIONER: Ten requests for documents remain
09:45:50 38 outstanding I'm told.
09:45:57 39
09:45:57 40 MR HOLT: Yes, Commissioner, I can deal with - is that -
09:46:05 41 yes, the outstanding request for documents.
42
43 COMMISSIONER: Yes.
44
09:46:07 45 MR HOLT: Yes, I can respond to those. The request for
09:46:12 46 Task Force Driver steering committee meeting minutes on 2
09:46:15 47 November 2011, all inquiries have been exhausted, that

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09:46:20 1 document has not been located. The 14 January 2020 request
09:46:25 2 in respect of documents that were too heavily redacted is
09:46:31 3 with us and will be progressed urgently.

09:46:34 4
09:46:34 5 COMMISSIONER: Right.

09:46:34 6
09:46:35 7 MR HOLT: 17 January 2020, a request for production of
09:46:39 8 documents associated with a particular pilot, the letter
09:46:43 9 notes we had provided no response, a response was provided
09:46:46 10 on 29 January 2020. We're happy to discuss that with those
09:46:50 11 assisting.

09:46:50 12
09:46:50 13 COMMISSIONER: 2019 on my list is a typo, it's 2020, 17
09:46:54 14 January 2020.

09:46:54 15
09:46:55 16 MR HOLT: Yes. We provided a response shortly afterwards.
09:47:00 17 It indicates no response. There has been a response.
09:47:03 18 We're happy to continue to work with those assisting you on
09:47:07 19 that. The 22 January 331 request for production of a
09:47:11 20 document on the basis that it hadn't been produced with
09:47:15 21 respect is incorrect. That document has been produced
09:47:17 22 because it's subject to statutory protections that have
09:47:20 23 been produced by way of a USB in the middle of May 2019.
09:47:27 24 It appears that's been misplaced at the Commission end or
09:47:31 25 unable to be identified. It was reproduced according to
09:47:33 26 the request on 7 February 2020. 24 January 2020, a request
09:47:39 27 for production of documents in a footnote. I'm
09:47:43 28 progressing, Commissioner, I can't have an answer overnight
09:47:46 29 to that.

09:47:49 30
09:47:49 31 COMMISSIONER: Yes, I don't expect you necessarily to have
09:47:51 32 answers to all of these but if you're able to give answers
09:47:52 33 that's fine.

09:47:52 34
09:47:53 35 MR HOLT: I have all but one or two, Commissioner.

36
37 COMMISSIONER: Yes.

38
09:47:57 39 MR HOLT: The next request 28 January 2020, where there was
09:47:59 40 a suggestion there had been no response received to a
09:48:01 41 request for production of an email referred to in the
09:48:04 42 evidence of Mr Cornelius in a supplementary statement. In
09:48:08 43 fact, and as we'd advised those assisting you on 13
09:48:12 44 February 2020, and indeed earlier in the course of
09:48:14 45 hearings, that email in fact had been produced months
09:48:16 46 earlier to the Commission, the VPL was provided, and in
09:48:19 47 addition as a result of the nature of that, there was, when

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09:48:23 1 Mr Cornelius returned to give evidence we were advised by
09:48:26 2 counsel assisting you that no supplementary statement was
09:48:28 3 required so proceeded on that basis. 28 January 2020, 616,
09:48:35 4 a request for reproduction of certain documents that had
09:48:39 5 been too heavily redacted. That's in a category of things
09:48:43 6 that is with us and we will need to progress quickly and we
09:48:47 7 will, Commissioner. 4 February, a request for a document
09:48:50 8 to be reproduced in a smaller size because it remained
09:48:55 9 unopenable. We were advised by the letter last night that
09:48:58 10 no response had been received to date to that. In fact we
09:49:02 11 reproduced the document at 11.59 on 4 February 2020. I
09:49:06 12 think that's a complete list of that category,
09:49:08 13 Commissioner.

09:49:08 14
09:49:09 15 COMMISSIONER: Yes. There are 11 requests for documents to
09:49:11 16 be disseminated to other parties that haven't been
09:49:13 17 determined.

09:49:14 18
09:49:14 19 MR HOLT: Yes. Can I indicate this, Commissioner, in
09:49:16 20 relation to those. There are, rather than going through
09:49:18 21 them individually, certainly the first five of those have
09:49:24 22 unquestionably been done. We have records that they have
09:49:27 23 been done, that is that dissemination has occurred or our
09:49:31 24 position has been communicated to the Commission. The
09:49:33 25 remainder of them on my assessment were almost certainly
09:49:37 26 resolved by way of discussions at the Bar table and
09:49:40 27 discussions between solicitors assisting and our solicitors
09:49:44 28 and those various parties on the day, because they tend to
09:49:45 29 arise late. I think a relatively quick audit of those will
09:49:50 30 put those to bed relatively quickly, which we can do. But
09:49:52 31 by way of just example, the first one, counsel for Mr Higgs
09:49:56 32 requesting documents, that diary entry was shown in an
09:49:59 33 process to counsel for Mr Higgs on a particular occasion.

09:50:03 34
09:50:04 35 COMMISSIONER: To save time we won't bother going through
09:50:08 36 all that now but we'll have another review of that. They
09:50:11 37 can be sorted, that's good. Yes, an objection to
09:50:14 38 Mr Cvetanovski.

09:50:15 39
09:50:15 40 MR HOLT: No, there isn't, Commissioner, and I apologise,
09:50:17 41 that should have been communicated earlier.

09:50:19 42
09:50:20 43 COMMISSIONER: Yes, good, thank you. That's done then.

09:50:21 44
09:50:21 45 MR HOLT: I think that's all of the specific matters that
09:50:24 46 we are said to not have complied with.

09:50:25 47

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09:50:25 1 COMMISSIONER: Then there's the transcripts.
2
3 MR HOLT: Yes, Commissioner.
4
09:50:27 5 COMMISSIONER: The Commission is currently awaiting your
09:50:30 6 PII claims for about 52 transcripts, ten open hearing
09:50:35 7 transcripts and 42 closed hearing transcripts.
09:50:38 8
09:50:38 9 MR HOLT: Yes Commissioner.
09:50:39 10
09:50:39 11 COMMISSIONER: If you could progress those and we'll
09:50:42 12 mention them again later if you don't want to say anything
09:50:44 13 about them today.
09:50:45 14
09:50:46 15 MR HOLT: All I can indicate with those and the exhibits,
09:50:48 16 Commissioner, is that with the essential completion of
09:50:50 17 production of documents that process is now much, much
09:50:53 18 quicker for us. I think we're getting about 60 to 70
09:50:57 19 exhibits back to the Commission per week and we can speed
09:50:59 20 that up.
21
22 COMMISSIONER: Yes.
23
09:51:01 24 MR HOLT: Transcripts are, the closed transcripts are a
09:51:06 25 little bit harder but our expectation in relation to both
09:51:08 26 of those sets of documents is that with the allocation of
09:51:11 27 resources we expect to be able to now put into it that we
09:51:15 28 can clear at least a very large bulk of that within the
09:51:19 29 next three weeks or four weeks.
09:51:20 30
09:51:20 31 COMMISSIONER: Of course the determination of the
09:51:22 32 outstanding matter about suppression orders and PII will
09:51:27 33 assist in that was well.
09:51:29 34
09:51:29 35 MR HOLT: It may well do, Commissioner. Can I ask this
09:51:32 36 with respect if I may. If the Commissioner formed the
09:51:35 37 view, for example, that exhibit production or exhibit
09:51:38 38 response was less or more important than closed transcript
09:51:44 39 response we could devote resources to one or other of those
09:51:48 40 tasks and complete them probably within about a week and a
41 half I'd expect. So that might be something we'd ask you
09:51:50 42 to consider.
09:51:50 43
09:51:51 44 COMMISSIONER: We'll consider that, thank you. In terms of
09:51:56 45 exhibits there are still, the Commission is still waiting
09:52:00 46 for Victoria Police public interest immunity claims on 553
09:52:05 47 exhibits.

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09:52:05 1
09:52:06 2 MR HOLT: Yes, Commissioner. There are about 1200 exhibits
09:52:10 3 tendered at present. We're sort of guessing we'll get to
09:52:13 4 about 1400 by the time we finish at the end of next week.
09:52:18 5 As I say, I think about 500 have been provided, a bit less
09:52:21 6 than that. With a concerted effort I think we can clear
09:52:23 7 that very quickly.
09:52:24 8
09:52:25 9 COMMISSIONER: Yes. The next matter is the issue of
09:52:29 10 disclosure to Mr Arnautovic, first raised by the Commission
09:52:34 11 on 30 April 2019.
09:52:36 12
09:52:36 13 MR HOLT: There have been steps taken in that regard,
09:52:39 14 Commissioner. I wasn't on notice of this this morning.
15
16 COMMISSIONER: Right, that's okay.
17
09:52:41 18 MR HOLT: Can I just confirm the current position and come
09:52:43 19 back to you?
09:52:43 20
21 COMMISSIONER: Absolutely.
22
23 MR HOLT: Thank you.
24
09:52:45 25 COMMISSIONER: And then letting you know that in terms of
09:52:49 26 Term of Reference 3.
09:52:51 27
09:52:51 28 MR HOLT: Yes.
09:52:51 29
09:52:51 30 COMMISSIONER: The Commission will be sending
09:52:53 31 correspondence very shortly on issues re disclosure of
09:52:57 32 policies and procedures and relevant Terms of Reference 3
09:53:04 33 itself shortly. That will be coming and obviously that
09:53:09 34 will need to be attended to.
09:53:11 35
09:53:11 36 MR HOLT: Is that in terms of matters that Victoria Police
09:53:13 37 will be required to attend to?
09:53:15 38
09:53:15 39 COMMISSIONER: Disclosure by - Notices to Produce about
09:53:17 40 policies and procedures and what's been done since the
09:53:20 41 Kellam report.
09:53:20 42
09:53:21 43 MR HOLT: I understand the issue. Thank you, Commissioner,
09:53:24 44 yes.
09:53:24 45
09:53:24 46 COMMISSIONER: Which there has been some delay in obtaining
09:53:27 47 the information that is needed to progress Term of

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09:53:30 1 Reference 3.
09:53:30 2
09:53:30 3 MR HOLT: I think one of the primary issues in relation to
09:53:33 4 that is the redraft of the Victoria Police manual around
09:53:37 5 these issues which has occurred relatively recently in
09:53:39 6 light of the way things have occurred. I'm aware of that,
09:53:41 7 Commissioner.
09:53:41 8
09:53:41 9 COMMISSIONER: That will need to be dealt with also in the
09:53:45 10 disclosure, in the Notice to Produce.
09:53:46 11
09:53:47 12 MR HOLT: My hope is that it will be dealt with before you
09:53:47 13 need to raise it again. I expect that will be dealt with.
09:53:51 14
09:53:51 15 COMMISSIONER: Thank you. Then the next matter is we have
09:53:53 16 a very large number of statements to tender. And to save
09:54:02 17 time I won't go through them all, there is a schedule which
09:54:06 18 can be provided to the parties, but there are I think about
09:54:17 19 roundabout 58. Some have two statements involved in which
09:54:22 20 there will be A, B, C and D. Most only have the redacted
09:54:29 21 and unredacted version.
22
23 (At this stage Exhibits RC1207 to RC1261 inclusive were
09:54:30 24 tendered.)
09:54:50 25
09:54:50 26 MR HOLT: Commissioner, can I ask whether it will be the
09:54:52 27 Commissioner's preference for us to prioritise the public
09:54:57 28 interest immunity review of those statements?
09:54:59 29
09:54:59 30 COMMISSIONER: Most of them have got your public interest
09:55:01 31 immunity review which, as you know, isn't necessarily the
09:55:04 32 final view of the Commission, but just to get things
09:55:06 33 published and in the public arena we'll accept that for the
09:55:10 34 time being.
09:55:10 35
09:55:10 36 MR HOLT: Thank you.
09:55:11 37
09:55:11 38 COMMISSIONER: Most of them can go up immediately. All
09:55:15 39 right. And then the final matter is the application from
09:55:19 40 The Age in respect to a variation order made to a
09:55:27 41 non-publication order last week I think.
42
09:55:30 43 Yes, Mr White, if you could come forward. I'm sure
09:55:35 44 room will be made for you.
09:55:35 45
09:55:35 46 MR WHITE: Thank you, Commissioner.
09:55:37 47

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09:55:38 1 MR HOLT: I'm sorry, Commissioner, to interrupt.
2
3 COMMISSIONER: Yes.
4
09:55:39 5 MR HOLT: We've spoken with our learned friend Mr Winneke,
09:55:41 6 and I think Mr Nathwani is of the same view, it's difficult
09:55:44 7 to see with respect how anything can be said about this
09:55:47 8 application in an open hearing without defeating the
09:55:50 9 purpose of the order that the Commissioner made at all, we
09:55:53 10 think. And I know that's not your preference but - - -
09:55:57 11
09:55:57 12 COMMISSIONER: No, it's not.
09:55:59 13
09:55:59 14 MR HOLT: You know the information.
09:56:00 15
09:56:00 16 COMMISSIONER: To save time I think it will have to be done
09:56:02 17 unfortunately.
09:56:04 18
09:56:04 19 MR HOLT: Thank you, Commissioner. So have you agreed
09:56:15 20 between you as to who should be excluded?
09:56:18 21
09:56:19 22 MR WINNEKE: We haven't but I think everyone save for
09:56:25 23 Victoria Police, Mr Nathwani and the Commission and the
09:56:31 24 applicant, I would have thought. Perhaps the State.
09:56:37 25
09:56:38 26 COMMISSIONER: The State, all right. So everybody else
09:56:41 27 should leave now. I'm satisfied under the Inquires Act
09:56:49 28 that it's necessary to close the hearing and access to the
09:57:02 29 inquiry is limited to legal representatives and staff
09:57:04 30 assisting the Royal Commission, the following parties with
09:57:06 31 leave to appear in the private hearing and their legal
09:57:09 32 representatives: the State of Victoria, Victoria Police,
09:57:12 33 including - do you want including media representatives?
09:57:17 34
09:57:18 35 MR HOLT: No, Commissioner. In fact we are only keeping
09:57:20 36 people in here who are authorised to understand the
09:57:23 37 information.
09:57:23 38
09:57:23 39 COMMISSIONER: Victoria Police, media representatives have
09:57:26 40 to leave. We don't have the DPP or the OPP here. Anybody
09:57:30 41 else? Ms Nicola Gobbo, legal representatives for The Age
09:57:36 42 newspaper. And that's it, I think.
43
09:57:51 44 I'm told we do have to have a short adjournment
09:57:56 45 transcript wise to cut one thing off and start the other.
09:57:56 46 We'll only be a minute or two.
09:58:19 47

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(Short adjournment.)
(IN CAMERA CONFIDENTIAL PROCEEDINGS FOLLOW)

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1 UPON RESUMING IN OPEN HEARING:

10:19:24 2
10:19:29 3 COMMISSIONER: Yes, thanks Mr Iddles. Yes Ms Tittensor.

10:19:33 4
10:19:33 5 <RONALD WILLIAM IDDLES, recalled:

10:19:35 6
10:19:36 7 MS TITTENSOR: Mr Iddles, you met Sandy White on 26 July
10:19:39 8 2007, that's right?---That's correct.

10:19:42 9
10:19:43 10 I'll just take you to Mr White's diary of that date,
10:19:49 11 VPL.2000.0001.0871. I think if we actually scroll back to
10:20:29 12 the previous day we might see that there was, it might not
10:20:38 13 be in the copy that we have, but I understand that there
10:20:40 14 may be evidence somewhere of a phone call setting up this
10:20:44 15 meeting and I take it you accept that that would have
10:20:47 16 occurred in any case?---Yes, I accept that.

10:20:50 17
10:20:50 18 So if we can go forward. At 10.20 you're meeting with
10:20:57 19 Mr White and that address there is where Operation Briars
10:21:00 20 was set up at the OPI offices?---That's correct.

10:21:03 21
10:21:05 22 You're having a discussion in relation to the Briars
10:21:09 23 investigation and the viability of using Ms Gobbo to pass
10:21:13 24 on information to Waters, is that right?---That's correct.

10:21:15 25
10:21:15 26 And the idea behind that is so that Waters would say things
10:21:21 27 PII [REDACTED] and used as
10:21:24 28 evidence?---Yes, I think it was in particular really only
10:21:31 29 one matter and that was about how the address was obtained.

10:21:35 30
10:21:35 31 Yes, that was your interest in using Ms Gobbo to get to
10:21:40 32 Waters, is that right?---That's correct.

10:21:42 33
10:21:43 34 There's a time frame on it, "We're looking at doing
10:21:47 35 something in about a month"?---That's correct.

10:21:49 36
10:21:49 37 And there was some idea around that time of having some OPI
10:21:53 38 hearings but you wanted to engage in a couple of other
10:21:56 39 strategies before the OPI hearings, is that the
10:21:59 40 case?---That's correct.

10:22:01 41
10:22:01 42 Certainly by this time you've come to know that Ms Gobbo is
10:22:04 43 a human source?---Yes.

10:22:05 44
10:22:05 45 We know from other evidence that Mr Waddell had spoken, it
10:22:10 46 seems, to the SDU back in April, you heard about that
10:22:14 47 evidence yesterday, the diary entry of Mr Black, the diary

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10:22:18 1 entry of Mr Anderson?---Yes, that's correct.
10:22:20 2
10:22:20 3 And whether or not she was explicitly spoken to about in
10:22:25 4 terms at that meeting, it was certainly recorded by
10:22:30 5 Mr Black that he was aware that Ms Gobbo was a person of
10:22:34 6 interest to the Briars investigation back in April, do you
10:22:39 7 understand that? I might have put that a little
10:22:44 8 clumsily?---No.
10:22:44 9
10:22:45 10 The entry in his diary indicated that he and Mr Anderson
10:22:50 11 had some general discussion about how the SDU might have
10:22:55 12 been of assistance in terms of existing sources and the
10:22:56 13 possibility to recruit, and he also went on to record, "No
10:22:58 14 specific human source but 3838 into their stated target",
10:23:03 15 so he came away understanding that Briars had some interest
10:23:06 16 in Ms Gobbo potentially?---Correct.
10:23:10 17
10:23:11 18 So at least from that point in time the SDU knew that
10:23:15 19 Briars had some form of interest in Ms Gobbo?---Yes, and my
10:23:22 20 recollection of part of this conversation on this day was
10:23:25 21 when Sandy White was expressing concern because it was to
10:23:31 22 the point where the SDU wanted to, I suppose, disengage her
10:23:37 23 and the Briars board were wanting to deploy her, so he was
10:23:43 24 concerned that it wasn't going to stop.
10:23:45 25
10:23:46 26 Now, you knew a number of the members of the SDU, is that
10:23:51 27 right?---Yes.
10:23:52 28
10:23:52 29 You were friends with them?---Friends with two and work
10:23:58 30 colleagues with others.
10:24:00 31
10:24:00 32 In particular Mr Black?---Correct.
10:24:03 33
10:24:04 34 And the relationship with Mr White, was that one of
10:24:07 35 friendship or was that a colleague relationship?---I'd
10:24:11 36 worked with him on and off and I would consider him a
10:24:14 37 friend.
10:24:14 38
10:24:16 39 Coming into this meeting on 26 July with Mr White, do you
10:24:21 40 know whether it was the SDU that had disclosed to you that
10:24:24 41 Ms Gobbo was a source prior to that or was that something
10:24:28 42 that you learned from colleagues at the Briars Task
10:24:30 43 Force?---On reflection yesterday and probably in the last
10:24:34 44 couple of weeks, I think it's from within the Briars Task
10:24:38 45 Force I learnt that and that could only have come from Rod
10:24:42 46 Wilson or Steve Waddell.
10:24:44 47

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10:24:44 1 We've heard other evidence in the course of the Commission
10:24:47 2 that Mr Wilson had learnt of Ms Gobbo's status back in 2006
10:24:52 3 through the course of an ESD investigation?---That's
10:24:54 4 correct.
10:24:54 5
10:24:54 6 He had certainly known about that?---Yes.
10:24:56 7
10:24:57 8 You know about it at this stage, you are having this
10:25:01 9 meeting with Sandy White and Sandy White is very concerned
10:25:03 10 about the use of Ms Gobbo?---Correct, because he was
10:25:08 11 getting direction from the board of management, the Briars
10:25:15 12 Task Force board, that they wanted to use Gobbo to approach
10:25:19 13 Waters. I think we might have even had a discussion around
10:25:24 14 what was the possible evidentiary value of it. They were
10:25:29 15 trying to disengage or de-register and at this stage he was
10:25:36 16 disappointed that he was being directed to task her again.
10:25:40 17
10:25:41 18 So the nature of the conversation you had with him
10:25:45 19 indicated to you that there had been discussions going on
10:25:48 20 elsewhere and debate about the ongoing use of
10:25:53 21 Ms Gobbo?---Yes.
10:25:54 22
10:25:56 23 Were you aware, or did he tell you or make you aware that
10:26:00 24 Ms Gobbo had recently been before the OPI in relation to
10:26:03 25 the Petra investigation?---No, he did not.
10:26:05 26
10:26:07 27 And that around about that time there were issues and
10:26:11 28 concerns being raised by people like Mr Blayney, who had
10:26:17 29 come to understand that the SDU were using a lawyer as a
10:26:21 30 human source and was raising concerns and the need or the
10:26:25 31 prospect of getting legal advice in relation to that, were
10:26:29 32 those issues raised with you?---No, they weren't.
10:26:31 33
10:26:32 34 Were you aware that Mr White himself in the days before
10:26:37 35 this had been discussing such concerns with Jim O'Brien
10:26:42 36 about the use of Ms Gobbo having impacted upon the
10:26:46 37 conviction of PII [REDACTED] and others - do you know who I'm
10:26:52 38 referring to when I say PII [REDACTED]?---No.
10:26:54 39
10:26:54 40 Perhaps you might be shown the flash card.
10:26:57 41
10:26:58 42 COMMISSIONER: Yes.
10:27:10 43
10:27:11 44 MS TITTENSOR: Do you know that person?---I know, yes, I
10:27:14 45 know who he is.
10:27:15 46
10:27:15 47 Were you aware or did you have any discussion with Mr White

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10:27:19 1 about the fact that he'd been having discussions with Jim
10:27:23 2 O'Brien concerning the use of Ms Gobbo impacting upon the
10:27:28 3 conviction of PII [REDACTED] and potentially the conviction of
10:27:32 4 others and the need to get legal advice in relation to
10:27:35 5 those matters?---No, I wasn't.
10:27:36 6
10:27:36 7 Would it have concerned you if you had learned that?---Yes,
10:27:43 8 it would have.
10:27:44 9
10:27:50 10 Now, a number of days later we've got a Briars Task Force
10:27:56 11 update. You weren't attending those update meetings where
10:28:00 12 the steering committee were being briefed, that was
10:28:02 13 Mr Wilson at that stage, is that right?---That's correct, I
10:28:05 14 didn't go to any Task Force meetings.
10:28:08 15
10:28:09 16 There's a Briars Task Force update on a particular date and
10:28:14 17 the written update indicates that there had been a briefing
10:28:23 18 in relation to, or a meeting in relation to the Kit Walker
10:28:27 19 issues a few days previously and then there were some
10:28:31 20 handwritten notes of a discussion that occurred at this
10:28:35 21 meeting on the 30th, and helpfully Mr Cornelius has
10:28:38 22 produced a typed version of his handwritten notes at this
10:28:41 23 meeting so I'll just ask for those to be put up,
10:28:48 24 VPL.0013.0001.0220 at p.7. You'll see the reason I'm
10:28:59 25 bringing it up is because your name is brought up in the
10:29:03 26 meeting. There's some discussion apparently about the Kit
10:29:06 27 Walker issues. Then it goes on, "Ron Iddles' view".
10:29:10 28 There's reference to phone calls between Mr Lalor and
10:29:14 29 Mr Waters and concern that the OPI approach will have a
10:29:18 30 major impact and spook the players. Over to the side
10:29:23 31 you'll see there's reference to info to be leaked in
10:29:27 32 relation to PII [REDACTED], that he may be talking, and below
10:29:34 33 that there's reference to or it says "PII [REDACTED]",
10:29:41 34 and then further below, "Prefer seeding info vis, or via
10:29:51 35 PII [REDACTED] lawyer". Is this a reflection of a
10:29:57 36 discussion that you'd been having about potential use of
10:30:01 37 Ms Gobbo as well?---No, I wasn't aware of that. The piece
10:30:06 38 that I'd had discussions with was in relation to having
10:30:12 39 compulsive hearings for Lalor and Waters.
10:30:14 40
10:30:14 41 Were you aware of any strategy or potential strategy
10:30:19 42 involving seeding information about PII [REDACTED] talking
10:30:26 43 through a lawyer at that stage?---No, I was dealing
10:30:38 44 predominantly with PII [REDACTED] and I have no knowledge of
10:30:42 45 this.
10:30:42 46
10:30:50 47 Was there any leaking going on or - sorry, not leaking, but

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10:30:54 1 PII [REDACTED], was that occurring through the
 10:30:58 2 investigation PII [REDACTED] or through other people?--No,
 10:31:03 3 the only, the only request I was aware of and I think I
 10:31:07 4 made them to Sandy White at the Source Unit, was to leak
 10:31:13 5 information that PII [REDACTED] was going to be charged, we
 10:31:16 6 were getting close to finding out where the address came
 10:31:19 7 from, and [REDACTED] from that.
 10:31:23 8
 10:31:26 9 All right. I'll take you then through some ICRs from 31
 10:31:34 10 August when we're getting to that period of time where
 10:31:36 11 these events are occurring. ICR p.1178, you'll appreciate
 10:31:48 12 you will have seen some of this material, it's quite denies
 10:31:52 13 and I'll try and summarise it so we can get through it.
 10:31:55 14 You'll see on 31 August 2007 Ms Gobbo is reporting to the
 10:32:01 15 handler that Mr Waters had attended her office, he was
 10:32:05 16 asking her questions about whether she had been called to
 10:32:08 17 the OPI and there's a list of other information that she's
 10:32:14 18 providing to the handler at that stage and then down the
 10:32:17 19 bottom you'll see that information is disseminated to
 10:32:21 20 you?---Yes.
 10:32:22 21
 10:32:23 22 And that, as we'll see, is a regular occurrence through
 10:32:27 23 this period, that the information that Ms Gobbo is
 10:32:31 24 receiving, sorry, is giving to the SDU is coming through
 10:32:34 25 you, is that right?---That's correct.
 10:32:36 26
 10:32:39 27 Then on, if we can go to the SML of 6 September 2007. So
 10:33:09 28 at this stage Mr White has recorded in the source
 10:33:14 29 management log that he's met with you in relation to
 10:33:17 30 Operation Briars and there's been a request to use Ms Gobbo
 10:33:21 31 to pass information to Mr Waters to PII [REDACTED]
 10:33:24 32 PII [REDACTED] and that you would send him a
 10:33:28 33 script via the email, is that right?---That's correct.
 10:33:31 34
 10:33:32 35 And we see below that, might as well take you to it now, on
 10:33:37 36 8 September 2007 there's an update to - they're the
 10:33:44 37 initials of Mr Fox?---Yes.
 10:33:47 38
 10:33:47 39 "Re your request re the tasking of Ms Gobbo as per the
 10:33:52 40 following email" and thereunder is the information to be
 10:33:57 41 given to Ms Gobbo for her to pass on to Mr Waters to
 10:34:02 42 PII [REDACTED], is that right?---Correct.
 10:34:04 43
 10:34:04 44 Or to attempt to PII [REDACTED] him to have some conversations
 10:34:09 45 which you might PII [REDACTED]?---Yes.
 10:34:13 46
 10:34:13 47 Including, "PII [REDACTED] is to be charged with murder in the

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10:34:16 1 next two to three weeks", that he'd made a statement
10:34:20 2 implicating Mr Waters and Mr Lalor in the preparation of a
10:34:24 3 murder and was prepared to give evidence. It had something
10:34:27 4 to do with a vampire. He'd mentioned something about an
10:34:31 5 address and that's what you were particularly interested
10:34:33 6 in?---Yes.
10:34:34 7
10:34:35 8 Which Mr Waters had gotten Mr Lalor - sorry, which it says,
10:34:41 9 "Docket and Lalor got for him. If the investigators find
10:34:45 10 out what computer database", if we can scroll to the next
10:34:50 11 page, "Or where it came from then they're confident of
10:34:55 12 charging" and so on. That was the information that was
10:35:01 13 passed along to be given to Ms Gobbo?---Yes.
10:35:04 14
10:35:06 15 If we can go to the ICR of 8 September, the same date, at
10:35:12 16 12.02. Ms Gobbo is reporting a call from Mr Waters that
10:35:25 17 morning. He's referring a client to her, he refers to
10:35:30 18 wanting to see her and he's at a building site at Kent
10:35:34 19 Street, Richmond and that's disseminated to you?---Yes.
10:35:41 20
10:35:42 21 Then over the page. She reports on what occurred at that
10:35:50 22 meeting, do you see that at 12.22?---I do.
10:35:54 23
10:35:54 24 It was all about his OPI summons. He's been adjourned
10:36:00 25 until next Wednesday. Her name had come up at the hearing,
10:36:09 26 and so forth. It doesn't appear at the bottom of that -
10:36:12 27 sorry, she also mentions that Mr Lalor is on site. I think
10:36:17 28 we've seen some other material in the Commission there
10:36:19 29 might have been some surveillance that was able to be
10:36:21 30 gotten of this meeting, is that right?---Yes.
10:36:26 31
10:36:32 32 And I note, just for the record, that it doesn't appear as
10:36:36 33 though that information there, at least at that stage, has
10:36:39 34 been verbally disseminated to you. Do you know whether you
10:36:43 35 got the result of that meeting disseminated to you?---I
10:36:48 36 believe I did.
10:36:48 37
10:36:59 38 Now, we've got, we've heard some evidence about Briars Task
10:37:05 39 Force update that was given to the steering committee on 10
10:37:10 40 September and they're given some information about - we've
10:37:16 41 got some notes that reflect they were being told about this
10:37:19 42 meeting at the building site and the use and the fact, at
10:37:25 43 least 3838 was there. Do you have an awareness of whether
10:37:29 44 those on the steering committee were aware that it was
10:37:32 45 Ms Gobbo that was the source of the information?---No, I
10:37:46 46 don't. But quite clearly the steering committee knew who
10:37:59 47 Ms Gobbo was at least June 2007.

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10:38:05 1
10:38:07 2 Do you have an awareness of whether they knew it was
10:38:10 3 Ms Gobbo as a person who was the subject of the
10:38:13 4 surveillance at the building site with Mr Waters and
10:38:17 5 Mr Lalor?---No, I don't.
10:38:18 6
10:38:18 7 You can't say. Now, on 21 September 2007, I'll show you
10:38:27 8 briefly Mr White's diary, VPL.2000.0001.1273. You'll see
10:38:52 9 down the bottom at 8.30 there's a meeting. It's not a
10:38:56 10 meeting that you're present at, Mr White is meeting with
10:39:00 11 Superintendent Biggin and Deputy Commissioner Overland in
10:39:05 12 relation to Ms Gobbo?---Yes.
10:39:06 13
10:39:07 14 Mr Overland is requesting consideration about using
10:39:10 15 Ms Gobbo to PII [REDACTED] with Mr Waters for the
10:39:15 16 PII [REDACTED]. The SDU are concerned about the
10:39:21 17 surveillance including Ms Gobbo and it becoming
10:39:25 18 evidentiary, you're aware of their concerns in that
10:39:27 19 regard?---I was already aware from the SDU's point that
10:39:31 20 they wanted to totally disengage her and if they had a
10:39:34 21 choice they wouldn't have deployed her in Operation Briars.
10:39:39 22
10:39:41 23 There's a discussion of the possibility of the capturing -
10:39:44 24 it seems as though what's being contemplated by Mr Overland
10:39:47 25 at this stage is not simply that Mr Waters will go away and
10:39:52 26 have conversations with others that might be PII [REDACTED]
10:39:54 27 PII [REDACTED], but in some way it might be a conversation
10:39:56 28 that he's having with Ms Gobbo that's PII [REDACTED]
10:39:59 29 PII [REDACTED]. Do you see, third line from the bottom,
10:40:06 30 "Discuss the possibility of PII [REDACTED] conversation
10:40:09 31 without the human source knowing about it"?---That could
10:40:18 32 only happen with a warrant at a particular place.
10:40:22 33
10:40:22 34 Yes. It might be that you applied for a listening - -
10:40:27 35 -?---No, I wasn't aware of that.
10:40:28 36
10:40:29 37 If we go over the page. It's ultimately, or it says,
10:40:38 38 "Agreed source to be tasked to meet with Mr Waters and keep
10:40:41 39 communication going, to reassess value after each meet with
10:40:45 40 the thought in mind that if Waters is to make useful
10:40:48 41 statements the source be deployed to PII [REDACTED]
10:40:51 42 PII [REDACTED] for the PII [REDACTED]",
10:40:54 43 so it seems - - - ?---We'll continue on.
10:40:56 44
10:40:57 45 "We'll continue on and we'll consider further [REDACTED]
10:41:01 46 [REDACTED] involving Ms Gobbo when we get to it, or if we
10:41:04 47 get to it"?---Correct.

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10:41:05 1
 10:41:16 2 There's a Briars Task Force update on 24 September where
 10:41:24 3 there's some handwritten notes of Mr Cornelius which
 10:41:26 4 indicate some concerns over some aspects of PII [REDACTED]'s
 10:41:31 5 evidence, reference to a neighbour not corroborating what
 10:41:38 6 he'd said, and also some notes that PII [REDACTED] was to be
 10:41:46 7 [REDACTED] the following week with the [REDACTED]
 10:41:49 8 PII [REDACTED] and wanting some PII [REDACTED] about it re
 10:41:55 9 3838. Now, did you understand that - do you understand the
 10:41:59 10 reason for that, why they would want some PII [REDACTED] to
 10:42:05 11 [REDACTED] 3838?---I think they would want PII [REDACTED] so
 10:42:09 12 that 3838 [REDACTED] with Mr Waters,
 10:42:15 13 bearing in mind that PII [REDACTED]'s now [REDACTED]
 10:42:20 14
 10:42:25 15 At the following Task Force update Mr Cornelius has got a
 10:42:29 16 handwritten note in relation to Mr Waddell speaking with
 10:42:32 17 Sandy White in relation to Gobbo and having further
 10:42:35 18 meetings with Mr Waters. Is that your understanding, that
 10:42:40 19 around this time it was, that strategy was to
 10:42:45 20 continue?---As far as I was aware the strategy continued, I
 10:42:49 21 think throughout 2007 and early 2008.
 10:42:52 22
 10:42:55 23 On 9 October 2007, if I can take you to Mr Wilson's diary,
 10:43:01 24 RCMP.I.0118.0001.0001 at p.149. We see at 8.10 in the
 10:43:13 25 morning he's spoken to Mr Waddell in relation to Ms Gobbo
 10:43:17 26 and ACC coercive hearing and that needs to be discussed
 10:43:22 27 further with Simon, Mr Overland?---Yes.
 10:43:24 28
 10:43:25 29 Do you understand at any stage was there consideration of
 10:43:29 30 having Ms Gobbo brought before a coercive hearing?---Not to
 10:43:32 31 my knowledge, no.
 10:43:33 32
 10:43:36 33 Would the purpose of that be to have spoken to her
 10:43:40 34 potentially about her knowledge off the books in some
 10:43:44 35 way?---Of?
 10:43:44 36
 10:43:45 37 Sorry, in some way where we can do it without with it
 10:43:48 38 becoming known?---I'd only be speculating, but yes, call
 10:44:00 39 her to a hearing whereby she's compelled to answer
 10:44:04 40 questions, therefore she's not divulging she's a source.
 10:44:08 41
 10:44:09 42 You have no recollection yourself?---No.
 10:44:10 43
 10:44:10 44 About those matters being discussed now?---No.
 10:44:12 45
 10:44:13 46 If we can go to the ICR of 29 October 2007 at p.1325.
 10:44:23 47 Ms Gobbo reports meeting with Mr Waters that

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10:44:30 1 morning?---Correct.
10:44:31 2
10:44:36 3 There's an indication, third dot point down, that you had
10:44:40 4 apparently said that there's no evidence to charge
10:44:42 5 Mr Waters at the moment, you didn't want to interview
10:44:46 6 him?---Correct.
10:44:46 7
10:44:46 8 At least this is what he's reporting to Ms Gobbo, do you
10:44:49 9 recall - - -?---I had a phone call, I know I had a phone
10:44:52 10 call with his legal representative, Warren Peacock, and I
10:44:57 11 think Mr Waters was wanting to come in to be interviewed.
10:45:01 12 I said, "Well if he's going to come in and do a no comment,
10:45:06 13 he doesn't need to come in", I think we had a discussion
10:45:10 14 and I was being honest at that time, there wasn't
10:45:12 15 sufficient to charge him.
10:45:13 16
10:45:13 17 Then there's some discussion further down about statements
10:45:16 18 being taken from various people?---Yes.
10:45:18 19
10:45:18 20 And if we continue over. He's discussing the number of
10:45:27 21 briefs of evidence which were being prepared?---Correct.
10:45:30 22
10:45:30 23 Or at least speculating about them?---Yes.
10:45:32 24
10:45:36 25 The sixth dot point down he's talking about the prospect of
10:45:41 26 being interviewed and he's thinking of making a prepared
10:45:46 27 statement to read out at the interview?---Yes.
10:45:48 28
10:45:48 29 And he'll not answer any other questions?---Correct.
10:45:51 30
10:45:59 31 And you'll see there's a couple of breaks between the dot
10:46:03 32 points and about halfway down the page there's three dot
10:46:07 33 points, the top one of those is that there was general talk
10:46:10 34 about Ms Gobbo's concerns that Mr Waters may be getting
10:46:13 35 ready to use her as legal representation?---Yes.
10:46:17 36
10:46:18 37 She believes she would only ever be used by him as a second
10:46:23 38 opinion and not at court?---Yes.
10:46:25 39
10:46:25 40 And she'll make sure she's unavailable for any court
10:46:28 41 matters if he gets charged?---Yes.
10:46:30 42
10:46:30 43 Now, you would appreciate, regardless of turning up to
10:46:35 44 court, if you're advising someone as a lawyer, you're
10:46:38 45 advising someone as a lawyer and privilege applies?---Yes.
10:46:46 46
10:46:49 47 Do you see a couple of lines down from that, that that

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10:46:53 1 information about that conversation is disseminated to
10:46:57 2 you?---Yes.
10:46:57 3
10:46:59 4 Did you have any concern arising at that stage that
10:47:03 5 Mr Waters may have considered Ms Gobbo to be a legal
10:47:07 6 advisor?---No, because my contact was always with Mr Warren
10:47:14 7 Peacock.
10:47:16 8
10:47:29 9 Just because your contact was with her solicitor it doesn't
10:47:34 10 mean that Mr Waters didn't regard Ms Gobbo as a legal
10:47:39 11 advisor?---But from all the telephone intercept material I
10:47:45 12 think he regarded her as a friend, a drinking friend, and
10:47:48 13 someone who he would meet for a lunch on many, many
10:47:54 14 Fridays.
10:47:54 15
10:47:54 16 This very point here that I've just pointed out to you
10:47:57 17 though says there's general talk about her own concerns
10:48:01 18 that he may be getting ready to use her for legal
10:48:05 19 representation?---Yes.
10:48:06 20
10:48:06 21 Was that of any concern to you, that she may be a friend
10:48:09 22 but she may also, she's a lawyer, she may also provide him
10:48:13 23 with legal advice?---She may, yes.
10:48:16 24
10:48:16 25 And I'm just asking, well, it seems your answer - - -?---I
10:48:20 26 don't think I turned my mind to it because of Warren
10:48:24 27 Peacock and I think he was also talking about using
10:48:32 28 Mr Duncan, I think, so there was more than just Ms Gobbo.
10:48:39 29
10:48:43 30 If we can go to the ICR at p.1330. This is 30 October
10:48:49 31 2007. Ms Gobbo reports there that she expects to be busy
10:49:04 32 from 10 am until after Mr Waters sees her today and she was
10:49:10 33 expecting to see him at 2 pm. She wanted to know if there
10:49:14 34 was anything further that she needed to know. She had in
10:49:19 35 the past passed on that information as requested, is that
10:49:22 36 right?---Yes.
10:49:22 37
10:49:22 38 And she seems to be requesting, "Is there anything more
10:49:26 39 that wants to be passed on?" She's told there's nothing
10:49:30 40 new at this stage and she would be called if there was
10:49:34 41 anything that changed and you were updated as to what she'd
10:49:36 42 indicated to the handler in the course of that
10:49:38 43 conversation?---Yes.
10:49:39 44
10:49:44 45 If we can go to 2 November 2007, it's 1350. During the
10:49:54 46 course of the conversation at 17:11 she's discussing
10:49:58 47 Mr Waters, that he'd turned up to see her. He had prepared

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10:50:05 1 two pages of his prepared statement. He wanted her to look
10:50:09 2 at it and give advice on what should be added and deleted,
10:50:13 3 et cetera, and intended to come back either Monday or
10:50:17 4 Tuesday. He was then off to see another barrister. Do you
10:50:23 5 see that?---Yes.
10:50:24 6
10:50:29 7 At the bottom of the page there there's another reference
10:50:34 8 to you, that you had apparently said you would not need to
10:50:37 9 interview Mr Waters for at least three weeks and that he
10:50:40 10 probably wouldn't get charged?---Correct.
10:50:42 11
10:50:42 12 If we continue through that page. There's reference to the
10:50:50 13 solicitor that you'd mentioned, Mr Peacock?---Yes.
10:50:54 14
10:50:54 15 It may be that Ms Gobbo has referred to that being told to
10:50:58 16 her either by Mr Peacock or through, that's what Mr Peacock
10:51:03 17 got told and he told Mr Waters and Mr Waters told her, that
10:51:08 18 seems to be the case?---Yes.
10:51:10 19
10:51:10 20 If we go further down and we see that information has been
10:51:13 21 disseminated to you?---Correct.
10:51:15 22
10:51:17 23 I think if we had have scrolled up this may be a
10:51:21 24 conversation which is a summary - no, I'm wrong. If we
10:51:27 25 keep going down. She goes on to another little side issue
10:51:33 26 in relation to her own OPI issue, then she comes back to
10:51:37 27 Mr Waters?---Yes.
10:51:38 28
10:51:41 29 Said he had something secret to tell her. The police keep
10:51:47 30 thinking that the secret meeting that had occurred between
10:51:51 31 everyone and PII [REDACTED] to plan the murder had happened on
10:51:54 32 a Friday, three to four weeks before the murder, and what
10:51:58 33 they didn't realise is that Mr Waters had been in Perth all
10:52:04 34 those Fridays?---Yes.
10:52:05 35
10:52:05 36 And that he's got his diaries and other diaries from other
10:52:08 37 people to check and it seems that they were busy and that
10:52:11 38 they could account for all the Fridays seven to eight weeks
10:52:16 39 before the murder?---Yes.
10:52:17 40
10:52:18 41 Was that information that was passed on to you, do you
10:52:21 42 know?---Yes, because I know that eventually I confirmed
10:52:28 43 that Mr Waters did travel to Perth in a truck.
10:52:32 44
10:52:33 45 And was that information that came to you through the
10:52:37 46 SDU?---Yes, I believe so.
10:52:39 47

.14/02/20

14129

IDDLES XXN

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10:52:43 1 And I think we see some reference in the material, we might
10:52:47 2 come up to it, that Mr Waters said you must have heard
10:52:51 3 about that at some point in time because you were off at
10:52:56 4 Prahran police station photocopying people's diaries, is
10:53:00 5 that right?---I was at Prahran police station photocopying
10:53:04 6 diaries, yes.
10:53:04 7
10:53:05 8 Was that following up this information?---No, it was in
10:53:09 9 relation to when PII [REDACTED] presented himself for, to be
10:53:20 10 bailed.
10:53:21 11
10:53:22 12 Yes. And that was to do with Mr Lalor and the bail alibi
10:53:27 13 issue?---That's correct.
10:53:29 14
10:53:33 15 If we go further down the page we see Mr Waters had given
10:53:41 16 her the two page statement. He'd given another copy to
10:53:45 17 another barrister to read as well?---Yes.
10:53:48 18
10:53:48 19 And that was a barrister that had previously represented
10:53:51 20 him?---Yes.
10:53:52 21
10:53:52 22 He would ring on Monday to see if she was around. If he
10:53:56 23 can't see her on Monday then he'd see her on Wednesday in
10:54:00 24 relation to her opinion?---Yes.
10:54:01 25
10:54:01 26 That's her opinion in relation to the two page
10:54:03 27 statement?---Yes.
10:54:04 28
10:54:04 29 She has read the statement and says, "It seems to be full
10:54:07 30 of lies, it's a full denial statement, he denies meeting
10:54:11 31 with PII [REDACTED] and talking about the murder and any
10:54:15 32 meeting at the Canada Club", and she says she'll give a
10:54:19 33 copy to the handlers on Monday?---Correct.
10:54:22 34
10:54:23 35 The action in relation to this is, that's taken by the
10:54:28 36 handler, says, "Not disseminated as risk of compromise to
10:54:32 37 Ms Gobbo is too great"?---Correct.
10:54:34 38
10:54:35 39 So at that point in time it seems you didn't get that
10:54:38 40 information?---No, the only time I saw that two page
10:54:42 41 statement was in Bali.
10:54:44 42
10:54:53 43 If we go to 1357. We see there in the first box there's a
10:55:15 44 heading of "SDU management" at 11.20?---Yes.
10:55:18 45
10:55:19 46 Ms Gobbo's given an instruction not to copy the Waters
10:55:25 47 prepared statement, "We do not use it and it will not be

.14/02/20

14130

IDDLES XXN

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10:55:29 1 passed on to investigators, understood"?---Yes.
10:55:32 2
10:55:34 3 If we go to 1358, over the page. We see there at 16:56
10:55:41 4 it's the, there's a face-to-face meeting, this is 5
10:55:45 5 November 2007?---Yes.
10:55:47 6
10:55:48 7 And there's a heading following that in relation to
10:55:53 8 Mr Waters. Ms Gobbo says she's not representing Mr Waters,
10:55:59 9 who is being represented by the other barrister, if he gets
10:56:05 10 charged and the solicitor Mr Peacock. Mr Waters has spoken
10:56:10 11 to him in a capacity as a friend only. Waters has prepared
10:56:16 12 a statement and he will give it to the police if he's
10:56:21 13 interviewed because he assumes he'll get interviewed and
10:56:27 14 says no comment, that he will be charged. The source does
10:56:30 15 not want to represent Mr Waters and has been given the
10:56:33 16 document to look at as a friend. She's advised that even
10:56:36 17 though she is not representing Mr Waters the handler does
10:56:40 18 not want the document as it could be part of his defence
10:56:44 19 ultimately. There's a comment that the document is not
10:56:45 20 received but Ms Gobbo is describing the same as a load of
10:56:48 21 rubbish, do you see that?---Yes.
10:56:50 22
10:56:50 23 The SDU have determined that the police should not come
10:56:53 24 into possession of that document because it may well be
10:56:58 25 privileged?---No, it may identify her as a source.
10:57:06 26
10:57:10 27 "HS advised that even though she's not representing Waters
10:57:13 28 handler does not want document as it could be said to be
10:57:16 29 part of his defence ultimately." Do you understand that
10:57:19 30 they've - - -?---Yes.
10:57:20 31
10:57:21 32 - - - got concerns that this might be - - -?---They don't
10:57:24 33 write down what their action is. I understand - she's
10:57:28 34 saying that, but then they don't say, "Well we're not going
10:57:31 35 to disseminate it because of legal privilege".
10:57:34 36
10:57:34 37 That's the implication, that they're advising Ms Gobbo
10:57:38 38 that, "Even though you say you're not representing
10:57:41 39 Mr Waters we don't want that document as it could be said
10:57:44 40 to be part of his defence"?---No, but it went back
10:57:48 41 previously where the document's talked about it would
10:57:51 42 identify her as a human source.
10:57:53 43
10:57:53 44 I'm asking you about this entry here?---I can't answer it
10:57:57 45 other than what's written there.
10:57:59 46
10:58:00 47 All right. If we go over to 1362. At the top of the page

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10:58:10 1 the topic comes up again, Mr Waters' draft statement.
10:58:13 2 "Explained reasons for why we do not want it. She agrees
10:58:17 3 with this. Other issue is that according to Mr Waters,
10:58:23 4 Stash" - who is Mr Lalor, is that right?---Correct.
10:58:26 5
10:58:26 6 And "Inspector Bob", is that - - -?---Bob Hodgkin.
10:58:31 7
10:58:31 8 "Diaries can account for their movements on nearly every
10:58:35 9 Friday for six or so weeks prior to the murder. This means
10:58:38 10 they could not have met up with PII [REDACTED], equals liar.
10:58:41 11 This is apparently Mr Waters' ace up his sleeve, the
10:58:46 12 statement is simply full denials to the murder allegations
10:58:48 13 and so forth", and again the action down the bottom,
10:58:53 14 "Information not disseminated as it relates to target's
10:58:58 15 defence", do you see that?---Yes.
10:58:59 16
10:59:03 17 On 6 November 2007, if we go to ICR 1367. She's ringing
10:59:15 18 the handler or having a conversation with the handler at
10:59:19 19 21:07 at night. She indicates that Mr Waters had called
10:59:23 20 her. Fourth dot point from the bottom, "He wants to have
10:59:29 21 breakfast with her at the Wheat Café tomorrow morning. She
10:59:33 22 asks if there's anything more she should say to him. She's
10:59:36 23 told no, just maintain the same lines as she has before".
10:59:40 24 Over the page, she also speculates that he'll want to talk
10:59:44 25 about his statement. "Action", that's verbally
10:59:47 26 disseminated to you on that occasion?---Yes.
10:59:50 27
10:59:55 28 At p.1373, this is the next day, 7 November 2007, down the
11:00:04 29 bottom of the page there's reference to Mr Waters. She
11:00:11 30 seems to give a report on her meeting with him. She tells
11:00:14 31 him that what she told Mr Waters is that the current
11:00:17 32 statement is poor and not detailed enough and he needs to
11:00:20 33 put more detail in it. She does not intend to rewrite it
11:00:25 34 for him. He has to do it. It seems as though there's a
11:00:29 35 conversation about her not getting involved in that. The
11:00:32 36 next dot point, understood by her re not to assist in
11:00:36 37 rewriting his statement. And it seems below that there's a
11:00:41 38 reference to it being disseminated to you, that
11:00:44 39 information?---Correct.
11:00:45 40
11:00:51 41 If we go to 1385 briefly. It's 10 November. She's
11:01:02 42 reporting on Mr Waters again. Up the top. There's a
11:01:09 43 reference about the fifth dot point down that you had been
11:01:14 44 to Prahran, you had been checking on diaries. He thought
11:01:17 45 that was to do with the Friday alibi?---Yes.
11:01:19 46
11:01:19 47 And he thought you must have been doing that perhaps

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11:01:23 1 because his phone had been intercepted and he might have
11:01:26 2 said something on his phone?---Yes, I see that.
11:01:29 3
11:01:29 4 And that's disseminated to you at that stage?---Yes.
11:01:33 5
11:01:39 6 If I can briefly go back in time to 14 September 2009. At
11:01:46 7 p.1217, see down the bottom there, Ms Gobbo discusses Mark
11:02:02 8 Perry with her handler. This is on 14 September 2007 at
11:02:10 9 10:28. She refers in the first line to having had a
11:02:13 10 discussion with another handler previously about
11:02:18 11 information she'd heard on PII [REDACTED]. Do you see that,
11:02:23 12 the first dot point?---Yes, yes.
11:02:24 13
11:02:24 14 If I was to take you back to that conversation, that had
11:02:28 15 occurred on 1 April 2007, where Mr Waters had been
11:02:32 16 expressing some concern about what PII [REDACTED] had been
11:02:36 17 saying and she was indicating that Mr Waters was saying
11:02:41 18 that PII [REDACTED] had killed a vampire for PII [REDACTED] and she
11:02:45 19 suspected that PII [REDACTED] might have something over
11:02:48 20 Mr Waters, that was the essence of the conversation back in
11:02:51 21 April of 2007. She's now having this conversation and
11:02:56 22 she's saying she remembered speaking to that handler
11:02:59 23 earlier about information she had heard on PII [REDACTED]. She
11:03:04 24 goes on that PII [REDACTED] killed the vampire victim at the
11:03:10 25 request of Mark Perry. Mark Perry was the boyfriend of the
11:03:15 26 female that was raped by the vampire victim. Mark knew
11:03:21 27 PII [REDACTED] through PII [REDACTED]. He paid PII [REDACTED] to do
11:03:25 28 it because of the rape. Lee was the brother of Mark and
11:03:29 29 may have also known PII [REDACTED]. Mark and Lee were
11:03:32 30 well-known drug dealers?---Yes.
11:03:34 31
11:03:34 32 So at that stage in September that information is
11:03:38 33 disseminated to you?---Yes.
11:03:40 34
11:03:40 35 So you're aware at that stage that Ms Gobbo has conveyed
11:03:45 36 that she's got that amount of knowledge?---Yes.
11:03:48 37
11:03:48 38 And there seems to have been no reference in that
11:03:52 39 conversation reported to you of 14 September, or even
11:03:57 40 indeed the earlier one, to her having heard any confession,
11:04:03 41 direct or indirect?---No, only the second dot point,
11:04:16 42 PII [REDACTED] killed the vampire victim at the request of Mark
11:04:21 43 Perry. That's something that she told us in January 2008
11:04:26 44 which purportedly got from Jim Valos.
11:04:30 45
11:04:30 46 She goes on to say that. What I'm saying here is that in
11:04:33 47 September of 2007 she's not saying that, "I've heard a

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11:04:37 1 confession"?---No, she's not.
11:04:40 2
11:04:41 3 She's not saying here that she's heard from someone else
11:04:46 4 that Mr Perry has confessed?---No.
11:04:51 5
11:04:55 6 There's no indication there of really how she came to that
11:04:58 7 information?---No, there's not.
11:04:59 8
11:05:02 9 If we go to 1562, 11 January 2008. Right up the top, the
11:05:18 10 handler has received a call from yourself. There had been
11:05:22 11 an interview with PII [REDACTED] the day before and the
11:05:25 12 information was that the night the address of the murder
11:05:29 13 victim was handed over from Mr Waters to PII [REDACTED],
11:05:33 14 PII [REDACTED] thinks that Waters was with Ms Gobbo, and it was
11:05:37 15 in May of 2003 and that you felt obliged now to ask
11:05:43 16 Ms Gobbo about it, is that correct?---Yes.
11:06:00 17
11:06:01 18 I think if we went to your diary, we don't need to take you
11:06:06 19 to it, but that day you leave a message at 1.50 for
11:06:14 20 Ms Gobbo to call you and it seems that arrangements
11:06:18 21 developed over the next few days for the meeting with
11:06:20 22 Ms Gobbo on 14 January, would that be right?---That's
11:06:23 23 correct.
11:06:23 24
11:06:27 25 You go to Ms Gobbo's chambers on 14 January with Mr Waddell
11:06:33 26 and we get the information report. Bring that up,
11:06:40 27 VPL.0100.0053.0298. And we understand from either you or
11:06:49 28 Mr Waddell's diary that this occurs at 2.30 in the
11:06:54 29 afternoon?---That's correct.
11:06:56 30
11:06:56 31 And we see the nature of the information that you received
11:07:00 32 from Ms Gobbo on that occasion. She's interviewed about
11:07:05 33 her association with Mr Waters, how she came to know him,
11:07:09 34 she'd represented him once before on a 56A application.
11:07:14 35 She knew him through Steve Campbell and so forth?---Yes.
11:07:17 36
11:07:19 37 If we go over the page. She also talks about her knowledge
11:07:26 38 of Mr Lalor and contact with him, at the top of the
11:07:32 39 page?---Yes.
11:07:32 40
11:07:32 41 And various other people who were associated with Mr Waters
11:07:36 42 and Mr Lalor and who were, it seems, potentially regulars
11:07:42 43 at the Canada Club Hotel?---Yes.
11:07:45 44
11:07:47 45 Her account in relation to the knowledge of the murder is
11:07:50 46 that she'd heard PII [REDACTED] had killed
11:07:58 47 Chartres-Abbott?---Yes.

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11:07:58 1
11:08:00 2 That Jim Valos, a solicitor, had told her that a client of
11:08:06 3 his, Lee Perry, had told him that?---Yes.
11:08:10 4
11:08:10 5 She said she acted for Lee Perry and had prepared an 8A for
11:08:16 6 him and she noted she must have had her fee book with her
11:08:21 7 at the time and noted the invoice was for 11 November
11:08:26 8 2002?---Correct.
11:08:27 9
11:08:28 10 And she also acted for another Perry, she thought it was
11:08:32 11 his brother, through Mr Valos?---Yes.
11:08:34 12
11:08:34 13 And she was also asked to do the crimes application, crimes
11:08:39 14 compensation application for the victim of the
11:08:42 15 rape?---That's correct.
11:08:42 16
11:08:42 17 That was Mr Mark Perry's girlfriend?---Correct.
11:08:45 18
11:08:49 19 She says she possibly could have gone to the Canada Hotel
11:08:52 20 on 23 May?---Yes.
11:08:54 21
11:08:55 22 I take it she was specifically asked about that day?---That
11:08:59 23 was a date that was of importance to us, yes.
11:09:02 24
11:09:02 25 And that had been the date that had been nominated a couple
11:09:05 26 of days earlier or within the range by PII [REDACTED]?---That
11:09:12 27 was the date that was closest to, I think, when it was
11:09:17 28 alleged that the address was passed over.
11:09:20 29
11:09:26 30 At that stage any information she provided about who was
11:09:32 31 responsible for the murder was not going to be admissible
11:09:36 32 in court?---No, that's correct.
11:09:38 33
11:09:38 34 It was - - -?---Hearsay on hearsay on hearsay.
11:09:43 35
11:09:43 36 Yes. Any value she would have would be in relation to
11:09:47 37 relationships between the various players and her knowledge
11:09:49 38 of Mr Waters?---Correct.
11:09:52 39
11:09:55 40 That's not to say you wouldn't follow up the fact that
11:09:58 41 Mr Valos might have some further information about who
11:10:03 42 killed Mr Chartres-Abbott?---That's correct, and we did.
11:10:07 43
11:10:07 44 That's exactly what you did?---Yes.
11:10:09 45
11:10:11 46 If we can go back to the ICRs at 1570. Following your
11:10:21 47 meeting with Ms Gobbo she calls into the handlers. She

.14/02/20

14135

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11:10:26 1 tells them that you'd come with Mr Waddell. She presumed
11:10:30 2 Mr Waddell didn't know about her role. She reports that
11:10:36 3 you were asking about Waters, you were very interested in
11:10:40 4 Lee Perry, the boyfriend of the victim of the vampire
11:10:45 5 murderer. Waddell wanted a statement and she refers to
11:10:49 6 having previously told her handlers re this, seemingly
11:10:53 7 referring to those other conversations?---Yes.
11:10:56 8
11:10:56 9 If we go further down to 16:00. You call into the handlers
11:11:04 10 likewise. There's a reference to seeing her because
11:11:10 11 Mr Rhys-Jones, who was the licensee of the Canada Club
11:11:16 12 Hotel, says she might be there. Was that another reason
11:11:20 13 why you went to see her or was this more of - - -?---There
11:11:26 14 were several reasons. Obviously an associate of David
11:11:31 15 Waters, but we'd spoken to David Rhys-Jones who indicated
11:11:36 16 that they might have all been together on that Friday night
11:11:40 17 and this was really telling the handlers if she's asked why
11:11:44 18 they've come here's a bit of a cover story for you.
11:11:47 19
11:11:47 20 Yes, and I think we might have a statement taken from
11:11:50 21 Mr Rhys-Jones that was in fact also dated 11
11:11:53 22 January?---Yes.
11:11:53 23
11:11:55 24 You go on, that Ms Gobbo thinks she was there on the
11:11:58 25 appropriate date. She was going out with Steve Campbell at
11:12:02 26 the time. How Ms Gobbo found out PII [REDACTED] acted for Lee
11:12:11 27 Perry was from Jim Valos. Valos told Ms Gobbo that Perry
11:12:17 28 killed Chartres-Abbott and didn't know that before. Can
11:12:22 29 you explain, was that you saying you didn't know this
11:12:26 30 information before or was that something that was coming
11:12:29 31 from the handler?---I don't think I'd heard the bit about
11:12:47 32 Perry had killed Chartres-Abbott.
11:12:54 33
11:12:54 34 It goes on, that Ms Gobbo - you seem to be reporting that
11:12:58 35 Ms Gobbo had in fact asked you whether you wanted her to
11:13:02 36 make a statement, is that right, is that something you
11:13:06 37 recall now?---No, I don't recall making, asking her to make
11:13:10 38 a statement, but I think Mr Waddell wanted a statement.
11:13:13 39 But we were both aware of her situation and there was no
11:13:17 40 way we were going to take a statement.
11:13:19 41
11:13:19 42 What this seems to indicate is that Ms Gobbo herself has
11:13:23 43 said, "Do you want me to make a statement"?---That's
11:13:26 44 correct.
11:13:26 45
11:13:29 46 If we go right down the bottom of that page at 17:25 you'll
11:13:35 47 see you've rung in again indicating to the handler that

.14/02/20

14136

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11:13:38 1 Ms Gobbo had just called you. She seems to be wanting to
11:13:42 2 know that it's just you that knew that she was a source and
11:13:45 3 that Mr Waddell didn't know it. And you told her that that
11:13:50 4 was right?---That's correct. But that's not true.
11:13:55 5
11:13:56 6 It's not true but that's what you told her?---Yes.
11:13:58 7
11:14:05 8 There's a discussion about another lawyer that was there
11:14:08 9 when you had arrived and Ms Gobbo told you that she'd
11:14:17 10 spoken previously to her handlers in relation to the
11:14:23 11 Perry/Valos connection and that she was told by you that
11:14:30 12 you were not going to go down the road of the
11:14:33 13 statement?---Correct.
11:14:33 14
11:14:37 15 There's some discussion about another person who might have
11:14:42 16 been there at the time of the handing over of the
11:14:45 17 address?---Yes.
11:14:46 18
11:14:59 19 There's some discussion about essentially a cover story for
11:15:03 20 Ms Gobbo, his advice is that when asked Ms Gobbo can say
11:15:08 21 that David Rhys-Jones had made a statement saying she'd
11:15:12 22 been at the hotel on several occasions and that's the
11:15:16 23 reason essentially you went to speak to her?---Yes.
11:15:18 24
11:15:27 25 Now, the following day you went to speak to Mr Valos, is
11:15:31 26 that right?---I believe so, in the morning.
11:15:34 27
11:15:35 28 We've got an information report VPL.0100.0019.1492. This
11:15:46 29 is the information report in relation to that meeting with
11:15:50 30 Mr Valos?---Yes, it is.
11:15:52 31
11:15:52 32 I'll tender that report, Commissioner.
11:15:54 33
11:15:58 34 #EXHIBIT RC1262A - (Confidential) Information report
11:15:38 35 VPL.0100.0019.1492.
11:16:12 36
11:16:14 37 #EXHIBIT RC1262B - (Redacted version.)
11:16:15 38
11:16:16 39 On the same day - essentially he denied what Ms Gobbo had
11:16:22 40 told you?---Correct.
11:16:23 41
11:16:24 42 On the same day you wrote an email to Mr Waddell,
11:16:33 43 VPL.6073.0026.2137. Essentially what this is, it's listing
11:16:59 44 dates in respect to Mr Valos's dealings with Lee
11:17:06 45 Perry?---Yes, it is.
11:17:07 46
11:17:07 47 And I think the top one might be, it says 2006, it probably

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11:17:11 1 should be 2002, would you agree with that?---Yes, it should
11:17:16 2 be because it follows down.
11:17:18 3
11:17:19 4 And essentially what that is saying is that his dealings
11:17:24 5 seem to cease by the end of January 2003, well before the
11:17:28 6 arrangements for the murder, or the murder took
11:17:31 7 place?---Yes.
11:17:31 8
11:17:32 9 So if that was the case, unless they had some other
11:17:39 10 dealings later on, the circumstances in relation to that
11:17:42 11 confession occurring just couldn't have
11:17:45 12 happened?---Couldn't have happened.
11:17:46 13
11:17:59 14 By late 2008, early 2009, is it the case that Briars
11:18:10 15 investigations had been pretty well exhausted, they'd been
11:18:15 16 taken as far as they could at that stage?---On 28 February
11:18:18 17 2008 myself and two other members returned to the Homicide
11:18:24 18 Squad. It was wound back. They were going to consider
11:18:29 19 brief preparation. And then what I understand is in April
11:18:33 20 2008 another witness came forward who provided information
11:18:38 21 which restarted the Task Force.
11:18:41 22
11:18:43 23 Or it may have been 2009 it gets restarted, as I understand
11:18:48 24 it?---Correct, sorry, yes, April 2009.
11:18:53 25
11:18:54 26 You're out of there by March of - - -?---The 28th - yes, 1
11:19:00 27 March 2008.
11:19:01 28
11:19:01 29 You're back in the Homicide Squad?---Yes.
11:19:03 30
11:19:04 31 The investigation is exhausted, it's gone as far as it can
11:19:09 32 at that point in time and there is brief preparation going
11:19:12 33 on and, "Potentially going to be getting some advice to see
11:19:16 34 if we can take this any further on the evidence that we've
11:19:19 35 got"?---Correct.
11:19:20 36
11:19:20 37 In that intervening period things happen in the Petra
11:19:26 38 investigation and Ms Gobbo becomes a witness in that
11:19:30 39 investigation, or in that prosecution?---Yes.
11:19:34 40
11:19:35 41 Were you aware of the Petra investigation running alongside
11:19:38 42 of Briars?---I knew of the Petra investigation, but I had
11:19:45 43 nothing to do with it.
11:19:47 44
11:19:51 45 Did you become aware at the time of Ms Gobbo being
11:19:55 46 transitioned from source to witness, you understand that
11:19:59 47 there was some consternation, or you would now,

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11:20:05 1 consternation at the SDU about her becoming a witness?---I
11:20:08 2 definitely do now, and I have some recollection, maybe just
11:20:15 3 prior, going to Bali, of conversations with, could have
11:20:23 4 been handlers or Mr Waddell about the fact that Petra had
11:20:29 5 transferred her as a witness.
11:20:31 6
11:20:32 7 Did you have any conversations with the SDU around that
11:20:35 8 period of time or during this transition period or just
11:20:39 9 after it about what had gone on and their concerns?---I was
11:20:44 10 aware, I think from Mr Black in particular, that they were
11:20:52 11 very concerned that a human source was going to be
11:20:55 12 transferred to become a witness and no one seemed to be
11:21:00 13 listening to, I suppose, the risks that were associated
11:21:04 14 with that.
11:21:05 15
11:21:06 16 We've heard evidence in the Commission about a memo or a
11:21:10 17 briefing note that Mr Black compiled dated 31 December
11:21:15 18 2008, this is in the week or so leading up to Ms Gobbo
11:21:21 19 signing statements, a SWOT analysis. Do you know the
11:21:24 20 document that I'm referring to?---No, I don't.
11:21:26 21
11:21:27 22 There's a SWOT analysis that was written to warn the powers
11:21:32 23 that be essentially about the dangers involved in a
11:21:35 24 decision to have Ms Gobbo become a witness. That document
11:21:39 25 outlined concerns involving the exposure of potential
11:21:45 26 unsafe convictions, the jeopardising of current
11:21:49 27 prosecutions, including Mokbel, the possibility of judicial
11:21:54 28 legal Government inquiries. Did you have any conversations
11:21:59 29 with Mr Black or anyone else at the SDU during that sort of
11:22:02 30 transition period, late 2008, early 2009?---I may have, and
11:22:11 31 as I said, it was around the concern that you just don't
11:22:15 32 transfer or you don't move a source, a human source to
11:22:19 33 become a witness, because the implications that flow from
11:22:22 34 that are just horrendous.
11:22:24 35
11:22:24 36 And that's just with an ordinary source, because once
11:22:28 37 you've exposed them as a witness you're exposing the fact
11:22:32 38 that they've been an informer to discovery through court
11:22:36 39 processes?---Yes.
11:22:37 40
11:22:38 41 And with that, not just the person facing trial but
11:22:42 42 potentially other people learn that this now witness has
11:22:47 43 provided information about them, is that right?---Correct.
11:22:50 44
11:22:51 45 And there are obvious safety concerns that arise because of
11:22:55 46 that?---Yes.
11:22:56 47

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11:22:56 1 Now, Ms Gobbo's in a special category because not only
11:23:00 2 would those concerns arise, we would also have concerns
11:23:04 3 that I've just outlined, that we've got these other
11:23:07 4 concerns about cases that we've prosecuted or that we're in
11:23:11 5 the midst of prosecuting that might be put at risk, we've
11:23:15 6 got concerns about judicial inquiries?---(Witness nods.)
11:23:19 7
11:23:19 8 Now, were you having any conversations with anyone at the
11:23:23 9 SDU about the latter?---No.
11:23:26 10
11:23:33 11 Not at that stage?---No.
11:23:35 12
11:23:40 13 Now, the Briars Task Force recommences because of the, that
11:23:47 14 witness coming up that you've just mentioned?---Yes.
11:23:49 15
11:23:51 16 That happens in around March some time of 2008?---Correct.
11:23:56 17
11:23:57 18 You don't come back to the Briars Task Force at that stage
11:24:00 19 on a permanent basis, is that right?---I only came back for
11:24:04 20 the purpose of going to Bali.
11:24:05 21
11:24:06 22 To Bali, yes. We heard some evidence about Mr Waddell
11:24:13 23 having a bit of a struggle to get some information from the
11:24:18 24 SDU in relation to Ms Gobbo's dealings about Waters?---Yes.
11:24:22 25
11:24:22 26 If I can just bring up the document, the SDU holdings that
11:24:26 27 ultimately he obtained, VPL.2000.0002.0899. Now, is this
11:24:35 28 the document that went with you to Bali? If we can just
11:24:40 29 scroll through. You may or may not recognise it all these
11:24:44 30 years later, but I take it you would accept that this is
11:24:46 31 the document that - - -?---It appears to be. It was - I
11:24:50 32 didn't see it until I got to Bali, it was in a brown
11:24:54 33 envelope and they were source contact sheets and that
11:24:56 34 appears to be similar dates to what ultimately is in the
11:24:59 35 draft statement.
11:25:00 36
11:25:01 37 Yes. That's what I was going to ask you. Did you have
11:25:05 38 some knowledge of what was in this before you went to Bali
11:25:09 39 or you only got it once you got there?---Mr Waddell had it,
11:25:13 40 I didn't see it until we arrived in Bali.
11:25:15 41
11:25:16 42 Do you know if he'd seen it before then or if he'd read it
11:25:20 43 or if it just remained in the sealed envelope?---It wasn't
11:25:25 44 sealed, it was in a brown envelope. No, he had seen it, I
11:25:30 45 think he'd had it for a couple of days. But I met him at
11:25:33 46 the airport and we just travelled to Bali, so I didn't see
11:25:36 47 it until maybe on the plane or the Monday.

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11:25:40 1
11:25:44 2 Commissioner, I neglected to tender the 15 January 2008
11:25:49 3 email.
11:25:49 4
11:25:50 5 COMMISSIONER: I think it's tendered, Exhibit 1202. That's
11:25:54 6 this document? Which document have you just - the earlier
11:25:59 7 one.
11:25:59 8
11:26:00 9 MS TITTENSOR: 15 January 2008 email in respect of dates
11:26:03 10 with Mr Valos.
11:26:04 11
11:26:08 12 COMMISSIONER: The previous document is 1202.
11:26:11 13
11:26:12 14 #EXHIBIT RC1263A - (Confidential) Email in respect of dates
11:26:14 15 with Mr Valos 15/1/08.
11:26:14 16
11:26:15 17 #EXHIBIT RC1263B - (Redacted version.)
11:26:16 18
11:26:17 19 MS TITTENSOR: If I can bring up an email between yourself
11:26:19 20 and Mr O'Connell of 13 May 2009, VPL.6073.0003.2664. It's
11:26:32 21 an email from you to Mr O'Connell in relation to 3838 and
11:26:37 22 you say, "I understand you're arranging this. If possible
11:26:40 23 can it be after 22 May 2009, I'm speaking at a dinner for
11:26:46 24 300 and it would be difficult to get someone else to do
11:26:50 25 it". I take it Petra were involved in the arrangements to
11:26:54 26 get you to Bali, is that right?---Petra arranged it because
11:27:00 27 the two handlers at that time were attached to Petra and
11:27:04 28 Inspector Smith was going as well, plus one or two others I
11:27:07 29 think.
11:27:08 30
11:27:11 31 Now, given that you were not back at Briars you probably
11:27:17 32 can't shed any light on this, or you may or may not.
11:27:20 33 There's a Briars Task Force meeting on 18 May 2009. It had
11:27:25 34 been decided obviously by that stage, and before 13 May
11:27:30 35 when you're having this conversation, that, "We want a
11:27:34 36 statement from Ms Gobbo". Do you have any awareness of who
11:27:37 37 was involved in that decision to get the statement from
11:27:40 38 Ms Gobbo?---My understanding from conversations with
11:27:44 39 Mr Waddell, the Briars Task Force board of management had
11:27:52 40 decided the statement was to be done, in particular
11:27:55 41 Mr Overland had wanted the statement.
11:27:58 42
11:28:01 43 How did you come to that understanding?---From a
11:28:09 44 conversation with Mr Waddell.
11:28:13 45
11:28:13 46 There's arrangements made - sorry, if I can just take you
11:28:19 47 to an email of 19 May 2009, it's VPL.6073.0032.4741. It's

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11:28:30 1 an email from yourself to Mr Waddell. You're having a
11:28:34 2 discussion about having a meeting with Steve Smith, it
11:28:40 3 seems, prior to you leaving for Bali, is that
11:28:44 4 right?---That's correct.
11:28:44 5
11:28:45 6 Was that for the purpose of receiving a briefing about
11:28:49 7 dealing with Ms Gobbo?---Would have been around logistics,
11:28:54 8 but I know that I didn't go to a meeting prior to.
11:29:01 9
11:29:01 10 You didn't have a meeting before Bali?---No.
11:29:04 11
11:29:05 12 I might tender this document while I'm at it, Commissioner.
13
11:29:10 14 COMMISSIONER: The email of 15 May, are you wanting to
11:29:13 15 tender that one?
11:29:13 16
11:29:13 17 MS TITTENSOR: 13 May, yes, I'll tender that and I'll
11:29:16 18 tender this one.
11:29:17 19
11:29:17 20 COMMISSIONER: Separately?
11:29:18 21
11:29:19 22 MS TITTENSOR: Yes.
11:29:19 23
11:29:20 24 #EXHIBIT RC1264A - (Confidential) Email of 13/5/09.
11:29:22 25
11:29:23 26 #EXHIBIT RC1264B - (Redacted version.)
11:29:25 27
11:29:26 28 #EXHIBIT RC1265A - (Confidential) Email of 19/5/09.
11:29:29 29
11:29:30 30 #EXHIBIT RC1265B - (Redacted version.)
11:29:31 31
11:29:33 32 Did you have any information before you - I'll start again.
11:29:40 33 You obviously had a reasonably close relationship with some
11:29:44 34 people from the SDU who had been dealing with Ms Gobbo for
11:29:47 35 a long time?---Yes.
11:29:47 36
11:29:48 37 Did you have an appreciation of the difficulties involved
11:29:51 38 in her handling?---Yes, I did.
11:29:54 39
11:29:54 40 What were you told about that?---She was very needy,
11:30:02 41 constantly on the phone, at times her mental state or
11:30:09 42 psychological state came to forebear. She was difficult to
11:30:17 43 handle.
11:30:21 44
11:30:21 45 Is the reason you were brought back in to deal with her
11:30:25 46 partly to please her because you had somewhat of a public
11:30:29 47 profile?---I have no idea why I was asked to go and

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11:30:39 1 hindsight's a second late. In respect I wish I hadn't have
11:30:45 2 gone but I did. I'm somebody who I think I'm easy to get
11:30:51 3 on with. I don't know whether this is the reason. If
11:30:55 4 someone's upset - I don't smoke but I'm happy to sit and
11:31:01 5 have a smoke and a coffee with them. And that was what I
11:31:04 6 was doing in Bali. Like every break I would sit out by the
11:31:07 7 pool, have a coffee and have a cigarette with her. It was
11:31:10 8 about trying to build up that rapport.
11:31:13 9
11:31:13 10 Had you established a rapport before this?---I think this
11:31:16 11 was the second time I'd ever met her. I'd only ever met
11:31:20 12 her in her office.
11:31:21 13
11:31:23 14 There's another email of 21 May in relation to a statement,
11:31:30 15 VPL.6073.0025.1293. Quickly I'm being reminded about the
11:31:44 16 break but I'll finish with this email, "Subject 3838". Now
11:31:47 17 this is to a number of other investigators that were
11:31:50 18 involved in Briars, is that right?---These are the two that
11:31:54 19 were on my team.
11:31:54 20
11:31:55 21 Were they back at Briars?---They were back at Homicide.
11:31:59 22
11:31:59 23 They were back at Homicide as well. "At this stage she
11:32:02 24 will not make a statement until she gets to know us a
25 little bit better. Wants to have dinner with us on Monday
11:32:07 26 night, candlelight. The Governor may have to step up to
11:32:07 27 the plate and take a hit for the team"?---That's tongue in
11:32:11 28 cheek that Steve Waddell might actually have to pay it. We
11:32:16 29 might have to have a candlelit dinner, but that didn't
11:32:19 30 happen.
11:32:20 31
11:32:20 32 Who was the Governor?---The Governor is Steve Waddell.
11:32:25 33
11:32:30 34 Perhaps it's time for the morning break, Commissioner.
11:32:33 35
11:32:33 36 COMMISSIONER: Want to tender that?
11:32:35 37
11:32:35 38 MS TITTENSOR: Yes, I'll tender that, thank you.
11:32:37 39
11:32:38 40 #EXHIBIT RC1266A - (Confidential) Email of 21/5/09 in
11:31:26 41 relation to a statement.
11:32:39 42
11:32:40 43 #EXHIBIT RC1266B - (Redacted version.)
44
11:33:13 45 COMMISSIONER: We'll have a 15 minute break.
11:33:16 46
11:33:16 47 (Short adjournment.)

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11:54:06 1 COMMISSIONER: Yes Mr Coleman.
11:54:08 2
11:54:09 3 MR COLEMAN: Commissioner, before the witness resumes, we
11:54:11 4 have just at 11.35 been provided with two additional
11:54:14 5 statements of Mr Cartwright, one of which is password
11:54:21 6 protected - we haven't got the password yet - the other
11:54:22 7 which refers to notes that he's made and without access to
11:54:23 8 the notes the statement is really incomprehensible to us.
11:54:25 9 It's very difficult, when he's supposed to give evidence
11:54:28 10 today, to know what we're supposed to do with that
11:54:31 11 material. Could I ask through you that we at least get
11:54:34 12 access to the full set of notes that he refers to in the
11:54:38 13 statement that we've got which is not password protected
11:54:41 14 which relates apparently to the Driver Task Force.
15
11:54:44 16 COMMISSIONER: Yes. Is the Commission is able to assist,
11:54:47 17 or is that something for Mr Holt?
18
11:54:50 19 MR WINNEKE: I don't see any problem with providing them,
20 subject of course to Mr Holt. As far as I can see there's
21 no problem in providing them.
22
11:54:55 23 COMMISSIONER: So who's going to provide them? The
11:54:57 24 Commission or - - -
25
11:54:58 26 MR WINNEKE: The Commission will provide them.
27
28 COMMISSIONER: The Commission will provide them as quickly
29 as possible.
30
11:55:00 31 MR COLEMAN: I'm very grateful, thank you.
11:55:00 32
11:55:00 33 MR CHETTLE: I was about to say the same thing, can we join
11:55:04 34 the list, please, Commissioner.
35
11:55:06 36 COMMISSIONER: I think you can, Mr Chettle. So that will
11:55:07 37 be provided as quickly as possible. Yes Ms Tittensor.
11:55:11 38
11:55:11 39 MS TITTENSOR: Thank you. If we can bring up an email
11:55:13 40 chain of 21 May 2009, it's VPL.6073.0006.9380. If we can
11:55:33 41 go down the bottom. I think that's it. We see down the
11:55:36 42 bottom of that email, Mr Iddles, there had been an email
11:55:41 43 from Mr Waters through to Ms Gobbo?---Yes.
44
11:55:47 45 At a Crockett email address on 7 November in 2007?---Yes.
46
11:55:53 47 Ms Gobbo forwards that email to Mr O'Connell with a subject

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11:55:58 1 "confidential" and a number of exclamation marks. She
11:56:06 2 says, "This is the email I referred to when we talked about
11:56:08 3 Docket's false statement. I don't believe that Ron knows
11:56:10 4 anything about this, Nic". Mr O'Connell then forwards that
11:56:14 5 on to Mr Smith on 20 May, "As per the below email, this is
11:56:20 6 the apparent false statement sent to her. I don't know
11:56:23 7 much more about it but she spoke with him about it before
11:56:28 8 he sent it to her and then he sent it to her for her to
11:56:29 9 check. I believe he intended to read it if he was to be
11:56:32 10 arrested. Then that's sent through to you by Mr Smith on
11:56:37 11 21 May 2009 as discussed; is that right?---That's correct.
12
11:56:43 13 There's an attachment named [REDACTED]. If I take you to that
11:56:49 14 attachment, it's VPL.6073.0006.9381. This is an attachment
11:57:03 15 which appears to be - - -
16
11:57:05 17 COMMISSIONER: That name should be removed, shouldn't it,
11:57:10 18 that was mentioned in the attachment? So that will go out
11:57:15 19 of the transcript and the live stream.
11:57:21 20
11:57:22 21 MS TITTENSOR: This appears to be what Mr Waters was
11:57:27 22 preparing to read out should he be arrested at his record
11:57:30 23 of interview?---Correct.
24
11:57:34 25 Then if I take you to an email VPL.6073.0034.2479. You
11:57:46 26 forward that document to Mr Waddell on 21 May. This was
11:57:52 27 emailed by 3838 to Petra. It was a draft statement Docket
11:57:56 28 did and got her to keep?---Yes.
29
11:58:00 30 The following attachment, VPL.6073.0034.2480, is the same
11:58:11 31 attachment?---Correct.
32
11:58:14 33 Did you have any reservations at that stage about accepting
11:58:19 34 that information from Ms Gobbo given it appears to have
11:58:24 35 been given to her for the purpose of checking potentially
11:58:31 36 as a legal advisor?---No, I don't recall.
37
11:58:42 38 Do you recall why it was given to you?---See this is the
11:58:47 39 document which I thought was within the material that
11:58:50 40 Mr Waddell had. Quite clearly it wasn't. It was sent to
11:58:54 41 me. And quite clearly it was sent for the purpose of using
11:59:00 42 it as either notes or something in Bali and she makes
11:59:04 43 reference to that in the draft statement.
44
11:59:07 45 It also gives the investigators a bit of a leg up in terms
11:59:13 46 of what Mr Waters' attitude or defence might be to any
11:59:17 47 allegations made against him?---Yes.

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1
11:59:21 2 Did you have any reservations about accepting it, do you
11:59:24 3 know?---No, I didn't.
4
11:59:26 5 Why not?---Well in hindsight, yes, I should have. But as I
11:59:30 6 sit here now, no, I didn't have any reservations.
7
11:59:38 8 Did you use it?---No, it's referenced - one of the contact
11:59:46 9 reports is referenced in the draft statement and she says,
11:59:50 10 "I now produce the two page document", but it was never
11:59:53 11 used.
12
11:59:54 13 I'm just asking did you use it in terms of Ms Gobbo's own
12:00:00 14 statement making process or do you know if it was used in
12:00:04 15 any investigation following that?---I don't know because
12:00:07 16 once I came back from Bali I went back to the Homicide
12:00:11 17 Squad.
18
12:00:12 19 I tender those documents, Commissioner.
12:00:18 20
12:00:19 21 #EXHIBIT RC1267A - (Confidential) Email to Mr Iddles and
12:00:20 22 attachment 21/5/09.
23
24 #EXHIBIT RC1267B - (Redacted version.)
25
12:00:29 26 There's two separate emails with attachments, I'm not sure
12:00:32 27 if you would like to tender them together or separately.
28
12:00:40 29 COMMISSIONER: That's only one attachment, isn't there?
12:00:42 30
12:00:43 31 MS TITTENSOR: The attachment is the same to both emails
12:00:45 32 but there are two separate emails.
33
12:00:47 34 COMMISSIONER: There's the forwarding of it, is that right?
12:00:49 35 Waters to Gobbo and then Gobbo's forwarding of it ?
12:00:53 36
12:00:54 37 MS TITTENSOR: Yes, there's the train that gets to
12:00:55 38 Mr Iddles and then Mr Iddles separately, there's a separate
12:00:59 39 email which is sent to Mr Waddell.
40
12:01:01 41 COMMISSIONER: Okay.
12:01:02 42
12:01:06 43 #EXHIBIT RC1268A - (Confidential) Email to Mr Waddell and
12:00:20 44 attachment 21/5/09.
12:01:10 45
12:01:11 46 #EXHIBIT RC1268B - (Redacted version.)
12:01:14 47

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12:01:14 1 MS TITTENSOR: I took Mr Waddell through a Petra contact
12:01:17 2 report yesterday, VPL.0100.0237.2865. You'd arrived in
12:01:26 3 Bali on 24 May, that's correct?---On the Sunday night, yes.
4
12:01:32 5 On 25 May you're taken - Ms Gobbo's taken to meet with you
12:01:39 6 and Mr Waddell and there's some preliminary conversation,
12:01:44 7 if we can put it that way?---Yes, that's correct.
8
12:01:47 9 There was no sort of actual statement taking that - - -
12:01:50 10 ?---No, we started on the 25th.
11
12:01:53 12 Yes?---But it may have been after an hour or so. I know we
12:01:56 13 went and had a coffee and a smoke and eventually we sat
12:02:00 14 down and started on that day.
15
12:02:05 16 Then on the 26th it's recorded that you attend, you pick up
12:02:12 17 Ms Gobbo and you drop her off later, and I take it
12:02:15 18 throughout the course of that day the statement is
12:02:17 19 progressed?---Can you just - I can't see it, sorry.
20
12:02:23 21 If we can scroll up. Obviously this is from the point of
12:02:26 22 view of the Petra Task Force, they've - it's their contact
12:02:30 23 report. You see there on the 26th, "Briars members
12:02:35 24 attended our accommodation and F was picked up and dropped
12:02:39 25 off"?---I see that but I'm not sure how we did that because
12:02:53 26 - unless we caught a cab, because I was of the impression
12:02:56 27 that each morning or each time she was brought to our
12:02:59 28 accommodation.
29
12:03:00 30 In any case - - - ?---It doesn't matter, we took a
12:03:04 31 statement, continued on that day.
32
12:03:05 33 And it seems as though there was dinner out with the Briars
12:03:08 34 members that evening?---Correct.
35
12:03:10 36 Throughout the course of that day some disturbing text
12:03:15 37 messages came through to Ms Gobbo?---Yes, that's correct.
38
12:03:22 39 Then on the 27th you meet with Ms Gobbo again and there's a
12:03:27 40 statement taking between the hours of midday and 7 pm?
12:03:32 41 ---Yes.
42
12:03:37 43 On the 28th it records that Ms Gobbo was with the Briars
12:03:41 44 investigators during the day and you were clear in the
12:03:47 45 evening, or you cleared Bali in the evening of the
12:03:51 46 28th?---That's correct.
47

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12:03:56 1 You were in the hearing room yesterday and you heard the
12:03:58 2 evidence of Mr Waddell in terms of the statement taking
12:04:00 3 process with Ms Gobbo?---Yes.
4
12:04:03 5 He had commenced some aspects of the statement prior to
12:04:08 6 arriving in Bali, you would have been aware of that?---Yes.
7
12:04:12 8 The jurat was present at the back of it dated the 21st of
12:04:18 9 May?---Yes.
10
12:04:20 11 He said he'd inserted the dot points or the information
12:04:25 12 that had been contained in the IR to get a start on the
12:04:29 13 statement, is that something that you recall?---Yes, that
12:04:32 14 was the first part. He'd basically cut and paste the
12:04:36 15 information report into the first two pages.
16
12:04:38 17 Right. So that was a strict cut and paste just in terms -
12:04:44 18 or had there been any putting of that into a narrative
12:04:49 19 form, do you know?---I think - no, so that was, whether you
12:05:00 20 call it a template or what, that was the information which
12:05:02 21 she provided and then he sat down and asked questions in
12:05:06 22 relation to Steve Campbell and that and then I suppose
12:05:09 23 changed it into more of a narrative.
24
12:05:11 25 So filled out that information?---Yes.
26
12:05:12 27 As you went along?---Correct.
28
12:05:14 29 Took only with him the SDU statement, didn't take the
12:05:19 30 information report. You say that was presented in an
12:05:24 31 envelope when you saw it?---So the SDU reports were in an
12:05:27 32 envelope.
33
12:05:29 34 Yes. And the statement was taken on Mr Waddell's
12:05:32 35 laptop?---Correct.
36
12:05:32 37 And the typing was done by each of you in turn?---So he did
12:05:37 38 the first part up until we got to the contact sheets and
12:05:42 39 then we would, I would type maybe for an hour or so, talk
12:05:48 40 about each contact sheet, go through with what it was. She
12:05:53 41 was sitting beside. She would read it and then we'd say,
12:05:58 42 "Well are you happy with that?" She might say, "Yeah,
12:06:02 43 that's all right" or "I think there's some more
12:06:05 44 information", and we'd go through each sheet as we went.
45
12:06:08 46 The information, if you were to go through and look at the
12:06:11 47 statement a lot of the wording where you get to the

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12:06:14 1 information dealt with the contact sheets is similar to
12:06:16 2 what is in the contact sheets. Was it broadly based upon
12:06:20 3 that information?---Yes, it was.
4
12:06:22 5 And she would just confirm - - - ?---She would either
12:06:25 6 confirm it, expand it or just change it slightly.
7
12:06:29 8 Yes?---I won't say it was a quick process, it was
12:06:33 9 reasonably slow.
10
12:06:34 11 You've got the contact sheet but, as we've seen, a lot of
12:06:37 12 those are simply dot points so that needed to be put in
12:06:40 13 some form of narrative as well?---Yes, correct.
14
12:06:50 15 Is it the case that everything was dealt with in the order
12:06:55 16 that they appear in the statement?---Yes.
17
12:06:59 18 You dealt with the information report issues first and
12:07:02 19 that's, as we see, first in the statement, then we get to
12:07:05 20 the bottom of p.3 and we're dealing with matters that are
12:07:07 21 in the contact report. So is it the case that all of the
12:07:12 22 information that you recall, in terms of the information
12:07:15 23 report, was dealt with first before you got to the
12:07:18 24 information dealing with the contact sheets?---Correct.
25
12:07:28 26 It was your view, I take it, at the time that especially
12:07:32 27 because of the way that statement was taken, with the aid
12:07:37 28 of the SDU material, that Ms Gobbo's status as a human
12:07:43 29 source was inevitably going to be exposed in any court
12:07:47 30 process should she become a witness?---I think it's day 2,
12:07:51 31 which is Tuesday the 26th, we're into some of those contact
12:07:56 32 sheets and I become concerned. The only way that she can
12:08:02 33 remember anything is, especially the date, is from the
12:08:06 34 source sheets. So Mr Waddell and I had a discussion and I
12:08:14 35 said to her, "Without this source sheet can you remember
12:08:16 36 the date? Absolutely not". And I said, "Well this will
12:08:20 37 expose you as an informer and I think we should stop". So
12:08:26 38 Mr Waddell - said he did - rang Rod Wilson and at that time
12:08:35 39 I sat outside by the pool with her just having a general
12:08:39 40 chitchat. It might have been 20 or 30 minutes later
12:08:43 41 Mr Waddell come out and he said, "Rod's spoken to Simon
12:08:49 42 Overland. Simon Overland has directed that you finish the
12:08:51 43 statement".
44
12:08:55 45 Okay. It's your view from very early on you see those
12:09:00 46 contact sheets, the way the statement's being taken, it's a
12:09:05 47 given as soon as she's a witness she's exposed as a

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12:09:08 1 source?---Absolutely.
2
12:09:09 3 And you know having seen those contact sheets, and I took
12:09:13 4 Mr Waddell through this yesterday, that it's got the number
12:09:17 5 of the contact report, you know from the nature of those
12:09:20 6 sheets themselves that there's a vast amount of other
12:09:23 7 information that she's been giving police?---Correct.
8
12:09:30 9 There's the potential for all of that to come out
12:09:32 10 too?---Yes.
11
12:09:35 12 Did you have an understanding at that point in time that
12:09:38 13 although she was a witness for Petra, that that was going
12:09:41 14 to be avoided?---From a general sense, um, I had a view -
12:09:56 15 and I don't know who I spoke to, but the view was that
12:10:00 16 because she'd been deregistered and she'd now become a
12:10:07 17 witness for Petra, that somehow she would be able to give
12:10:10 18 evidence and nothing else would ever be disclosed.
19
12:10:17 20 That appears to have been your view before you got to
12:10:21 21 Bali?---Yes, because I knew, I think, that she was already
12:10:25 22 a witness and - - -
23
12:10:29 24 You wouldn't have had these concerns about it being, her
12:10:32 25 being - - - ?---As soon as I'm talking to her and I'm
12:10:35 26 saying, "The first question they would ask you in the
12:10:40 27 witness box is how did you remember this date?" "Well
12:10:44 28 Mr Iddles showed me a sheet, produced the sheet". It was
12:10:47 29 all over.
30
12:10:48 31 What I'm getting at though is to have these concerns at
12:10:52 32 that stage you must have appreciated before that stage that
12:10:56 33 she wasn't going to be exposed in the Petra process, or
12:11:00 34 that was what you understood?---My understanding, and I -
12:11:02 35 is that there was a general sense that Petra had made her a
12:11:07 36 witness, she was now deregistered, and for whatever reason
12:11:11 37 there was this perception that whatever had happened prior
12:11:14 38 was never going to be discovered.
39
12:11:16 40 Right. Ultimately you - you're clearly of the view that
12:11:27 41 the statement shouldn't be signed and she shouldn't become
12:11:33 42 a witness?---Correct.
43
12:11:34 44 Do you know if your view about the Petra matters and the
12:11:37 45 way that was going to be handled, was that through
12:11:39 46 discussion that you'd had previously with the SDU or was
12:11:42 47 that with Petra investigators?---Could have been a mixture

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12:11:46 1 of both.
2
12:11:53 3 There's a section of the draft statement of Ms Gobbo, the
12:12:01 4 confession section if I'll call it that, you have no
12:12:05 5 recollection of that occurring; is that right?---No, I
12:12:08 6 can't. Absolutely no recollection of it.
7
12:12:11 8 Do you allow for the possibility that your recollection is
12:12:14 9 flawed?---I say no one's memory's infallible but this just
12:12:23 10 would have changed the whole dynamics of sitting there.
11
12:12:25 12 Yes?---I would have said, "Let's not worry about all the
12:12:28 13 stuff around Docket Waters and Lalor, let's just take a
12:12:32 14 statement in relation to this. This is the first piece of
12:12:38 15 direct evidence that we have that implicates Mark Perry".
12:12:42 16 I can't believe I can't remember it.
17
12:12:45 18 It's a significant thing and if it had occurred you're
12:12:50 19 flummoxed as to how you can't recollect it now; is that
12:12:56 20 right?---Correct.
21
12:12:57 22 And you allow for that possibility, that that occurred and
12:13:00 23 your memory is flawed?---I can say, yes, but it's never
12:13:05 24 happened in 64 years.
25
12:13:08 26 In your own experience as a detective I take it you will
12:13:12 27 have experienced a number of cases where witnesses have
12:13:15 28 given widely differing accounts of the same event?---Oh
12:13:21 29 yes.
30
12:13:21 31 This statement itself was taken over ten years ago, the
12:13:25 32 draft statement?---Yes.
33
12:13:28 34 The value of Ms Gobbo's evidence in respect of what she was
12:13:31 35 saying about Mr Perry's involvement in the murder was
12:13:37 36 worthless prior to her making the statement, we've agreed
12:13:40 37 with that, so whatever she was saying prior to that was
12:13:45 38 worthless?---Yes, that's correct, because it was hearsay on
12:13:48 39 hearsay.
40
12:13:49 41 Once she changed her account in relation to that matter it
12:13:52 42 potentially became inadmissible, that's right?---Yes.
43
12:13:56 44 Did I say - it potentially became admissible?---Yes.
45
12:14:03 46 But there would have been very grave concerns about the
12:14:06 47 credibility of that account, given her past inconsistent

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12:14:10 1 account?---She doesn't talk about Mark Perry in the first
12:14:18 2 thing so whether you say it's a prior inconsistent
12:14:20 3 statement or an omission, yes, there might have been some
12:14:24 4 issue about it and the question would be what weight should
12:14:28 5 we place on it.
6
12:14:30 7 There would have been concerns about the credibility of her
12:14:32 8 account given what she'd discussed with the SDU in the
12:14:34 9 past, she hadn't disclosed it with the SDU in the past, she
12:14:37 10 hadn't disclosed it to you when she's talking about this
12:14:41 11 indirect - - - ?---No, correct.
12
12:14:44 13 - - - version or - - - ?---If we accept that it was there,
12:14:47 14 yes, there would be.
15
12:14:48 16 Accepting that it was there, immediately there would be
12:14:51 17 concerns about the credibility of her account, given what
12:14:55 18 she'd told people in the past?---Yes, but eventually it's a
12:14:58 19 matter of what weight someone would put on it and a judge
12:15:01 20 might give some direction to a jury.
21
12:15:03 22 That's right. The consequence of concerns about the
12:15:05 23 credibility in terms of that account would have an effect
12:15:10 24 on her credibility in relation to any other evidence she
12:15:12 25 was, proposed to give?---Yes.
26
12:15:18 27 For those reasons it might be - a prosecutor might be of
12:15:24 28 the view that, "We don't want to rely on that
12:15:27 29 evidence"?---Correct.
30
12:15:31 31 In your evidence yesterday you said you made a number of
12:15:33 32 inquiries last year after you heard about this piece of
12:15:36 33 evidence; is that right?---Yes.
34
12:15:37 35 One of the things you indicated yesterday was that you
12:15:40 36 returned to, upon the return to Melbourne there was a
12:15:44 37 meeting with Rod Wilson and you, and your evidence
12:15:49 38 yesterday was that you said, "Rod Wilson's diary shows that
12:15:52 39 after the conversation, after that conversation he
12:15:55 40 contacted Assistant Commissioner Cornelius and Chief
12:15:59 41 Commissioner Simon Overland and said that the draft
12:16:01 42 statement's of no value". You said that
12:16:05 43 yesterday?---Correct.
44
12:16:06 45 If I can just put up Mr Wilson's diary, it's RCMPI.0 - - -
12:16:10 46 ?---It might be his statement, but it's one of the two.
47

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12:16:14 1 0118.0001.0001, p.25. We might have the wrong date. In
12:16:36 2 any case, he has entries on 29 May at 9.20 that he spoke to
12:16:44 3 Mr Waddell and yourself "re statement from 3838"?---Yes.
4
12:16:48 5 So you yourself and Mr Waddell spoke with him. It doesn't
12:16:57 6 say anything in his diary about the statement being of no
12:16:59 7 value?---Well then you might have to - - -
8
12:17:03 9 Sorry, in his diary of being of no value, and it does
12:17:07 10 indicate that he then goes on to speak to Mr Cornelius or
12:17:10 11 the Chief Commissioner about those issues?---If it's not in
12:17:13 12 his diary, it's his statement, because I read the material.
13
12:17:17 14 You said yesterday also that you contacted the SDU and were
12:17:22 15 told they had no record of any confession?---Correct.
16
12:17:29 17 Were they accessing material in order to answer your
12:17:35 18 questions earlier last year?---I don't know but I spoke to
12:17:47 19 - I spoke to Sandy White and he said, "I've never heard of
12:17:53 20 a confession. I have no recollection of 3838 speaking
12:18:00 21 about that". But even in discussions with Mr Waddell, and
12:18:05 22 all the push back over documents, Mr Waddell never once
12:18:08 23 said to either him or Tony Biggin, "By the way, what I'm
12:18:15 24 looking for is a confession."
25
12:18:17 26 The fact that the SDU confirmed that they had no record of
12:18:20 27 a confession doesn't prevent Ms Gobbo from having given
12:18:25 28 that evidence in Bali?---No, it doesn't.
29
12:18:29 30 The SDU were no longer dealing with her?---No, but why not,
12:18:33 31 when Mr Waddell is trying to make some assessment and he's
12:18:40 32 talking to Sandy White and Tony Biggin, why doesn't he say,
12:18:43 33 "By the way, this is all about testing the veracity, but
12:18:48 34 you know what, there's a confession about Mark Perry". He
12:18:52 35 doesn't say that. Secondly, you know, there's - - -
36
12:18:55 37 I just want to - the fact that the SDU don't have a record
12:18:59 38 of any confession, they had been dealing with her up until
12:19:03 39 January of 2009, and you had the material - well, they'd
12:19:10 40 been dealing with her up until January 2009. It doesn't
12:19:13 41 prevent Ms Gobbo from having changed her evidence or her
12:19:18 42 account from that point in time?---No, but Ms Gobbo is
12:19:21 43 someone who wanted the glory, who wanted to tell the SDU
12:19:26 44 absolutely everything, and especially in relation to this.
12:19:32 45 If there had have been a confession to her I'm sure she
12:19:35 46 would have been on the phone straight away.
47

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12:19:37 1 And she might have wanted some glory when she was presented
12:19:42 2 with Ron Iddles in Bali?---She might have too. That's
12:19:45 3 inappropriate though.
4

12:19:50 5 Again, you indicated yesterday that Mr Valos said the last
12:19:54 6 time he'd dealt with Mr Perry was in the old County Court
12:19:57 7 which had operated - or dealt with Mark Perry was in the
12:20:01 8 old County Court which had operated until 2001?---Yes.
9

12:20:05 10 Again, that doesn't prevent Ms Gobbo from having purported
12:20:09 11 to have heard a confession and reporting it in Bali?---No,
12:20:12 12 it doesn't. But why wouldn't Mr Waddell on his return at
12:20:15 13 least go and see Mr Valos and say - Mr Valos mightn't say,
12:20:21 14 "Listen, I'm going to tell you the confession", but he
12:20:26 15 might say, "Yes, I can confirm Mark Perry was in here after
12:20:30 16 2003". That's the first port of call to go if you're going
12:20:34 17 to go and corroborate something.
18

12:20:35 19 You also indicated that you'd spoken to people at the
12:20:38 20 Office of Public Prosecutions, including the prosecutor in
12:20:41 21 the matter of Perry, Mr Tinney?---Yes.
22

12:20:45 23 And you said the fact that he said to you, he said, "Look,
12:20:50 24 I don't have a memory of it. Surely if there was a
12:20:53 25 confession I would have remembered that because I would
12:20:55 26 have wanted to explore and actually use it"?---Correct.
27

12:20:58 28 And that's exactly what you're saying yourself?---Yes.
29

12:21:11 30 If I can move forward to 2010. There's an email of 18 May
12:21:15 31 2010, VPL.6083.0022.6216. Do you know who Abbey Hogan
12:21:28 32 is?---Yes, I've spoken to her.
33

12:21:30 34 She's one of the people from the DPP you spoke to?---Yes.
35

12:21:33 36 She also confirmed she had no memory?---She said, "I've got
12:21:37 37 no memory. My knowledge of a meeting that we had was
12:21:41 38 around the use of the statement against Waters and Lalor".
39

12:21:48 40 This email from Mr Waddell to Abbey Hogan of 18 May 2010,
12:21:54 41 "Hi Abbey, statement as discussed. There are highlighted
12:21:57 42 bits which I intended re-canvassing with the witness when I
12:22:01 43 next spoke to her just after an assessment as to the value
12:22:04 44 of the statement in respect of Waters in particular. If
12:22:10 45 Andrew takes the view that it is marginal, then it is
12:22:13 46 probably not worthwhile pursuing given the relationship
12:22:15 47 between VicPol and this witness. Let me know what you

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12:22:18 1 think". If I can take you to the attachment, the next
12:22:23 2 document, VPL.6037.0022.6217. It's the same VPL with one
12:22:41 3 number added on. This seems to explain the highlighting
12:22:45 4 that I was asking Mr Waddell about yesterday, but if we go
12:22:50 5 to the second page. You'll see down the bottom, and over
12:22:56 6 on to p.3, it contains the confession material?---Yes.
7
12:23:00 8 That was in an email, it was in the statement that was sent
12:23:03 9 through to Abbey Hogan and was considered by Mr Tinney, and
12:23:06 10 I'll tender that email and that attachment, Commissioner.
12:23:11 11
12:23:13 12 #EXHIBIT RC1269A - (Confidential) Email and attachment.
12:23:15 13
12:23:16 14 #EXHIBIT RC1269B - (Redacted version.)
15
12:23:22 16 If I can take you to the Briars Task Force update of 12
12:23:28 17 July 2010. It's VPL.0100.0058.0798 at p.20. If we go over
12:23:49 18 the page to p.21, under the heading of "Witness F" it says,
12:24:00 19 "The OPP's view is that whilst statement is of limited
12:24:04 20 value, if the witness is willing to sign and give the
12:24:06 21 evidence then we should take that opportunity. Andrew
22 Tinney to speak to Michelle Williams re the probability of
12:24:08 23 this person actually giving the evidence"?---Yes.
24
12:24:11 25 Then if I can take you to a further email a little while
12:24:17 26 on, 26 July 2010. It's an email from Ms Hogan to
12:24:23 27 Mr Waddell, VPL.0005.0010.2179. It indicates, "Andrew
12:24:36 28 Tinney SC has again reviewed the N Gobbo statement and the
12:24:40 29 issue of its usefulness in any prosecution of Waters.
12:24:46 30 Having re-read the statement he has formed the view that it
12:24:48 31 would not be of any great assistance in any prosecution of
12:24:51 32 Waters and that any material in the statement that would
33 assist would not be sufficient to change our minds as to
12:24:54 34 the appropriateness of charging Waters. As it stands there
12:24:55 35 is no evidence of any clear admissions made by Waters of
12:24:58 36 any involvement in the killing and the material in the
12:25:01 37 statement does little more than engender
12:25:04 38 suspicions"?---Yes.
12:25:04 39
12:25:04 40 "In addition to the limited usefulness of the statement
12:25:06 41 there is also the fact that Gobbo would be a problematic
12:25:10 42 witness and in the circumstances it does not seem to be
12:25:13 43 worthwhile pursuing this evidence in light of the troubled
12:25:17 44 relationship between the witness and Victoria
12:25:20 45 Police"?---Correct.
46
12:25:20 47 And he apologises for not getting back to you earlier about

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12:25:24 1 this, he's on leave for a couple of weeks and he'll be back
12:25:27 2 by 9 August if you wanted to discuss it further?---Yes.
3
12:25:30 4 If I can take you back to 2009, 1 June 2009, there's a
12:25:40 5 Briars Task Force update. VPL.0005.0012.0894.
6
12:25:57 7 COMMISSIONER: Are you wanting to tender - - -
12:26:01 8
12:26:01 9 MS TITTENSOR: Yes, sorry. I'll tender that email,
12:26:03 10 Commissioner.
12:26:04 11
12:26:05 12 #EXHIBIT RC1270A - (Confidential) Email 26/07/10, Abbey
12:26:17 13 Hogan to Waddell.
12:26:17 14
12:26:17 15 #EXHIBIT RC1270B - (Redacted version.)
12:26:19 16
12:26:20 17 It's apparent, although Mr Waddell's name is in the
12:26:23 18 attendees here, it seems as though from his diary that we
12:26:27 19 examined yesterday that he may not have been at this
12:26:30 20 meeting, so it may be that there's been a report given to
12:26:34 21 someone and someone else is giving this report at this
12:26:36 22 meeting. It's reported, you'll see at the meeting under
12:26:41 23 the heading "Witness F", "15 page statement, thinks will
12:26:46 24 sign. Implicates Perry and Dave Waters sufficient to
12:26:55 25 prosecute them". So there's an understanding that there's
12:26:59 26 an implication of Perry. There's a belief that it is
12:27:06 27 sufficient to prosecute Waters as well, but then there are
12:27:11 28 issues identified, and one of the issues is that the latest
12:27:15 29 version differs from the original version, do you see
12:27:18 30 that?---Yes. But that doesn't make sense because
12:27:22 31 Mr Cornelius is told by Smith that there's not a smoking
12:27:28 32 gun. And I think if you go to the statement of Wilson,
12:27:30 33 he's briefed Cornelius and Overland on the 29th of May to
12:27:36 34 say the statement's of no value. Mr Cornelius, in his own
12:27:41 35 statement, paragraph 36C, says that the restarting of the
12:27:46 36 Briars Task Force is due to the fact that Ms Gobbo will
12:27:48 37 make a statement. That's totally wrong. So I accept what
12:27:51 38 he's written but I think there's flaws in it.
39
12:27:55 40 The restarting of the Briars Task Force is really restarted
12:27:58 41 in relation to that other witness coming forward?---Yes,
12:28:01 42 but if you look at Mr Cornelius' statement at 36C he says
12:28:06 43 it's starting because Ms Gobbo will make a statement
12:28:08 44 against Mr Perry. That's not true.
45
12:28:11 46 Well that's just - - - ?---What I'm saying is Mr Cornelius
12:28:17 47 is briefed by Rod Wilson on the 29th of May which says the

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12:28:21 1 statement has no value. Here is he two days later being
12:28:25 2 told there's sufficient to charge Perry and Waters.
3
12:28:28 4 I'll just read out paragraph 60, just for the record, of
12:28:31 5 Mr Wilson's statement: "As my diary records, after my
12:28:36 6 discussion with Waddell and Iddles I briefed Mr Cornelius
12:28:39 7 about safety issues to do with Ms Gobbo, which I recall
12:28:41 8 related to concerns about Ms Gobbo being overseas. I
12:28:44 9 believe I also told Mr Cornelius about Ms Gobbo's
12:28:47 10 information being of no value to the Briars investigation.
12:28:51 11 I then briefed Chief Commissioner Overland regarding the
12:28:56 12 same". That's what you're referring to?---That's correct.
12:29:00 13 So how does that Mr Cornelius come to the view that on this
12:29:02 14 day there's sufficient to charge, when he's been briefed
12:29:05 15 two days previously to say it's of no value to the Briars
12:29:09 16 investigation ?
12:29:09 17
12:29:09 18 I might read the paragraph before that in relation to
12:29:12 19 Mr Wilson's statement, paragraph 59. "My recollection",
12:29:17 20 he's talking about your discussion on the 29th of May when
12:29:24 21 you return, "my recollection of this discussion is that
12:29:27 22 Mr Iddles said that in speaking with Ms Gobbo his view was
12:29:31 23 that she was not to be believed and there would not be any
12:29:35 24 further value in pursuing Ms Gobbo's assistance with the
12:29:38 25 investigation. I was not shown any documents or notes of
12:29:41 26 any discussion they had with Ms Gobbo", and then he goes on
12:29:45 27 about - - - ?---Well that's not correct, because everything
12:29:47 28 that - 95 per cent of what was in the statement was what
12:29:49 29 she'd told her handlers, which was basically later on
12:29:53 30 verified. So I didn't have a view about whether she was
12:29:57 31 honest or dishonest.
32
12:29:58 33 There was certainly a view that it shouldn't be progressed
12:30:01 34 from you?---Correct, but - - -
35
12:30:05 36 And that - - - ?---But if you've got Mr Waddell saying, "I
12:30:09 37 briefed Mr Wilson every night, I told him about the
12:30:12 38 confession", then how does Mr Wilson come to the view,
12:30:16 39 right, right at that particular point, that's of no value?
12:30:20 40 It can't be used.
41
12:30:24 42 Obviously - - - ?---There's an assessment has - - -
43
12:30:26 44 Some people's views might differ. What this meeting is
12:30:29 45 being told, though, putting aside any assessment of whether
12:30:33 46 there's enough to prosecute them, there's an indication
12:30:36 47 that there's an awareness at this meeting that that

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12:30:39 1 statement implicated Mr Perry, you'll accept that?---But
12:30:43 2 where does Mr - - -
3
12:30:46 4 Do you accept that?---No, I don't. What I'm saying - well,
12:30:49 5 from the note of Mr Cornelius.
6
12:30:52 7 Yes?---But I can't understand how Mr Cornelius comes to
12:30:55 8 that view.
9
12:30:56 10 Well - - - ?---And my understanding is Mr Cornelius'
12:31:00 11 evidence in this court on the 23rd of January this year at
12:31:03 12 3.28 he said, "I have never heard of a direct confession".
13
12:31:07 14 You accept that what's being conveyed and what Mr Cornelius
12:31:12 15 has written indicates that he has an understanding that
12:31:14 16 whatever is in the statement, this 15 page statement,
12:31:18 17 implicates Mr Perry, you accept that?---Yes, I accept what
12:31:22 18 he's written but I can't - - -
19
12:31:24 20 Do you accept also that he's told that there is an issue
12:31:26 21 because the latest version differs to the original
12:31:29 22 version?---Okay, so then let's go to - - -
23
12:31:32 24 Do you accept that?---Can I answer the question?
25
12:31:35 26 I'm asking you to answer the question. Do you accept
12:31:37 27 it?---You can't just put that in isolation because on 10
12:31:41 28 June he goes to a meeting with Dannye Moloney and they talk
12:31:46 29 about the value of the statement, and then they talk about
12:31:48 30 whether there's sufficient just to charge Lalor and Waters.
31
12:31:51 32 I'm asking you about this meeting on the 1st. Do you
12:31:54 33 accept that he's been given the understanding at this
12:31:59 34 meeting the statement implicates Mr Perry and there's been
12:32:02 35 a version change by Ms Gobbo?---I don't know what he's been
12:32:02 36 given but he's written notes which indicate that.
37
12:32:05 38 Yes. Now, given a number of matters, which I'll put to you
12:32:12 39 now, that there's this report to the Briars steering
12:32:15 40 committee, within a short time of you coming back there is
12:32:21 41 a statement in existence that seems to implicate Mr Perry
12:32:26 42 and there's been a change in version, given that it appears
12:32:35 43 that Mr Tinney did have a statement containing that
12:32:38 44 confession, given that Mr Tinney himself said he didn't
12:32:43 45 recall such evidence of a confession, in circumstances
12:32:46 46 where he's prosecuting someone for murder and he now says,
12:32:49 47 "I would have thought I certainly would have remembered

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12:32:53 1 that", do you consider it's possible that the confession
12:32:57 2 was in that statement when you came back from Bali, given
12:33:01 3 those matters?---I have absolutely no recollection of it.
12:33:07 4 But my memory is not infallible. The inquiries that I have
12:33:13 5 made substantiate my memory. Mr Cornelius, as I said, on
12:33:20 6 10 June is at a meeting where Danye Moloney, who was the
12:33:23 7 Assistant Commissioner, recalls nothing about a confession.
12:33:26 8 Yes, at some stage the confession is in the statement.
12:33:29 9 Whether it happened in Bali or somewhere else I don't know,
12:33:31 10 but I have no independent recollection of it, and I'm sure
12:33:35 11 I would have.
12
12:33:37 13 There was every other reason for you to consider that this
12:33:40 14 statement ought not be signed and ought not be used?---The
12:33:45 15 reason that it wasn't going to be signed was because I told
12:33:48 16 her, "This'll sign your death warrant."
17
12:33:53 18 You've given some evidence in relation to some coffee by
12:33:57 19 the pool conversations that you've had with Ms Gobbo; is
12:34:01 20 that right?---Can you just repeat that?
21
12:34:03 22 You've given some evidence in relation to having some
12:34:05 23 conversations with Ms Gobbo by the pool?---Yes.
24
12:34:10 25 COMMISSIONER: Perhaps just before you go on with that
12:34:12 26 question. So do you have a view as to why this statement
12:34:20 27 may have been, on your view has been added to by police at
12:34:24 28 some point?---There is only one purpose if it was and that
12:34:34 29 would be to use it in an affidavit. Can I sit here
12:34:37 30 categorically 100 per cent say that it wasn't? No, I
12:34:44 31 can't. There is - I have absolutely no recollection of it
12:34:46 32 and I can't work out why I have no recollection. The
12:34:51 33 inquiries that I made, surely somebody - Mr Waddell would
12:34:56 34 have been saying, "Hey, we've got this confession" but the
12:34:59 35 people even within the Briars Task Force office don't know.
12:35:03 36 Some people who came here, Peter Trichias, I know he was
12:35:07 37 back at the Homicide Squad. The first time he became aware
12:35:09 38 was when the draft statement. It's possible it was there
12:35:13 39 but I've got no recollection.
40
12:35:16 41 I understand that. I just wondered whether you had any
12:35:19 42 view as to why, on your version, it may have been put in
12:35:24 43 afterwards?---Okay, let's say it wasn't there, right.
44
12:35:26 45 Yes?---Then it has to be there for a purpose, right. So
12:35:31 46 the draft statement was used in affidavits. If someone got
12:35:36 47 the affidavits I'd like to see if there's anything around

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12:35:38 1 the confession that was used in an affidavit. That's all.
12:35:42 2 It has to be there - like, if it wasn't there, it has to be
12:35:46 3 there for a purpose. Maybe I'm like Mr Waddell. He cannot
12:35:50 4 meeting Mr Black and Mr Green and he says probably didn't
12:35:54 5 happen, but it could have. Could have happened but I have
12:35:57 6 absolutely no recollection and I'm sure I would have. I
12:36:02 7 can't - I'd rather say it was there and not go through the
12:36:06 8 grief.
9
12:36:06 10 I understand that, I understand that. But I'm just trying
12:36:09 11 to get one step beyond that, which is why would it have
12:36:13 12 been put in?---If it's put in, it has to be there for a
12:36:17 13 purpose, you don't just put it in there.
14
12:36:19 15 And the only thing you can think of is to use it to attach
12:36:24 16 to some affidavit to obtain some kind of warrant or
12:36:27 17 something?---Something. But then you would want to go to
12:36:31 18 the affidavits and look at the affidavits and see what part
12:36:33 19 of Ms Gobbo's statement was used.
20
12:36:35 21 Yes, thanks Mr Iddles. Yes, Ms Tittensor.
12:36:39 22
12:36:40 23 MS TITTENSOR: Assuming that information was in the draft
12:36:41 24 statement, you had every reason not to believe it; is that
12:36:45 25 right?---I had every reason not to believe it?
26
12:36:50 27 Yes. Given the change in accounts, the issues we've
12:36:53 28 discussed, there's every reason to come back and say,
12:36:56 29 "There's no way we can rely on this information
12:36:59 30 anyway"?---No, it wouldn't be the first time that a witness
12:37:02 31 changes their view about what was said. So you don't
12:37:06 32 totally wipe it off. You make an assessment of it. You
12:37:09 33 might go to the prosecutor. You would definitely go and
12:37:12 34 see Jim Valos and see if you could establish when it
12:37:16 35 happened.
36
12:37:17 37 We've heard some evidence yesterday about some steps that
12:37:20 38 were taken in relation to Mr Valos. I was just taking you
12:37:26 39 to some conversation that you had with Ms Gobbo by the pool
12:37:31 40 or some conversations that I think you say occurred in the
12:37:35 41 absence of Mr Waddell; is that right?---Correct.
42
12:37:39 43 She was telling you about information or referring to
12:37:43 44 information she'd been providing to Purana as a human
12:37:46 45 source or to the SDU and to be used by Purana?---We were
12:37:51 46 having a general conversation. She knew that I was friends
12:37:53 47 with Sandy White and then she, I guess, started to vent a

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12:37:59 1 bit. Like she was saying, "Well, Victoria Police have
12:38:04 2 taken all the glory for solving Purana. I've done most of
12:38:08 3 it. I've given them all the information. I've taken \$63
12:38:14 4 million worth of assets off Tony Mokbel. I gave that to
12:38:18 5 the police. Sandy White was constantly telling me that I
12:38:21 6 shouldn't breach privilege but at times I acted in the best
12:38:26 7 interests of Victoria Police, not my clients."
8
12:38:29 9 Yes. I think in relation to that last part, she indicated
12:38:34 10 to you when Sandy White constantly told her not to breach
12:38:42 11 privilege, her response to Mr White was, "It's a bit late,
12:38:46 12 I crossed that line a long time ago"?---Yes.
12:38:49 13
12:38:49 14 "I act in the best interests of Victoria Police, not my
12:38:52 15 client"?---Correct.
16
12:38:53 17 Did you understand who the clients were?---No, but I knew
12:38:57 18 from that point on there was a Royal Commission coming.
19
12:39:01 20 And you knew she was referring to Mokbel, or the Mokbel
12:39:07 21 family at least in terms of the assets?---Yes.
22
12:39:12 23 You knew this was a very significant event?---Yes, it was.
24
12:39:21 25 Did you speak to Mr Waddell about those issues at the time
12:39:24 26 or did you keep them to yourselves?---No, I didn't keep
12:39:27 27 them to myself. I spoke to him about them. They're the
12:39:30 28 same matters which I referred to Andrew Kirkham prior to
12:39:35 29 the Kellam investigation.
30
12:39:37 31 Did you speak to Mr Wilson about it when you got back to
12:39:42 32 Melbourne?---Yes, I believe I did because as a result of
12:39:46 33 that and not getting the statement signed a meeting was
12:39:50 34 arranged on the 3rd of June at St Kilda Road.
12:39:55 35 Superintendent Mark Porter was there, Steve Waddell was
12:39:58 36 there, Sandy White was there and there were discussions and
12:40:06 37 both Sandy White and I had the same view that - and the
12:40:09 38 view was expressed that - my view was the statement was of
12:40:13 39 no evidentiary value. "I don't know why they want to get
12:40:16 40 it signed but this cause a Royal Commission."
41
12:40:19 42 Yes. I'll talk you through that. Before those meetings
12:40:24 43 who did you raise it with within Victoria Police?---Well,
12:40:28 44 Waddell and I had a conversation while we were overseas.
45
12:40:31 46 Did you call back to Mr Wilson and raise it while you were
12:40:35 47 in Bali or with anyone else?---No.

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1
12:40:39 2 Did you speak to Sandy White about it?---No, not until the
12:40:44 3 3rd of June.
4
12:40:46 5 Did you speak to Officer Black about it?---No.
6
12:40:54 7 Okay. I'll take you to - - - ?---I could have spoken to
12:41:02 8 him - - -
9
12:41:02 10 I'll take you to a diary entry where you speak to him once
12:41:05 11 you get back. When you get back on 29 May you go straight
12:41:08 12 from the airport into the office and you speak to
12:41:11 13 Mr Wilson?---Yes.
14
12:41:13 15 I've taken to you that diary entry. Is it at that point
12:41:16 16 that you talk to Mr Wilson about these concerns about what
12:41:18 17 Ms Gobbo's been doing for Purana, or with Purana?---No.
12:41:28 18 Yes, we had a discussion around what she said.
19
12:41:31 20 In her statement or as to her work with SDU and
12:41:37 21 Purana?---As - sort of "I wanted the glory for the
12:41:43 22 underworld. I provided that information. I haven't had
12:41:48 23 recognition". And then it's as a result of that that we
12:41:50 24 have a meeting on 3 June.
25
12:41:52 26 You were raising concerns with Mr Wilson on the 29th in
12:41:55 27 relation to what Ms Gobbo was saying that she'd been acting
12:42:01 28 as a lawyer and potentially breaching privilege?---I don't
12:42:07 29 think it went that far.
30
12:42:09 31 Did you tell him what she was saying in terms of her
12:42:11 32 assistance to Purana, the seizure of assets, the solving of
12:42:14 33 cases, acting in the best interests of police, "not in the
12:42:18 34 interests of my clients", were those types of issues raised
12:42:22 35 on that occasion?---May have been raised briefly but more
12:42:26 36 so on the meeting that I went to on 3 June.
37
12:42:29 38 Why wouldn't you be raising it straight away with Mr Wilson
12:42:33 39 at that point?---I said I raised certain things and I think
12:42:37 40 he's the one that organised the meeting on 3 June because
12:42:39 41 he knew I wasn't happy.
42
12:42:41 43 You were aware, I think by this stage, Mr Wilson is
12:42:45 44 Mr Overland's chief of staff?---No, I don't recall that. I
12:42:58 45 can't even remember where we met him that morning.
46
12:43:01 47 I'll just - I'll take you quickly to Mr Black's diary for 1

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12:43:06 1 June 2009, VPL.2000.0001.4676 at p.10. He records this on
12:43:14 2 1 June, a meeting with yourself at 17:30, you see there?
12:43:21 3 The types of issues that he says he's having a discussion
12:43:24 4 with you about. The SDU is aware Command have decided to
12:43:32 5 approach Ms Gobbo for a statement. Command is of the view
12:43:36 6 that now she's a witness for Petra she can be a witness for
12:43:40 7 Briars and the SDU consider the circumstances to be very
12:43:43 8 different. There's discussion in the second portion of
12:43:50 9 that entry in terms of the concern about disclosure of her
12:43:53 10 role as a source and that's something that you'd certainly
12:43:57 11 picked up on whilst you were in Bali?---Yes.
12
12:44:04 13 The dual responsibility of giving legal advice to clients,
12:44:07 14 it seems to be some sort of conflict being acknowledged
12:44:10 15 there in that entry?---Yes.
16
12:44:11 17 And that's consistent with what you say you were told by
12:44:13 18 Ms Gobbo in Bali?---Yes.
19
12:44:24 20 That disclosure will initiate a Royal Commission with
12:44:27 21 perceived unsafe verdicts. Do you know if that's something
12:44:31 22 that you were talking about or something that - - - ?---I
12:44:35 23 think Mr Black is talking about that.
24
12:44:39 25 It's consistent with, well at least the Royal Commission
12:44:41 26 part?---Yes.
27
12:44:42 28 Is consistent with what you thought might come of events
12:44:47 29 that were described to you in Bali?---Yes.
30
12:44:50 31 There's also concern about current arrests being subject to
12:44:54 32 review?---Yes.
33
12:44:56 34 Did you understand that there were matters such as Mokbel
12:45:00 35 and others on foot that that related to?---No.
36
12:45:12 37 Ultimately what Mr Black is saying is that, "Before we
12:45:17 38 proceed we need a risk assessment"?---Yes.
12:45:19 39
12:45:19 40 "About what will come of any disclosure of Ms Gobbo's
12:45:23 41 assistance"?---Yes.
42
12:45:24 43 And he's saying, "Look, we need a number of weeks at least
12:45:27 44 so Mr Biggin can come back from leave to deal with
12:45:31 45 it"?---Yes.
46
12:45:35 47 Do you recall that meeting?---No, I don't.

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1
12:45:39 2 You accept it took place, I take it?---Yes.
3
12:45:43 4 Were you of the understanding when you came back from Bali
12:45:46 5 that Mr Waddell was seeking some further materials from the
12:45:49 6 SDU to chase down some loose ends arising out of Ms Gobbo's
12:45:57 7 statement?---Yes.
8
12:45:58 9 We've seen, I think if you go through the statement,
12:46:01 10 there's some italicised part where Ms Gobbo's indicating
12:46:06 11 there'll be a bit further that the SDU have about this
12:46:09 12 piece of information, do you recall that?---Yes.
13
12:46:11 14 You understood that Mr Waddell would come back and try and
12:46:14 15 chase those things up?---Yes.
16
12:46:15 17 If not to go in the statement, it would be good for
12:46:18 18 intelligence purposes anyway for the investigators?---Yes.
19
12:46:23 20 Over the course of events in the next few days Mr Black, as
12:46:28 21 you would appreciate, is very concerned about this turn of
12:46:32 22 events that looks like they're taking a statement, "It
12:46:35 23 might really expose her, it might expose us to a Royal
12:46:42 24 Commission, and we need people to understand the risks that
12:46:45 25 they're taking"?---Yes.
26
12:46:48 27 At the same time we've got Mr Waddell seeking further
12:46:51 28 material out of the SDU?---Yes.
29
12:46:54 30 So as you would understand, and you were present in the
12:46:57 31 hearing room yesterday, I won't take you right through it,
12:46:59 32 but you saw the entries of Mr Black where he's raising it
12:47:04 33 up the chain to his Detective Inspector and then to
12:47:07 34 Superintendent Mr Porter?---Yes.
35
12:47:13 36 He then is requesting a meeting. We go to his diary of the
12:47:18 37 3rd of June 2009, RCMPPI.0090.0001.0001 at 698. You'll see
12:47:48 38 at 9.05 there's an entry which reflects the further
12:47:51 39 information that Mr Waddell was seeking, that there be a
12:47:55 40 search of SDU holdings of the Gobbo file in relation to
12:47:59 41 other names and places?---Yes.
42
12:48:01 43 Do you see that? Then at 9.20 he's taking matters up with
12:48:06 44 his Inspector again, saying, "We need a meeting with
12:48:11 45 Command and also with Mr Waddell", and he goes through the
12:48:15 46 issues again and then there was that list of eight matters
12:48:19 47 which I took Mr Waddell through yesterday that is

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12:48:22 1 explaining to the Detective Inspector in no uncertain terms
12:48:28 2 why this is such a serious matter, do you accept
12:48:31 3 that?---Yes.
4

12:48:34 5 If we go over the page and continue up we see that that
12:48:40 6 meeting takes place, and this is the one you were talking
12:48:44 7 about, and I think you refer to it in your statement as
12:48:47 8 well, that this is your memory of having a meeting, I think
12:48:50 9 you refer to at paragraph 23 of your statement; is that
12:48:53 10 right?---Yes.
11

12:48:56 12 Present at this meeting is Superintendent Porter, yourself,
12:49:00 13 Mr Waddell, Detective Inspector Glow and Mr Smith. Did you
12:49:06 14 understand at that stage who Mr Smith was? Do you see the
12:49:12 15 name at the end of that list, Mr Smith is a
12:49:17 16 pseudonym?---No, I need to see it first.
17

12:49:20 18 If you look at the entry at 15:00, there are the names
12:49:24 19 Porter, Iddles, Waddell, Glow and there's another name
12:49:28 20 there?---Yes, yes. Yeah, I understand who he is.
21

12:49:35 22 Were you friends with him also or - - - ?---No, I know him.
23

12:49:40 24 Just a colleague, yes. He at that stage was on secondment
12:49:43 25 to the HSMU in an PII [REDACTED] ?---Right.
26

12:49:48 27 In any case, if we go through. Does this meeting generally
12:49:54 28 reflect what you recall occurred? There's an outline by
12:50:00 29 Mr Glow about the Briars request for all of that
12:50:03 30 information. There's a discussion about Witness F at
12:50:09 31 Purana. There's a warning about her health, her honesty
12:50:13 32 and prior inconsistent statements. Down the bottom of that
12:50:18 33 page there's reference to PII [REDACTED] and his arrest.
12:50:27 34 There's a reference to her having been deployed against
12:50:31 35 Mr Dale as a witness and, if we go over the page, to be
12:50:35 36 contrasted with her having been deployed against Mr Waters
12:50:39 37 as a source. There's a reference to her being used for
12:50:46 38 intelligence and as a tool to arrest the Mokbel
12:50:50 39 family?---Yes.
40

12:50:51 41 And the arrest of PII [REDACTED] again?---Yes.
42

12:50:55 43 And then, finally, it indicates that these matters are to
12:51:00 44 be revisited or elevated to Assistant Commissioner Moloney
12:51:05 45 to make sure the decision is made to take a statement with
12:51:08 46 all the facts?---Correct.
47

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14165

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12:51:12 1 You say, I think in your statement, at this meeting you
12:51:15 2 again expressed your view that there was a probability of a
12:51:18 3 Royal Commission?---Yes.
4
12:51:20 5 That's your memory of it?---Yes.
6
12:51:26 7 This meeting essentially confirmed for you matters which
12:51:30 8 had been raised by Ms Gobbo in Bali and perhaps expanded
12:51:34 9 upon them?---Yes.
10
12:51:37 11 You would have known that Ms Gobbo had been representing
12:51:41 12 Mr Mokbel and PII [REDACTED]?---Yes.
13
12:51:46 14 She'd been used as a police agent to provide information
12:51:49 15 and ultimately arrest those people and others?---Yes, this
12:51:54 16 is general conversation from this meeting, yes.
17
12:51:59 18 Yes. That she was someone, on her own word, that was
12:52:02 19 acting in the best interests of the police and not her
12:52:04 20 clients?---Correct.
21
12:52:09 22 Clearly you must have had some concerns about what you were
12:52:12 23 being told by Ms Gobbo and the SDU, that these people had
12:52:18 24 not had independent advice, and insofar as they'd already
12:52:23 25 been prosecuted, they hadn't had fair trials?---I don't
12:52:27 26 know whether I had that level of detail but I think the
12:52:33 27 general consensus was there were major issues coming,
12:52:37 28 probably around non-disclosure, you know. I think one of
12:52:41 29 the issues for Victoria Police is there's not enough
12:52:48 30 training around matters of disclosure. I think you look at
12:52:55 31 the Criminal Procedures Act, the hand-up brief, members
12:52:58 32 understand that process, but they don't necessarily
12:53:01 33 understand the common law process whereby the process of
12:53:04 34 disclosure is continuous and it doesn't have to hand over
12:53:08 35 everything, but in matters which might impede a fair trial
12:53:12 36 or prevent you from cross-examining a witness, so I think
12:53:16 37 hopefully out of all this there's more training comes from
12:53:20 38 it.
39
12:53:21 40 That is to be hoped, but taking yourself back to this point
12:53:24 41 in time, isn't the tenor of all of these concerns and all
12:53:28 42 of these meetings about stopping, stymieing this statement,
12:53:33 43 "Stopping this all coming out so that we don't have to
12:53:36 44 examine these cases", wasn't that what it was all
12:53:44 45 about?---No, because - well to some extent it was about not
12:53:50 46 getting the - I knew if that statement was signed it was
12:53:54 47 all over. But I guess I had a view that there were more

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12:54:01 1 senior members who wanted that statement signed and it was
12:54:07 2 going to be all over anyway.
3
12:54:10 4 You say you thought if she signs the statement she's going
12:54:15 5 to be exposed, it's going to end up in a Royal
12:54:17 6 Commission?---Yes.
7
12:54:18 8 This was the SDU, and you understood there position to be,
12:54:24 9 "We're not going to expose it for Petra, we're going to
12:54:27 10 keep it hidden for Petra", and the whole idea of this
12:54:31 11 meeting is to say, "You need to understand what the
12:54:33 12 implications are for this and really you shouldn't do it,
12:54:36 13 we don't want her exposed because we don't want a Royal
12:54:39 14 Commission". That was the tenor of what was going on at
12:54:42 15 this point in time I suggest?---No, I don't think it was
12:54:47 16 that we don't want one. The SDU's view was right from the
12:54:50 17 start you don't transfer a source to a witness. Once you
12:54:53 18 do that it's going to come undone, it's going to unravel.
12:54:58 19 It doesn't mean that you don't disclose certain things.
12:55:01 20 This meeting was around the fact that that statement that
12:55:04 21 we took, the draft statement, if that was ever signed it
12:55:07 22 was all over. There was no stopping an inquiry or a Royal
12:55:12 23 Commission.
24
12:55:13 25 And the SDU's concerns involved not only exposing, sorry,
12:55:19 26 the SDU's concerns involved the fact that they themselves
12:55:23 27 might be shut down, that we're - "What this will do is this
12:55:28 28 is going to put convictions that we've already gotten in
12:55:31 29 jeopardy. It's going to jeopardise prosecutions like
12:55:35 30 Mokbel that we've got going on. Don't do it". That's what
12:55:40 31 they're saying, and that's what had been going on until
12:55:44 32 that point in time, they'd been - - - ?---That's the
12:55:46 33 general tenor of the whole thing.
34
12:55:48 35 Yes. And the fact that you thought this is going to end in
12:55:53 36 a Royal Commission if she's exposed, isn't that the very
12:55:56 37 reason that you should be shining a light on what was going
12:56:00 38 on?---I did. I stopped getting the statement signed.
39
12:56:03 40 And the stopping of getting the statement signed doesn't
12:56:05 41 mean that a light's going to get shined on this, it doesn't
12:56:11 42 mean that these other cases that potential unfairness has
12:56:14 43 occurred in are going to get examined. It's preventing
12:56:17 44 that very thing?---So what else could I have done? Tell me
12:56:20 45 what else should I have done? Other than I report it to
12:56:26 46 senior police.
47

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12:56:28 1 That's what I'm asking. Did you express your concerns
12:56:31 2 that, "We need to raise this, go to the OPI, tell someone
12:56:35 3 what's been going on. Someone needs to look at this
12:56:39 4 now"?--I'm a strong-willed person and I'm known to wear my
12:56:48 5 heart on my sleeve. I expressed in strong terms that if
12:56:52 6 that statement was signed there'd be a Royal Commission,
12:56:55 7 they need to look at it. It's going to be referred to an
12:57:00 8 Assistant Commissioner who's also going to consider it, so
12:57:03 9 from my point of view it's going up the chain. I could
12:57:06 10 have walked out there and gone to OPI, but I didn't. So
12:57:09 11 could have anyone else. Like I think the whole thing with
12:57:12 12 this thing is wilful blindness. Everyone knew but no one
12:57:18 13 was prepared to put their hand up and say it needs to stop.
14
12:57:23 15 Someone needed to go to the Chief Commissioner and say, "Do
12:57:26 16 you know what's been going on?" And someone needed to go
12:57:28 17 to the OPI and say the same thing?--Absolutely.
18
12:57:29 19 And no one did?--No. But there's a review process that
12:57:34 20 happens with human sources. Now at some stage as part of
12:57:36 21 that review process, whether it be every month or every
12:57:40 22 three months, there are senior police in Victoria Police
12:57:42 23 who knew what was going on, should have said, "Enough is
12:57:46 24 enough."
25
12:57:47 26 That's right. But as you knew, as you would have known by
12:57:51 27 this stage, Ms Gobbo had been a human source since 2005 and
12:57:55 28 this had gone on since that period of time. This was now
12:58:00 29 2009?--Yeah, I know that now. I always say there's - I
12:58:10 30 won't - there's - you can delegate responsibility and
12:58:14 31 authority. At some stage someone has to be accountable and
12:58:19 32 the buck must stop with the Chief.
33
12:58:21 34 Did you speak to Sandy White or Mr Black about the fact
12:58:25 35 that this should be investigated, there should be a light
12:58:29 36 shined on this?--No, other than, "We're heading for a
12:58:39 37 Royal Commission".
38
12:58:40 39 Finally, Mr Iddles, I just wanted to ask you, there was
12:58:43 40 some evidence the other day given by Ms Gobbo about a
12:58:48 41 recording that she was given in relation to you. I just
12:58:51 42 wanted to know if you had something to say about
12:58:54 43 that?--Yes. I've never given her a recording. On 10
12:59:00 44 December the 7.30 Report aired and the journalist was
12:59:06 45 Rachel Brown. I've known Rachel Brown for about 12 years.
12:59:11 46 On the 12th of December I had a conversation with Rachel
12:59:14 47 Brown and she said, "Off tape I asked about the

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12:59:20 1 confession", because most of the journalists knew about it,
12:59:26 2 and Nicola said to her, "I never said it". I said, "If
12:59:30 3 you're telling to her, tell her to look after herself, stay
12:59:34 4 strong, but tell the truth". For whatever reason I -
12:59:38 5 there's a podcast that the ABC are going to produce over
12:59:43 6 Lawyer X and I'd done a pre-recording maybe a month ago.
12:59:47 7 So she took a 10 second pre-recording out of that which
12:59:50 8 says - which I didn't know, and she sent her the audio.
9
12:59:54 10 I can read it to you and you can confirm this?---So I knew
12:59:58 11 nothing of an audio being sent to her.
12
13:00:00 13 Is this the content of what you said, "I feel empathy and
13:00:04 14 I'm not sure how she'll ever recover. At times I know
13:00:09 15 she's had a stroke and she's had some mental, well,
13:00:12 16 psychological issues, but even when that was happening VP
13:00:17 17 continued to use her and someone should have said, 'Hang on
13:00:17 18 a minute, that's just not right', so whatever it is, Nic, I
13:00:19 19 wish you all the best in the future"?---That's what I've
13:00:22 20 been told was sent to her.
21
13:00:25 22 Thanks Mr Iddles.
23
13:00:26 24 COMMISSIONER: Yes, thank you. Just before you start,
13:00:29 25 Mr Nathwani, I'm told there's an application to
13:00:32 26 cross-examine the witness by Mr Lalor but there's nobody
13:00:38 27 here in respect of that and there was no material provided
13:00:40 28 in support of it. So I therefore refuse that application
13:00:44 29 for leave to cross-examine.
30
13:00:46 31 There's also an application to cross-examine by
13:00:52 32 Ms Condon in respect of Mr Ashby and Mr Mullett.
33
13:01:00 34 MS TITTENSOR: I understand it's a very confined issue
13:01:04 35 related to Ms Gobbo. We've spoken to Ms Condon this
13:01:06 36 morning. There's no objection on that basis. It shouldn't
13:01:08 37 be more than five minutes, Commissioner.
38
13:01:15 39 MS CONDON: I'll be five to ten minutes, Commissioner, and
13:01:17 40 you can trust that estimate.
41
13:01:19 42 COMMISSIONER: I don't know about you Victorian barristers
13:01:21 43 and your time estimates but anyway.
44
13:01:22 44
13:01:23 45 MS CONDON: That's why I added the rider.
46
13:01:27 47 COMMISSIONER: Okay. Well if it is only ten minutes, and

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13:01:27 1 the clock will be on.
2
3 MS CONDON: It's a discrete topic.
4
13:01:28 5 COMMISSIONER: And the discrete topic is relevant to the
13:01:33 6 Terms of Reference I'm assured.
7
8 MS CONDON: It's about the issue of disclosure,
9 Commissioner.
10
13:01:34 11 COMMISSIONER: Okay. All right, does anyone want to speak
13:01:35 12 against that? In which case I will give you leave to
13:01:39 13 cross-examine in due course. Mr Nathwani.
13:01:42 14
15 <CROSS-EXAMINED BY MR NATHWANI:
16
13:01:43 17 Mr Iddles, counsel for Nicola Gobbo. You were just asked
13:01:44 18 about the content of a message sent without you knowing.
13:01:46 19 Do you stand by the sentiments that you expressed in that
13:01:49 20 message?---Yes, I do.
21
13:01:52 22 And so, just paraphrasing, you obviously will correct me if
13:01:56 23 there's anything you want to add, but the reality is your
13:01:59 24 view is that because of some of the issues that Nicola
13:02:04 25 Gobbo had, psychological, for example, Victoria Police
13:02:06 26 should have strongly considered not continuing to use
13:02:08 27 her?---Yes. Here's a lady who had a stroke, who has some
13:02:12 28 psychological, emotional, whatever they are, but continued
13:02:15 29 on, and I feel some empathy for her in that respect. I
13:02:20 30 don't feel sympathy. To some extent she was involved, but
13:02:26 31 I do feel empathy and someone should have said enough is
13:02:29 32 enough, but it didn't happen.
33
13:02:31 34 Just teasing that out slightly further. You discussed when
13:02:34 35 you spoke to the SDU, Sandy White, for example, that they
13:02:37 36 would often express their concerns - I think your words
13:02:40 37 were that she was, one, needy; two, difficulty to control;
13:02:45 38 but, thirdly, also expressed at times issues in relation to
13:02:50 39 her psychological state?---Yes.
40
13:02:51 41 So it was apparent when you were speaking to them they were
13:02:54 42 volunteering that information because you had been involved
13:02:57 43 in her potential use?---Yes.
44
13:02:59 45 You were aware of that before you went out to see her? I'm
13:03:02 46 not criticising, I'm just trying to tease out - - - ?---No,
13:03:04 47 that's correct.

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1
13:03:05 2 - - - that in effect anyone that was relevant, the SDU
13:03:06 3 appeared to be saying she has these issues?---Yes.
4
13:03:10 5 And nonetheless Victoria Police continued as they
13:03:14 6 did?---Yes.
7
13:03:15 8 Your understanding was on the authorisation of those more
13:03:16 9 senior to yourself?---Yes.
10
13:03:17 11 So as an example, as far as Briars is concerned, the Task
13:03:23 12 Force's steering committee who were driving that
13:03:25 13 issue?---Yes.
14
13:03:25 15 Because they ultimately green lighted, as an example, using
13:03:29 16 her as a witness. Well, firstly, deploying her - let me
13:03:33 17 start again - tasking her against Waters?---Yes.
18
13:03:39 19 And then thereafter using her as a witness?---Yes.
20
13:03:42 21 Just to be clear, because I was reading your evidence from
13:03:44 22 yesterday, you were indicating it was Overland who was
13:03:47 23 primarily the controlling force of these Task Forces?---I
13:03:50 24 was saying he was more hands on than the others, and it was
13:03:55 25 my understanding he was the one that really wanted her as a
13:03:57 26 witness.
27
13:03:58 28 I think the evidence the Commission has heard in fact
13:04:00 29 reinforces that view. Just dealing with Mr Overland. You
13:04:03 30 obviously said when you were out in Bali that Waddell goes
13:04:07 31 and speaks to Wilson and the message comes back, "Overland
13:04:12 32 says continue with the statement"?---Yes.
33
13:04:16 34 So, again, gives the impression he's pretty hands on in
13:04:19 35 relation to her use and transition at that stage. You were
13:04:21 36 asked a question about a conversation you had with Ms Gobbo
13:04:24 37 that related to telling her if she signed it, that in
13:04:29 38 effect she'd be signing her death warrant?---Yes.
39
13:04:33 40 Do you recall telling her something along the lines that
13:04:37 41 Overland would be responsible for signing her death
13:04:42 42 warrant?---No, I don't recall that but, you know, there was
13:04:47 43 considerable conversation - I think I could have got her to
13:04:51 44 sign it and we could have finished it, but I was saying to
13:04:55 45 her, and I agree with Mr Waddell, we discussed, "Your
13:04:59 46 practice is finished, you can't, you need to go into
13:05:02 47 witness protection or some sort of protection, but sign

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13:05:04 1 this, it's all over, it's finished".
2
13:05:07 3 Did you mention Overland burning her at all? And by that
13:05:13 4 obviously meaning that - - - ?---Look, I know I've spoken
13:05:16 5 about Mr Overland and I don't think I referred in that
13:05:19 6 terms, but I said, "You sign this and Victoria Police will
13:05:23 7 burn you". In other words, it's all over. Like, "They
13:05:26 8 will either force you to be a witness. Once you've signed
13:05:30 9 it, it's finished, it's all over".
10
13:05:33 11 I want to go through some of the detail. I know we've been
13:05:36 12 over it and you've been over it several times, but what you
13:05:39 13 were getting across, in effect, was obviously the signing
13:05:41 14 of that statement would unequivocally seal her
13:05:50 15 fate?---Correct.
16
13:05:50 17 Your reasons for her not signing it had nothing to do
13:05:53 18 with - or put it this way, your reasons for her not to sign
13:05:56 19 it was in relation to her safety and welfare, do you agree
13:06:01 20 with that?---That's the prominent reason.
21
13:06:03 22 Not necessarily as suggested in some of the questioning
13:06:07 23 avoiding a Royal Commission or anything like that, your
13:06:09 24 concerns were obviously her health and welfare?---Correct.
25
13:06:12 26 No doubt informed to a degree by some of the discussions
13:06:14 27 you'd had with Sandy White?---Yes.
28
13:06:18 29 Dealing with the statement, because I know you're going to
13:06:22 30 be asked probably again and again, you're obviously an
13:06:25 31 experienced Homicide investigator?---Yes.
32
13:06:27 33 The purpose of Briars high profile murder was to ascertain
13:06:31 34 the involvement of Mark Perry; he was a person of
13:06:34 35 interest?---Yes.
36
13:06:36 37 Ditto Lalor and Waters?---Yes.
38
13:06:38 39 So when you get on that plane out to Bali those people, you
13:06:41 40 don't have to name any others, but were of particular
13:06:44 41 interest to you when going to speak to Ms Gobbo?---Yes.
42
13:06:48 43 And so, as you've set out, when you're sitting there taking
13:06:53 44 the statement, taking turns with Waddell with the typing
13:06:56 45 element, whenever Perry was mentioned or brought up, do you
13:07:00 46 agree your ears would have pricked up?---Absolutely.
47

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13:07:03 1 And had you been told by Ms Gobbo that in fact he'd
13:07:08 2 confessed to her, that would have changed the nature of her
13:07:11 3 statement significantly?---It would have, and as I said
13:07:14 4 yesterday, I wouldn't have worried about the Waters/Lalor
13:07:19 5 aspect of it. Probably would taken a separate statement in
13:07:23 6 relation to just that.
7

13:07:24 8 Given that it was obvious from what you've said about
13:07:26 9 Waddell speaking to Wilson, speaking to Overland and it
13:07:29 10 coming back, Overland, as we know, would have been more
13:07:32 11 than interested in that element. Had Overland become
13:07:35 12 aware, in other words, that Perry, that Gobbo was saying
13:07:39 13 Perry had confessed, you agree there would have been
13:07:43 14 pressure on you to get her to sign it there and
13:07:46 15 then?---Absolutely.
16

13:07:47 17 As far as you were concerned the message you got was quite
13:07:51 18 simply get her to complete the statement and go from
13:07:54 19 there?---Yes.
20

13:07:56 21 Now, if it helps you, if we could bring up RC825, this is
13:08:03 22 Rod Wilson's statement. Go to paragraph 58 please. You've
13:08:12 23 been read 59 and 60. Just to put it into context, I know
13:08:18 24 you've been asked about it, but let's just look at what
13:08:21 25 paragraph 58 says. 58: "My next diary record related to
13:08:28 26 Ms Gobbo is on 29 May" where both you, Mr Iddles, and
13:08:33 27 Mr Waddell told him about the taking of the statement from
13:08:37 28 Gobbo, so you were both involved, do you agree with that
13:08:39 29 that?---Yes.
30

13:08:40 31 He then says at some point - he sets out why you were you
13:08:45 32 talking to him, because you'd been to Bali, and that you'd
33 literally been there days before speaking to him on this
13:08:47 34 day, so there's a meeting. You and Waddell - and during
13:08:50 35 that meeting his recollection is you say the statement's
13:08:54 36 not of any further value, do you see that?---Which
13:08:58 37 paragraph?
38

13:08:58 39 59, sorry.
40

13:08:59 41 COMMISSIONER: She was not to be believed.
13:09:01 42

13:09:02 43 MR NATHWANI: Yes, not to be believed and the statement
13:09:04 44 would be of no further value, do you agree with
13:09:06 45 that?---Yes.
46

13:09:07 47 Waddell obviously - there's no record of Waddell protesting

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13:09:10 1 or saying, "Actually there's a confession in it from Mark
13:09:13 2 Perry to her and it might be of value". To your memory was
13:09:16 3 Waddell at that meeting ever saying, "Hold on, there's a
13:09:19 4 confession involved from Mark Perry to Gobbo"?---No.
13:09:23 5
13:09:25 6 COMMISSIONER: To be fair, Mr Nathwani, Mr Waddell's
13:09:27 7 evidence was that he didn't think she was to be believed in
13:09:30 8 respect of that.
13:09:31 9
13:09:31 10 MR NATHWANI: I understand, the question was slightly
13:09:33 11 different. I asked whether he recalls Mr Waddell in fact
13:09:35 12 saying at all anything about a confession from Mark Perry,
13:09:40 13 and your answer was, no, I think, Mr Iddles?---Correct.
14
13:09:43 15 Then we see afterwards, obviously after the discussion with
13:09:47 16 both you and Waddell, Cornelius is briefed by Mr Wilson and
13:09:54 17 we can see there Cornelius takes the view that she's of no
13:09:58 18 value and it's passed on to Overland. It was then -
13:10:01 19 pausing there. You being an experienced detective, you
13:10:04 20 said in effect that you would have remembered but you very
13:10:09 21 fairly say, well, listen, nobody's memory is perfect. To
13:10:12 22 your credit you've then undertaken other investigations and
13:10:15 23 nothing in those other investigations suggest to you, does
13:10:18 24 it, that in fact she had told you, at the taking of that
13:10:21 25 statement, that Perry had confessed?---Can you just repeat
13:10:24 26 that, please?
13:10:24 27
13:10:25 28 Yes, sorry, it was quite a long-winded question. Given
13:10:28 29 what's been said and suggested, you decided to look at
13:10:31 30 other material to see if other material could suggest that
13:10:37 31 you'd simply forgotten that Gobbo had told you about a
13:10:40 32 confession?---Yes.
33
13:10:41 34 As a result of the various inquiries nothing there suggests
13:10:45 35 your memory is wrong, do you agree?---That's correct.
36
13:10:48 37 So you in effect stand by the fact that with the best, with
13:10:53 38 both your memory and investigations thereafter, Ms Gobbo
13:10:57 39 did not tell you that Perry had confessed, do you
13:11:02 40 agree?---Agree, and there's probably one point I missed,
13:11:05 41 which is the 15th of June. There's an email sent to
13:11:12 42 Superintendent Tony Biggin and he forms a view that the
13:11:18 43 statement is of no assistance in the Briars investigation,
13:11:22 44 or any other investigation, and then he meets Mr Waddell
13:11:27 45 the following day and again he doesn't tell Mr Waddell -
13:11:31 46 Waddell doesn't tell Mr Biggin there's a confession in
13:11:34 47 there.

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1
13:11:34 2 Thank you. Finally this. We know that the document, or a
13:11:39 3 document was sent to Mr Tinney, who was prosecuting, and
13:11:42 4 we've seen the email on 26 July 2010 where it's reported
13:11:46 5 that Mr Tinney doesn't think there's any prospect of a
13:11:51 6 prosecution and there's a description of Ms Gobbo as a
13:11:54 7 problematic witness. Now to the best of your knowledge at
13:11:59 8 that time, 2010, was Mr Tinney aware that Ms Gobbo was or
13:12:04 9 had been a registered informer?---Oh, I don't know.
10
13:12:09 11 Also, just trying to tease that out again. Do you agree
13:12:12 12 that for any assessment to be made of the utility or
13:12:15 13 otherwise of Ms Gobbo's witness statement, which was
13:12:17 14 provided to Mr Tinney, it would have been appropriate to
13:12:20 15 tell him of the full background?---Yes.
16
13:12:23 17 Where there's a reference to "problematic witness", that's
13:12:26 18 the quote, are you able to help? Obviously if you aren't,
13:12:30 19 you'll say so, about whether or not there was any
13:12:33 20 information provided to Mr Tinney that she was in fact an
13:12:37 21 informer?---No, I can't help you because I wasn't at the
13:12:40 22 Task Force at that stage.
23
13:12:42 24 That's fair enough. Thank you very much, Mr Iddles.
25
13:12:48 26 COMMISSIONER: Mr Coleman, you've got some questions?
13:12:49 27
13:12:50 28 MR COLEMAN: No, Commissioner.
29
13:12:52 30 COMMISSIONER: Who's going to go next?
13:12:54 31
13:12:54 32 MR HOLT: Commissioner, I think it might be more convenient
13:12:58 33 if Ms Condon went next simply because I expect that topic
13:13:02 34 might implicate my client and then - rather than having to
13:13:04 35 come back and do something again.
36
13:13:04 37 COMMISSIONER: Okay. So we'll adjourn now until 2.
13:13:07 38 There's not much point starting now. How long will you be,
13:13:11 39 Mr Holt?
13:13:12 40
13:13:12 41 MR HOLT: Commissioner, I had thought about 45 minutes but
13:13:14 42 I think it will be shorter in light of the documents that
13:13:18 43 Ms Tittensor took the witness through. I'll try and keep
13:13:22 44 it certainly no longer than that.
45
13:13:25 46 COMMISSIONER: Mr Chettle?
13:13:26 47

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13:13:28 1 MR CHETTLE: Five minutes, Commissioner.
13:13:29 2
13:13:30 3 COMMISSIONER: Re-examination I don't expect will be
13:13:32 4 lengthy?
13:13:33 5
13:13:35 6 MR RICHTER: Two minutes. Not to exaggerate - maybe five.
7
13:13:36 8 COMMISSIONER: You heard my comment about Victorian
13:13:38 9 barristers, Mr Richter.
13:13:39 10
13:13:40 11 MR RICHTER: Oh yes, that's why I specified.
13:13:40 12
13:13:41 13 COMMISSIONER: Thank you. And, Ms Tittensor, you shouldn't
13:13:42 14 be long I should expect.
13:13:43 15
13:13:44 16 MS TITTENSOR: No, Commissioner.
17
13:13:45 18 COMMISSIONER: We'll certainly be starting the next witness
13:13:48 19 this afternoon. Okay, we'll adjourn until 2 o'clock, thank
13:13:51 20 you.
13:14:19 21
13:14:19 22 <(THE WITNESS WITHDREW)
13:14:21 23
24 LUNCHEON ADJOURNMENT
25
26
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13:52:08 1 UPON RESUMING AT 2.02 PM:
2
14:02:37 3 COMMISSIONER: Just before we get back to the witness,
14:02:40 4 Mr Holt, you'll recall a name was taken out at your request
14:02:45 5 yesterday and you were going to check it overnight. I know
14:02:48 6 you're probably checking a lot of things overnight.
14:02:48 7
14:02:48 8 MR HOLT: It does need to stay out. Ms Tittensor is aware
14:02:55 9 of the situation.
14:02:56 10
14:02:56 11 COMMISSIONER: All right, that's fine.
14:02:57 12
14:02:58 13 MS TITTENSOR: Commissioner, there was a Task Force update
14:03:00 14 I neglected to tender, 12 July 2010, VPL.0100.0058.0798 at
14:03:09 15 p.20. I tender that.
14:03:11 16
14:03:13 17 #EXHIBIT RC1271A- (Confidential) Task Force update 12/9/10.
14:03:15 18
14:03:16 19 #EXHIBIT RC1271B - (Redacted version.)
14:03:17 20
14:03:18 21 MS TITTENSOR: I understand there has been agreement at the
14:03:20 22 Bar table Mr Doyle will ask some short questions before
14:03:26 23 Ms Condon commences.
14:03:26 24
25 MR DOYLE: With your leave, Commissioner, if I can ask a
26 couple of questions of Mr Iddles.
27
28 COMMISSIONER: Yes Mr Doyle.
29
14:03:26 30 MR DOYLE: Following on from a couple of questions from
14:03:30 31 Mr Nathwani before the break.
14:03:31 32
14:03:32 33 COMMISSIONER: Sure.
34
14:03:33 35 <RONALD WILLIAM IDDLES, recalled:
14:03:33 36
37 <CROSS-EXAMINED BY MR DOYLE:
38
14:03:33 39 Mr Iddles, you recall before the break Mr Nathwani asked
14:03:36 40 you a couple of questions about some correspondence which
14:03:40 41 you weren't a party to between Mr Waddell and the Office of
14:03:46 42 Public Prosecutions?---Yes.
14:03:47 43
14:03:47 44 And this was correspondence concerning the prosecution of
14:03:52 45 Mr Waters and the evidentiary value of Ms Gobbo's draft
14:03:56 46 statement to that prosecution?---Correct.
14:03:58 47

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14:04:00 1 You recall there was a reference in that correspondence to
14:04:03 2 the problematic relationship between Ms Gobbo and Victoria
14:04:07 3 Police?---Yes.
14:04:08 4
14:04:09 5 Now, I don't know if you were shown this particular email
14:04:13 6 but if I alert you to the fact that was referred to in an
14:04:16 7 email from Mr Waddell to the OPP dated 18 May 2010. So if
14:04:25 8 you just take it from me that he asked for an assessment of
14:04:28 9 the value of the statement and queried whether it was
14:04:31 10 worthwhile pursuing, given the problematic, sorry, given
14:04:35 11 the relationship between VicPol and this witness?---I
14:04:39 12 understand that.
14:04:40 13
14:04:41 14 Now, you're aware that Ms Gobbo sued Victoria
14:04:46 15 Police?---Yes, I am.
14:04:47 16
14:04:47 17 And that litigation was commenced on 29 April 2010?---Yes,
14:04:53 18 I accept that.
14:04:54 19
14:04:54 20 Earlier that year she'd declined to provide evidence in the
14:05:00 21 committal involving Paul Dale?---Yes, I'm aware of that.
14:05:04 22
14:05:07 23 The correspondence you were taken to by Mr Nathwani was an
14:05:13 24 email from Ms Hogan to Mr Waddell on 26 July 2010?---Yes.
14:05:20 25
14:05:21 26 And again that email referred to the troubled relationship
14:05:25 27 between the witness and Victoria Police?---Yes.
14:05:27 28
14:05:28 29 The civil litigation which Ms Gobbo had launched against
14:05:32 30 Victoria Police was still outstanding as of that
14:05:36 31 date?---I'm not aware of that, but I accept it.
14:05:38 32
14:05:40 33 If I suggest to you that there was no mediation of the
14:05:43 34 matter until August of that year, you've got no basis to
14:05:46 35 disagree with that?---No, I have not.
14:05:49 36
14:05:49 37 So the negotiations regarding whether she would or wouldn't
14:05:56 38 give evidence against Paul Dale and the ongoing civil
14:05:59 39 litigation could both be matters that were being referenced
14:06:05 40 by this phrase "troubled relationship with Victoria
14:06:10 41 Police"?---Correct.
14:06:11 42
14:06:11 43 Nothing further, Commissioner.
14:06:13 44
14:06:13 45 COMMISSIONER: Thank you. Ms Condon, I think you're next.
14:06:16 46
14:06:18 47 <CROSS-EXAMINED BY MS CONDON:

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1
14:06:18 2 Mr Iddles, I appear on behalf of Mr Mullett and
14:06:20 3 Mr Ashby?---Right.
4
14:06:21 5 So I'm going to ask you some questions in relation to their
14:06:24 6 interests, if I may. Commissioner, if document
14:06:32 7 VPL.0002.0002.0128 could be brought up. Mr Iddles, this is
14:06:41 8 an extract from the unsworn statement in relation to
14:06:46 9 Ms Gobbo. Do you see that - I just want to draw your
14:07:04 10 attention to the aspect of this particular, of the
14:07:10 11 statement where she recounts an occasion on 10 November
14:07:14 12 where Waters came to see her, do you see that?---Yes.
14:07:17 13
14:07:17 14 And she says that he seemed to be excited about the
14:07:20 15 prospect of upcoming OPI hearings?---Yes.
14:07:23 16
14:07:24 17 And this is the particular part I want to focus your mind
14:07:27 18 on, if I may. "He told me that he expected Stash to be
14:07:33 19 called", that's a reference to Lalor, isn't it?---That's
14:07:36 20 correct.
14:07:36 21
14:07:37 22 "And asked if Brian Rix had told him what he heard about
14:07:43 23 Briars. Waters stated that Stash would say that he didn't
14:07:46 24 get that information from Rix. He stated that Stash would
14:07:49 25 say that he found out as a consequence of you going to
14:07:52 26 Prahran and obtaining statements from two
14:07:56 27 detectives"?---Yes.
14:07:56 28
14:07:56 29 The aspect I want to ask you about is, it's clear from that
14:08:02 30 aspect of her statement that what she's saying is, there,
14:08:09 31 is that Rix wasn't the source of the information,
14:08:14 32 correct?---Correct.
14:08:14 33
14:08:19 34 Now, when you went to Bali to get the statement from her,
14:08:26 35 as I understand it, you had the information reports with
14:08:30 36 you, you and Waddell had aspects of those with you, did you
14:08:33 37 not?---Correct.
14:08:35 38
14:08:37 39 The statement is dated, and obviously we know it wasn't
14:08:41 40 signed, May of 2009, correct?---Correct.
14:08:44 41
14:08:45 42 Now, just going backwards in terms of a chronology, you
14:08:52 43 were aware, weren't you, that in 2008 Paul Mullett was
14:08:56 44 charged with attempting to pervert the course of
14:08:59 45 justice?---Yes, I was.
14:09:00 46
14:09:00 47 That was in his capacity - well that was said to be as a

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14:09:05 1 consequence of leaks that had arisen from Operation Briars,
14:09:11 2 correct?---Yes, that's correct.
14:09:12 3
14:09:13 4 And I don't expect you, Mr Iddles, to be au fait with the
14:09:19 5 particulars of the attempt to pervert charge, but can you
14:09:26 6 take it from me that the allegation was against Mullett,
14:09:30 7 that he had attempted to pervert the course of justice
14:09:35 8 because he disclosed to Lalor about the existence of a
14:09:41 9 telephone intercept on Lalor's phone and he'd done that via
14:09:45 10 Brian Rix. That was very convoluted, but do you understand
14:09:49 11 - - -?---I'm aware of that, yes.
14:09:50 12
14:09:52 13 He was charged with that in August of 2008, so that's the
14:09:55 14 time line?---Right.
14:09:57 15
14:09:57 16 Now, you would agree with me, wouldn't you, that the
14:10:01 17 content of that particular aspect of her statement that I
14:10:04 18 took you to flies in the face of that allegation against
14:10:10 19 Mullett, doesn't it?---Correct.
14:10:11 20
14:10:12 21 So in other words, the content of that particular
14:10:17 22 statement, if it had been disclosed, would have obviously
14:10:22 23 provided a completely exculpatory defence for Mullett?---It
14:10:27 24 would have provided him a defence and behind that date also
14:10:31 25 sits a source contact sheet.
14:10:34 26
14:10:34 27 Yes. As the basis for her - as the basis for her
14:10:40 28 assertion, I should say, about what Waters told
14:10:43 29 her?---Correct.
14:10:43 30
14:10:44 31 So Mullett had a committal proceeding in, I think, May of
14:10:50 32 2009. So almost around the same time that you and Waddell
14:10:56 33 were in Bali?---Yes, right.
14:10:57 34
14:10:58 35 And I appreciate you've made some interesting comments
14:11:02 36 about disclosure and about how in your opinion there needs
14:11:06 37 to be a much greater level of education about what the
14:11:09 38 obligations for disclosure are for Victoria Police?---Yes.
14:11:12 39
14:11:13 40 What would you say to the Commissioner about whether or not
14:11:18 41 the contents of that particular aspect of the statement
14:11:22 42 warranted disclosure at some juncture, in terms of
14:11:26 43 Mr Mullett's interests?---It's information which would
14:11:35 44 assist in the preparation of his defence.
14:11:39 45
14:11:40 46 And in your view, and your obviously breadth of experience
14:11:45 47 as a police officer, would you say that this is sort of

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14:11:48 1 information that should have been disclosed?---Yes, it
14:11:51 2 should have. It gives an alternative to the allegation
14:11:55 3 that he's charged with.
14:11:57 4
14:11:57 5 Yes, yes. Can I jump forward to 2016, because I'm sure,
14:12:04 6 again, you would be aware that Paul Mullett sued Christine
14:12:08 7 Nixon and other - sued Victoria Police for malicious
14:12:13 8 prosecution in 2016?---Yes.
14:12:15 9
14:12:15 10 And that was heard before His Honour Justice Terry Forrest
14:12:20 11 in the Supreme Court?---Yes, I'm aware of that.
14:12:24 12
14:12:24 13 Obviously much has transpired, hasn't it, between 2009 and
14:12:29 14 2016 in terms of Gobbo?---Yes, it has.
14:12:31 15
14:12:31 16 And there's been an unfolding of the narrative in terms of
14:12:34 17 the full extent of her, the breadth of her damage that
14:12:41 18 she'd done to persons who were, had convictions that may
14:12:46 19 now be in jeopardy?---There's a lot of water gone under the
14:12:52 20 bridge and, yes, there's a lot still to come I think.
14:12:55 21
14:12:56 22 In the context of the civil proceeding that Paul Mullett
14:13:00 23 brought for a malicious prosecution based on this very
14:13:05 24 charge, the attempt to pervert justice, would you expect
14:13:07 25 the 2009 statement to have been disclosed in the civil
14:13:12 26 proceedings?---In the civil proceedings you basically have
14:13:18 27 to hand over everything. So this document should have been
14:13:23 28 provided in the civil proceedings.
14:13:24 29
14:13:25 30 Are you able to assist the Commissioner as to why it
14:13:28 31 wouldn't have been?---I cannot, no.
32
14:13:31 33 Yes, thank you Commissioner.
14:13:31 34
14:13:32 35 COMMISSIONER: Thanks Ms Condon. Mr Holt.
14:13:32 36
37 <CROSS-EXAMINED BY MR HOLT:
38
14:13:34 39 Mr Iddles, my name is Saul Holt, I'm counsel for Victoria
40 Police and also counsel for Mr Waddell, particularly in
41 relation to Bali issues I'll be asking you some questions
14:13:40 42 about. First, could we have Mr Iddles' statement up,
14:13:44 43 please, on the screen, the first statement that he made.
14:13:48 44 Do you recognise that as being the first statement you
14:13:51 45 made in this Royal Commission, Mr Iddles?---Yes, I do.
14:13:53 46
14:13:53 47 You made that in response to a request to provide a

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14:13:58 1 statement made by the Commission?---Yes.
14:14:00 2
14:14:00 3 That request for information included 13 very specific
14:14:04 4 questions?---Yes.
14:14:04 5
14:14:04 6 And then one catch all question, "Is there anything else of
14:14:08 7 relevance"?---Yes.
14:14:09 8
14:14:10 9 And at the time as you've explained and it's well
14:14:14 10 understandable you didn't have access to a range of
14:14:18 11 document you've since had access to?---That's correct.
14:14:20 12
14:14:21 13 And in particular, as you note fairly in your statement,
14:14:21 14 you didn't have access to a diary at the relevant
14:14:24 15 time?---Could you repeat that?
14:14:26 16
14:14:26 17 You didn't have access at the time - - - ?---No, I did not.
18
14:14:27 19 - - - you made your statement to your diaries?---No.
14:14:30 20
14:14:30 21 But in the period subsequent to making that first statement
14:14:33 22 you did gain access to your diaries?---Yes, I did.
14:14:36 23
14:14:37 24 And you gained access to some other documentation including
14:14:40 25 documents that were referred to within the statement of
14:14:42 26 Mr Waddell?---Yes.
14:14:42 27
14:14:43 28 And you had the opportunity to review all of those
14:14:45 29 documents, including your own diaries prior to the making
14:14:49 30 of your second statement?---Yes.
14:14:51 31
14:14:51 32 Which was dated 11 February 2020?---Yes.
14:14:54 33
14:14:55 34 Notwithstanding the absence of documents, you would have
14:14:59 35 understood the importance in your first statement of giving
14:15:01 36 as complete and thorough account relating to the specific
14:15:04 37 questions as you could?---Yes.
14:15:05 38
14:15:06 39 And in particular, both by virtue of your knowledge of the
14:15:08 40 issues this Commission is dealing with, but also by the
14:15:11 41 specific questions, you would have understood that one of
14:15:14 42 the significant issues being asked of you specifically was
14:15:17 43 about your knowledge of what information Ms Gobbo had
14:15:20 44 provided to Victoria Police as a human source and what had
14:15:23 45 then happened to that information?---Yes.
14:15:25 46
14:15:25 47 The dissemination, if we can put it that way?---Yes.

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14:15:28 1
14:15:29 2 And also you would have understood both from the specific
14:15:32 3 questions and your general knowledge the importance of
14:15:35 4 providing a thorough and accurate account as to the
14:15:38 5 question of what taskings were given to Ms Gobbo and the
14:15:43 6 circumstances in which they arose and who was involved in
14:15:45 7 those?---Yes.
14:15:47 8
14:15:48 9 Now, in respect of, if we could go to paragraph 25 and
14:15:53 10 following, please. Sorry, there isn't a page number on
14:15:57 11 that statement. You had chosen in your first statement to
14:16:02 12 answer questions 3 to 8 that the Commission provided in a
14:16:07 13 compendious fashion under the general heading "use of
14:16:10 14 Ms Gobbo as a human source"?---Yes.
14:16:11 15
14:16:11 16 In doing that effectively, if I can paraphrase the period,
14:16:14 17 you're talking about there the period where you were
14:16:17 18 actually at Briars, right?---Correct.
14:16:18 19
14:16:18 20 The period where you were a member of the Briars
14:16:21 21 investigation team and dealing with the investigation of
14:16:23 22 the particular murder?---Yes, that's correct.
14:16:25 23
14:16:26 24 And what you've done at 25 to 31 then is to explain as best
14:16:32 25 as you could without documents but nonetheless with the
14:16:35 26 benefit of your memory, what your involvement had been in
14:16:41 27 the use of Ms Gobbo as a human source during Briars?---Yes.
14:16:45 28
14:16:46 29 And also how it had come about that you learnt of Ms Gobbo
14:16:50 30 as a human source?---Yes.
14:16:50 31
14:16:51 32 Let's work through a couple of aspects of it, please. Do
14:16:54 33 you see that paragraph 25, I'm sorry, yes, 25 to 28, are in
14:17:01 34 fact all about a meeting that you have, a chance meeting as
14:17:04 35 you've described it there that you have with Sandy White in
14:17:07 36 the foyer of the OPI building?---That's correct.
14:17:09 37
14:17:10 38 And may we take it that when you gave this first statement
14:17:13 39 you had a genuine memory of this conversation such that you
14:17:16 40 were able to put the detail of it in the way in which you
14:17:19 41 have in your statement?---Of the conversation, yes.
14:17:21 42
14:17:21 43 The conversation and the circumstances leading to the
14:17:24 44 conversation?---As best as I could, yes.
14:17:26 45
14:17:27 46 Understood, but if you'd been uncertain, given the gravity
14:17:34 47 of the task you were engaged in providing a statement to

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14:17:34 1 the Royal Commission, you would have expressed that, you'd
14:17:37 2 have been cautious about it?--Yes.
14:17:37 3
14:17:38 4 That initial meeting you've described taking place
14:17:41 5 effectively by accident, by surprise?---Correct.
14:17:44 6
14:17:45 7 And you said you were surprised to see Sandy White and that
14:17:48 8 he had specifically asked you, you recalled when you made
14:17:52 9 the statement that he explained he'd just come from a
14:17:55 10 meeting with the steering committee for the Briars Task
14:17:58 11 Force?---Yes.
14:17:58 12
14:17:59 13 And that he explained to you that they wanted 3838 deployed
14:18:02 14 and tasked in relation to Mr Waters, yes?---Correct.
14:18:05 15
14:18:06 16 And you had no idea what he was talking about, that's the
14:18:09 17 memory you had at the time that you made the
14:18:11 18 statement?---Correct.
14:18:12 19
14:18:12 20 And not only that, in fact you recalled that this sort of
14:18:17 21 cross-purposes conversation in fact resulted in, as you
14:18:20 22 recalled it when you made the statement, Mr White telling
14:18:23 23 you then and there that 3838 was a human source
14:18:27 24 obviously?---Correct.
14:18:27 25
14:18:28 26 And that that was Ms Gobbo?---Yes.
14:18:29 27
14:18:30 28 Now, in your second statement, with the value of the
14:18:33 29 benefit of seeing your diaries, in paragraph 4, all you
14:18:40 30 correct about this meeting is the date upon which it
14:18:43 31 occurred, entirely reasonably. You say, "I've now had the
14:18:46 32 chance to look at my documents and I think that meeting was
14:18:49 33 in June of 2007"?---Yes.
14:18:51 34
14:18:51 35 You don't correct anything else about the circumstances of
14:18:54 36 that, notwithstanding your diary?---Correct.
14:18:56 37
14:18:56 38 Then yesterday in your evidence, you said, "I've earlier
14:19:00 39 become aware that she was a human source and then in June
14:19:02 40 and July I met with SW and discussed some of the issues in
14:19:07 41 the statement", but other than that, in answer to questions
14:19:09 42 from Mr Richter, you said your statement was correct?---No,
14:19:13 43 I said in relation to my first statement the way in which I
14:19:17 44 met Mr Sandy White, after reading material yesterday, which
14:19:22 45 was part of his statement, and reflecting back on, I met
14:19:27 46 him maybe once or twice at the coffee shop at OPI. We
14:19:33 47 discussed those issues but on reflection, the first meeting

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14:19:39 1 I now know that I had with him I made a phone call to him
14:19:43 2 before, before the meeting, so I organised the meeting.
14:19:48 3
14:19:48 4 Exactly. So what you said in your statement about having
14:19:51 5 an actual memory of a chance meeting, bumping into a person
14:19:55 6 who you knew, and then being told this revelation of
14:19:57 7 Ms Gobbo as a human source, that was all wrong?---No, that
14:20:02 8 was my recollection because I know that I'd met him there
14:20:05 9 twice. But what I've done is I've put probably two
14:20:08 10 occasions together but the conversation is predominantly
14:20:11 11 right, other than I knew from within internally that she
14:20:16 12 was a source before I met Mr White.
14:20:18 13
14:20:24 14 Let's just explore that for a moment, Mr Iddles, because
14:20:28 15 one of the critical things you said in your first statement
14:20:30 16 about that meeting was that Mr White had just come from a
14:20:34 17 Briars steering committee meeting, do you recall
14:20:36 18 that?---Yes.
14:20:36 19
14:20:37 20 That's wrong, isn't it? Because the evidence we have shows
14:20:41 21 Mr White probably ever, and certainly at that time, didn't
14:20:46 22 attend a Briars steering committee meeting, do you accept
14:20:50 23 you got that wrong?---Yes.
14:20:51 24
14:20:51 25 But you had a firm memory of that conversation when you
14:20:54 26 made your statement the first time round or you wouldn't
14:20:56 27 have put it in, would you?---To the best of my
14:20:57 28 recollection, yes.
14:20:58 29
14:20:59 30 So at that point you had a firm memory of the conversation
14:21:03 31 which as it turns out with the benefit of looking at
14:21:05 32 documents further on, just didn't happen?---Correct.
14:21:08 33
14:21:08 34 Now, on that note, the very topic of that thing you got
14:21:14 35 wrong was a suggestion, as you made in the statement, that
14:21:18 36 it was the steering committee who wanted 3838 deployed
14:21:22 37 against Mr Waters and that you had no knowledge of it at
14:21:25 38 that point, do you agree? That's what the first statement
14:21:28 39 was saying?---Yes, that's correct.
14:21:32 40
14:21:32 41 And in fact as we now know from the documents that
14:21:34 42 Ms Tittensor took you through, as we now know in fact far
14:21:39 43 from the steering committee giving a direction straight to
14:21:42 44 the SDU, you were the person who had phoned Sandy White,
14:21:49 45 made the arrangement for the meeting, and then met about
14:21:52 46 this issue on behalf of Briars, that's right, isn't
14:21:53 47 it?---Yes, but the conversation that I had had with White

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14:22:01 1 is that he, the conversation I'd had with White was that
14:22:07 2 the steering committee were forcing him to use her and he
14:22:10 3 didn't want to do it.
14:22:11 4
14:22:11 5 The impression you were given, more than an impression,
14:22:15 6 what you say in the statement is that that direction had
14:22:18 7 come from the steering committee to Mr White without your
14:22:21 8 knowledge?---That's - yes, but on your reflection when you
14:22:23 9 sit back and you piece it all together, I'm sitting miles
14:22:27 10 away, I don't have access to anything, I had a return date
14:22:30 11 and I did the best I could with the first statement.
14:22:33 12
14:22:33 13 I see. Had you forgotten at the time that you made your
14:22:36 14 statement that it was in fact you personally who were
14:22:39 15 facilitating the communication with the SDU on behalf of
14:22:42 16 Briars about the tasking of Gobbo in relation to
14:22:46 17 Waters?---I accept that I'm the one that rang Sandy White.
14:22:49 18
14:22:49 19 I didn't ask that. At the time that you made your first
14:22:52 20 statement had you forgotten that you were in fact the
14:22:55 21 person who was liaising with the SDU?---Yes.
14:22:58 22
14:22:58 23 On behalf of Briars?---Yes, I had.
14:23:01 24
14:23:01 25 You'd forgotten that?---Yes.
14:23:03 26
14:23:04 27 Because your statement also goes on then, doesn't it, at 29
14:23:06 28 to 31, the entirety of the remainder of this topic, where
14:23:09 29 you say there was a further conversation with Mr White.
14:23:12 30 Was this another conversation in the coffee shop?---Yes.
14:23:17 31
14:23:19 32 Where he was talking again on your first statement about
14:23:22 33 his instructions from the steering committee, do you see
14:23:24 34 that?---It needs to be scrolled up, but I'm aware of it.
14:23:28 35
14:23:28 36 Could we scroll it up, please. I apologise, to 29. No,
14:23:35 37 back to the first statement, I'm sorry?---That's the wrong
14:23:41 38 statement.
14:23:41 39
14:23:41 40 Yes. Do you see that, that's another conversation in the
14:23:44 41 coffee shop?---Yes.
14:23:44 42
14:23:45 43 Now, you talk there about instructions from the steering
14:23:49 44 committee and you even make the note, "I did not see much
14:23:52 45 value in it as I could not see it producing any direct
14:23:54 46 evidence which would implicate Waters", do you
14:23:57 47 see?---Correct.

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14:23:57 1
14:23:58 2 Again, had you forgotten at this point when you're making
14:24:00 3 your statement, Mr Iddles, had you forgotten that in fact
14:24:02 4 you were the primary liaison between the SDU and Briars
14:24:06 5 over that whole period of time, as Ms Tittensor has taken
14:24:09 6 you through, had you forgotten that?---No, I was aware that
14:24:18 7 I was the contact with the Source Unit.
14:24:22 8
14:24:22 9 So why didn't you say that in your statement beyond
14:24:25 10 referring to two meetings which are designed, I suggest, in
14:24:29 11 terms of the paragraphs that are in there, designed to make
14:24:31 12 it sound like the steering committee was providing direct
14:24:34 13 instructions and you were in effect disapproving?---No, I
14:24:37 14 wasn't - the steering committee were the ones who
14:24:41 15 ultimately wanted her engaged, not me.
14:24:43 16
14:24:43 17 You understood, Mr Iddles, because you accepted this with
14:24:46 18 me before, you understood that the Royal Commission was
14:24:49 19 particularly interested in the question of the
14:24:50 20 dissemination of information from Ms Gobbo as a human
14:24:53 21 source?---Yes.
14:24:53 22
14:24:54 23 And, in fact you had been, as Ms Tittensor has very
14:24:58 24 helpfully and allowed me to shorten my cross-examination
14:25:01 25 taken you through, you were the person who was receiving
14:25:04 26 information in what might be described in language the
14:25:07 27 Commission will be familiar with as hot debriefs, verbally
14:25:10 28 from the SDU in relation to Briars?---Yes.
14:25:13 29
14:25:14 30 Over and over and over and over again over this
14:25:18 31 period?---That is correct.
14:25:19 32
14:25:19 33 Right. And so you had personal knowledge - not detailed I
14:25:24 34 accept when you made your first statement because you
14:25:26 35 didn't have the documents, let's accept that, but you must
14:25:28 36 have known that you were the person who received that
14:25:31 37 information in hot debriefs and in turn were able to assist
14:25:35 38 the Commission at least in general terms with how that
14:25:38 39 information might have been disseminated?---Yes.
14:25:40 40
14:25:41 41 And you don't put that in your statement, do you?---I'm
14:25:45 42 very disadvantaged at the point of making this statement.
14:25:49 43 I've not had any representation from Victoria Police. I've
14:25:53 44 had no contact with anyone for over 12 months or something
14:25:57 45 and in the end I get a thing to prepare it. Had I have had
14:26:04 46 some contact with Victoria Police, had I have been provided
14:26:08 47 with legal advice from day one, and I was told I couldn't

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14:26:11 1 have it because I was an ex-member, had I been provided
14:26:15 2 with legal advice from day one, I wouldn't have made my
14:26:17 3 statement then. It wasn't until the draft statement came
14:26:21 4 in the paper that I contacted the Commission and I
14:26:25 5 contacted Victoria Police and that's the first time they
14:26:28 6 go, "We're sorry, we missed you".
14:26:30 7
14:26:31 8 Mr Iddles, can you just focus on my question?---I am.
14:26:33 9
14:26:33 10 No, you're really not?---Yes, I am.
14:26:35 11
14:26:36 12 Can we try again? At the point at which you made your
14:26:39 13 statement did you recall?---No.
14:26:41 14
14:26:42 15 Just wait, please. Did you recall that over this period of
14:26:45 16 deployment at Briars that you were the person who received
14:26:50 17 the hot debriefs and in turn disseminated information that
14:26:53 18 had been received by Nicola Gobbo as a human source? Had
14:26:56 19 you recalled that or forgotten it?---I didn't recall it
14:27:00 20 then.
14:27:01 21
14:27:03 22 Right. You'd actually forgotten that you were the person
14:27:05 23 who received that information from the SDU and were
14:27:09 24 responsible for disseminating it as of May of last year
14:27:12 25 when you made your statement or early June?---Yes.
14:27:14 26
14:27:15 27 You had been of course acutely aware of the existence of
14:27:19 28 this Royal Commission?---Yes.
14:27:21 29
14:27:21 30 Since its inception?---Yes.
14:27:24 31
14:27:24 32 And not only that, you've been regularly providing
14:27:27 33 information to the media, including appearing on multiple
14:27:31 34 documentaries, pod casts and the like about these very
14:27:36 35 Briars issues, yes?---Yes.
14:27:37 36
14:27:37 37 And yet you still say you had actually just forgotten that
14:27:40 38 you were the person who received the hot debriefs and
14:27:43 39 disseminated the information?---I don't recall it.
40
14:27:46 41 Is that your evidence?---That's my evidence.
14:27:46 42
14:27:47 43 I see. Let's move to another topic. During the period of
14:27:50 44 that information and period where you were receiving the
14:27:54 45 dissemination, you described - I'm sorry, I actually do
14:28:02 46 need to go back to the statement. I apologise,
14:28:04 47 Commissioner, I missed a mark. Could you go back to

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14:28:05 1 paragraphs 29 and 30, please. Now, can you see there, 30,
14:28:11 2 you're talking about informing the other members of the
14:28:14 3 Briars Task Force in relation to what Sandy White had
14:28:17 4 conveyed to you, do you see that?---Yes.
14:28:18 5
14:28:18 6 And then 31, "Some time later we were informed that there
14:28:22 7 had been one meeting between Gobbo and Waters at her office
14:28:26 8 but it was not of evidentiary value"?---Yes.
14:28:28 9
14:28:28 10 Do you agree that gives the impression you and Briars were
14:28:32 11 kind of passive recipients of information about how this
14:28:36 12 whole tasking had worked out?---That may be but I know that
14:28:41 13 she was tasked and I tasked her. I tasked the unit.
14:28:46 14
14:28:46 15 Why didn't you tell the Commissioner that?---I have here in
14:28:49 16 evidence.
14:28:49 17
14:28:49 18 No, no, why didn't you tell the Commissioner that in either
14:28:53 19 of your two statements?---As I've said I don't recall.
14:28:57 20
14:28:59 21 I see. You'll recall being asked some questions before
14:29:03 22 lunch by our learned friend Ms Tittensor about the question
14:29:06 23 of whether or not Ms Gobbo was the legal representative of
14:29:10 24 Mr Waters or whether that was a possibility, do you recall
14:29:13 25 that?---Yes.
14:29:13 26
14:29:14 27 You were being asked on the basis that, by reference to a
14:29:17 28 number of documents, it appeared to be apparent that there
14:29:20 29 was at least a high risk of that being the position, do you
14:29:24 30 recall that?---Yes.
14:29:25 31
14:29:25 32 And Ms Tittensor was asking you about what you did about it
14:29:28 33 or what your view about it was and you said you didn't
14:29:32 34 think she was the lawyer because Mr Peacock was involved,
14:29:35 35 do you recall that?---Yes.
14:29:35 36
14:29:36 37 And you said also that you didn't even turn your mind to
14:29:40 38 it, that question, do you recall that?---Yes.
14:29:42 39
14:29:42 40 Can we look at paragraph 29 again of your statement,
14:29:45 41 please. I'm sorry, 30. Where you note a conversation,
14:29:50 42 which apparently even in the absence of documents you were
14:29:53 43 able to recall, with the Task Force which says there was
14:29:56 44 general conversation as to how the deployment would work -
14:29:59 45 it says walk but I think Mr Richter corrected that at the
14:30:02 46 outset, would work knowing Gobbo was in fact David Waters'
14:30:05 47 solicitor, do you see that?---Yes.

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14:30:07 1
14:30:07 2 Would you reconcile your evidence with your statement for
14:30:10 3 me, please?---I'm wrong.
14:30:11 4
14:30:12 5 Now, which bit are you wrong about? Are you wrong you
14:30:15 6 didn't turn your mind to it, or are you wrong that you did,
14:30:19 7 or you just don't know?---I didn't turn my mind to it and I
14:30:22 8 now know that with reference to my diary that Warren
14:30:28 9 Peacock was the solicitor.
14:30:28 10
14:30:29 11 When you made your statement, we presume because otherwise
14:30:31 12 you wouldn't have put it in, that you had an actual memory
14:30:35 13 of a conversation with the Briars Task Force where that
14:30:38 14 kind of discussion occurred and the conversation was as to
14:30:41 15 how the deployment would work, knowing Gobbo was in fact
14:30:44 16 David Waters' solicitor?---There were general conversations
14:30:47 17 around whether or not Ms Gobbo was David Waters' solicitor
14:30:53 18 and if that was the fact, how it would work. But the
14:30:56 19 reality was, as now with reference to other material, quite
14:31:02 20 clear I'm wrong, it wasn't.
14:31:03 21
14:31:04 22 Now, again I want to suggest far from the impression given
14:31:12 23 from paragraphs 25 to 31 of your statement, not only were
14:31:16 24 you receiving the hot debriefs as we've noted, but you were
14:31:20 25 also the person responsible for the tasking, weren't
14:31:22 26 you?---Yes.
14:31:22 27
14:31:23 28 And more than that, Mr Iddles, you were the person
14:31:26 29 responsible for drafting the script for the tasking?---Yes.
14:31:29 30
14:31:30 31 As to what Ms Gobbo was to say to Mr Waters?---Yes.
14:31:33 32
14:31:33 33 Are we to take your evidence that at the time you prepared
14:31:36 34 your first statement and at the time you prepared your
14:31:38 35 second statement, even with the benefit of your diaries
14:31:41 36 that you had forgotten, that you had in fact written the
14:31:43 37 script for this tasking?---No, because I read an email that
14:31:48 38 I'd written the script.
14:31:49 39
14:31:49 40 Are we to take it that you had forgotten that at the time
14:31:53 41 that you made your statement, both statements?---No,
14:31:56 42 because the second statement I made just after I'd looked
14:31:59 43 at it and I clarified the dates. But I could have spent
14:32:02 44 hours writing another statement, again, but at that stage I
14:32:05 45 still had no legal representation, I was on my own.
14:32:08 46
14:32:09 47 But Mr Iddles, when you gave evidence yesterday morning

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14:32:13 1 when Mr Richter lead you through some brief
14:32:16 2 evidence-in-chief, you confirmed other than as a matter of
14:32:20 3 a date in respect of the first meeting, that the contents
14:32:25 4 of your statement were otherwise true and correct?---To the
14:32:27 5 best of my ability it was true and correct, yes, and I
14:32:28 6 stand by that.
14:32:29 7
14:32:29 8 When you made the first statement, is it the position,
14:32:32 9 Mr Iddles, that you had forgotten that you had drafted the
14:32:37 10 very script that was used for this deployment?---Absolutely
14:32:40 11 I'd forgotten.
14:32:40 12
14:32:41 13 Thank you. And not only that, but after the initial script
14:32:42 14 had been given you then engaged in email correspondence
14:32:46 15 with Mr White clarifying it, offering further insight into
14:32:50 16 how the script might be modified?---Correct.
14:32:52 17
14:32:55 18 Now, I want to turn to Bali. I want to talk to you a
14:33:07 19 little bit about the process by which you've come to the
14:33:10 20 conclusion, because it appears that you have, that the Mark
14:33:12 21 Perry confession as recounted in the statement was not in
14:33:16 22 fact said by Ms Gobbo, do you understand?---Yes.
14:33:18 23
14:33:18 24 Thank you. Can we go to Mr Iddles' second statement,
14:33:21 25 please, and have that up, and could we start at paragraph
14:33:25 26 8. Now, you've recorded there in your second statement the
14:33:32 27 process by which in effect you've come to make the
14:33:35 28 statement you've made about that?---Yes.
14:33:37 29
14:33:37 30 And at paragraphs 8 and following effectively what you say
14:33:42 31 is that you told first journalists and then a
14:33:45 32 representative of the Royal Commission that to the best of
14:33:48 33 your recollection the statement did not have a confession
14:33:51 34 when it was taken in Bali?---Correct.
14:33:53 35
14:33:54 36 And then you said the same thing to a person from Victoria
14:33:57 37 Police who you know?---Yes.
14:33:58 38
14:33:58 39 That you had no recollection of there being a
14:34:01 40 confession?---Correct.
14:34:01 41
14:34:01 42 And then you were, as we've noted, as is noted in paragraph
14:34:05 43 12, you were contacted by a representative of the Royal
14:34:08 44 Commission and read the portion of the paragraph, can we
14:34:11 45 see that, the portion of the statement?---Yes.
14:34:15 46
14:34:16 47 As a result of that you said that you shifted from no

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14:34:20 1 recollection to believing that it - positively believing
14:34:23 2 that it hadn't been said, is that correct?---Correct.
14:34:26 3
14:34:27 4 And you explain why in paragraph 13 but more interestingly
14:34:34 5 in the way you put your evidence yesterday you said the
14:34:37 6 reason why you were so confident that it wasn't said
14:34:41 7 because "you would be doing a handstand" if it had
14:34:45 8 occurred?---Yes.
14:34:45 9
14:34:45 10 You knew at the time that you were speaking with Ms Gobbo
14:34:49 11 that she had, you had earlier spoken to her in her chambers
14:34:53 12 and the content of that conversation?---Yes.
14:34:55 13
14:34:55 14 In fact you had IR 301 with you, you and Mr Waddell?---It
14:35:00 15 was on the statement, yes.
14:35:01 16
14:35:01 17 The content of it was there in any event?---Yes.
14:35:04 18
14:35:04 19 The moment she says, let's assume for a moment for present
14:35:08 20 purposes if she'd said the things that she said about the
14:35:10 21 confession being said, the first thing you would think is,
14:35:13 22 "It's completely inconsistent with what you've said
14:35:17 23 before"?---Yes.
14:35:17 24
14:35:19 25 So far from doing a handstand what you're getting is a
14:35:22 26 blindingly incredible confession from a witness who you
14:35:26 27 would otherwise - sorry, evidence of a confession from a
14:35:28 28 person that you otherwise would hope to use as a
14:35:32 29 witness?---Could you repeat that, please?
14:35:33 30
14:35:33 31 Yes. Far from doing handstands, if the confession evidence
14:35:37 32 or material is given by Ms Gobbo, the reaction of you and
14:35:40 33 Mr Waddell logically is, "Oh, no, that's so patently
14:35:46 34 obviously problematic and incredible it puts this whole
14:35:49 35 exercise in jeopardy", do you understand that
14:35:52 36 reasoning?---Yes, but I disagree. This is far more than
14:35:56 37 what she'd previously said. This is, "I'm talking to Mark
14:36:00 38 Perry and I am giving you what he, what he said to me".
14:36:06 39 Witnesses can have, change things, yes, you can look at
14:36:09 40 their credibility, but this would have been the first piece
14:36:12 41 of direct evidence that implicated Mark Perry.
14:36:14 42
14:36:15 43 Let's keep looking. The process that you went through to
14:36:19 44 come to the conclusion that you came to, because
14:36:22 45 notwithstanding as you've explained in your second
14:36:25 46 statement that you listened to the reading out to you of
14:36:29 47 that portion, and you thought, "No, I would have done a

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14:36:32 1 handstand so I'd have remembered it". What you then do is
14:36:36 2 conduct a kind of little investigation into whether or not,
14:36:44 3 let's use your language, paragraph 15, "To establish
14:36:48 4 whether the confession was in the draft statement I've
14:36:51 5 spoken to numerous people and of those spoken to no one
14:36:55 6 recall such a confession ever being mentioned or
14:36:57 7 discussed", yes?---Correct.
14:36:58 8
14:36:59 9 So you go through a process of establishing whether the
14:37:01 10 confession was in the draft statement?---Yes.
14:37:03 11
14:37:03 12 Having started when a journalist has contacted you from a
14:37:06 13 point of saying you had no recollection of it?---Yes.
14:37:09 14
14:37:09 15 Right. And what you did was, in order to conduct your
14:37:14 16 investigation, was you effectively - I imagine the
14:37:16 17 investigator in you came out and said, "Well, if there was
14:37:19 18 such a confession we'd see breadcrumbs. You know, we'd see
14:37:22 19 a trail. We'd some people who would have known about it at
14:37:25 20 the time. We might see some documentary evidence of it
14:37:28 21 existing at the time, a kind of breadcrumb of people who
14:37:33 22 you would expect to know about it", was that your
14:37:34 23 reasoning?---What I was doing was I had no recollection of
14:37:37 24 it so, "Let's go away and talk to some people" just to test
14:37:41 25 whether my recollection is right or wrong.
14:37:42 26
14:37:42 27 Oh sure, but you're just not going to talk to any people,
14:37:44 28 right?---No, the people who would know something about it.
14:37:47 29
14:37:48 30 Exactly so. So you're going to ask people who if the
14:37:50 31 confession had been said, had existed you would have
14:37:52 32 expected them to know about it at the time?---Yes.
14:37:54 33
14:37:55 34 So you're looking for the breadcrumb trail all the way back
14:37:58 35 then to see whether it existed, yes?---Or someone who knew
14:38:01 36 about it, or someone who said, "I remember that being
14:38:03 37 said".
14:38:03 38
14:38:04 39 Sure, okay. But not people who were there, because only
14:38:06 40 you and Ms Gobbo and Mr Waddell are there?---Yes.
14:38:09 41
14:38:09 42 So you were looking for other people?---Correct.
43
14:38:13 44 Where you would have expected that had this confession been
14:38:15 45 made it would have been reported to them or told or they
14:38:17 46 would know about it, right?---Yes.
14:38:18 47

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14:38:18 1 As I understand your evidence and your statement you
14:38:20 2 identified some categories of people who should
14:38:23 3 know?---Yes.
14:38:23 4
14:38:23 5 Firstly, the Briars Task Force itself makes logical sense,
14:38:27 6 right?---Yes.
14:38:28 7
14:38:28 8 Secondly, SDU, including Mr Biggin in Covert
14:38:32 9 Support?---Yes.
14:38:32 10
14:38:32 11 Thirdly, the prosecution team, the OPP and the prosecutor
14:38:36 12 involved?---Yes.
14:38:37 13
14:38:38 14 And Crime Command in the form of Mr Moloney who you've
14:38:41 15 spoken to?---Yes.
14:38:42 16
14:38:42 17 And also Mr Valos who you've spoken to?---Yes.
14:38:46 18
14:38:46 19 I don't need to be very long on this because Ms Tittensor
14:38:50 20 has taken you through much of it. But let's just work
14:38:52 21 through a couple of them. Briars. Briars was obviously
14:38:55 22 the very group, the very Task Force or group that was
14:38:58 23 investigating the matter that the statement related to,
14:39:00 24 right?---Yes.
14:39:00 25
14:39:01 26 So the Briars group and the steering committee for Briars
14:39:04 27 is the logical place where you'd want to look for those
14:39:08 28 breadcrumbs?---Yes.
14:39:10 29
30 You'd want to look for the evidence of it being
31 (indistinct)?---Yes.
32
14:39:11 33 I looked very carefully at the transcript of your evidence
14:39:14 34 about the inquiries you made in respect of Briars staff and
14:39:17 35 what you said was that you understood from a person called
14:39:22 36 Steve Sheehan that a person called Scott Elliott had told
14:39:26 37 him that he had no recollection of the statement, have I
14:39:28 38 got that right?---He had, he'd never read the statement and
14:39:33 39 it had never been mentioned or he'd never heard of a
14:39:36 40 confession.
14:39:37 41
14:39:37 42 But I want to be clear about this investigation that
14:39:41 43 Mr Nathwani was so positive about that you've conducted.
14:39:45 44 It involved you speaking to Steve Sheehan?---Correct.
14:39:48 45
14:39:48 46 About something that Scott Elliott had told him. The rules
14:39:52 47 of evidence don't apply here, but we're in double hearsay

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14:39:57 1 territory, right?---Yes, that's all right.
14:39:57 2
14:39:58 3 Mr Sheehan had left - had been part of Briars at one
14:40:01 4 point?---Yes.
14:40:01 5
14:40:01 6 But he had left Briars about a year before the Bali trip
14:40:05 7 and had not gone back, right?---Yes.
14:40:07 8
14:40:07 9 Scott Elliott was a non-sworn analyst?---Yes.
14:40:10 10
14:40:10 11 Who left Victoria Police in about 2012 you might
14:40:13 12 know?---Yes.
14:40:13 13
14:40:14 14 Now, he - in fact his role at Briars was a secondment role,
14:40:21 15 it was a temporary role?---He was seconded from the Crime
14:40:26 16 Department.
14:40:26 17
14:40:26 18 He was, but he finished up in Briars in March 2009 Victoria
14:40:31 19 Police records indicate?---Yes.
14:40:32 20
14:40:32 21 So not there when the statement is taken and you guys come
14:40:36 22 back from Bali?---Right.
14:40:37 23
14:40:38 24 Anyone else from Briars you've spoken to in this
14:40:41 25 investigation you've conducted?---Peter Trichias, but he
14:40:44 26 wasn't there.
14:40:44 27
14:40:44 28 The answer to my question is no?---No.
29
14:40:46 30 Right. Let's then talk about maybe a positive indication
14:40:50 31 of these breadcrumbs existing. So the Briars steering
14:40:57 32 committee. You've already been taken ad nauseam through
14:41:03 33 the documents that exist around the time when you came back
14:41:06 34 from Bali. What I'd like to do is take you to
14:41:11 35 VPL.0005.0012.0818, which is the Briars update for 27 July
14:41:20 36 2009. Do you see that?---Yes.
14:41:26 37
14:41:27 38 This, 27 July 2009, it goes to the board of management,
14:41:32 39 right?---Yes.
14:41:32 40
14:41:32 41 The very people that if a confession had been made you
14:41:36 42 might expect a breadcrumb trail showing that it had been
14:41:39 43 made or there was some reference to it?---Yes.
14:41:40 44
14:41:41 45 Can you see under "Witness F"?---Yes.
14:41:43 46
14:41:44 47 It says, "Examination of notes and recordings revealed no

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14:41:45 1 inconsistency with draft statement with exception of issue
14:41:47 2 in respect of Perry admission?---Yes.
3
14:41:50 4 "Nil issue re OPI hearing", do you see that?---Yes.
14:41:51 5
14:41:52 6 Would you accept from me, Mr Iddles, that that entry in
14:41:56 7 terms, as is Victoria Police practice, is repeated at every
14:42:01 8 subsequent meeting, and I can show you the documents if I
14:42:04 9 need to, every subsequent meeting, 10 August, 24 August, 7
14:42:08 10 September, 21 September 2009?---I accept what you say.
14:42:12 11
14:42:12 12 It seems if we want to look at a contemporaneous breadcrumb
14:42:16 13 of people who are actually in Briars, as opposed to people
14:42:19 14 who had already left, we can see that the confession is
14:42:22 15 being openly reported to the steering committee, can you
14:42:25 16 see that?---Yes.
14:42:28 17
14:42:29 18 Thank you.
14:42:30 19
14:42:30 20 COMMISSIONER: That document is part of Exhibit 1027.
14:42:34 21
14:42:35 22 MR HOLT: It is, Commissioner, I don't need to go to the
14:42:37 23 others. By the way, Mr Iddles, while we're on that point,
14:42:46 24 one of the people you indicated that you had spoken to was
14:42:49 25 Dannye Moloney as a representative of Crime Command?---Yes.
14:42:52 26
14:42:52 27 Would you accept it from me that the evidence before the
14:42:54 28 Commission indicates that Mr Moloney was a part of the
14:42:56 29 Briars steering committee? I don't need you to. If the
14:43:06 30 evidence before the Commission indicates that Mr Moloney
14:43:08 31 was part of the Briars steering committee and was present
14:43:11 32 at at least one, in fact more than one of these meetings,
14:43:14 33 would you accept that it appears that the confession or the
14:43:17 34 admission in this statement was in documentation available
14:43:20 35 to him at the time?---I'm talking about a meeting on 10
14:43:23 36 June 2009 where he was present where it was discussed, and
14:43:29 37 it's at that meeting Mr Cornelius says, "Well what's the
14:43:33 38 value of the statement? Sufficient to charge I think Lalor
14:43:37 39 and Waters", or something, reference to that, that's the
14:43:41 40 meeting that I spoke to Mr Moloney about and he said, "I
14:43:44 41 have no recollection of a confession ever being mentioned.
14:43:48 42 Had it have been mentioned we would have adopted a
14:43:50 43 different course".
14:43:51 44
14:43:51 45 Mr Iddles, your evidence was not that specific in respect
14:43:54 46 to Mr Moloney. Your evidence was that you had spoken to
14:43:57 47 Mr Moloney?---I have.

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14:43:58 1
14:43:58 2 And he had no knowledge of the confession?---That's right.
14:44:01 3
14:44:01 4 If it was referred to in updates for steering committee
14:44:06 5 minutes, which he was a member of, would you accept that
14:44:08 6 that appears on the face of it to be wrong?---Yes.
14:44:19 7
14:44:19 8 Right. Now, and again this expectation that he might have
14:44:23 9 taken a different course, you would imagine that that
14:44:25 10 expectation would have existed at the time that anyone
14:44:29 11 become aware of the existence of this admission or
14:44:32 12 confession, right?---Yes.
14:44:33 13
14:44:34 14 In fact if people had been told, like Mr Moloney, something
14:44:37 15 entirely different about the content of the statement and
14:44:39 16 then suddenly in the steering committee minutes it shows up
14:44:42 17 and there's a confession, would you expect them to have
14:44:45 18 done something about it?---Yes.
14:44:46 19
14:44:47 20 Now, just dealing again with these categories of your
14:44:52 21 investigation, the other one of course is SDU, including
14:44:57 22 the Intelligence and Covert Support Division in the
14:45:01 23 personage of Mr Biggin?---Yes.
14:45:03 24
14:45:03 25 As Ms Tittensor noted to you, and I think you were prepared
14:45:07 26 to accept it from her, that in fact there was nothing in
14:45:10 27 the SDU records which demonstrated any confession having
14:45:14 28 occurred at all?---Correct.
14:45:15 29
14:45:15 30 And indeed that's the point that Mr Waddell ultimately
14:45:18 31 makes, which is this is out of the blue and inconsistent
14:45:21 32 with every prior statement she has made?---Yes.
14:45:27 33
14:45:27 34 Do you understand that?---Yes.
14:45:28 35
14:45:29 36 Now you say Biggin and White weren't later told by Waddell,
14:45:32 37 on the basis of the hearsay account you've told us, right,
14:45:36 38 about the confession existing, that was part of your
14:45:38 39 evidence as I understand it?---Yes.
14:45:40 40
14:45:40 41 This was an investigation being run by Briars?---Yes.
14:45:42 42
14:45:42 43 SDU were effectively a, not even a support function at that
14:45:46 44 point, they were just a source of information for
14:45:49 45 Mr Waddell to get hold of in order to make proper
14:45:52 46 disclosure?---Yes.
14:45:53 47

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14:45:54 1 Now, the last one is the prosecution. I don't need to
14:45:57 2 spend much time on this. Do you agree with me on this
14:46:01 3 though, you have been reported, and please tell me if it's
14:46:06 4 inaccurate or not, and misreported plenty of times, you
14:46:09 5 have been reported in respect of the question of your
14:46:12 6 involvement in whether or not Ms Gobbo's statement was
14:46:16 7 going to be signed on multiple occasions in the media, do
14:46:19 8 you accept that?---Yes.
14:46:20 9
14:46:21 10 Including, on film, in relation to documentaries, but also
14:46:25 11 reported in the printed media?---Yes.
14:46:27 12
14:46:27 13 You've been prepared in the course of this Royal Commission
14:46:29 14 going on to speak to the media about your memory of these
14:46:32 15 events?---Yes.
14:46:33 16
14:46:34 17 Now, you've been quoted in the media, I'd just like to know
14:46:41 18 if I'm wrong or right about this, you've been quoted in the
14:46:44 19 media as saying that you refused to add Ms Gobbo's
14:46:56 20 statement to the brief of evidence and warned then Deputy
14:47:00 21 Commissioner Overland that if he did it would result in a
14:47:03 22 Royal Commission?---Not true, I've never said that.
14:47:05 23
14:47:05 24 That's a misreport?---I've never talked about the brief of
14:47:08 25 evidence.
14:47:08 26
14:47:09 27 Thank you. If there is an objection it should be taken.
14:47:19 28 Good.
14:47:20 29
14:47:20 30 MR RICHTER: I'll take my time.
14:47:22 31
14:47:22 32 MR HOLT: In relation to this prosecution issue, firstly,
14:47:27 33 even if you're not talking about the brief of evidence,
14:47:30 34 your position in this Commission, and indeed in public
14:47:34 35 statements previously, has been that you didn't want the
14:47:36 36 statement signed?---That I didn't?
14:47:37 37
14:47:39 38 Yes?---Absolutely
14:47:40 39
14:47:40 40 And you didn't want the statement signed at least in part
14:47:42 41 because it would cause a Royal Commission?---Yes.
14:47:44 42
14:47:45 43 And it would only cause a Royal Commission if it became
14:47:48 44 known?---Yes.
14:47:48 45
14:47:49 46 And it would only become known if it got disclosed?---Yes.
14:47:52 47

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14:47:52 1 May we take it as a matter of logic that your advice to not
14:47:57 2 have the statement signed was intended to prevent its
14:48:00 3 disclosure and thus to prevent a Royal Commission
14:48:02 4 occurring?---No, it was around - well, two points I
14:48:04 5 suppose. It was around her safety predominantly but the
14:48:08 6 second part was what she was telling me at the swimming
14:48:11 7 pool it was clear that if the statement was signed it was
14:48:16 8 all over. You wouldn't hold it back, there would be a
14:48:21 9 Royal Commission.

14:48:21 10
14:48:21 11 I just want to work through the link between those things.
14:48:25 12 You see your view is if the statement is signed there
14:48:28 13 becomes a Royal Commission, am I right?---No, but it's
14:48:31 14 coupled with the knowledge of what she's telling me is
14:48:35 15 that, "I didn't always act in the best interests of my
14:48:38 16 client, I acted sometimes in the best interests of Victoria
14:48:41 17 Police". Then you've got a statement which is all dated,
14:48:45 18 which is quite clear, which shows that she's a human
14:48:48 19 source. Put those two things together and that's the view
14:48:52 20 that I take.

14:48:52 21
14:48:53 22 I'm being really obtuse, plainly. Am I right in this
14:48:58 23 proposition: your view was if the statement was signed that
14:49:01 24 would result in a Royal Commission, that's why - - -?---You
14:49:07 25 can - I'll agree with that. There's other things to take
14:49:09 26 into account but if the statement was signed there was a
14:49:11 27 Royal Commission.

14:49:11 28
14:49:11 29 Equally, because you wanted to avoid that, you're saying,
14:49:14 30 "Don't get the statement signed", right, that's the
14:49:18 31 position you're taking?---Yes.

14:49:19 32
14:49:21 33 If it's not signed was it your view that would mean it
14:49:26 34 wouldn't be disclosed and as a result the Royal Commission
14:49:28 35 wouldn't happen?---No, if it was ultimately disclosed in an
14:49:33 36 unsigned form it was still all over.

14:49:37 37
14:49:37 38 Okay. In any event, can I ask you this question, you've
14:49:42 39 been asked some questions by Ms Tittensor which demonstrate
14:49:45 40 that the confession, the statement with the confession in
14:49:49 41 it was sent to the DPP?---Yes.

14:49:52 42
14:49:53 43 With a request for an advice, for advice or decision in
14:49:58 44 effect as to whether Ms Gobbo should be called and steps
14:50:00 45 should be taken to have the statement signed?---Yes.

14:50:02 46
14:50:03 47 You may or may not know that Mr Waddell had previously in

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14:50:06 1 fact also sought legal advice on that from Mr Gerard
14:50:11 2 Maguire via the VGS0?---Yes, I'm aware of that.
14:50:12 3
14:50:12 4 And provided that very same statement with the confession
14:50:15 5 included in it?---Yes.
14:50:16 6
14:50:17 7 Perhaps just latching on to a question that the
14:50:20 8 Commissioner asked. If we assume for a moment that this
14:50:22 9 confession is put in corruptly, right, if you assume that
14:50:25 10 the logical consequence of what you say happened, or didn't
14:50:28 11 happen follows, then is it actually your position that what
14:50:31 12 Mr Waddell does is he sends the very statement that has a
14:50:35 13 false confession in it to a barrister and to the DPP so
14:50:40 14 that a decision can be made about whether the person will
14:50:42 15 be a witness and be asked to sign the statement, in
14:50:45 16 circumstances where if the answer to that question is yes,
14:50:48 17 that person will be shown the statement with the false
14:50:50 18 confession in it?---Yeah, I understand what you're saying.
14:50:54 19
14:50:54 20 Yes?---But as I've always said here, I have absolutely no
14:50:59 21 recollection of it whatsoever.
14:51:01 22
14:51:01 23 I get that, that's why we're exploring your investigation,
14:51:04 24 to see if there's anything that can help. Another
14:51:07 25 breadcrumb might be to look at things Ms Gobbo says at or
14:51:11 26 around or after the time, right?---Yes.
14:51:13 27
14:51:13 28 Are you aware that I showed Ms Gobbo a text message she
14:51:16 29 sent a few months later to a person in Victoria
14:51:22 30 Police?---Yes.
14:51:22 31
14:51:22 32 Are you aware that as a result of being shown that text
14:51:22 33 message when I put to her the reasonable possibility that
14:51:27 34 she had made the confession, she said, "It looks like I
14:51:30 35 did"?---Yes, I'm aware of that.
14:51:32 36
14:51:37 37 Mr Valos, you've indicated that you would have expected
14:51:42 38 there to be some investigation following up these matters
14:51:44 39 in relation to Mr Valos?---Yes.
14:51:45 40
14:51:46 41 And again you heard Mr Waddell's evidence about the steps
14:51:48 42 that he did take?---Very unclear what the steps were.
14:51:52 43
14:51:52 44 They were put obtusely but I think you've been a police
14:51:56 45 officer long enough to know what they were referring to,
14:52:01 46 Mr Iddles, haven't you? Coercive hearing, we won't name
14:52:04 47 the agency?---All right.

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14:52:05 1
14:52:05 2 Thank you. In addition you were aware in fact those files
14:52:08 3 had already been the subject of search warrants executed on
14:52:11 4 Mr Valos' office after conversations with him?---Yes.
14:52:14 5
14:52:14 6 In any event what Ms Gobbo had said, if one takes the
14:52:17 7 confession as being said, was already contradicted by
14:52:20 8 things Mr Valos had told the police?---With the first thing
14:52:24 9 in relation to Lee Perry, yes.
14:52:26 10
14:52:27 11 Now, one of the questions that the Commissioner asked you
14:52:34 12 was if we assume that the confession was put in and it was
14:52:39 13 never said, then there's only one conclusion, isn't there,
14:52:43 14 this isn't what the Commissioner suggested, but there's
14:52:46 15 only one conclusion, that's it was done dishonestly and
14:52:50 16 corruptly, right?---Correct.
14:52:51 17
14:52:51 18 You can't accidentally put a confession that wasn't made into
14:52:55 19 a statement?---No.
14:52:56 20
14:52:56 21 You were asked by the Commissioner what the reason for
14:52:59 22 doing that might be if you wanted to do it corruptly, do
14:53:00 23 you recall those questions?---Yes.
14:53:01 24
14:53:01 25 And you said, "Just to put it into a TI"?---No, an
14:53:04 26 affidavit I said.
14:53:04 27
14:53:05 28 An affidavit. And do you know that it actually was or you
14:53:09 29 heard Mr Waddell refer to it being put into an
14:53:14 30 affidavit?---No, I only go in accordance with his statement
14:53:14 31 that parts of the draft statement were used in affidavits.
14:53:16 32
14:53:17 33 They were. So long as, as Mr Waddell explained yesterday,
14:53:21 34 the full circumstances, including the things that detract
14:53:24 35 from the credibility of that draft statement, are placed in
14:53:28 36 the affidavit and put before the decision maker issuing the
14:53:31 37 warrant, perfectly proper, right?---Correct.
14:53:34 38
14:53:34 39 Indeed, can I suggest to you this: and I'll show you a
14:53:39 40 document in a moment, that in October 2009, indeed as the
14:53:43 41 steering committee minutes indicate, the statement was
14:53:47 42 used, aspects of the statement were used in a TI
14:53:50 43 application, an affidavit to support it?---Yes.
14:53:53 44
14:53:54 45 Now, could we have a look, please, at - I'm sorry,
14:54:15 46 Commissioner, can I just have a moment, I've just lost my
14:54:17 47 page. VPL.0100.0053.8718. Now, you recognise this,

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14:54:36 1 Mr Iddles, I don't mean specifically, but I mean you
14:54:40 2 recognise it as the kind of affidavit that's done by
14:54:44 3 Victoria Police members in support of applications for
14:54:47 4 telephone intercept warrants and so on?---Yes, it is.
14:54:49 5
14:54:49 6 If we look at paragraph 5, this makes clear, doesn't it,
14:54:53 7 that this particular draft affidavit - can we just do
14:54:57 8 paragraph 5, please. I'm sorry, there's confidential
14:55:00 9 material. Making application for telecommunication device
14:55:06 10 matters in relation to Waters, Waters, Lalor?---Yes.
14:55:10 11
14:55:10 12 Can we go to the next page. Three other names there, none
14:55:15 13 of which are Perry?---Correct.
14:55:17 14
14:55:17 15 None of which appear to have anything to do with the
14:55:20 16 material that's contained in the confession?---No, correct.
14:55:22 17
14:55:22 18 Can we then go, please, to paragraph 118 on p.47 of that
14:55:29 19 affidavit. And could we have a look, please, at 118, at
14:55:44 20 the beginning, yes. Do you see there there's a description
14:55:47 21 of a statement?---Yes.
14:55:49 22
14:55:49 23 On 21 May, a draft unsigned statement?---Yes.
14:55:53 24
14:55:53 25 You can understand why it says 21 May?---Yes, I get that.
14:55:56 26
14:55:56 27 If we just go to the next page, please. Can you see there
14:56:02 28 there looks to be a pretty thorough exposition of what
14:56:05 29 appears to be in there. I'll turn your attention
14:56:25 30 particularly to (vi). Do you see that's in there? Can you
14:56:31 31 see that - - - ?---Yes.
14:56:31 32
14:56:32 33 - - - it explains the confession while explaining
14:56:34 34 everything else that was in the statement also? If we then
14:56:36 35 go down please to paragraph 119. Can you see there that
14:56:53 36 the inconsistency with what you've previously said is
14:56:57 37 disclosed in the affidavit?---Yes.
14:56:58 38
14:57:01 39 Yes, thank you. So firstly, what we can see is that the
14:57:07 40 information was used in an affidavit some months
14:57:09 41 later?---Yes.
14:57:10 42
14:57:10 43 It was used in relation to people who the confession
14:57:15 44 appeared to have nothing to do with?---Correct.
14:57:17 45
14:57:18 46 And as Mr Waddell explained yesterday, what it tends to
14:57:20 47 indicate is a thorough disclosure to the person who was

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14:57:23 1 making this order of the circumstances of the statement and
14:57:25 2 the inconsistencies that existed?---Yes.
14:57:29 3
14:57:29 4 Thank you. I tender that, Commissioner.
14:57:31 5
14:57:32 6 #EXHIBIT RC1272A - (Confidential) Draft affidavit
14:54:21 7 VPL.0100.0053.8718.
14:57:33 8
14:57:34 9 #EXHIBIT RC1272B - (Redacted version.)
14:57:35 10
14:57:36 11 Yesterday when being asked questions by our learned friend
14:57:39 12 Mr Richter, there was a sort of a-ha moment where you noted
14:57:43 13 that the date 11 November 2002 when the confession you
14:57:47 14 thought was said to have taken place was eight months
14:57:49 15 before the murder, do you recall that?---Yes.
14:57:51 16
14:57:52 17 Can we go to the statement, please, Exhibit 260, that is
14:57:55 18 the statement, the draft statement. And to this portion of
14:58:04 19 it, which I think is on p.2 from memory. Yes. Thank you.
14:58:14 20 Perfect, thanks. Can you see if we look down, the
14:58:20 21 reference to 11 November 2002, can you see that?---Yes.
14:58:25 22
14:58:25 23 Can you see that if you go above that it says, "On one
14:58:29 24 occasion I went to Jim's and there was a guy present who
14:58:31 25 was introduced to me as Mark Perry", do you see
14:58:33 26 that?---Yes.
14:58:34 27
14:58:34 28 You understand that the confession is said to have occurred
14:58:39 29 during that event or on that occasion?---No.
14:58:41 30
14:58:41 31 Well, we keep going. "I can't recall now if I was there to
14:58:44 32 provide advice to Perry, although I recall that I provided
14:58:48 33 advice to him previously. I believe that advice was in
14:58:51 34 respect to the crimes compensation application by Perry's
14:58:53 35 girlfriend", do you see that?---Yes.
14:58:54 36
14:58:55 37 Then it says, "I have certainly acted for his brother Lee
38 Perry"?---Yes.
39
14:59:00 40 "I prepared a Form 8A for him and wrote the invoice for
14:59:00 41 that on 11 November 2002", do you see that?---Yes.
14:59:04 42
14:59:04 43 Whilst I accept that there's some element of ambiguity in
14:59:08 44 all of that, it does appear, doesn't it, that in fact the
14:59:10 45 11 November 2002, in fact as it patently suggests, is the
14:59:15 46 date of an invoice about work for the brother, Lee, nothing
14:59:19 47 to do with the date on which the Mark Perry confession was

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14:59:23 1 said to have - - -?---No, you have to read - at some point
14:59:23 2 during that encounter with Perry, so yes, it's Mark, but
14:59:28 3 the date that she is referring to 11 November 2002.
14:59:31 4
14:59:33 5 If the date of 11 November 2002 is the date of an invoice
14:59:36 6 being signed also appears in IR 301, about the conversation
14:59:40 7 you had with her a year earlier?---Yes.
8
14:59:43 9 Do you accept it was patently obvious that the date of the
14:59:46 10 confession was not the date of the invoice?---No, I accept
14:59:49 11 that, but at some point during that encounter.
14:59:52 12
14:59:54 13 Right. An encounter - - -?---With Perry.
14:59:57 14
14:59:58 15 On an invoice date?---No, she's referenced the date to a
15:00:04 16 date that she knows that she was there. "At some point
15:00:08 17 during the encounter with Perry", and then it goes on,
15:00:11 18 that's - - -
15:00:11 19
15:00:12 20 Mr Iddles, you did an investigation, your own little
15:00:15 21 investigation into this to try and confirm your memory or
15:00:19 22 lack of memory?---Yes.
15:00:20 23
15:00:21 24 As you've agreed with me you were looking for these kind of
15:00:25 25 breadcrumbs, right, there's indications that the confession
15:00:27 26 existed, that it was said to the right people. Do you
15:00:29 27 accept on the - do you accept on the basis - - - ?---Can
15:00:30 28 you let me finish?
15:00:31 29
15:00:31 30 I haven't asked a question so there's nothing to
15:00:35 31 finish?---No, I will answer the question - - -
32
15:00:37 33 No, do you - - - ?--- - - - which will solve your problems.
34
15:00:39 35 Why? Go on then?---Now that I've sat here I have no
15:00:41 36 independent recollection of it, but looking at all the
15:00:44 37 affidavits I must say that the confession was there.
15:00:47 38
15:00:47 39 Thank you. Now, final topic?---It's - - -
40
15:00:50 41 No, don't - - -
15:00:50 42
15:00:50 43 COMMISSIONER: Sorry, you want to say something more,
15:00:53 44 yes?---Had someone provided me this information I would
15:00:57 45 have been in a different position. I had no recollection
15:01:00 46 of it whatsoever. You've now taken me to an affidavit,
15:01:06 47 you've now taken me to some other documents, I'm not going

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15:01:07 1 to sit here and say - I still don't have any recollection,
15:01:11 2 but I can see there's only one logical conclusion, it was
15:01:15 3 there.
15:01:16 4
15:01:16 5 MR HOLT: Do you understand, Mr Iddles, that what you've
15:01:18 6 done up until that point, both in your comments to the
15:01:20 7 media and to this Commission, is to accuse Mr Waddell of
15:01:24 8 corruption and - - -?---I have not accused Mr Waddell of
15:01:27 9 anything. You will not find one - I don't even say
15:01:31 10 Mr Waddell - if the confession wasn't there, I've accused
15:01:36 11 nobody of it. You will not find me speaking anything
15:01:41 12 against Mr Waddell, ever. If you can point to it, point to
15:01:45 13 it, because I haven't, I've never accused - - -
15:01:50 14
15:01:50 15 I really want to move on.
15:01:53 16
15:01:53 17 COMMISSIONER: Yes, let's move on. This goes to credit.
15:01:55 18
15:01:56 19 MR HOLT: I'll move on, Commissioner.
20
21 COMMISSIONER: Thank you.
22
15:01:56 23 MR HOLT: You've accepted on the basis of a conversation,
15:01:59 24 of answers to questions that Ms Tittensor asked you, that
15:02:03 25 by the time you're back from Bali you're speaking with
15:02:10 26 Mr Black on 29 May 2009, you recall that?---Yes.
15:02:14 27
15:02:15 28 And this conversation, could we bring it up, please,
15:02:21 29 VPL.2000.0001.4776, and it's at 5685 of that document.
15:02:30 30 It's the 17:30 entry in Mr Black's diary. At 5685. We can
15:02:50 31 see here, overwhelmingly clear, and I think you accepted
15:02:54 32 this with Ms Tittensor, that at this point you are speaking
15:02:57 33 with Mr Black about the fact that disclosure of her role
15:03:00 34 will initiate a Royal Commission with perceived unsafe
15:03:04 35 verdicts?---Yes.
15:03:04 36
15:03:05 37 You know Mr Black, he's not going to write things down that
15:03:08 38 didn't happen, is that right?---Correct.
15:03:10 39
15:03:10 40 "Current arrests of HS involved may be subject to review",
15:03:14 41 so current matters, yes?---Yes.
15:03:15 42
15:03:16 43 "As well as the disclosure of SDU methodology"?---Yes.
15:03:19 44
15:03:19 45 That's all talking about the risk of a Royal
15:03:22 46 Commission?---Yes.
15:03:22 47

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15:03:22 1 It's a Royal Commission of this kind?---Yes.
15:03:24 2
15:03:24 3 The kind we're actually having?---Yes.
15:03:26 4
15:03:27 5 And your, as you've explained to me on a couple of
15:03:31 6 occasions, your motivation in saying, "Don't get her
15:03:35 7 statement signed" was to avoid such a Royal Commission?---I
15:03:44 8 don't know whether - - -
15:03:45 9
15:03:45 10 You've said it four or five times?---Yes, my view was if it
15:03:49 11 was signed there was going to be a Royal Commission.
15:03:52 12
15:03:52 13 Let's take that to its next logical step, your firm advice
15:03:58 14 at the time you say and repeated in the media since, and
15:04:01 15 repeated here, don't get the statement signed for that
15:04:05 16 reason?---Correct.
15:04:06 17
15:04:06 18 Now, and the people who were saying, "No, no, no, we want
15:04:10 19 the statement signed" were people like Simon
15:04:14 20 Overland?---Yes.
15:04:14 21
15:04:15 22 With the benefit of the advice that would say, "This will
15:04:18 23 lead to a Royal Commission", you're saying, "Don't get it
15:04:21 24 signed", they're saying, "Get it signed", is that
15:04:24 25 right?---The direction that came back was take the
15:04:27 26 statement.
15:04:27 27
15:04:27 28 So you're making it overwhelmingly clear, "Take the
15:04:31 29 statement, there will be a Royal Commission into unsafe
15:04:34 30 verdicts", among other things. "Don't take the statement
15:04:36 31 and there won't be." Your advice is, "Don't take the
15:04:40 32 statement". Mr Overland is saying, "Take the statement".
15:04:43 33
15:04:44 34 MR RICHTER: Commissioner, I do object. There is a slide
15:04:47 35 away from the combination of Royal Commission problem, as
15:04:50 36 well as one of, "You'll be signing your death warrant".
15:04:54 37 Now you can't ignore one and pretend the other one is the
15:04:58 38 exclusive answer and that's what my learned friend is
15:05:01 39 doing.
15:05:02 40
15:05:02 41 MR HOLT: I'm happy to make it clear, Commissioner.
42
43 MR RICHTER: Thank you.
44
15:05:04 45 MR HOLT: Let's accept without any reservation at all that
15:05:08 46 a substantial part of your motivation, Mr Iddles, was to
15:05:13 47 keep Nicola Gobbo safe, do you understand?---Absolutely.

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15:05:14 1
15:05:15 2 Let's absolutely unquestionably accept that?--Yes.
3
15:05:17 4 Every question I ask will assume that proposition,
15:05:21 5 okay?---Yes.
15:05:21 6
15:05:21 7 Thank you. Nonetheless, one of the reasons you thought
15:05:23 8 that there would be a Royal Commission if the statement was
15:05:26 9 signed was an inquiry into precisely these kinds of
15:05:29 10 issues?---Yes, because it would come out.
15:05:31 11
15:05:32 12 And your advice - if the statement was signed, yes?---Yes.
15:05:35 13
15:05:35 14 And your advice was, "Don't sign the statement"?---Correct.
15:05:39 15
15:05:39 16 "To avoid a Royal Commission"?---The overwhelming thing is
15:05:45 17 as I said to her, "You sign your death warrant if you sign
15:05:49 18 it".
15:05:50 19
15:05:50 20 And as you've acknowledged on a number of occasions, in
15:05:53 21 order to avoid a Royal Commission?---Yes.
15:05:54 22
15:05:55 23 Thank you. That's the re-examination.
15:05:56 24
25 <CROSS-EXAMINED BY MR CHETTLE:
26
15:06:02 27 You, Mr Iddles, haven't seen what was called the SWOT
15:06:08 28 analysis that Mr Black prepared for the Petra team?---No, I
15:06:12 29 have not.
15:06:12 30
15:06:13 31 If you can take it from me that it contains assertions of a
15:06:16 32 very similar nature to what are in this document, he wrote
15:06:20 33 in relation to Ms Gobbo for Petra, saying there would be
15:06:23 34 risk of perceived unsafe verdicts and risks of Royal
15:06:29 35 Commissions and things of that sort?---Yes.
15:06:31 36
15:06:31 37 What he was making clear was that it is the perception of
15:06:37 38 using her, being a lawyer, that is going to cause the
15:06:40 39 excitement, isn't it?---I just missed the last part.
15:06:44 40
15:06:44 41 It's the perception of having used a lawyer to get
15:06:49 42 information that is going to cause people to query what was
15:06:52 43 done, to look at what happened?---Correct.
15:06:54 44
15:06:55 45 Now, as part of your looking at what happened, can I get it
15:07:04 46 right, you don't want to be here really. You're here
15:07:06 47 because you read something in the paper that you didn't

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15:07:09 1 agree with?---And I'd been to Bali so I had to be here.
15:07:13 2
15:07:13 3 Because you had a genuine view absolutely no recollection
15:07:18 4 of a confession?---Absolutely, and - I won't continue.
15:07:22 5
15:07:23 6 It was for that reason that you contacted the police and
15:07:26 7 eventually the Commission?---Correct.
15:07:28 8
15:07:29 9 Now, one of the people you contacted and asked about it
15:07:33 10 was, as you said, Sandy White?---Yes.
15:07:35 11
15:07:36 12 Because apart from the fact that he'd been the man at, in
15:07:42 13 control of the SDU until it was disbanded, he had been
15:07:47 14 working in the Briars Task Force as an Acting Inspector
15:07:51 15 conducting an overview of the investigation?---That's
15:07:54 16 correct, and he didn't recall the confession either.
15:07:58 17
15:07:58 18 Yes. In the context not just as an SDU handler but in his
15:08:02 19 oversight of the - - -?---Of his review.
15:08:06 20
15:08:06 21 Of his Briars review of the investigation, yes. Now, you
15:08:12 22 said that Ms Gobbo told you that she'd breached legal
15:08:18 23 professional privilege?---Yes.
15:08:19 24
15:08:20 25 Did you discuss that with Sandy White?---I think we've had
15:08:27 26 discussions and whilst she may have done that, they had a
15:08:34 27 process in place that didn't disseminate information which
15:08:38 28 was breached of the legal professional privilege.
15:08:41 29
15:08:41 30 It's that that I want to ask you about. You would have
15:08:46 31 been aware that the SDU was disbanded in February of
15:08:52 32 2013?---Yes.
15:08:53 33
15:08:55 34 Were you aware of a secret inquiry or investigation that
15:08:58 35 was conducted by Mr Gleeson prior to that
15:09:04 36 disbandment?---No, I was not.
15:09:05 37
15:09:05 38 In relation to your dealings with the SDU and with
15:09:09 39 Ms Gobbo, did anyone from either Neil Comrie's
15:09:13 40 investigation or Mr Gleeson's investigation ask you any
15:09:16 41 questions?---No.
15:09:16 42
15:09:17 43 In early 2014, I suggest to you that you had a conversation
15:09:26 44 with Mr White in relation to rumours that started
15:09:30 45 circulating about why it was that the SDU had been
15:09:35 46 dismissed, as it were, disbanded?---Yes.
15:09:38 47

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15:09:39 1 Can I have Exhibit 289, which is VPL.6025.0011.5329 brought
15:09:48 2 up, please. Right. Now, this is an email chain from, it
15:09:59 3 starts on Friday 14 March. If you go to the second page.
15:10:03 4 That's it. This is the first email in the chain. It's an
15:10:07 5 email dated 14 March to you, entitled, "Rant". Signed by
15:10:14 6 Sandy White?---Yes.
15:10:16 7
15:10:17 8 Now, I'm not going to go through it all with you but just
15:10:24 9 briefly take you to the first paragraph, "Further to our
15:10:28 10 discussions this morning re the SDU". Clearly you and he
15:10:32 11 have had a discussion about something that's happened in
15:10:35 12 relation to the SDU, who have been disbanded for over a
15:10:39 13 year by now?---Yes.
15:10:41 14
15:10:41 15 "I have been told that one of the major reasons for the
15:10:46 16 closure of the SDU was because 3838 was mishandled and the
15:10:48 17 handlers breached legal professional privilege by tasking
15:10:48 18 her against clients or receiving information about her
15:10:52 19 clients. This was a review conducted on the relationship
15:10:55 20 between the source and VicPol by Neil Comrie and others.
15:10:58 21 This review apparently included her time as a source prior
15:11:02 22 to becoming a witness", all right?---All right.
15:11:04 23
15:11:04 24 So do you have a recollection of this discussion with
15:11:08 25 him?---Yes, he was fairly upset about it.
15:11:10 26
15:11:11 27 Right. Now, he goes on to set out that that allegation is
15:11:16 28 incorrect and was tasked in a way that, it was incorrect to
15:11:21 29 say she was tasked designed to breach legal professional
15:11:24 30 privilege and she was repeatedly instructed not to do so.
15:11:27 31 This is in accordance with the conversation he had with
15:11:30 32 you, isn't it?---Yes.
15:11:31 33
15:11:32 34 Now, he points out that he made the decisions in relation
15:11:37 35 to what happened to it, but he was never asked in relation
15:11:40 36 to the inquiry, the secret inquiry that was conducted, and
15:11:45 37 he was of the view that the review was conducted with a
15:11:49 38 pre-determined outcome. I'm not going through it all. He
15:11:53 39 goes to the end and the last paragraph is, "You can see I
15:11:57 40 have got on a soap box and I apologise for that. However,
15:12:00 41 if the rumour we discussed this morning is true and those
15:12:03 42 senior managers involved in the decision to sack honest
15:12:06 43 hard working detectives and analysts should hang their head
15:12:09 44 in shame. So much for integrity". Now you've been a
15:12:15 45 policeman, or you were a policeman for 40 years?---Yes.
15:12:18 46
15:12:18 47 You talked about accountability and the need for relevant

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15:12:21 1 people to accept responsibility for what occurred?---Yes.
15:12:25 2
15:12:25 3 You know, I take it, Tony Biggin?---Yes.
15:12:28 4
15:12:28 5 Would you describe him as an officer of integrity?---Yes.
15:12:32 6
15:12:32 7 He has told this Commission that the buck stops with him,
15:12:35 8 that it's his, he accepts responsibility for the failures
15:12:38 9 of the SDU and their management of Ms Gobbo, do you
15:12:41 10 follow?---Yes.
15:12:42 11
15:12:43 12 You've said to the Commissioner that ultimately it is in
15:12:47 13 your view the Chief Commissioner's responsibility?---I say
15:12:50 14 Tony Biggin has authority but the accountability must go
15:12:55 15 right to the top.
15:12:56 16
15:12:57 17 In your 40 years as a police officer have you come across a
15:13:02 18 situation where those at the top seek to distance
15:13:06 19 themselves from the actions of the troops, if you follow
15:13:10 20 what I'm saying?---Yeah, I follow. On many occasions.
15:13:13 21
15:13:14 22 It's not an uncommon scenario, is it?---Beg your pardon,
15:13:18 23 no.
15:13:18 24
15:13:18 25 Thank you.
15:13:19 26
15:13:19 27 COMMISSIONER: No one else wants to ask questions so it's
15:13:22 28 your turn, Mr Richter, for re-examination.
15:13:24 29
30 <RE-EXAMINED BY MR RICHTER:
31
15:13:26 32 Thank you Commissioner. Mr Iddles, in my learned friend
15:13:36 33 Mr Holt's cross-examination he was directing your attention
15:13:39 34 to some documents which he was describing as some sort of
15:13:43 35 breadcrumb trail. The earliest one to which he referred As
15:13:47 36 a breadcrumb trail as I understand it is the document dated
15:13:49 37 30 July 2009. That's in the transcript and I can't recall
15:13:55 38 the numbers, but it will be there. And then he also
15:13:59 39 referred you to an affidavit dated October 2009. Are there
15:14:05 40 any crumbs, detailed crumbs, that actually evidence the
15:14:11 41 alleged confession being made to Ms Gobbo that predate the,
15:14:19 42 let's say 29 July 2009, of which you are aware?---No.
15:14:29 43
15:14:31 44 And it's that earliest point that tends to indicate some
15:14:35 45 kind of breadcrumb record of some confession, yes?---Yes.
15:14:39 46
15:14:39 47 That's the best that my learned friend could put to you, I

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15:14:43 1 hope, because he represents the Victoria Police, is that
15:14:45 2 right?---Correct.
15:14:46 3
15:14:48 4 It's between the time that you left Bali and 30 July 2009,
15:14:54 5 I take it with the normal effluxion of time there's two
15:14:59 6 months for things to happen, two drafts, is that
15:15:03 7 right?---Yes.
15:15:04 8
15:15:04 9 You haven't seen, you have not seen this draft until many
15:15:09 10 years later?---Correct.
15:15:11 11
15:15:12 12 In fact it was not printed and given to you at the time
15:15:17 13 when it was taken, is that right?---Correct.
15:15:19 14
15:15:19 15 All right. And you had not seen the whole of what
15:15:25 16 everything that had been typed on to it. You hadn't read
15:15:29 17 it right through yourself, you were taking bits and pieces
15:15:33 18 here and there, and Mr Waddell was typing bits and pieces
15:15:37 19 here and there, is that right?---Correct.
15:15:40 20
15:15:40 21 Thank you. In all the years that you have spent as a
15:15:43 22 Homicide Detective, in particular, had you ever had an
15:15:47 23 occasion when someone, other than in a comedy show, had
15:15:56 24 said to you that a witness confessed to that person, to a
15:15:59 25 murder, and your ears didn't prick up?---No.
15:16:04 26
15:16:07 27 It's inconceivable that you would have heard that and
15:16:11 28 forgotten it, isn't it?---I have absolutely no recollection
15:16:15 29 of it whatsoever and I cannot explain it.
15:16:20 30
15:16:20 31 We can't point the finger at anyone who might or might not
15:16:25 32 have done something to that draft. The fact is when the
15:16:28 33 draft came into existence, in particular I draw your
15:16:33 34 attention to what the Commissioner was talking about in
15:16:35 35 terms of an affidavit, and there was an affidavit dated
15:16:39 36 October 2009 shown to you. Apart from a Royal Commission,
15:16:43 37 no one would have seen that affidavit in order to test its
15:16:48 38 contents as against the notion of an unsigned draft
15:16:53 39 statement?---Correct.
15:16:55 40
15:16:55 41 That's right, isn't it?---Correct.
15:16:56 42
15:16:57 43 So but for the fact that there is a Royal Commission here,
15:17:01 44 you know from your experience that every effort to uncover
15:17:06 45 what is in an affidavit in terms of exhibiting a draft
15:17:11 46 statement, every such effort would have been resisted
15:17:15 47 legally, would it not?---Absolutely.

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15:17:18 1
15:17:18 2 And generally upheld, any such rejections would have been
15:17:22 3 upheld?---In 40 years policing I've never seen an affidavit
15:17:27 4 produced at any hearing.
15:17:28 5
15:17:28 6 Fortunately we have a Royal Commission, we've seen this
15:17:32 7 affidavit, correct?---Correct.
15:17:34 8
15:17:34 9 I just want to ask you one other thing. My learned friend
15:17:38 10 Mr Holt represents Victoria Police and have you any
15:17:44 11 knowledge as to whether or not any members of the Victoria
15:17:51 12 Police have commissioned a scientific and technical study
15:17:57 13 of the electronic file of the unsigned statement as to its
15:18:08 14 metadata, its date of creation, the number of edits, the
15:18:12 15 log files that demonstrate how many times it was opened and
15:18:15 16 edited, et cetera, are you aware that such an investigation
15:18:18 17 was ever undertaken by Victoria Police in order to prove
15:18:22 18 the legitimacy of the assertions made?---No.
15:18:25 19
15:18:27 20 And Victoria Police of course, well, you are aware that
15:18:31 21 they can commission the best, the world's best experts to
15:18:36 22 look at electronic files, yes?---Correct.
15:18:38 23
15:18:38 24 But you've never heard that anyone tried to do that in
15:18:41 25 order to demonstrate, for example, that the unsigned draft
15:18:46 26 wasn't actually created before Bali?---No.
15:18:55 27
15:18:57 28 Right. I can understand the notion that one takes a
15:19:03 29 document on which it's dated 21 May and then transposes it
15:19:12 30 into another document by way of a cut and paste, but the
15:19:15 31 cut and pasted document that was finally shown as the
15:19:19 32 unsigned draft would show a date of creation that was not
15:19:24 33 21 May, correct? It would show the date of creation of the
15:19:31 34 draft as the, well presumably the first day on which it was
15:19:37 35 opened?---The metadata would show the date that that first,
15:19:41 36 that the draft was actually first created.
15:19:44 37
15:19:44 38 Yes?---It would show when there are edits and it would show
15:19:48 39 the time of the edits. The amount of time of edits.
15:19:54 40
15:19:55 41 Theoretically if the whole thing is a genuine exercise, the
15:20:00 42 metadata would show the creation of the document as being,
15:20:03 43 what, on 25 May, is that right?---No, because it has a date
15:20:09 44 of 21 May. So the metadata would show that it should have
15:20:14 45 been created, the start of it would have been created on 21
15:20:18 46 May.
15:20:18 47

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15:20:18 1 That's if the file that was used as the unsigned - -
15:20:24 2 -?---Yes.
15:20:24 3
15:20:25 4 - - - statement, if it showed that the file was opened on
15:20:31 5 21 May, that would give it a sense of genuineness. But if
15:20:38 6 that electronic file was actually opened when the beginning
15:20:43 7 of the new statement took place, there would be a different
15:20:48 8 commencement date?---Yes, yes.
15:20:49 9
15:20:50 10 All right. Now, could I ask you one final question, if I
15:21:02 11 may. Having been through this whole process are you able
15:21:15 12 to point to one piece of evidence that has been drawn to
15:21:17 13 your attention that actually demonstrates that this draft
15:21:21 14 statement existed at the end of the Bali trip in electronic
15:21:27 15 form and that it contained this alleged confession to
15:21:32 16 Gobbo?---No.
15:21:33 17
15:21:35 18 Thank you.
19
15:21:37 20 COMMISSIONER: Yes Ms Tittensor.
15:21:38 21
22 <RE-EXAMINED BY MS TITTENSOR:
23
15:21:39 24 Mr Iddles, I take it you don't withdraw your concession
15:21:43 25 that based on the accumulation of the evidence put to you,
15:21:45 26 you accept that the confession was in the statement when it
15:21:49 27 came back from Bali?---I accept that the confession is
15:21:54 28 there, it's been through a process, and I don't believe
15:21:59 29 that anyone, Mr Waddell or anyone else would have been
15:22:03 30 corrupt in that practice. I'm disappointed that whilst I
15:22:09 31 have no independent recollection of this, it's caused me
15:22:13 32 considerable grief when there are documents which could
15:22:17 33 have been shown to me by Victoria Police, I'm an ex-member,
15:22:21 34 I'm not some crusader, I'm an ex-member who could have been
15:22:28 35 shown documents, to say, "Ron, you're wrong, we've got the
15:22:32 36 documents to show that you're wrong in your assessment".
15:22:35 37
15:22:36 38 I guess what you would do is agree with me that the
15:22:41 39 experience that you've had in relation to this particular
15:22:44 40 issue shows the importance of retaining copies of drafts of
15:22:49 41 statements in terms of disclosure if it's
15:22:52 42 required?---Absolutely.
15:22:53 43
15:22:53 44 Thanks Commissioner.
15:22:54 45
15:22:55 46 COMMISSIONER: Thanks very much, Mr Iddles, you're excused
15:22:58 47 and free to go?---Thank you.

.14/02/20

14213

IDDLES RE-XN

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1
15:22:59 2 We'll organise for the next witness to be brought in now.
15:23:02 3 If anyone wants to have a stretch and stand up, they're
15:23:07 4 most welcome.
5
15:23:09 6 <(THE WITNESS WITHDREW)
7
15:24:19 8 COMMISSIONER: I think we're ready to go now. Thank you.
9
15:24:22 10 MR WINNEKE: Thanks Commissioner.
11
12 MR HOLT: Commissioner, Ms Enbom is taking the next
13 witness. May I be excused?
14
15:24:29 15 COMMISSIONER: Yes. Ms Enbom, I note your appearance.
15:24:32 16
15:24:32 17 MS ENBOM: Thank you, Commissioner.
18
15:24:34 19 COMMISSIONER: Mr Winneke, you're taking this witness for
15:24:38 20 counsel assisting?
21
15:24:39 22 MR WINNEKE: Yes, I am, Commissioner. Call Mr Cartwright.
23
15:24:48 24 COMMISSIONER: Are you calling him or is Ms Enbom calling
15:24:50 25 him? Is it your witness, Ms Enbom?
15:24:54 26
15:24:54 27 MS ENBOM: I think what we've been doing, I think
15:24:57 28 Mr Winneke has been calling the witness, then the witness
15:25:00 29 is sworn in and I go through the formalities.
30
15:25:03 31 COMMISSIONER: All right then. I understand you'd like the
15:25:05 32 oath, Mr Cartwright?---Yes, thank you, Commissioner.
33
15:25:07 34 Take the Bible in your right hand, please.
15:25:10 35
15:25:11 36 <TIMOTHY CARTWRIGHT, sworn and examined:
37
15:25:26 38 COMMISSIONER: Yes Ms Enbom.
15:25:27 39
15:25:28 40 MS ENBOM: Thank you, Commissioner. Mr Cartwright, is your
15:25:31 41 full Timothy John Cartwright?---Yes, it is.
42
15:25:34 43 And is your address care of Corrs Chambers Westgarth
15:25:39 44 Lawyers?---Correct.
45
15:25:40 46 Are you currently working as a consultant?---I am.
47

.14/02/20

14214

CARTWRIGHT XN

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15:25:42 1 Have you prepared two witness statements for this Royal
15:25:45 2 Commission?---I have.
3
15:25:46 4 Do you have copies with you?---No, I don't.
5
15:25:49 6 We'll pass you copies with leave of the Commissioner.
7
15:25:51 8 COMMISSIONER: Yes, of course.
15:25:52 9
15:25:53 10 MS ENBOM: Thank you. Do you have the first statement
15:26:04 11 there, Mr Cartwright?---I have the first statement,
15:26:07 12 Ms Enbom.
15:26:07 13
15:26:08 14 Is that one dated 17 December 2019?---Yes, it is.
15
15:26:12 16 Do you have your short supplementary statement there with
15:26:15 17 you?---Yes, I do.
18
15:26:16 19 Is it dated 12 February 2020?---It is.
20
15:26:20 21 To the best of your knowledge are both of those statements
15:26:22 22 true and correct?---They are.
23
15:26:24 24 Thank you. I tender those statements, Commissioner.
15:26:27 25
15:26:39 26 #EXHIBIT RC1273A - (Confidential) Statement of Timothy
15:26:39 27 Cartwright dated 17/12/19.
15:26:39 28
15:26:40 29 #EXHIBIT RC1273B - (Redacted version.)
15:26:40 30
15:26:40 31 #EXHIBIT RC1273C - (Confidential) Supplementary statement
15:26:41 32 of Timothy Cartwright dated 12/02/20.
15:26:41 33
15:26:41 34 #EXHIBIT RC1273D - (Redacted version.)
15:26:42 35
15:26:42 36 COMMISSIONER: Yes, Mr Winneke.
15:26:45 37
38 <CROSS-EXAMINED BY MR WINNEKE:
39
15:26:45 40 Mr Cartwright, as I understand it you were an Acting Deputy
15:26:50 41 Commissioner from about the middle of 2011 to early 2012;
15:26:54 42 is that correct?---That is.
43
15:26:55 44 Then from early 2012 you were appointed as a Deputy
15:26:58 45 Commissioner?---Yes.
46
15:27:00 47 You had responsibilities for the regions in that capacity,

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15:27:05 1 although, as we will see in due course, you continued to
15:27:11 2 have some responsibilities with respect to matters
15:27:13 3 concerning Ms Gobbo?---So I pick up the Deputy Commissioner
15:27:16 4 Operations role in June 2012, so I'm six months prior to
15:27:22 5 before - so I'm Acting for six months. I have six months
15:27:25 6 without a specific portfolio. Then middle of 2012 I pick
15:27:29 7 up that Regional Operations portfolio.

8

15:27:32 9 And then you retained that until late December 2014, and
15:27:37 10 apart from a period in which you were Acting Chief
15:27:40 11 Commissioner around April 2014, from then, from December of
15:27:44 12 2014 until mid-2015 you were in effect the Chief
15:27:48 13 Commissioner, or Acting Chief Commissioner of Victoria
15:27:50 14 Police?---That's right, while Ken had left the organisation
15:27:53 15 suddenly.

16

15:27:57 17 Can I ask you some questions about your knowledge of
15:28:01 18 Ms Gobbo. I take it you never had any dealings with
15:28:05 19 Ms Gobbo in your policing activities until around the
15:28:10 20 middle of 2011, she started to come on to your radar
15:28:15 21 because of responsibilities you had with respect to
15:28:17 22 Operation Driver; is that right?---I can't remember whether
15:28:19 23 it was Driver but the timing's right. I picked up the
15:28:23 24 Crime and Intelligence portfolio.

25

15:28:25 26 Yes?---And then started to become involved with Nicola's
15:28:30 27 case and background.

28

15:28:33 29 From mid-2011, in your position as Acting Deputy
15:28:38 30 Commissioner you have responsibilities for the Crime
15:28:39 31 Department but also the Covert and Intelligence
15:28:43 32 Department?---Yes.

33

15:28:44 34 And also Legal and Prosecutions department?---That's right.

35

15:28:46 36 So your responsibilities were obviously fairly broad but
15:28:50 37 they encompassed those areas, and I think another area as
15:28:54 38 well, but in particular we're concerned about those three
15:28:58 39 areas?---Yes.

40

15:28:59 41 In July of 2011 it appears that there was a meeting and you
15:29:09 42 confirmed at that stage governance arrangements with
15:29:12 43 respect to the Driver Task Force and I think you got a
15:29:18 44 briefing around that time about what was going on with
15:29:22 45 respect to Driver; is that right?---That's my recollection
15:29:26 46 on the documents and what I've seen, yes.

47

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15:29:34 1 Obviously in that role you came to be aware that Ms Gobbo,
15:29:38 2 if you hadn't already been aware, that Ms Gobbo had made a
15:29:41 3 statement with respect to the murders of Terrence and
15:29:44 4 Christine Hodson and she'd implicated Mr Dale in that
15:29:50 5 statement?---It might have been a bit later, Mr Winneke,
15:29:52 6 but it was around that time.
7

15:29:54 8 Right, okay. I think the evidence is, and there's probably
15:30:03 9 no point taking you to it, we've got limited time, but
15:30:06 10 around that time I think you're prepared to concede what
15:30:09 11 you did, I think you got a file and on that file we've seen
15:30:15 12 you've taken handwritten notes on the file, and I take it
15:30:21 13 you've seen that file in the preparation of your statement;
15:30:24 14 is that right?---Sorry, which one are we talking about?
15

15:30:26 16 This is the Driver file. Let's have a look at it,
15:30:31 17 VPL.0100.0013, and if we go to 0103 of that document. It
15:30:38 18 refers to a Driver Task Force meeting on 24 August of 2011
15:30:44 19 and there's some handwritten notes?---That's my
15:31:05 20 handwriting.
21

15:31:05 22 Perhaps if Mr Skim can go to the very front page of that
15:31:09 23 file so as you can see exactly what it is so there's no
15:31:13 24 doubt about it. That's the front page of the file, it's
15:31:15 25 file Driver, and there's on the front of it, I'm not too
15:31:20 26 sure what that date, what that means in particular, but
15:31:23 27 there's a date 7th of the 10th, 11. I assume that's a
15:31:26 28 reference to Mr Ashton and "ex Williams", do you see
15:31:30 29 that?---Yes.
30

15:31:31 31 That's in your handwriting?---That's my handwriting.
32

15:31:34 33 If we scroll through that - we'll come back to this page
15:31:39 34 here. Do you see that it looks like there's a meeting,
15:31:45 35 monthly written update, and there's a note that Graham
15:31:48 36 Ashton appears to have given you a briefing, would that be
15:31:53 37 fair to say?---Yes, that would be right.
38

15:31:56 39 There are some references to a number of operations that
15:32:01 40 Driver was looking at. If we go down the bottom, you see
15:32:04 41 that you've made a note with respect to Nutation?---Okay.
42

15:32:06 43 That was an investigation into Miehchel and Dale's
15:32:12 44 involvement in a burglary - sorry, Dale's alleged
15:32:14 45 involvement, Miehchel was convicted, but Dale's alleged
15:32:18 46 involvement in that burglary on 27 September 2003,
15:32:22 47 correct?---Yes.

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1
15:32:23 2 We'll see there that there's a note underneath that about
15:32:28 3 Gobbo?---Yes.
4
15:32:30 5 Do you see that?---Yes.
6
15:32:33 7 There's a note with respect to the Commonwealth DPP,
15:32:36 8 perjury before the ACC, Gobbo a key witness, and there's
15:32:41 9 another note immediately underneath that, "Associating with
15:32:45 10 Robbie Karam", and then there's a remembrance to "cocaine,
15:32:49 11 240 kilograms", do you see that?---Yes, I do.
12
15:32:52 13 Are you able to enlighten the Commission as to what that
15:32:56 14 note was about?---So in the context it looks like Graham's
15:33:02 15 briefing me on the things that are going on. So I'm new to
15:33:05 16 the portfolio, I'm trying to catch up quickly, and he's
15:33:08 17 briefing me on the key issues. As you pointed out,
15:33:12 18 Operation Nutation is one of those, and then he's given me
15:33:15 19 advice on Gobbo, Nicola Gobbo, and it looks like, on the
15:33:24 20 other documentation we have before us, that it would be
15:33:26 21 about the Dale matter.
22
15:33:27 23 Right. Then if we have a look at a further note that
15:33:40 24 you've taken. If we move to what appears to be p.2 of your
15:33:46 25 written notes. I think you'll need to go up a page to get
15:33:50 26 to that. You've had another meeting, it seems, on 29
15:33:59 27 September 2011 and there's more information coming to you
15:34:04 28 about the situation concerning Ms Gobbo. And what the
15:34:11 29 Commission knows is that at that stage concerns had arisen
15:34:16 30 around Ms Gobbo's risks because there was a concern that if
15:34:22 31 she was called as a witness there would be an exposure of
15:34:26 32 her role, potential exposure of her role. You're aware of
15:34:31 33 that?---Yes.
34
15:34:32 35 What the Commission also knows is that there was a meeting
15:34:35 36 with a barrister, Gerard Maguire, on 21 September 2011. A
15:34:42 37 further meeting on 28 September 2011 at which Mr Maguire
15:34:46 38 presented a draft of an advice which was subsequently shown
15:34:50 39 to you on 2 November 2011. You're aware of that?---Yes, I
15:34:56 40 am.
41
15:34:58 42 What appears to be the case is that certainly by 29
15:35:01 43 September 2011 you had been briefed on those emerging
15:35:08 44 issues, would that be fair to say?---Yes, it certainly
15:35:12 45 would appear to be that way from the notes I've taken.
46
15:35:14 47 I take it you were particularly concerned about the risks

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15:35:16 1 to Ms Gobbo arising from her exposure as a human
15:35:20 2 source?---Yes, I was concerned with her risks generally.
3
15:35:23 4 Yes?---Particularly in this matter though, with Dale, if
15:35:27 5 she was called as a witness.
6
15:35:30 7 In your note on 29 September we see that there's a
15:35:34 8 reference to a tape of Dale. Now of course we know that
15:35:36 9 that's the tape that she made of Paul Dale in
15:35:41 10 conversation?---Yes.
11
15:35:41 12 Which led to the ACC prosecution. You'll see that you were
15:35:45 13 briefed around risks concerning credibility, do you see
15:35:49 14 that?---Yes.
15
15:35:51 16 And then there's a note, "Commonwealth instructor and will
15:35:56 17 need to go higher", and there's a note or "(Mick Frewen)".
15:36:05 18 It goes on and says this, "Re her role and importance to
15:36:09 19 case"?---Yes.
20
15:36:11 21 Can I assume that "re her role" would be a reference to her
15:36:14 22 role as a human source?---I can - that's what I read into
15:36:18 23 that.
24
15:36:18 25 Yes?---But that's one of the things that makes most sense,
15:36:23 26 would be that's her role as a human source, yes.
27
15:36:25 28 There's going to be a meeting, Finn McRae is going to want
15:36:29 29 to organise a meeting with the DPP and Finn - sorry,
15:36:32 30 Ms Gobbo's been subpoenaed for the ACC case?---Yes, and
15:36:36 31 DPP, that would be the Commonwealth DPP of course.
32
15:36:38 33 Yes, I follow. And it's to be discussed with Graham
15:36:45 34 Ashton, Jeffrey Pope and Finn McRae?---Yes, looks like
15:36:51 35 Graham's away temporarily, so it's on Graham's return or
15:36:56 36 GA's return.
37
15:36:58 38 If we follow this through. If we have a look at an email
15:37:02 39 dated 5 October 2011, VPL.6027.0018.4307. It seems that
15:37:15 40 you wanted to have a meeting regarding - you see at the
15:37:21 41 bottom of the chain, "Can you arrange" - this is to
15:37:24 42 Christine Stephens, who I assume was an assistant?---Yes,
15:37:31 43 she was my PA, yep.
44
15:37:32 45 "Can you arrange a meeting of myself and the above late
15:37:36 46 Friday or Tuesday, 30 minutes re witness safety for Task
15:37:37 47 Force Driver". Mr Pope says to Graham Ashton - now you

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15:37:40 1 won't have seen this because it's not copied for you,
15:37:44 2 "Matter for you, but sure, we need to meet with Tim. You
15:37:47 3 and Finn no doubt have it in hand and the steering
15:37:49 4 committee will make/endorse the final decision next week.
15:37:54 5 This seems a bit superfluous. Spoke to Tim, he's happy to
15:37:58 6 wait until after our Commonwealth DPP meeting before we
15:38:01 7 meet"?---Yes.
8
15:38:03 9 So that's what appears to occur there. You've got a
15:38:09 10 handwritten notation, if we go back to your notes, "Finn
15:38:13 11 confirmed he'll arrange meeting with the OPP Federal around
15:38:17 12 F's involvement in the Dale prosecution. Finn hasn't
15:38:20 13 organised discussion re well-being risks, mitigation", and
15:38:26 14 you say you'll organise; is that right?---Yes, that's
15:38:28 15 right.
16
15:38:28 17 Now then there's the meeting, it appears to be on 11
15:38:32 18 October. Do you see that?---Yes, I do.
19
15:38:41 20 Mr Ashton's there, Mr Pope's there, Mr McRae is by phone
15:38:49 21 and the note is to this effect, that the OPP is waiting or,
15:38:55 22 "OPP waiting for external advice, possibly next week for
15:39:01 23 meeting, once DPP has that advice". Did you understand
15:39:06 24 what in fact that advice was? Was it the Maguire advice or
15:39:13 25 was it a different advice that you were - - - ?---Looking
15:39:16 26 back, it was a long time ago, but I read that, and I still
15:39:20 27 read that as to say they were seeking independent legal
15:39:25 28 advice. I didn't read it as to be the Maguire advice.
29
15:39:27 30 What we do know is the Maguire advice had been provided at
15:39:31 31 that stage, firstly, in draft on the 28th?---Yes.
32
15:39:33 33 And secondly, the final advice was provided on the 4th of
15:39:39 34 October. But you believe you didn't get that until 2
15:39:42 35 November; is that right?---That's right. I'm just looking
15:39:44 36 at that now, Mr Winneke. I wouldn't - it wouldn't be the
15:39:48 37 Maguire advice because I didn't know about it until 2
15:39:51 38 November.
39
15:39:51 40 All right. I should say this, that - no, I withdraw that.
15:39:58 41 What I want to ask you about is this: it says, "F, PII
15:40:06 42 argument around previous disclosures with Mokbel". Albeit
15:40:11 43 you may not have been aware of the fact that the advice had
15:40:15 44 been prepared, do you think it might be the case that you
15:40:17 45 were aware that there had been at least discussions around
15:40:23 46 this particular issue and you may well have been aware of a
15:40:29 47 draft advice by Mr Maguire?---No, I don't - look, there

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15:40:34 1 obviously has been previous discussions but I wouldn't
15:40:37 2 infer from that I knew advice had been sought from
15:40:41 3 Mr Maguire. It's the sort of thing, I mean you go back
15:40:45 4 that far, it's the sort of thing I would have thought I'd
15:40:48 5 take a note, that we're seeking the advice, but possible.
15:40:52 6
15:40:52 7 It does seem to be, thought, that you're aware of the
15:40:55 8 potential of a PII argument and previous disclosures with
15:40:57 9 Mokbel, do you see that?---Yes. Yes, I do.
10
15:41:00 11 What other issue could that relate to but for the matters
15:41:04 12 that had been pointed out in Mr Maguire's advice?---Sorry,
15:41:08 13 no, I'm not denying that I knew there was PII argument, but
15:41:13 14 I'm just saying I might not have known we sought advice
15:41:18 15 from Maguire that was drafted.
16
15:41:20 17 It does appear, though, if you have previous disclosures
15:41:23 18 with Mokbel and PII argument, it does appear, doesn't it,
15:41:29 19 that you're aware of matters which may have concerned
15:41:31 20 Mokbel?---Yes. By the look of that, yes.
21
15:41:38 22 It does, yes. All right. If we go down, you look at
15:41:40 23 issues of risk to Ms Gobbo. You've got a preview of
15:41:45 24 actions to protect her. "Many with motivation to do harm.
15:41:50 25 Still mixing with previous people she has given", it seems,
15:41:55 26 "evidence against"?---That would be my abbreviation, yes.
27
15:42:00 28 So it would follow, I suggest, given that - I mean there's
15:42:03 29 no suggestion she had given evidence at that stage, but can
15:42:06 30 I suggest that what you're referring to is that she has
15:42:09 31 given information against other people?---Yes.
32
15:42:11 33 And they're the people who might want to cause her
15:42:14 34 harm?---That would be my re-reading of that, yes.
35
15:42:16 36 Okay. So the likelihood is that you're aware of these
15:42:20 37 sorts of issues because they've been brought to your
15:42:23 38 attention at this stage?---Yes, correct.
39
15:42:25 40 We'll await the meeting with the Federal DPP. "If the
15:42:29 41 decision" - if we can move up to the next page - "is to
15:42:36 42 proceed with her evidence then again approach to encourage
15:42:39 43 entry to witness protection"?---Yes.
44
15:42:44 45 Did you have a particular involvement with witness
15:42:49 46 protection or a particular concern about witness
15:42:52 47 protection? Was that something that you had a particular

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15:42:55 1 interest in?---Not at that time from my memory. I'd pick
15:42:58 2 up, later on in my portfolios I pick up witness protection.
3
15:43:04 4 Yes?---But my recollection at this time was I'd already
15:43:07 5 been told by Graham and Jeff that Nicola Gobbo's life was
15:43:11 6 at risk.
7
15:43:12 8 Yes?---So I had that sort of background and we'd been
15:43:15 9 trying to get her into witness protection unsuccessfully.
10
15:43:18 11 All right then. The next thing I want to ask you about is
15:43:22 12 this: in Mr Ashton's notes on 12 October 2011 at
15:43:32 13 VPL.6132.0041.4616 at 4620 there's this note, "There are
15:43:41 14 calls and emails exchanged through the evening on Mokbel
15:43:45 15 issue. Ken Lay wanted to know if we had a problem on
15:43:47 16 Mokbel given tomorrow's media article. I got a response
15:43:48 17 from Doug Fryer that all Mokbel's warrants were fine and I
15:43:52 18 gave this advice to Ken, Tim and Finn". Do you see
15:43:56 19 that?---Yes, I do.
20
15:43:59 21 If we go to Mr Lay's notes on 13 October 2011, which is
15:44:06 22 RCMP.0140.0001.0001 at p.41, he's made similar notes and
15:44:16 23 he's got a note of, it appears to be - can we go to the
15:44:31 24 next - - - ?---16:50, Mr Winneke?
25
15:44:35 26 There's a note, "Affidavit issues. Mokbel appeal", then
15:44:38 27 there's a reference to Judge Montgomery?---Right.
28
15:44:42 29 What I'm suggesting is that around this time, around 12
15:44:48 30 October, it was known to you that there was a concern about
15:44:54 31 affidavit issues which had arisen because of a case
15:44:57 32 involving a person by the name Marijancevic and that
15:45:02 33 Mokbel, Tony Mokbel had entered pleas of guilty earlier on
15:45:08 34 in 2011, but because of issues with respect to not swearing
15:45:14 35 affidavits correctly Mr Mokbel was seeking to change his
15:45:19 36 plea from one of guilty to one of not guilty?---Right.
37
15:45:22 38 Can I suggest to you that that's what that email or that
15:45:28 39 note of 12 October refers to?---So we're talking about
15:45:32 40 Ken's diary note?
41
15:45:34 42 Well both Ken's diary note and Graham's notes, "Calls and
15:45:40 43 emails exchanged through the evening on Mokbel issue. Ken
15:45:44 44 wanted to know if we had a problem on Mokbel given
15:45:47 45 tomorrow's media article". And the response was that all
15:45:49 46 the warrants were fine, and that advice was given to
15:45:51 47 you?---Okay. In preparation for the Commission I hadn't

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15:45:54 1 reviewed these documents, I haven't seen these documents.
2
15:45:57 3 Yes?---The timing's about right around the affidavit issue.
4
15:46:01 5 Yes?---But I don't recall Marijancevic, Mokbel, those
15:46:05 6 issues. I can't put it better than that.
7
15:46:09 8 If the evidence is that - the evidence is that in the
15:46:13 9 months of October/November/December of 2011, into 2012,
15:46:19 10 there was quite a bit of evidence given by various
15:46:23 11 detectives in Purana who gave evidence before Justice
15:46:28 12 Whelan about whether or not they had sworn affidavits and
15:46:34 13 there was quite a concern about whether or not Mokbel might
15:46:37 14 be entitled to change his plea?---Yes.
15
15:46:40 16 And it arose because of conduct on the part of Victoria
15:46:47 17 Police officers in not swearing affidavits?---I remember
15:46:49 18 the timing, so I was involved very actively in the
15:46:53 19 affidavits issue.
20
15:46:54 21 Yes?---I don't doubt that if it affected or potentially
15:46:57 22 affected Mokbel we'd be looking at but I don't have a
15:47:01 23 specific memory of it.
24
15:47:02 25 All right. You don't take issue with the proposition that
15:47:04 26 if you were a party to those conversations and emails it
15:47:07 27 would have been something that you were aware of at the
15:47:09 28 time?---Correct.
29
15:47:10 30 And given your responsibilities for not just Crime but also
15:47:16 31 for the presentation of cases, of prosecuting cases, it
15:47:24 32 would be something certainly within your remit?---Yes, it
15:47:27 33 would.
34
15:47:27 35 Okay. Then if we go to the 24th of October. What occurs
15:47:39 36 on that occasion or that day is that - perhaps if we can go
15:47:44 37 to p.3 of your handwritten notes which is in the document
15:47:51 38 we were looking at before. You'll see here that Mr Ashton
15:47:55 39 and Mr Pope, or "an allegation was made on Friday evening
15:48:01 40 by Ms Gobbo that she'd a sexual relationship with Jeffrey
15:48:06 41 Pope many years ago for three or four months"; is that
15:48:09 42 right?---Yes, that's correct.
43
15:48:10 44 "JP", Jeff Pope, "advised me that he had dealing with her
15:48:14 45 as a witness in 1999"?---Yes, that's what my notes say,
15:48:20 46 yep.
47

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15:48:20 1 Does that suggest that in that meeting he's told you that
15:48:25 2 he'd dealt with her as a witness?---That's correct.
3
15:48:28 4 And there was limited contact?---Sorry, there was?
5
15:48:32 6 Limited contact?---He says no personal relationship. There
15:48:36 7 was contact about a witness, but that's what I've got in
15:48:40 8 my diary.
9
15:48:41 10 "Witness in 99 and limited contact, no personal
15:48:44 11 relationship"?---Sorry, yes.
12
15:48:45 13 "Graham Ashton to obtain transcript and further assess
15:48:49 14 then. Considered risks to Gobbo", that's the separate
15:48:54 15 issue. And what does it say, "None additional"; is that
15:48:59 16 right?---Correct.
17
15:49:00 18 "Nature of allegation, nothing requiring OPI". What does
15:49:06 19 that say?---"Notification at this stage."
20
15:49:09 21 "Notification at this stage"?---So nothing requiring OPI
15:49:12 22 notification at this stage.
23
15:49:13 24 What you determined to do was to advise the Driver, or have
15:49:17 25 Graham Ashton advise the Driver members; is that
15:49:20 26 right?---Yes, at that stage, and then there's further
15:49:22 27 action.
28
15:49:23 29 Further action is taken. 17:00 hours you advised the
15:49:28 30 Acting Chief Commissioner of Police, who was Mr Lay I think
15:49:30 31 at that stage; is that right?---That's right.
32
15:49:31 33 And later discussed it with the - - - ?---Assistant
15:49:36 34 Commissioner ESD.
35
15:49:38 36 Assistant Commissioner ESD by phone?---Yes.
37
15:49:49 38 You took certain actions because of that notification and I
15:50:00 39 think there's a note on this. There's an email to
15:50:04 40 Mr Ashton, GLA.0003.0007.0885. You say that, "In our
15:50:16 41 routine catch up this afternoon Jeff suggested that the
15:50:19 42 matter of the Witness F conversation should be tabled at
15:50:22 43 the next Driver meeting with a brief overview of the action
15:50:25 44 taken". You think that that's a good suggestion, it would
15:50:28 45 demonstrate that the matter is being appropriately
15:50:31 46 considered?---Yes.
47

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15:50:32 1 That was done?---Yes.
2
15:50:35 3 Right. I tender that email, Commissioner.
15:50:39 4
15:50:40 5 #EXHIBIT RC1274A - (Confidential) GLA.0003.0007.0885.
15:50:42 6
15:50:43 7 #EXHIBIT RC1274B - (Redacted version.)
15:50:44 8
15:50:45 9 COMMISSIONER: Are you wanting to tender some of the
15:50:47 10 earlier documents, the notes and emails?
11
15:50:50 12 MR WINNEKE: I'm going to come back to notes and I'll
15:50:52 13 tender those in a bundle, Commissioner, if I may. The
15:50:56 14 emails, yes, I'll tender also.
15
15:50:59 16 COMMISSIONER: What was that - - -
17
15:51:00 18 MR WINNEKE: I'm sorry, Mr Ashton's notes are already
15:51:03 19 tendered, Commissioner.
20
15:51:04 21 COMMISSIONER: Yes, they have. They're 886 and Mr Lay's
15:51:07 22 1172. But there were some emails I think you mentioned in
15:51:10 23 between Mr Cartwright's notes.
24
15:51:15 25 MR WINNEKE: My instructors will make a note of those and
15:51:18 26 provide them to me and remind me if I haven't tendered
15:51:20 27 them.
28
15:51:20 29 COMMISSIONER: Thank you.
30
15:51:21 31 MR WINNEKE: Can I move to 2 November. There's a note, a
15:51:34 32 memorandum to the Assistant Commissioner of Crime from the
15:51:38 33 Acting Deputy Commissioner Crime Operation Support, which
15:51:41 34 is you, 2 November, VPL.0100.0013.011, and the last number
15:51:49 35 is cut off. But it says this, "I note that the matters
15:51:53 36 raised by Witness F were discussed at the Driver steering
15:51:58 37 committee of last Thursday, 27 October 2011 and will be
15:52:02 38 reflected in the minutes of the meeting. I also note that
15:52:06 39 at that time Assistant Commissioner Pope recused himself
15:52:09 40 from the committee until any issues are resolved. I
15:52:12 41 consider this action appropriate entirely on considerations
15:52:16 42 of a potential for a perceived conflict of interest. I
15:52:20 43 note that this decision in no way reflects on the integrity
15:52:24 44 of Assistant Commissioner Pope, in whom I continue to have
15:52:27 45 complete trust", right? That's a memorandum that you - - -
15:52:34 46 ?---Sorry, I haven't got it up, Mr Winneke, but from the
15:52:37 47 documents I've reviewed, yes, that was me to Graham Ashton.

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1
15:52:41 2 All right. The other thing that occurred on 2 November -
15:52:48 3 I'll tender it but I'll need the last number on the
15:52:51 4 document. We'll find it for you and we'll put it up. I
15:53:03 5 want to ask you now about your receipt of the Maguire
15:53:08 6 advice. You recall receiving that, do you?---I've seen the
15:53:13 7 document. I've seen the date that I've put on it, so from
15:53:17 8 that it means I've got it on 2 November by hand I think it
15:53:21 9 said.
10
15:53:25 11 I wonder if we could put that up. VPL - I'm not too sure
15:53:45 12 whether Mr Skim has it - VPL.0100.0013.010, and again I'm
15:53:55 13 missing the last number. If we can go to this document
15:54:01 14 here, VPL.0100.0013.0053, it was around p.106 I think or
15:54:32 15 thereabouts. First page is 104, which is p.52 of the
15:55:07 16 document. That's your handwriting on it?---Yes.
17
15:55:16 18 You received it on 2 November?---Yes.
19
15:55:20 20 You read it, I take it?---I don't know whether I read it
15:55:26 21 that day but I certainly read it soon.
22
15:55:30 23 It's a significant document, I take it, you'd agree with
15:55:32 24 that?---Yes.
25
15:55:33 26 If we go to the second page of the document. There are a
15:55:42 27 number of matters which are underlined and would it be fair
15:55:46 28 to say that given that you've underlined it you've
15:55:50 29 attributed some importance to the matters that you've
15:55:54 30 marked, would that be fair to say?---Yes, it would.
31
15:55:57 32 So paragraph 8 refers to the fact that an approach was made
15:56:01 33 on 7 September 2005 to the MDID by a confidential source
15:56:06 34 who offered to supply information in relation to Tony
15:56:11 35 Mokbel?---Yes.
36
15:56:13 37 At this stage you were obviously aware that the
15:56:14 38 confidential source was Ms Gobbo?---I presume so, yeah, I
15:56:19 39 think so.
40
15:56:20 41 It goes on, "In about 2002 Mokbel had been charged by
15:56:23 42 members of both the former Victoria Police Drug Squad, AFP
15:56:27 43 in relation to a variety of drug related offences"?---Yes.
44
15:56:33 45 If we go over the page, at the top of the next page,
15:56:38 46 another point that you've marked in the margin,
15:56:42 47 "Significantly at all relevant times the source was part of

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15:56:45 1 the Mokbel legal team in relation to both sets of
15:56:47 2 charges"?---Yes.
15:56:48 3
15:56:48 4 "Following the initial approach the source was managed for
15:56:51 5 a number of years by the predecessor of the Source
15:56:56 6 Development Unit, the Unit". Then if we go down to
15:56:59 7 paragraph 13, 29 September 2005, "Debrief by members of the
15:57:06 8 Unit in respect of criminal activity undertaken by Mokbel
15:57:10 9 and his associates. She was acting in a legal capacity in
15:57:13 10 relation to both the Mokbel and others of his
15:57:17 11 associates"?---Yes, that's right.
12
15:57:19 13 And paragraph 14, "Extensive and continuing contact". Then
15:57:24 14 again you noted that it was apparent from the log that the
15:57:29 15 source was tasked from time to time in relation to other
15:57:32 16 investigative targets, as well as the Mokbel
15:57:35 17 syndicate?---Yes.
18
15:57:36 19 If we go over the page. Then if we go to paragraph 17 is
15:57:44 20 what appears to be a note and a highlight around this
15:57:47 21 section, that there is a suggestion that, "On 7 April 2006
15:57:53 22 handlers gave the source instructions concerning whether an
15:57:56 23 adjournment application on behalf of the Mokbels might be
15:57:58 24 made"?---Yes.
25
15:58:01 26 On behalf of Mokbel. If we then go over to the next page,
15:58:09 27 the advice then comes to the assistance with respect of
15:58:14 28 Paul Dale. It appears that you've noted at paragraph 21 at
15:58:18 29 the top, "Targeted to meet Paul Dale and told that any
15:58:21 30 meeting was to be in business hours and consistent with
15:58:24 31 professional contact"?---Yes.
32
15:58:25 33 And obviously that appeared to be of significance, I
15:58:29 34 assume, because it may suggest that she was being tasked to
15:58:35 35 see Mr Dale as a lawyer or in that capacity?---That was one
15:58:39 36 of the interpretations or for it to make him think - I
15:58:43 37 don't know, but it's - - -
38
15:58:45 39 Consistent with - - - ?---If you're going to do it during
15:58:47 40 business hours, it's not a social visit, no.
15:58:50 41
15:58:50 42 Then there's highlighting underlining in paragraph 25. "A
15:58:56 43 number of the handlers had been involved and because of
15:58:58 44 particular activity which had occurred management were
15:59:00 45 concerned that the source may in fact be engaging in
15:59:03 46 illegal activity such as drug trafficking without
15:59:08 47 indemnity. Handlers were concerned about the constant risk

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15:59:14 1 to source of identification". Obviously that seemed to be
15:59:17 2 of concern to you?--Yes.
3
15:59:18 4 If we go over the page, further matters have been
15:59:22 5 highlighted in paragraphs 30 and 31. Then if we continue
15:59:29 6 next, the advice talks about current charges. I won't go
15:59:36 7 through all of it. But if we go over to p.9 of the advice,
15:59:41 8 which is paragraph 44, "Dale's defence is at all times he
15:59:49 9 was speaking to the source it was on an occasion which
15:59:51 10 attracted legal professional privilege"?--Yes.
11
15:59:57 12 And then over the page, 47, "It might be contended that the
16:00:06 13 instruction given by the handlers to the source at the time
16:00:08 14 of the initial targeting leaves open the contention by the
16:00:11 15 defence that the totality of the dealings between Dale and
16:00:13 16 the source attract a claim of LPP". Then if you go further
16:00:22 17 down matters had occurred to Mr Maguire and obviously
16:00:28 18 matters that you were interested in are those at paragraph
16:00:31 19 48. "In my view some limited disclosure of the material
16:00:36 20 from the Unit may be required and the date on which the
16:00:40 21 instructions were given will also need to be disclosed. At
16:00:43 22 the very least the matter will need to be considered by the
16:00:48 23 prosecutor to determine whether redacted copies of the
16:00:52 24 relevant documents should be provided to the defence as a
16:00:54 25 matter of fairness. Appropriateness of making this
16:00:57 26 material available can be tested in a number of ways.
16:01:00 27 First, it might be asked whether defence has a legitimate
16:01:04 28 forensic purpose for obtaining access to a document",
16:01:08 29 Mr Maguire's advice was, "In my view the answer has to be
16:01:12 30 yes". Then if we continue on to p.12 we get to paragraphs
16:01:23 31 53 and 54 and these are the paragraphs which, can I
16:01:30 32 suggest, would have been of particular concern and are
16:01:35 33 highlighted by you. Do you accept that these matters were
16:01:39 34 of concern?--Yes, they're matters - if I've underlined
16:01:44 35 them, so my usual habit is something significant.
36
16:01:47 37 Yes?--Whether it's a concern or whether it's significant
16:01:50 38 for some other reason I'll underline it.
39
16:01:52 40 So 53, "Complication is the professional role undertaken by
16:01:57 41 the source once identified as acting as an informer from
16:02:00 42 February 2007. Likely the defence will press to obtain
16:02:05 43 documents in relation to all other dealings between the
16:02:06 44 police and the source on the basis that it will show that
16:02:10 45 the source was providing legal service and advice to other
16:02:11 46 targets at the same time as information was being provided
16:02:12 47 to the police and that would form the basis of a credit

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16:02:17 1 attack, as well as bolstering the proposition that the
16:02:20 2 recorded conversation with Dale was an occasion which
16:02:23 3 attracted LPP"?---Yes.
4

16:02:26 5 At a paragraph which appears to have been significant, both
16:02:29 6 with respect to underlining and also highlighting in the
16:02:33 7 margin, "If the role of the source were to be fully exposed
16:02:36 8 there's a possibility that persons such as Mokbel, who was
16:02:39 9 convicted in absentia in March 2006, would seek to
16:02:43 10 challenge their conviction on the basis that it was
16:02:45 11 improperly obtained"?---Yes.
16:02:46 12

16:02:46 13 "Difficult to predict how such an issue might be raised or
16:02:50 14 played out but there might be an attempt to raise an issue
16:02:54 15 in the Court of Appeal and collateral effect in relation to
16:02:56 16 current sentencing of Mokbel for drug trafficking offences
16:02:57 17 after he had fled the jurisdiction". The reason I raise
16:03:02 18 that issue about the affidavit matter, as it related to
16:03:07 19 Mokbel, is that it suggests that you were aware at that
16:03:12 20 stage that Mokbel was involved in litigation at that time
16:03:16 21 with a view to seeking to challenge the entry of a plea of
16:03:20 22 guilty on the basis of the affidavit issue, would that be
16:03:23 23 fair to say?---I don't know, Mr Winneke. I can't recall
16:03:27 24 that.
25

16:03:29 26 I accept that. If there are emails which indicate that
16:03:36 27 you, the Chief Commissioner and Mr Ashton, Mr McRae are
16:03:39 28 concerned about that issue, whether there were warrants
16:03:42 29 which might be available to set aside improperly obtained -
16:03:49 30 - - ?---Yes.
31

16:03:50 32 - - - which could have an effect on Mokbel's
16:03:53 33 proceeding?---Yes.
34

16:03:53 35 It would have been something you would have been across at
16:03:56 36 the time?---I would think so, yes.
16:03:57 37

16:03:57 38 And it would be reasonable that you would be, given it was
16:04:00 39 an area in which you had some responsibility?---Yes.
40

16:04:06 41 If we take the view that Maguire is pointing out to
16:04:11 42 Victoria Police that there may be problems with respect to
16:04:19 43 Mokbel's conviction, it would have been a matter which
16:04:24 44 would have been apparent to you at the time as being a
16:04:29 45 concern for Victoria Police with respect to potential need
16:04:33 46 for disclosure?---Yes, I would think so, yes. Sorry, I'm
16:04:38 47 just trying to think back. My focus at the time I'm

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16:04:42 1 reading this advice is more on Dale but there's certainly
16:04:45 2 plenty of material in there that says "you have an issue
16:04:47 3 with Mokbel potentially ".
4

16:04:49 5 The paragraphs that I took you through suggest that she's
16:04:53 6 brought in because of Mokbel, she's providing advice -
16:04:57 7 sorry, she's providing information about Mokbel?---Yes.
8

16:05:00 9 She's acting for Mokbel. All of those things are real red
16:05:04 10 flags?---Red flags, yes.
11

16:05:06 12 About Mokbel?---Yes.
13

16:05:07 14 Can I suggest to you that that would have immediately
16:05:10 15 raised in your mind the need to consider the necessity of
16:05:19 16 making disclosure to the Office of Public Prosecutions, or
16:05:25 17 at least letting them know of concerns that Victoria Police
16:05:28 18 had, do you accept that?---No, I think what I'd want to
16:05:32 19 know, reading that.
20

16:05:33 21 Yes?---Is I'd want to know more. What's this about? I'm
16:05:37 22 come into the portfolio cold. Perhaps if I had more
16:05:42 23 background I might go straight to that "we need to go to
16:05:47 24 the OPP". But on reading that now, I think my first
16:05:50 25 response would be what's this about and trying to find out
16:05:52 26 more detail.
27

16:05:53 28 Yes, before you go racing off to the OPP?---Sure. Because
16:05:56 29 otherwise you get the same thing, I go to the OPP and they
16:06:00 30 say, "What's this all about?" And I say I don't know.
31

16:06:02 32 I take your point is, "We've got to get to the bottom of
16:06:05 33 this"?---Yes.
34

16:06:06 35 You make a note at the bottom of the page, we see there,
16:06:07 36 underneath paragraph 55, which is Mr Maguire saying, "These
16:06:15 37 issues ought be raised with senior management within
16:06:16 38 Victoria Police for their consideration in the context of
16:06:17 39 the current committal which is due to commence in November
16:06:19 40 of 2011". That's the committal with respect to Dale and
16:06:24 41 the ACC charges?---Yes.
42

16:06:26 43 Which you'd been briefed about?---Yes.
44

16:06:28 45 And he's suggesting that urgent consideration be given to
16:06:32 46 providing a copy of the relevant log entries to the
16:06:34 47 prosecutor for the purposes of determining what, if any,

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16:06:36 1 disclosure is required in the interests of fairness?---Yes.
2
16:06:41 3 And what you've noted at the bottom is, "The Federal DPP
16:06:45 4 will view log 311 and have seen this advice"?---Yes, can we
16:06:51 5 go back? So that's a future, we'll view it on the 3rd. So
16:06:55 6 I'm presuming you're right, I might have read that advice
16:06:59 7 overnight on the 2nd or very early on the 3rd.
8
16:07:02 9 Right. So what that indicates is, with respect to Dale,
16:07:08 10 the appropriate course is to permit the prosecutor to read
16:07:10 11 the source management log?---Yes.
12
16:07:13 13 So you've clearly been briefed about the log. And it would
16:07:18 14 be appropriate for the prosecutor to read the
16:07:21 15 advice?---Yes, and in fact they've already seen it by the
16:07:24 16 looks of this.
17
16:07:25 18 It does. That would enable at least you to be comfortable
16:07:30 19 that those who are bringing the prosecution are aware of
16:07:35 20 the issues?---Yes.
21
16:07:36 22 They can make their decision?---Yes.
23
16:07:38 24 About what to do with it?---Yes.
25
16:07:43 26 On one view if you know that the prosecutions are going on
16:07:49 27 with respect to Mokbel at that time, or at least there's
16:07:52 28 litigation, one view might be, well, we could deal with
16:07:55 29 this in the same we've dealt with it in the Dale - sorry,
16:07:59 30 in the Dale matter at the ACC, by providing a source
16:08:04 31 management log and the advice to the prosecution. One way
16:08:07 32 that we could deal with the issue with respect to Mokbel is
16:08:10 33 to do exactly the same?---Yes, but I don't know if we - I
16:08:14 34 don't recall going into that sort of extent.
35
16:08:15 36 No?---But if that - sorry, that sort of extent of
16:08:19 37 discussion around that. This was still focused on Dale at
16:08:23 38 that time.
39
16:08:24 40 All right. Then what happens is, in accordance with the
16:08:26 41 advice of Mr Maguire, it appears that there was a meeting
16:08:32 42 and a meeting takes place on 3 November, that is the next
16:08:35 43 day, and at the meeting is Mr Ashton, Finn McRae and
16:08:46 44 yourself. You've taken, or you've made notes about that
16:08:53 45 meeting and if we can have a look at the document. If we
16:09:02 46 scroll up through this document here, we go to - keep
16:09:10 47 going. Just go back. That's the document that I tendered

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16:09:13 1 previously. Do you see that document, that's the 2nd of
16:09:24 2 November memorandum concerning Mr Pope?---I'm sorry,
16:09:34 3 Mr Winneke, are you pointing that out for the - - -
4
16:09:39 5 Can I identify and tender that document, Commissioner.
16:09:46 6
16:09:48 7 #EXHIBIT RC1275A - (Confidential) Driver file,
16:10:00 8 VPL.0100.0013.0053.
16:09:50 9
16:09:50 10 #EXHIBIT RC1275B - (Redacted version.)
11
16:09:58 12 The VPL number is VPL.0100.0013.0053 at p.65 of that
16:10:08 13 document?---I'm sorry, Mr Winneke, I don't want to confuse
16:10:14 14 matters, but I have a different document. It's the same
16:10:17 15 document but a different reference.
16
16:10:19 17 Yes, I follow that. That's p.0117 which is in fact p.65 of
16:10:27 18 that document. If we have a look at - on that same
16:10:46 19 document if we can scroll up to about p.47 of that
16:11:02 20 document.
21
16:11:07 22 COMMISSIONER: Sorry, I'm just a bit confused. Was the
16:11:09 23 whole document tendered or just that one page of it?
24
16:11:12 25 MR WINNEKE: Commissioner, I'll tender the whole document.
16:11:14 26 The whole file which is the file with the - it's the Driver
16:11:18 27 file.
28
16:11:19 29 COMMISSIONER: Yes, okay. I'll make 1275 the Driver file
16:11:23 30 then.
31
16:11:26 32 MR WINNEKE: Thanks Commissioner. This is a meeting that
16:11:29 33 you have on 3 November 2011?---Yes.
34
16:11:34 35 It appears that on this day you've taken handwritten notes
16:11:40 36 and at the conclusion, or at least after the notes, the
16:11:44 37 meeting which occurred at 11.30, at about 4 pm on that day
16:11:48 38 you typed out notes?---Yes.
39
16:11:52 40 And, as I understand it, from your statement you didn't
16:11:56 41 hang on to the handwritten notes?---No, so generally if I'm
16:12:00 42 in a meeting I'll take quick notes and sometimes, like
16:12:03 43 this, reduce them to a typed copy as soon as I can and get
16:12:06 44 rid of the scribbled copy, if you like.
45
16:12:09 46 Would it be fair to say that it's not on every occasion or
16:12:13 47 not on every meeting that you would go to this trouble of

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16:12:16 1 typing out notes, would that be fair to say?---Absolutely,
16:12:19 2 yes.
3
16:12:20 4 Did you regard this as quite a significant meeting with a
16:12:22 5 number of issues discussed and in that case did you think
16:12:27 6 it was appropriate to carefully type out the notes?---Yes,
16:12:32 7 and in later meetings along these sorts of lines I
16:12:35 8 established a protected diary, so you'll see as we go
16:12:38 9 along, I presume, that I put those notes straight into a
16:12:41 10 diary.
11
16:12:43 12 Do I take it that the typed notes are an accurate and
16:12:50 13 contemporaneous record of what occurred at the meeting
16:12:52 14 earlier in the day?---Yes, but tidied up, so typically
16:12:57 15 there'll be all people's conversation, there's bits and
16:13:01 16 pieces all over the place.
17
16:13:03 18 Yes?---That'll be the conversation but I've put in
16:13:05 19 headings, for example.
20
16:13:06 21 Okay. It appears that there are a number of matters
16:13:10 22 discussed during the meeting. The first issue that's
16:13:14 23 discussed is Ms Gobbo as a witness in the Dale
16:13:18 24 prosecution?---Yes.
25
16:13:19 26 The note is that there's a committal due to start the
16:13:22 27 following Monday and the first issue is whether the
16:13:27 28 proceeding should go ahead without Ms Gobbo's evidence or
16:13:31 29 whether it could go ahead without her evidence, subject to
16:13:34 30 final DPP decision on the Friday, that is the next
16:13:38 31 day?---Yes.
32
16:13:38 33 And that would necessitate a withdrawal of several charges
16:13:41 34 which rely upon Ms Gobbo's evidence?---Yes.
35
16:13:45 36 There was a discussion about Mr Maguire's advice?---Yes,
16:13:49 37 with the wrong date. That should be the 4th of the 10th
16:13:54 38 obviously.
39
16:13:54 40 I follow that. Received by you the previous day?---Yes.
41
16:13:56 42 The advice had been provided at the request of the VGS0 and
16:13:59 43 Mr Maguire was briefed to appear at the committal if
16:14:03 44 required to claim PII, public interest immunity?---Yes.
45
16:14:07 46 You note also, as was noted on the advice, that the OPP
16:14:10 47 prosecutor has received the advice as well?---Yes.

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1
16:14:12 2 And you also noted, albeit you haven't noted it in these
16:14:21 3 minutes, that on 3 November the prosecutor was to view the
16:14:27 4 log?---That was - yes, in the earlier notes, yes.
5
16:14:31 6 And the evidence of the Royal Commission is that Mr Beale,
16:14:35 7 as he was a barrister, in fact did come in and view the
16:14:39 8 source management log on that day?---Okay.
9
16:14:43 10 Effectively that issue had been - that issue had already
16:14:47 11 been dealt with or covered off, hadn't it, because that
16:14:50 12 issue of disclosure was being dealt with?---That specific
16:14:55 13 matter, yes.
14
16:14:55 15 The next issue was I think what you've described as
16:15:00 16 governance?---M'mm.
17
16:15:01 18 And you've written, "Maguire's advice raises the issue of
16:15:07 19 governance of human sources when the human source is a
16:15:09 20 legal practitioner"?---Yes.
21
16:15:11 22 That's quite obvious. There were clear problems which
16:15:13 23 would arise if a legal practitioner is a human source and
16:15:16 24 those problems are obvious if the legal practitioner is
16:15:20 25 informing against her own client?---Yes.
26
16:15:23 27 So what you were suggesting there is there needs to be some
16:15:28 28 sort of, something done about making it clear or providing
16:15:32 29 clear guidelines as to the appropriate conduct of informer
16:15:42 30 managers in that circumstance?---Yes.
31
16:15:43 32 You took the view that you should discuss that with Mr Pope
16:15:50 33 as to "how we can ensure appropriate governance"?---Yes.
34
16:15:54 35 Right. Now, did you think at that stage it was reasonable
16:15:59 36 to involve Mr Pope in that exercise given what you'd become
16:16:04 37 aware of the previous week?---Yes, obviously I did. But as
16:16:10 38 I say in the statement, I look back on some of those
16:16:13 39 decisions, probably should have paid more attention to the
16:16:18 40 potential conflict of interest.
41
16:16:19 42 Yes?---But I'm in a situation where he's our expert on this
16:16:22 43 sort of thing.
44
16:16:23 45 Yes?---So, I mean you've got - even if I turned my mind to
16:16:28 46 the potential conflict of interest.
47

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16:16:31 1 Yes?---I've still got the challenge, "Well who do I go to
16:16:35 2 who has this sort of background and how do we move
16:16:39 3 forward?"
4

16:16:40 5 He told you on the 24th in the meeting that he'd had some
16:16:44 6 contact with her as a witness?---Yes.
7

16:16:45 8 Back in 1999?---99, yes.
9

16:16:49 10 What the Commission now knows is that had actually
16:16:52 11 registered her as an informer?---Yes.
12

16:16:55 13 And he had been her informer handler at that stage?---He'd
16:17:01 14 registered her. Whether he'd been her handler, I don't
16:17:05 15 know, but I take what you're saying to me is in evidence.
16

16:17:08 17 You would hope, certainly if he recalled, that he had
16:17:11 18 registered her and been her handler, subject to a
16:17:15 19 controller, who I think was Mr Segrave?---Right.
20

16:17:19 21 And he had been, assuming he recalled it, you'd hope that
16:17:23 22 he would say, "Look, in fact at the time that I registered
16:17:28 23 her she was a legal practitioner"?---Yes.
24

16:17:31 25 "And I was a handler", you might think that it would be
16:17:34 26 appropriate to disclose that information to you because you
16:17:37 27 might want to say, "Look, if that's the case I don't think
16:17:40 28 you should have anything to do with a review of governance
16:17:44 29 of situation where you've got a legal practitioner as a
16:17:48 30 human source because it seems you might well have done the
16:17:51 31 same thing back in 1999"?---Yeah, I don't know. It's
16:17:56 32 speculation on what I might or might not have done. I
16:18:00 33 don't know.
34

16:18:00 35 You'd hope - what you would hope is that Mr Pope would have
16:18:04 36 said if he recalled - - - ?---Yes, he told me.
37

16:18:08 38 - - - told you all of those things and you'd hope you'd say
16:18:11 39 as a consequence of that, "Given that information I think
16:18:12 40 you better stand aside from all of this at this stage and
16:18:17 41 have nothing to do with it"?---It would certainly be, tip
16:18:20 42 my decision-making in that direction, yep.
16:18:22 43

16:18:22 44 In any event, I think you quite fairly concede with the
16:18:25 45 benefit of hindsight regardless of that it probably would
16:18:31 46 have been better if he was out of it?---Yes.
47

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16:18:33 1 In any event, that item was going to be actioned in the way
16:18:38 2 in which you've suggested, that "I'm going to discuss this
16:18:41 3 with Jeff Pope. We're going to work out the best way of
16:18:44 4 dealing with this" and ultimately the way in which you
16:18:47 5 determined to deal with it is to - well, I think you
16:18:52 6 ultimately speak to the Chief Commissioner, Acting Chief
16:18:56 7 Commissioner and you end up engaging Mr Comrie to carry out
16:18:59 8 a review?---That's right. Within a couple of weeks of this
16:19:03 9 Graham's - sorry, Ken's in touch with Neil Comrie, they
16:19:08 10 make the arrangements, they meet before the end of the
16:19:10 11 month and away we go.

12
16:19:12 13 All right. There's a reference in your note about a
16:19:18 14 comment in paragraph 52 of Mr Maguire's advice concerning
16:19:22 15 [REDACTED] PII [REDACTED] I don't
16:19:27 16 think we'll deal with that but that was felt to be
16:19:29 17 incorrect, what he had to say in his advice?---Yes.

18
16:19:32 19 And you've noted that. The next matter I want to raise
16:19:35 20 with you is this.

16:19:40 21
16:19:41 22 MS MINNETT: Sorry, we've got a PII claim over that. Can
16:19:44 23 we just have that taken out, just the reference to PII [REDACTED]
16:19:47 24 PII [REDACTED]?

25
16:19:50 26 MR WINNEKE: I'm happy to do that. I must say, I wasn't
16:19:52 27 aware of that.

28
16:19:53 29 COMMISSIONER: What has to come out?

16:19:57 30
16:19:58 31 MS MINNETT: Just the line that says, the reference PII [REDACTED]
16:20:00 32 PII [REDACTED]. Even though it's
16:20:02 33 incorrect, we have PII over it.

34
16:20:06 35 COMMISSIONER: Do you have a line there you can give me?

16:20:08 36
16:20:08 37 MS MINNETT: Sorry.

38
16:20:09 39 MR WINNEKE: At 21, Commissioner, 14232 at around line 21.

40
16:20:14 41 COMMISSIONER: Right then. Paragraph 52 of Mr Maguire's
16:20:21 42 advice concerning - you want line 21 out down to the comma.
16:20:24 43 Okay. So line 21 to the comma goes out - - -

16:20:29 44
16:20:29 45 MS MINNETT: And then unfortunately I think I repeated that
16:20:31 46 line again later when I did get up.

47

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16:20:34 1 COMMISSIONER: Sorry, Ms Minnett.
16:20:37 2
16:20:38 3 MS MINNETT: Where at 36 to 38, where I repeat
16:20:41 4 exactly - - -
5
16:20:42 6 COMMISSIONER: Oh right, okay.
16:20:43 7
16:20:44 8 MS MINNETT: Sorry about that.
9
16:20:45 10 COMMISSIONER: Then Ms Minnett's - - -
16:20:47 11
16:20:48 12 MS MINNETT: And 28 to 30.
13
16:21:18 14 COMMISSIONER: Just at line 29, from the comma to the end
16:21:23 15 of that line can go out, and then line 36 from - after
16:21:40 16 "reference" through to the next comma on the next line all
16:21:43 17 goes out. Thank you.
18
16:21:49 19 MR WINNEKE: So if I can move on to the third issue of
16:21:53 20 significance that arose from this meeting. It appears that
16:21:58 21 Mr Ashton had raised concerns about a matter which has been
16:22:03 22 described as Inca?---Yes.
23
16:22:07 24 And that was described in your notes as a pending AFP
16:22:11 25 matter for large, for large scale drug importation after
16:22:15 26 joint operations, or after a joint operation?---Yes.
27
16:22:19 28 You point out in your notes, and do you say it's likely
16:22:23 29 that Mr Ashton pointed this out in the meeting?---Yes.
30
16:22:26 31 That she was the originating human source, they were aware
16:22:31 32 of the importance of the source, but not aware that it was
16:22:35 33 Ms Gobbo?---Yes.
34
16:22:36 35 There was some concern that she was acting as a legal
16:22:39 36 advisor to one of the accused at the time?---Yes.
37
16:22:45 38 Consequently a requirement to disclose, or at the least
16:22:49 39 make the prosecution aware of her involvement and the
16:22:50 40 potential that she was a legal advisor?---Yes, correct.
41
16:22:53 42 Now, really what that raised, or that particular matter
16:22:59 43 raised similar considerations to those which concerned the
16:23:05 44 prosecution of Paul Dale?---Yes.
45
16:23:07 46 And the view was that this raised a potential for the need
16:23:12 47 to disclose?---Same thing, yes.

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1
16:23:13 2 Same thing. Your expectation was, was it, that the AFP -
16:23:22 3 or perhaps I'll withdraw that. What you've written here
16:23:26 4 is, "Finn to consider the requirements"?---Yes, my
16:23:32 5 expectation, rerouting that, we've done it for Dale, it's
16:23:34 6 already done. So then, "Finn how do we do this for Inca?"
7
16:23:40 8 It's a different proceeding, different prosecutors. " We
16:23:42 9 need to have the same consideration given to that
16:23:46 10 matter"?---Yes. And by inference, if we've done it for
16:23:50 11 Dale, why wouldn't we do it for Inca? The question is how
16:23:54 12 do we do it appropriately, you know, managing the risks to her
16:23:57 13 and all the PII sorts of issues that might come up, "How do
16:24:01 14 we do this, Finn, right?"
16:24:02 15
16:24:02 16 The expectation is that this would be run to ground and it
16:24:06 17 would be dealt with either there would be disclosure or
16:24:07 18 there wouldn't be disclosure, but there would need to be
16:24:11 19 some sort of reasoned process gone through?---Yes.
20
16:24:13 21 You've written "action" and that indicates that as far as
16:24:17 22 you were concerned something needed to be done and you
16:24:20 23 understood that Finn McRae was going to do something about
16:24:23 24 it?---Yes.
25
16:24:23 26 In the same way as you'd written "action" previously
16:24:26 27 further up with respect to the governance issues?---Yes.
28
16:24:32 29 What did you expect Mr McRae would do?---I think - I mean
16:24:37 30 he's getting this with hindsight, we're going back nine
16:24:40 31 years, but by reading that I think he'd go away, think
16:24:45 32 about it, "How do we do it" and then do it or have others
16:24:48 33 do it, maybe contact our people, our own investigators or
16:24:52 34 whoever was linked and say, "This is what we need to do"
16:24:59 35 and how we need to do it.
36
16:25:02 37 You've written the notes at 4 pm and the meeting occurred
16:25:06 38 at 11.30 and you transpose your handwritten to
16:25:12 39 typed?---Yes.
40
16:25:12 41 Can I tell you this: I don't know whether you've heard the
16:25:14 42 evidence of Mr McRae, have you?---I've heard there was some
16:25:18 43 contention about this, yes.
44
16:25:20 45 Mr McRae appears to be saying, "Well look, I wasn't
16:25:23 46 actioned to do anything during the meeting. It may well be
16:25:26 47 that Mr Cartwright considered that at 4 pm, when he was

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16:25:33 1 writing out his typewritten notes, that that's what I
16:25:39 2 needed to do but I wasn't told to do that". What do you
16:25:43 3 say about that?---That wasn't my style.
4
16:25:45 5 No?---Generally, if I was to do that I would note it. As
16:25:48 6 I've written above, "Notes compiled from", I'd say, "Action
16:25:52 7 item", and I'd have emailed Finn and put a copy on there.
16:25:56 8 I'd have rung him and made a diary entry. I'd have done
16:26:00 9 something like that if I'd thought about it later because
16:26:03 10 that's not an action that's come out of that meeting. And
16:26:09 11 in fairness to Finn, I want to say that.
12
16:26:11 13 Yes, I follow that. Even if Mr McRae is right about
16:26:13 14 that?---Yeah.
15
16:26:14 16 Would you expect that as the Director of Legal Services of
16:26:16 17 Victoria Police, that even if he wasn't specifically
16:26:19 18 actioned by you to do something about it, would it be your
16:26:22 19 expectation that he would in any event, because of his
16:26:26 20 responsibility and position, consider the need to do
16:26:29 21 something like that?---The only question is whether he'd
16:26:33 22 thought that Graham would do it. Like if I hadn't actioned
16:26:37 23 him, if I hadn't tasked him, would Finn have thought that
16:26:41 24 Graham was going to do it? I don't know how that would
16:26:44 25 have worked out, but as you can see we're talking about
16:26:48 26 this all the time. This is not a matter in isolation.
16:26:51 27 This is discussion, we've got a challenge here, how do we
16:26:56 28 work through this, so I would have thought it would have
16:26:59 29 occurred anyway.
30
16:27:00 31 What do you say as to - it appears that it wasn't done
16:27:04 32 until - - - ?---Yes, yes.
33
16:27:05 34 - - - the following year there was a discussion I think
16:27:07 35 quite some time later. Bearing in mind at this stage this
16:27:12 36 proceeding was pending?---Yes.
37
16:27:14 38 So you would expect, wouldn't you, that if a decision was
16:27:18 39 to be made about what to do, it would need to be made
16:27:22 40 expeditiously?---Yes.
41
16:27:24 42 And done as soon as possible?---Hence the tasking of Finn,
16:27:28 43 "We're going to have to do something about this. How do we
16:27:32 44 do it?"
45
16:27:33 46 What also appears to be the case is that if nothing's done,
16:27:40 47 where does the responsibility lie?---Yeah. So Finn's given

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16:27:46 1 an explanation. My preferred explanation is clearly
16:27:48 2 there's been a failure of communication. He hasn't
16:27:51 3 understood me.
4
16:27:52 5 Yes?---So I've tasked him but he doesn't understand that.
16:27:55 6 So the responsibility for the communication is mine.
7
16:27:59 8 Yes?---I'm making the communication, I need to make sure
16:28:01 9 it's clear, but somehow it's been lost.
10
16:28:07 11 Yes?---My thinking is Finn has a responsibility. I'm a
16:28:12 12 Deputy Commissioner, why would I need it would follow up?
16:28:15 13 We've done it with Dale, why wouldn't we do it with Inca.
16:28:15 14 It might be tricky, but we'd do it.
15
16:28:18 16 It needs to be done, doesn't it?---It needs to be done and
16:28:20 17 done, as you say, quickly, presumably this is a pending
16:28:22 18 matter, and the sooner we advise the prosecutor, the
16:28:26 19 better.
20
16:28:27 21 You would expect - sorry, just excuse me. I'll come to
16:28:38 22 Mr Ashton's evidence in due course. One way or the other
16:28:42 23 you accept that as the Deputy Commissioner whose
16:28:48 24 responsibilities include the prosecution of matters to
16:28:51 25 trial?---Yes.
26
16:28:53 27 Ultimately there are responsibilities. Often people say,
16:28:59 28 "The buck stops with me"?---That's right, yes.
29
16:29:01 30 Equally you would expect that people who have tasks to do
16:29:04 31 would carry out their task?---So one of the considerations
16:29:09 32 is, or questions would be, I presume, why didn't I follow
16:29:13 33 it up? Well, I'm a Deputy Commissioner. Finn and Graham
16:29:17 34 have raised it.
35
16:29:18 36 Yes?---They'll get on with it. Like it's come to me with a
16:29:22 37 problem, fine, sort it out. And I think that's - I would
16:29:27 38 think that was sorted.
39
16:29:28 40 You would hope, you say, that it was sorted as between the
16:29:30 41 two of them?---Yes.
42
16:29:32 43 That Graham Ashton also has responsibilities in the same
16:29:34 44 area?---Yes.
45
16:29:35 46 Mr McRae's the lawyer, the expectation is between the two
16:29:39 47 of them, you say, it should have been sorted out?---Yes,

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16:29:42 1 and I've got to say Finn's an extremely efficient person.
16:29:48 2 I've had dealings with him for years. So there'd be
16:29:53 3 nothing that I would think - if I've said Finn, do it, and
4 Finn's understood that, Finn would do it, or come back to
16:30:01 5 me say, "I can't" and why.
6
16:30:01 7 Is there any reason why, if you're having a meeting at
16:30:05 8 11.30, and the issue's presented quite clearly to
16:30:07 9 you?---Yes.
10
16:30:08 11 Is there any reason that you would need to think about it
16:30:10 12 during the day and then later on in the day say, "Oh, I
16:30:14 13 think Finn needs to do this", or is it something that would
16:30:17 14 immediately occur to you that it's got to be done and
16:30:20 15 Finn's the person to do it?---So, I mean, it sounds like
16:30:25 16 I'm blaming Finn but, as I said, the communication
16:30:28 17 responsibility's mine. But no, there's no reason why I'd
16:30:31 18 do that during the day.
19
16:30:33 20 Yes?---Having said that, I'm just trying to put myself back
16:30:37 21 in that situation while there's things going on. It may
16:30:40 22 well be that I thought I don't think I got a resolution on
16:30:46 23 that, we do need to document something, but if I'd taken
16:30:48 24 that view, then I would have contacted Finn, or whoever I
16:30:51 25 delegated. I would emailed them, phone called them and
16:30:54 26 then noted that in these minutes.
27
16:30:55 28 I take it you would accept this proposition, that Mr Ashton
16:31:00 29 has raised this concern about Inca. You say you didn't
16:31:05 30 know anything about it beforehand, this Inca issue?---Not
16:31:08 31 to my recollection. Given that it's nowhere else in the
16:31:12 32 notes, there's nothing to indicate how I would have heard
16:31:14 33 about it otherwise.
34
16:31:15 35 The reference to Karam earlier on in your notes was a 240
16:31:18 36 kilogram cocaine issue, I think. That's got nothing to do,
16:31:21 37 it seems, with a major importation of ecstasy tablets in
16:31:28 38 tomato tins?---So I don't know where Inca - I don't
16:31:32 39 remember what Inca was.
40
16:31:34 41 Mr Ashton, his evidence was that he believed - I'll
16:31:40 42 paraphrase his evidence and no doubt I'll be told if I've
16:31:43 43 got it wrong, because his barrister is most efficient. He
16:31:48 44 believed that he did ask Mr McRae to deal with it and he
16:31:55 45 believed that he spoken to him at some stage thereafter,
16:31:59 46 not in a formal setting, but perhaps in a hallway, and
16:32:05 47 asked him whether he'd spoken to the Commonwealth

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16:32:08 1 DPP?---About Inca?
2
16:32:11 3 About Inca?---Right.
4
16:32:13 5 That was his, I'll say, vague recollection of the way in
16:32:17 6 which it was done?---And that would be pretty normal
16:32:19 7 practice. You pass in the hallway, you have a conversation
16:32:21 8 about something else, "Oh, how'd you go with Inca?"
9
16:32:26 10 Can I make this suggestion though, whatever is the case,
16:32:28 11 whether it was done in the way in which you suggested, in
16:32:31 12 the way in which Mr Ashton suggested, the fact that it
16:32:34 13 wasn't done, or the fact that it wasn't run to ground is
16:32:36 14 simply not good enough?---Correct.
15
16:32:40 16 Do you accept that?---Correct.
17
16:32:42 18 That's that matter. That's the Inca matter. The next
16:32:45 19 matter, and can I suggest this is perhaps one of the most
16:32:47 20 significant matters, is the matter with respect to
16:32:50 21 Mr Mokbel, the current litigation which is going on at the
16:32:57 22 very time that you're having this meeting, the very clear
16:33:02 23 advice by Mr Maguire that Gobbo is both an informer and a
16:33:09 24 barrister for these people?---M'mm.
25
16:33:11 26 And the very clear concern expressed by Mr Maguire that
16:33:18 27 Mr Mokbel may have a right to bring an appeal, this may
16:33:23 28 lead to ventilation in the Court of Appeal. Where is the
16:33:26 29 action advice or where is the discussion about what was
16:33:29 30 going to happen to that?---There is none.
31
16:33:31 32 Right?---So - - -
33
16:33:33 34 Why is there not?---Could I just ask you, was there
16:33:36 35 litigation going? Because you've put to me that there was
16:33:39 36 litigation arising from an affidavit. That's - - -
37
16:33:44 38 Okay. Can I ask you this: does it matter? Does it matter
16:33:48 39 - let's say there was no litigation going on at that stage,
16:33:51 40 let's say Mr Mokbel had been convicted and was sitting in
16:33:54 41 gaol. Would it matter that there was no litigation?---I
16:33:59 42 think if there's litigation going and it's tied with this.
43
16:34:03 44 Yes?---Then it gives it some greater immediate urgency, as
16:34:08 45 we're seeing with Inca and as we see with Dale. They're
16:34:12 46 matters currently before the court, we've got an
16:34:15 47 opportunity, and that opportunity needs to be grasped.

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1
16:34:18 2 Righto. Do you accept this proposition: that if a person
16:34:22 3 has been convicted and is sitting in gaol?---Yes.
4
16:34:25 5 Because of perhaps tainted evidence?---Yes.
6
16:34:30 7 Perhaps because of a miscarriage of justice, does that mean
16:34:34 8 that Victoria Police does not have an obligation to bring
16:34:37 9 to the attention of the prosecutors what it knows?---No.
10
16:34:39 11 No?---Not at all.
12
16:34:43 13 In fact if someone is sitting in gaol, for all the more
16:34:47 14 reason something should be done quickly, od you accept
16:34:49 15 that?---Yes.
16
16:34:51 17 Because every day a person's in gaol, perhaps because of
16:34:54 18 tainted evidence or a miscarriage of justice, is
16:34:58 19 wrong?---Yes.
20
16:35:01 21 MR COLEMAN: Commissioner, can I just speak to my learned
16:35:02 22 friend briefly?
23
16:35:16 24 MR WINNEKE: I'm told I misput the evidence with respect to
16:35:18 25 Mr Ashton. In any event, as far as you were concerned your
16:35:26 26 evidence is that you believe that Finn was to consider the
16:35:30 27 requirements with respect to Inca?---Yes.
28
16:35:32 29 But as far as you were concerned you didn't make any notes
16:35:35 30 about what was going to happen with the State prosecution
16:35:41 31 of Mokbel?---No.
32
16:35:43 33 Correct?---No.
34
16:35:45 35 Do you have a belief that there was a discussion about that
16:35:50 36 during the course of the meeting?---No. If there had been
16:35:54 37 I'm sure it would have been reflected there.
38
16:35:58 39 Mr Ashton, no doubt it will be put to you that Mr Ashton
16:36:03 40 will say, "Look, there was a discussion about it and
16:36:05 41 Mr McRae was tasked to do something about it"?---Okay.
42
16:36:09 43 On your evidence you say, "That doesn't appear to be right,
16:36:11 44 because if that was the case I would have made a note of
16:36:14 45 it"?---I would have thought so.
46
16:36:15 47 You say - firstly, you say was there litigation? Can I

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16:36:23 1 take you to paragraph 54 of Mr Maguire's advice. If we can
16:36:28 2 put that up again. I'm afraid I think it's around - I'll
16:36:42 3 put it to you in any event. This is the paragraph where
16:36:46 4 you've got highlights on the side and also underlined,
16:36:50 5 albeit I don't think you've underlined this particular part
16:36:52 6 of it?---Sorry, Mr Winneke, the highlights are unlikely to
16:36:55 7 be mine. I don't think that's particularly relevant.
8
16:36:57 9 They may not be yours?---That's not what I normally do.
10
16:36:59 11 Okay, all right. An any event someone else - - -
16:37:01 12 ?---Someone else has gone over it, yep.
13
16:37:04 14 - - - has regarded that paragraph as significant. It says
16:37:06 15 at the bottom of that paragraph, "Having said that the
16:37:09 16 matters might play out and there might be an attempt to
16:37:11 17 raise the issue in a venue such as the Court of Appeal, it
16:37:14 18 might also have a collateral effect in relation to the
16:37:17 19 current sentencing of Mokbel for drug trafficking offences
16:37:20 20 after he fled the jurisdiction"?---Yes.
21
16:37:23 22 So it does appear to be the case that there was current
16:37:26 23 matters concerning - - - ?---There's something afoot, yes.
24
16:37:29 25 What we also know is that there was litigation before
16:37:31 26 Justice Whelan and there were hearings in October,
16:37:34 27 November, December, January, February, March and a ruling
16:37:38 28 on 1 March 2012?---Right.
29
16:37:42 30 If there was that litigation going on you would hope that
16:37:47 31 those matters would have been brought to your
16:37:53 32 attention?---I'm just trying to think when they might not
16:37:56 33 have. I can't see, given that it was all about, I presume
16:37:59 34 it was all about his conviction or aspects of his
16:38:02 35 conviction, yes.
36
16:38:03 37 And you might be inclined to say, given what Mr Maguire has
16:38:06 38 said, "Look, we better run this to ground, it seems that
16:38:11 39 he's being sentenced. There's a suggestion that Gobbo was
16:38:14 40 an informer against him. That seems to be a real red flag.
16:38:18 41 We need to find out what's going on and we've got to have a
16:38:21 42 very close look at this because there could be a
16:38:24 43 disaster"?---But I didn't, and I don't know why. Maybe
16:38:27 44 because we look back and these things are more significant
16:38:30 45 to me now.
46
16:38:31 47 Yes?---But you've seen other things that come out of that

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16:38:33 1 and we action those.
2
16:38:35 3 Yes?---But I didn't action this one on Mokbel. Potentially
16:38:40 4 I think that the Comrie review might address that or give
16:38:43 5 us more details, I don't know.
6
16:38:45 7 Righto. But you accept that something should have been
16:38:48 8 done about this particular issue as soon as
16:38:53 9 possible?---Yes, but I'm not sure going back that I can
16:38:56 10 think the Comrie review was one of the ways of addressing
16:39:00 11 that.
12
16:39:00 13 One of the problems with that, though, is that the Comrie
16:39:03 14 review, and I'm going to come to this in due course,
16:39:06 15 bearing in mind the Terms of Reference of the Comrie
16:39:09 16 review, but it's going to take time as well to go through
16:39:12 17 all of that?---Yes.
18
16:39:13 19 Can I suggest to you that these sorts of things really
16:39:17 20 should be dealt with with a degree of not undue haste, but
16:39:22 21 certainly haste?---Well, I look back and I ask why overall
16:39:26 22 it took us so long, that's one of the questions I ask. It
16:39:29 23 wasn't something that occurred to me then.
24
16:39:31 25 Yes?---In that context.
26
16:39:35 27 It would have been relatively easy, wouldn't it, in the
16:39:38 28 same way as Mr Beale had been brought in to have a look at
16:39:41 29 the source management log and have a look at the advice, it
16:39:44 30 would have been very simple, can I suggest, to pick up the
16:39:50 31 telephone, contact, I think it was Mr Kidd who was
16:39:53 32 prosecuting this matter, or the DPP, and just point out,
16:39:56 33 "Look, there may be a problem"?---That part would be easy.
34
16:39:59 35 Can I ask why wouldn't it have been done?---I don't know.
16:40:03 36 So I look back at this and I look back, I see flags.
37
16:40:07 38 Yes?---That I didn't pick up at the time or I didn't appear
16:40:11 39 to - from my own review. I read that again. I think
16:40:16 40 knowing what I know now, why weren't we more aggressive,
16:40:21 41 maybe not with Mokbel, but more generally around her
16:40:24 42 involvement ?
43
16:40:25 44 If you take the case of - if you take the case of the
16:40:31 45 prosecution of Dale?---Yes.
46
16:40:33 47 There was real action in that case because the trial was -

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16:40:37 1 the proceeding was coming up?---Yes.
2
16:40:40 3 And so Mr Ashton went to the State, sorry, the Federal OPP,
16:40:44 4 spoke to Mr Kearne, a senior officer within the
16:40:50 5 Commonwealth OPP, and told him about these issues?---Yes.
6
16:40:54 7 I'm trying to understand why Victoria Police wouldn't have
16:40:56 8 a similar sort of relationship with the State OPP to pick
16:41:01 9 up the phone and say, "Look, you've got these issues going
16:41:04 10 on at the moment. I've got an advice which says that we've
16:41:07 11 got an informer who's providing information against a
16:41:10 12 client, Mr Mokbel. I've got an advice which says it may
16:41:13 13 well have an effect on his conviction", what could be
16:41:20 14 difficult about picking up the phone and having that
16:41:23 15 conversation?---The conversation, as I say, the initial
16:41:25 16 conversation wouldn't be difficult at all. The same sorts
16:41:30 17 of issues if Nicola Gobbo was to be giving evidence. So -
16:41:36 18 I'm sorry, I just need to go back there.
19
16:41:48 20 Commissioner, I note the time.
21
16:41:50 22 COMMISSIONER: It is time to adjourn but I think you might
16:41:52 23 just want to finish your train of thought, if it hasn't
16:41:55 24 been lost completely?---No, I'm trying to bring it back,
16:42:00 25 Commissioner.
26
16:42:01 27 Yes?---I'm trying to put this in context. The other thing
16:42:04 28 that I look back on is when - at the time I was reading
16:42:10 29 that advice I don't think my mind went to the worst-case
16:42:17 30 scenario, if you like, the reality.
31
16:42:19 32 MR WINNEKE: Yes?---I've said in my own statement that as
16:42:22 33 far as I recall I don't think I understood the depth of the
16:42:25 34 breaching of privilege until I sought the advice in 14. I
16:42:34 35 suspect my frame of mind was she socialises with these
16:42:40 36 people, she's not the legal team but she socialises - well,
16:42:42 37 I suspect. I, like you, and like the Commissioner, I look
16:42:45 38 at this and say, now, that's a red flag, why didn't I pick
16:42:48 39 it up more assertively? Even if I picked it up and noted
16:42:50 40 some deliberation and decisions as to why I didn't proceed
16:42:54 41 or ask others to proceed with it then. I don't know. I
16:42:57 42 can't provide a better explanation.
43
16:42:59 44 We see that - - -
45
16:43:01 46 COMMISSIONER: Can we leave it there, do you think?
47

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16:43:03 1 MR WINNEKE: All right. No, given the time, yes.
16:43:04 2
16:43:05 3 COMMISSIONER: Given the time. Just for witness planning,
16:43:07 4 how much longer will you be, Mr Winneke?
5
16:43:11 6 MR WINNEKE: Commissioner, I'm going to see if I can deal
16:43:15 7 with the important matters. I mean they're all important
16:43:22 8 matters, but only the important matters in an expeditious
16:43:22 9 way.
16:43:22 10
16:43:22 11 COMMISSIONER: Essential perhaps, yes, okay.
12
16:43:24 13 MR WINNEKE: I'd hope to do it in a couple of hours.
14
16:43:26 15 COMMISSIONER: And cross-examination?
16:43:30 16
16:43:30 17 MR NATHWANI: Not me, because I won't be here on Tuesday,
16:43:34 18 but Mr Collinson I'd say would be ten minutes.
16:43:36 19
16:43:37 20 MR COLEMAN: I'll be short, if anything.
16:43:38 21
16:43:39 22 MS HABAN-BEER: Commissioner, I'm from the Commonwealth
16:43:39 23 DPP. I think there will be some cross-examination sought
16:43:41 24 for about ten minutes.
25
16:43:43 26 COMMISSIONER: All right.
16:43:43 27
16:43:43 28 MR CHETTLE: And I might not have any but I'll see,
16:43:46 29 Commissioner.
30
16:43:46 31 COMMISSIONER: Right. Re-examination?
16:43:49 32
16:43:50 33 MS ENBOM: None from me at the moment.
34
16:43:51 35 COMMISSIONER: Did you say a couple of hours?
36
16:43:53 37 MR WINNEKE: I did, Commissioner. We've got - - -
38
16:43:57 39 COMMISSIONER: You probably want - - -
40
16:43:58 41 MR WINNEKE: We might need to interpose Mr Leane on Tuesday
16:44:03 42 morning for a very confined issue and I would anticipate
16:44:06 43 that that would be dealt with in about half an hour.
44
16:44:09 45 COMMISSIONER: So you're wanting to do him at 9.30?
46
16:44:13 47 MR WINNEKE: I'm told that there's a reason to have him

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16:44:15 1 there at 9.30, and that's convenient. If it's possible for
16:44:18 2 him to come afterwards, clearly I'd rather not interpose.
3
16:44:22 4 COMMISSIONER: No, no.
5
16:44:24 6 MR WINNEKE: Maybe we'll work that out.
7
16:44:26 8 COMMISSIONER: You can work that out.
16:44:26 9
16:44:26 10 MS ENBOM: Yes, I'll talk to Mr Winneke.
11
16:44:29 12 COMMISSIONER: And then we won't need Mr O'Connell before
16:44:31 13 12, would that be right?
14
16:44:34 15 MR WINNEKE: I think that's probably right, Commissioner.
16
16:44:36 17 COMMISSIONER: Not before 12 for Mr O'Connell.
16:44:38 18
16:44:38 19 MR CHETTLE: Can I ask for the statements for witnesses
16:44:43 20 that are coming next week?
16:44:45 21
16:44:46 22 MR COLEMAN: Yes, I'd like those as well if we can.
16:44:47 23
16:44:48 24 MR CHETTLE: I don't know who Steve Leane is.
25
16:44:51 26 COMMISSIONER: Rather than doing it now perhaps the
16:44:51 27 solicitors assisting can send that out over the weekend,
16:44:54 28 all right.
29
16:44:55 30 MR WINNEKE: Thanks, Commissioner.
31
16:44:56 32 COMMISSIONER: Thanks Mr Cartwright, we'll be back on
16:44:59 33 Tuesday?---Thanks, Commissioner. I look forward to it,
16:45:01 34 ma'am.
35
16:45:02 36 At either 9.30 or 10. Thank you. We'll adjourn until then,
16:45:50 37 thanks.
16:45:50 38
16:45:50 39 <(THE WITNESS WITHDREW)
16:45:52 40
16:45:54 41 ADJOURNED UNTIL TUESDAY 18 FEBRUARY 2020
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46
47