

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Wednesday, 22 January 2020

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Ms R. Enbom SC Mr S. Frauenfelder
Counsel for State of Victoria	Mr T. Goodwin
Counsel for Nicola Gobbo	Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDPP	Mr D. Holding
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 Simon Overland	Mr J. Gleeson QC Ms G. Coleman
Counsel for Noel Ashby and Paul Mullett	Ms Claridge

09:40:17 1 COMMISSIONER: Yes, I note the appearances are largely as
09:40:19 2 they were yesterday, save that we have Mr Goodwin for the
09:40:22 3 State of Victoria and Ms Claridge, at the moment, for
09:40:26 4 Mr Ashby and Mr Mullet. Yes, Mr Winneke.
09:40:30 5
09:40:31 6 MR WINNEKE: Just before my learned friend resumes,
09:40:33 7 Commissioner, can I tender a statement from Mr Gerald
09:40:35 8 Fitzgerald, which is dated 20 December 2019.
09:40:39 9
09:40:40 10 COMMISSIONER: Yes.
09:40:44 11
09:40:45 12 #EXHIBIT RC989A - (Confidential) Statement from Mr Gerald
09:40:35 13 Fitzgerald dated 20/12/2019
09:40:47 14
09:40:48 15 #EXHIBIT RC989B - (Redacted version.)
09:40:54 16
09:40:54 17
09:40:54 18 MR WINNEKE: Thanks, Commissioner.
09:40:55 19
09:40:56 20 COMMISSIONER: Yes. Now Mr Nathwani.
09:40:58 21
09:40:59 22 MR NATHWANI: Mr Overland, yesterday I was asking you
09:41:01 23 questions at the beginning in relation to the strategy, as
09:41:03 24 you put it, relating to Purana that you outlined at IBAC.
09:41:10 25 I suggested that Nicola Gobbo, the tactic of targeting
09:41:13 26 people who could be turned against others or seen as weak,
09:41:16 27 could be described or characterised as someone who falls
09:41:20 28 within that. I took you to the example of her threat by
09:41:24 29 Mr Veniamin, that she'd been assisting with -
09:41:28 30 . Were you also aware that during
09:41:33 31 the time of signing statements in
09:41:40 32 2004, that she became ill with a stroke?---I became aware
09:41:49 33 of that information at some point in time. I can't say
09:41:51 34 specifically when.
09:41:53 35
09:41:53 36 Were you aware that there were police officers, including
09:41:56 37 Sandy White and Jim O'Brien, who had discussed targeting
09:42:02 38 her or going to speak to her whilst in hospital, with a
09:42:06 39 view to recruiting her?---No.
09:42:07 40
09:42:08 41 Because that would be, in many respects, a good example,
09:42:10 42 wouldn't it, of the tactics, or strategy as you put it, of
09:42:15 43 Purana trying to target those who are vulnerable or
09:42:19 44 weak?---No, the strategy was not about targeting people
09:42:24 45 like Ms Gobbo, the strategy was actually targeting people
09:42:28 46 who were involved in serious criminality themselves who are
09:42:32 47 part of the network of people responsible for or involved

09:42:36 1 or complicit or in some way concerned with the murders.
09:42:40 2 The murders themselves were happening in a context of
09:42:43 3 largely around amphetamine production and distribution and
09:42:47 4 other drug distribution, so the strategy was actually about
09:42:51 5 identifying those networks and the players in those
09:42:54 6 networks and looking for the vulnerability in those
09:42:57 7 networks.

09:42:57 8
09:42:57 9 We heard evidence from Mr Bateson and Mr O'Brien certainly
09:43:01 10 that there was certainly suspicion or rumour that Ms Gobbo
09:43:06 11 may have been - or certainly the lawyers representing the
09:43:09 12 Gobbo cartel may have been, that includes Ms Gobbo,
09:43:13 13 involved criminally potentially at that time?---Yeah, I
09:43:17 14 think that was one of the issues, and I think I said this
09:43:21 15 earlier in evidence, that there was a question in my mind
09:43:24 16 at various points around whether she was a criminal
09:43:27 17 barrister or just a criminal.

09:43:29 18
09:43:29 19 We'll come on to that. Now, help us then - do you agree
09:43:33 20 she was important in the success of Purana, in particular
09:43:39 21 and thereafter the impact it had
09:43:44 22 on Carl Williams pleading guilty?---Look, she played a role
09:43:51 23 in that. I don't want to overstate the role because the
09:43:55 24 strategy was about, you know, getting serious criminal
09:44:01 25 charges against people like , have
09:44:05 26 them in a situation where they were facing very lengthy
09:44:09 27 sentences, potentially up to life sentences, and use that
09:44:13 28 as leverage to get them to cooperate to testify against
09:44:17 29 those who were responsible for the commissioning of the
09:44:19 30 murders. So, you know, there was a lot of reasons why that
09:44:23 31 happened, a lot of good police work as to why that
09:44:27 32 happened. She, I understand now, played a role as a legal
09:44:32 33 advisor in relation particularly to ██████████
09:44:36 34 ██████████, but I wouldn't want to overstate that role because it
09:44:39 35 seems to me there was enormous pressure, particularly on
09:44:42 36 ██████████, to work out what he wanted to do,
09:44:45 37 whether he wanted to spend the rest of his life in gaol or
09:44:48 38 whether he wanted to cooperate.

09:44:49 39
09:44:49 40 Obviously you accept, as you said at IBAC, many of the
09:44:53 41 tactical decisions or successes of Purana up to 2009. Can
09:44:57 42 we have a look at the ICRs, p.663. Just to put this in
09:45:09 43 context, this is the date of Mr Williams pleading guilty,
09:45:17 44 okay? Mr Overland, just to help you with where we are, if
09:45:22 45 we look at an entry at - - - ?---I don't understand what it
09:45:23 46 is I'm looking at.

09:45:25 47

09:45:25 1 This is an ICR?--What is that?
09:45:27 2
09:45:27 3 Which is an information contact report. So Ms Gobbo's
09:45:30 4 handlers would keep a note of - - - ?---From the SDU?
09:45:32 5
09:45:33 6 Yes?---Okay, thank you.
09:45:33 7
09:45:33 8 Yes. Do you see at 17:54, Ms Gobbo is advised that - - -
09:45:41 9
09:45:41 10 COMMISSIONER: Just so you know the date, it's 28 February
09:45:44 11 2007?---Thank you, Commissioner.
09:45:46 12
09:45:47 13 MR NATHWANI: So here we are and this is the day that
09:45:48 14 Mr Williams has pleaded guilty. It appears the police,
09:45:52 15 Purana detectives, your detectives, are celebrating and I
09:45:54 16 just want to ask you about two entries, one at 17:54.
09:45:59 17 There, Ms Gobbo is advising that she was at the Met Hotel
09:46:03 18 and Mr Bateson approached her and thanked her for her
09:46:06 19 efforts and the Purana Task Force were there. If we can
09:46:08 20 just go on to the next page, in case it is said that she
09:46:14 21 might not be accurately reflecting what she has been told.
09:46:19 22 Do you see 19:54?---19:45?
23
09:46:22 24 Yes, 19:45, sorry. That evening, you can see the handler
09:46:24 25 has been called by Gavan Ryan, another one of your
09:46:27 26 Detectives. He says that he was unable to approach 3838 at
09:46:32 27 the Metro Hotel but wanted to include her in the success of
28 the William result?---Yes.
29
09:46:36 30 Can you help with why your detectives under your control
09:46:39 31 would want to thank her for the success of Mr Williams
09:46:43 32 pleading guilty?---You'd have to ask them that question.
09:46:47 33
09:46:47 34 You were running Purana and these were your trusted
09:46:49 35 detectives, weren't they?---They were one of my - Purana
09:46:51 36 was one of the many investigations for which I had
09:46:54 37 responsibility at the time. You would have to ask them why
09:46:57 38 they expressed those views. They're their views.
09:47:01 39
09:47:01 40 Can I just go to your choice of detectives as well. In
09:47:06 41 your evidence on 16 December 2019, at p.11356, you were
09:47:12 42 asked about Mr Bateson and you said this: "I was careful
09:47:16 43 about what detectives got to come to work for Purana. The
09:47:19 44 issue was around whether they could be trusted". Now,
09:47:22 45 that's an accurate reflection of those you wanted on board
09:47:25 46 at Purana?---Yes.
09:47:26 47

09:47:26 1 No doubt informed because of the corruption that had
09:47:31 2 preceded the implementation - - -?---The corruption that
09:47:35 3 preceded, but also the fact that at that time, and I think
09:47:37 4 in some ways this continues to be the case, Victoria Police
09:47:40 5 is the most indiscreet organisation I've ever been
09:47:45 6 associated with or come across; it leaks like a sieve.
09:47:50 7
09:47:50 8 Can we just deal with some of the trusted detectives you
09:47:53 9 were happy to have on board at Purana. One is
09:47:57 10 Mr Bateson?---Yes.
09:47:58 11
09:47:59 12 Mr Bateson, we know, from evidence we've heard and I'm sure
09:48:00 13 you would have known, Ms Gobbo was informally providing
09:48:03 14 information to through 2004, 2005?---I understand that to
09:48:07 15 be the case now, yes.
09:48:08 16
09:48:09 17 Are you saying you didn't know at the time?---No.
09:48:11 18
09:48:12 19 Gavan Ryan, also one of the trusted detectives who you'd
09:48:16 20 have weekly debriefs with?---Yes.
09:48:18 21
09:48:18 22 The evidence from Mr Bateson, and his notes, reflect that
09:48:22 23 every time he spoke to Ms Gobbo, he would report to Gavan
09:48:26 24 Ryan, who would have weekly meetings with you. Are you
09:48:30 25 saying through the weekly meetings, it was never indicated
09:48:33 26 to you that Bateson was receiving information from Nicola
09:48:36 27 Gobbo?---No, I don't believe it was.
09:48:38 28
09:48:41 29 Gavan Ryan was also central to Petra, so, again, clearly
09:48:46 30 someone you trusted?---Yes.
09:48:48 31
09:48:51 32 Jim O'Brien, evidently another person trusted, agree with
09:48:55 33 that?---Yes.
09:48:55 34
09:48:55 35 You had him, as we heard from his evidence, 12 September,
09:48:59 36 you in fact put him in charge of Purana and thereafter he
09:49:05 37 was in charge of Posse?---Yes.
09:49:08 38
09:49:09 39 And just let's look at his role. Paul Rowe and
09:49:14 40 Mr Swindells - let's put it this way: you were aware that
09:49:18 41 there was an issue with Ms Gobbo in late 2005, just before
09:49:22 42 her registration, where she was down to represent
09:49:26 43 Mr Bednarski. Do you remember who Mr Bednarski is?---Yes.
09:49:30 44
09:49:31 45 And what followed was that, in effect, she was upset at the
09:49:35 46 prospect of representing Mr Bednarski because of what she
09:49:41 47 asserted was the control of Mr Mokbel?---Yes.

09:49:43 1
09:49:43 2 Reported that to Paul Rowe and Mr Swindells?---Right.
09:49:47 3
09:49:47 4 They report to Jim O'Brien?---Yes.
09:49:49 5
09:49:49 6 Who - I know you dispute - tells you about it on 12
09:49:53 7 September?---Yes.
09:49:55 8
09:49:56 9 So those trusted in Purana all, prior to Nicola Gobbo
09:50:00 10 signing up on 16 September, had dealt with her or had
09:50:06 11 information that indicated she was in a position where,
09:50:10 12 one, she was vulnerable to be approached and, two, was
09:50:14 13 prepared to provide information, do you agree with
09:50:17 14 that?---What are you asking me to agree with, that I knew
09:50:21 15 that or that - - -
09:50:21 16
09:50:22 17 Yes, that you knew that, of course you knew that?---Well, I
09:50:25 18 remember - as I've said previously, I remember being told
09:50:28 19 that the reason she had come forward was because of fears
09:50:32 20 for her safety because she felt threatened by Tony Mokbel
09:50:36 21 in particular and it did relate to being directed around
09:50:40 22 the way she represented people who were part of the Mokbel
09:50:43 23 syndicate.
09:50:44 24
09:50:44 25 What I'm suggesting, just to be unequivocally clear, you
09:50:51 26 knew at the outset, prior to her registration, that she was
09:50:53 27 to be approached and you approved it?---No, that's not
09:50:55 28 true.
09:50:55 29
09:50:55 30 And again, the reason you say "no" now, and I'm putting it
09:50:56 31 to you so you can answer it, is, as I set out from the
09:51:00 32 outset, this is an attempt by you to distance yourself from
09:51:04 33 involvement in the use of Nicola Gobbo?---No.
09:51:05 34
09:51:05 35 Whereas back in front of IBAC, you were prepared to take
09:51:08 36 the accolades. Now you're here, you're not prepared to do
09:51:11 37 so?---Well, I think the accolades, if I took any accolades,
09:51:15 38 in what I was told was a private hearing and that, you
09:51:18 39 know, it wasn't going to be published, as it now has been,
09:51:21 40 was to talk about my role in the establishment of Purana
09:51:24 41 and the setting of the strategy and the early work around
09:51:28 42 getting it up and running. I don't believe I took the
09:51:30 43 accolades for Ms Gobbo.
09:51:33 44
09:51:33 45 As I described from the outset, and we'll come on to it,
09:51:37 46 Purana and the SDU combined, the product of which is
09:51:40 47 Ms Gobbo, so you're responsible, that is what I'm putting

09:51:44 1 to you?---I've accepted my responsibilities in relation to
09:51:47 2 this matter.
09:51:47 3
09:51:47 4 Let's deal with them, please. Operation Posse. You said
09:51:54 5 yesterday you don't accept that Posse is a spin-off or part
09:51:58 6 of Purana, okay?---No, I said it was a second phase of - it
09:52:04 7 became the second phase of Purana.
09:52:06 8
09:52:06 9 Can we have a look at a document which is RC923. This was
09:52:22 10 a document - I'm not sure when it was prepared for, but it
09:52:26 11 appears to be prepared by Jim O'Brien. Have you ever seen
09:52:30 12 this document?---I think this might have been a document
09:52:33 13 Mr Winneke showed me in cross-examination. Is it the
09:52:36 14 document that was apparently being prepared for a
09:52:39 15 presentation to the Premier, is that the one, or is it a
09:52:41 16 different document?
09:52:42 17
09:52:43 18 I see some nodding. Let's just go through - - - ?---I'm
09:52:45 19 not sure I have seen this document. I don't recall it.
09:52:48 20 And can I say I'm a bit sort of strengthened in that view
09:52:53 21 because if this was a document that was going to be
09:52:56 22 presented to the Premier, there's no way known I would have
09:52:59 23 allowed it to go forward on this basis, so I'm not sure I
09:53:02 24 have seen it.
09:53:03 25
09:53:03 26 Can we just go through, because it indicates some of the
09:53:06 27 information tactics. We see Operation Purana set out
09:53:09 28 there, which is to investigate the gangland killings from
09:53:12 29 2002 onwards. You can see what it says there and how it
09:53:14 30 commences. If we scroll through. Keep going through. So
09:53:20 31 details - in effect the drug issues - details some of the
09:53:25 32 murders as part of Purana. Keep going, please. Keep going
09:53:29 33 through. It sets out some of the intelligence that you
09:53:33 34 had. Again, milestones continued. You see at the bottom
09:53:39 35 of the right hand, milestones continue. There's reference
09:53:42 36 to an individual?---Yep.
09:53:44 37
09:53:44 38 Who is awaiting proceedings to be completed against him, do
09:53:48 39 you see that?---I do.
09:53:49 40
09:53:49 41 Let's keep going through. Purana Task Force, Operation
09:53:56 42 Posse, so part of Purana for which you were the overall
09:54:00 43 head?---Yes.
09:54:00 44
09:54:00 45 As we go through, tactical options, okay. You can see -
09:54:05 46 sorry, go back one - the investigation philosophies there.
09:54:11 47 Dismantle and disrupt is part of the investigation

09:54:15 1 philosophy, which, again, is clearly the same tactic - or
09:54:19 2 strategy as you put it - that you set out - - -?---Yes.
09:54:22 3
09:54:22 4 - - - to IBAC. We then see Op Posse investigation history,
09:54:28 5 okay? And the target, one of those identified is
09:54:34 6 do you see that, at the bottom, the bottom two
09:54:38 7 slides?---Sorry, yes, I do, yes.
09:54:40 8
09:54:40 9 Keep going on. It goes through - keep going through those.
09:54:45 10 That's in relation to prior offending. You see on
09:54:50 11 Operation Quills, again target Mokbel, and also details
09:54:58 12 do you see that?---Yes.
09:54:59 13
09:55:00 14 Carry on, please. Again, we see who the target is,
09:55:06 15 Yes.
09:55:06 16
09:55:07 17 And just pausing there, we all know, as history has told
09:55:11 18 us, that both and ultimately were arrested,
09:55:18 19 represented by Ms Gobbo and, in the event, ended up
09:55:23 20 providing assistance, okay? So that's the plan in force.
09:55:28 21 Let's keep going through. Sorry, go back one. Sorry, this
22 is the first time I've properly seen this document. So
09:55:34 23 strategy, target do you see that?---Yes.
09:55:37 24
09:55:37 25 Target ?---Yes.
09:55:40 26
09:55:40 27 Target others?---Yes.
09:55:42 28
09:55:42 29 Do you see who the principal target is? So the whole
09:55:45 30 purpose of this is the Mokbel family?---Correct.
31
09:55:48 32 Keep going.
09:55:48 33
09:55:49 34 MS ENBOM: Sorry to interrupt, Commissioner. Can we take
09:55:52 35 that document down, please? There are some images in there
09:55:56 36 that shouldn't be able to be viewed.
09:55:59 37
09:55:59 38 COMMISSIONER: Yes. Keep it on the witness' screen and my
09:56:00 39 screen. Have you got another copy?
09:56:02 40
09:56:03 41 MR NATHWANI: No, I don't. This is the first time I've
09:56:06 42 seen it in significant detail, it's been referred to.
43
09:56:07 44 Let's keep going through this, and just pause it just so
09:56:11 45 we're clear, because I just want to get to the position.
09:56:14 46 Posse comes into effect a month after Ms Gobbo's signed
09:56:18 47 up?---Yes.

09:56:19 1
09:56:19 2 Keep going through. So we see the strategic assessments,
09:56:23 3 overview investigations. Keep going. It sets out what the
09:56:27 4 plan was. Keep going through, please. More targets. Go
09:56:35 5 back up, please. So we see some targets there?---Yep.
09:56:39 6
09:56:40 7 Again, the second image on the right, someone ultimately
09:56:45 8 represented by Ms Gobbo, do you see that?---Right.
09:56:46 9
09:56:47 10 Ditto the person below?---Right.
09:56:50 11
09:56:50 12 Target, okay? Keep going down. The person on the left,
09:56:56 13 represented by Ms Gobbo. The person below that, another
09:57:00 14 target. I think it's right she also had some involvement
09:57:05 15 with him. Go down, please - sorry, go up one. Assets. So
09:57:12 16 Mr Coghlan is setting out what the assets are. I can't see
09:57:18 17 that - it doesn't matter for now for the purposes of this.
09:57:18 18 Let's keep going through, please. It looks like the
09:57:21 19 network of the Mokbels is set out there, do you see
09:57:25 20 that?---It does.
09:57:25 21
09:57:26 22 And, obviously, how the network gets wider and wider, so
09:57:30 23 you can see the wider range. It talks about Mr Mokbel as
09:57:34 24 we can see?---Yep.
09:57:35 25
09:57:35 26 Keep going down, please. It talks about current
09:57:39 27 operations, at the bottom, future operations, which is
09:57:42 28 driven by the strategic intelligence assessment. Keep
09:57:46 29 going down. Keep going, please. Challenges. Let's have a
09:57:55 30 look at the challenges. Go up one. Investigation
09:57:55 31 resources, continuance of investigation momentum,
09:57:58 32 specialist resources, timely forensic analysis, RHS,
09:58:05 33 protective witness issues. So there, straightaway
09:58:09 34 registered human source is one of the challenges?---Yes.
09:58:12 35
09:58:13 36 Legislation; it talks about the legislation that's
09:58:17 37 relevant. On the left-hand side, there's a discussion
09:58:20 38 about the management of RHSs and the risks involved, if I
09:58:27 39 can put it like that. If we go down, please. Threats,
09:58:31 40 obstacles to efficiency, judicial process and PII issues,
09:58:38 41 disclosure investigation, methodology, bail for recidivists
09:58:43 42 and serious offenders, lack of control of the drugs and
09:58:47 43 effective media management. This was an operation under
09:58:51 44 your guidance and, in many respects, given the timing, do
09:58:55 45 you accept is a blueprint - so Op Posse was a blueprint for
09:59:00 46 the use and deployment of Nicola Gobbo?---No, I think
09:59:07 47 Op Posse was, as we've discussed, a long time in the

09:59:11 1 making, it was a long time in the planning, and there were
09:59:14 2 a whole range of factors that were being brought to bear to
09:59:18 3 deal with the Mokbel syndicate. She was one of them.
09:59:20 4
09:59:20 5 So it is just pure coincidence that very soon after she
09:59:23 6 signed up, it's signed off by you on 21 October?---Yes.
09:59:25 7
09:59:26 8 Just pure coincidence, that's your evidence?---Yes. Well,
09:59:32 9 it was a stage at which Purana had got to. As I've said
09:59:33 10 previously, the first stage of Purana was very much about
09:59:33 11 the homicides and - - -
09:59:34 12
09:59:34 13 You say a coincidence again; it just happens that most of
09:59:38 14 the targets, as it transpired, she represented?---Well, I
09:59:42 15 was unaware of that.
09:59:44 16
09:59:44 17 That's just not right, is it? You were head of Purana,
09:59:47 18 this was your operation, this was your tactics, these were
09:59:51 19 your trusted - - - ?---No, I've said before it was my
09:59:54 20 strategy. I wasn't involved in tactical decision making.
09:59:57 21 That was for others to do.
09:59:59 22
10:00:00 23 Your trusted police officers, your inner circle of police
10:00:05 24 officers you trusted, implemented this?---Yes.
10:00:07 25
10:00:07 26 And they would have informed you of any concerns, do you
10:00:10 27 agree with that?---Well, they should have, yes.
10:00:12 28
10:00:12 29 You say they should have, but you will deny, won't you,
10:00:16 30 that you had any knowledge of the use of Ms Gobbo in
10:00:19 31 relation to all those individuals whom she was
10:00:22 32 representing?---I didn't.
10:00:23 33
10:00:24 34 Can you help us? Does it cause you any concern that your
10:00:27 35 trusted investigators have as a threat the judicial process
10:00:31 36 and PII?---Well, I can. I mean, I think it's consistent
10:00:36 37 with evidence that I've given, that, you know, you have to
10:00:39 38 understand that because of the discovery process, because
10:00:41 39 of the limits of PII, that there are always risks to police
10:00:47 40 methodology being revealed or to sources being revealed. I
10:00:50 41 don't think there's anything sinister in that, I think that
10:00:54 42 that is just part of the cut and thrust that is the
10:00:56 43 criminal justice process.
10:00:58 44
10:00:58 45 We may disagree. I'm not going to push you or keep going
10:01:01 46 on about that. Can I then ask you this, about what your
10:01:05 47 investigators did tell you, just to see whether they were

10:01:09 1 keeping you abreast of concerns they had about some of the
10:01:13 2 legal things - legal concerns they had about things they
10:01:15 3 were doing. [REDACTED] you were called by Jim O'Brien on
10:01:20 4 the day of his arrest?---Yes.
10:01:22 5
10:01:23 6 And the purpose of him calling you was to ascertain whether
10:01:27 7 you thought it was lawful if he kept [REDACTED] detained beyond
10:01:33 8 the usual periods?---Yes.
10:01:35 9
10:01:36 10 And so there we have an example of one of your trusted
10:01:38 11 senior detectives ringing you for legal advice,
10:01:42 12 agree?---Correct, and I referred him to the DPP.
10:01:45 13
10:01:45 14 This is an important example, and we'll go to some others,
10:01:49 15 because it shows that where your investigators were
10:01:51 16 concerned about something they were doing may not fit with
10:01:54 17 what you wanted or you thought was legal, they would call
10:01:56 18 you, do you agree with that?---Well, it's an example where
10:01:59 19 that occurred, yes.
10:02:00 20
10:02:02 21 Also, just as an example, one of the notes you found
10:02:06 22 coincides with - this is part of Gavan Ryan's statement.
10:02:11 23 Gavan Ryan saw you or spoke to you on [REDACTED] 2004 and the
10:02:18 24 reason he called you was to tell you that Ms Gobbo had
10:02:22 25 raised concerns about [REDACTED]'s
10:02:26 26 statement?---Yes.
10:02:26 27
10:02:26 28 So again being kept appraised by one of your detectives,
10:02:30 29 this time Gavan Ryan, another Senior Detective, about
10:02:32 30 issues relating to cases and legality potentially of the
10:02:40 31 cases that you were presenting before the courts?---Well,
10:02:42 32 around the issue of [REDACTED]. I mean, he
10:02:45 33 was important because he was the [REDACTED] and,
10:02:49 34 in a way, it was his rolling that then sort of unlocked a
10:02:53 35 whole series of other evidence.
10:02:54 36
10:02:55 37 Can I just ask you this generally: do you agree back
10:02:58 38 during the gangland wars, the deaths and then thereafter
10:03:01 39 Mokbel, the view Victoria Police took, and you took, was
10:03:06 40 means to an end?---No.
10:03:07 41
10:03:19 42 As you've accepted, you were involved with [REDACTED]
10:03:25 43 rolling, do you agree with that?---Well, I was involved in
10:03:29 44 that I actually met with him on an occasion, yes.
10:03:32 45
10:03:32 46 So you see the statement - or you're made aware of the
10:03:36 47 statement via a phone call by Gavan Ryan?---I don't know

10:03:37 1 that I did see the statement, but I - and I've said this in
10:03:40 2 my supplementary statement, now with the benefit of seeing
10:03:43 3 my diaries - that I met with him, I think, on 22 February
10:03:46 4 2004.
10:03:46 5
10:03:47 6 Also [REDACTED] If we could bring up Mr O'Brien's
10:03:50 7 statement - I think it's the first statement he makes, the
10:04:00 8 60-page statement. If we can go to paragraph 162, please.
10:04:43 9 It's redacted but I can help you. This is in relation to
10:04:49 10 the - around the time that [REDACTED] is arrested, so this is
10:04:52 11 days before [REDACTED] is arrested, okay? What appears to
10:04:56 12 happen is there's a meeting between Sandy White, Peter
10:05:00 13 Smith, Sergeant Flynn, as well as Jim O'Brien, on the days
10:05:07 14 before [REDACTED] arrested, okay? There was a discussion
10:05:17 15 about tactics and in the background we know, and I can take
10:05:19 16 you to the ICRs if necessary, what then follows is the
10:05:22 17 handlers have a discussion with Ms Gobbo and then there's
10:05:25 18 more discussion. So it looks, on the face of it, as though
10:05:29 19 Operation Posse, the slides we looked through, has been put
10:05:33 20 into practice here. And we can see he says, "I do recall
10:05:38 21 discussions of tactics post-arrest." He then says, "Part
10:05:42 22 of this would have been around what we knew of [REDACTED]'s
10:05:46 23 personal circumstances. This was based on information the
10:05:48 24 SDU had received from Ms Gobbo over a period of time".
10:05:52 25 Pausing there, it's clear from the ICRs that about two days
10:05:56 26 before this meeting, Ms Gobbo has provided a lot of
10:05:58 27 information about [REDACTED] "It was also based on
10:06:02 28 information that we knew from other sources, it appears,
10:06:06 29 including a previous indicated willingness to possibly
10:06:07 30 cooperate". If we scroll down. "As I recorded in my
10:06:11 31 diary, the meeting was discussed, the interview process.
10:06:15 32 There was no documented interview plan to the best of my
10:06:17 33 recollection. I received no specific information from
10:06:20 34 Ms Gobbo that was relevant to the intended process. What
10:06:23 35 was intended was to obtain a sentence indication from the
10:06:27 36 DPP and to put this to [REDACTED] as was done". Now, if we
10:06:31 37 keep going down, we see that some of the tactics are
10:06:36 38 discussed, that Ms Gobbo's provided some information on how
10:06:40 39 to approach [REDACTED] If we keep going down, please. It
10:06:46 40 then sets out what Mr O'Brien intended to say or was
10:06:50 41 considering saying to [REDACTED] to try and get him to
10:06:54 42 cooperate. Then keep going down. At 3 o'clock on that
10:07:01 43 same day, you and O'Brien meet and you go to the Director
10:07:06 44 to discuss the plea deal. That's where a suggestion of
10:07:10 45 [REDACTED] years, I think, was agreed to be put to him. Are you
10:07:16 46 saying you were not told at all by Mr O'Brien about the
10:07:20 47 tactical discussions that had taken place between Flynn,

10:07:24 1 White and Smith about what to do when [REDACTED] was arrested,
10:07:30 2 because by this time they knew where [REDACTED] was?---I don't
10:07:35 3 believe so. I do recall knowing that [REDACTED] - we viewed
10:07:39 4 [REDACTED] as being vulnerable to being rolled, and clearly
10:07:44 5 that would have been part of the discussion with Paul
10:07:48 6 Coghlan around a sentence indication. My recollection is I
10:07:52 7 was surprised by the phone call to be advised that I think
10:07:57 8 the raid had happened, they'd arrested [REDACTED] and
10:08:04 9 then - - -

10:08:04 10
10:08:04 11 This looks like the day before?---Yes. And then - - -

10:08:06 12
10:08:06 13 This looks like the day before he is arrested?---And then
10:08:10 14 he did ask me about, because of the requirement to, you
10:08:15 15 know, bring someone arrested before a JP for the purpose of
10:08:19 16 bail, a view about, if [REDACTED] was prepared to cooperate,
10:08:23 17 not actually doing that. Now, I don't believe I'd have
10:08:27 18 known that on that day because if I had, I'd have raised it
10:08:30 19 with Paul Coghlan then and there, because my advice to him
10:08:34 20 was to ring Geoff Horgan, Senior Counsel, and get advice
10:08:39 21 from him.

10:08:39 22
10:08:40 23 That was in relation to a couple of days later. What I'm
10:08:42 24 asking about here is if you're saying that you were not
10:08:46 25 told by Jim O'Brien that they had received information from
10:08:49 26 Ms Gobbo about how to approach [REDACTED] and that, in
10:08:52 27 effect, she was integral?---I don't believe so, no.

10:08:55 28
10:08:56 29 You never asked, despite your surprise, that [REDACTED] was,
10:09:00 30 one, to be arrested, and, two, to be - - - ?---As I said, I
10:09:05 31 recall being aware of the view that [REDACTED] was vulnerable,
10:09:08 32 because he was already on [REDACTED] and the
10:09:12 33 prospect of [REDACTED] made him
10:09:15 34 vulnerable, I was aware of that, and I was aware that the
10:09:18 35 plan was to arrest him and then to seek to have him
10:09:22 36 cooperate and my understanding of the purpose of that
10:09:24 37 meeting was to talk to the DPP about some sort of sentence
10:09:28 38 indication, because clearly we couldn't do that off our own
10:09:31 39 bat, the DPP needed to be involved in that, which is
10:09:34 40 consistent with a whole series of other conversations I had
10:09:38 41 with the DPP about exactly this issue.

10:09:41 42
10:09:41 43 Your evidence certainly has been that as far as Purana's
10:09:43 44 concerned, you took an active involvement in relation to
10:09:46 45 some of the [REDACTED], in particular [REDACTED], doing a
10:09:49 46 deal with - - - ?---When I was asked to, when I was called
10:09:53 47 in either by my investigators or on occasions by the DPP to

10:09:57 1 be present during discussions around these issues.
10:09:59 2
10:10:00 3 Here you are again with Posse, and remember the document
10:10:02 4 we've seen where the plan is put into place, which fits
10:10:06 5 with what you say is the strategy to IBAC, and here you are
10:10:09 6 at the time that it's about to be put into action, and
10:10:13 7 you're being brought in and kept abreast of what's going
10:10:15 8 on?---Well, I'm being brought in to deal with this specific
10:10:19 9 issue, which is when we arrest we're in a position
10:10:24 10 of trying to roll him. It's useful, in that context, to be
10:10:26 11 able to put to him some sort of sentence indication and in
10:10:29 12 order to do that, clearly we have to talk to the DPP.
10:10:31 13
10:10:32 14 And you stand by the fact that - or you stand by your
10:10:35 15 answer that at no time were you aware that Ms Gobbo was
10:10:37 16 representing [REDACTED] No, I wasn't, I wasn't aware of
10:10:41 17 that.
10:10:41 18
10:10:41 19 And that's your honest evidence before the
10:10:43 20 Commission?---That's my honest evidence.
10:10:45 21
10:10:46 22 Let's deal then with the issue of Ms Gobbo acting in
10:10:49 23 conflict in relation to [REDACTED] and also
10:10:55 24 having represented on one occasion - or certainly seeing on
10:11:00 25 one occasion [REDACTED], and having represented Carl
10:11:04 26 Williams, so that's the context. Now, there's a body of
10:11:09 27 material to indicate that Mr Horgan knew or suspected that
10:11:13 28 Nicola Gobbo was acting in conflict in relation to
10:11:18 29 representing [REDACTED], okay?---Right.
10:11:20 30
10:11:20 31 Did you ever have a discussion with him about that?---I
10:11:24 32 don't believe so.
10:11:25 33
10:11:27 34 Gavan Ryan's statement, and I'm trying to jog your memory
10:11:31 35 if I can, this is his second statement, so RC310, and if we
10:11:47 36 go to paragraph 3. This is a supplementary statement. I
10:11:50 37 assume you haven't seen these?---No.
10:11:52 38
10:11:55 39 He's reviewed some diaries and in his supplementary
10:11:58 40 statements, added some additional matters that he's found.
10:12:02 41 The first is there were notes of a Purana Task Force
10:12:06 42 Sergeants' meeting and the date is November 2003. It says
10:12:14 43 that Ms Gobbo wanted to see Mr Mokbel soon after she'd
10:12:22 44 visited [REDACTED] in prison. Were you ever made aware by
10:12:29 45 Mr Ryan, in your weekly meetings with him, that at that
10:12:34 46 stage Ms Gobbo was wanting to see Mr Mokbel but, more
10:12:38 47 importantly, that she'd been to visit [REDACTED] in prison

10:12:42 1 days after his arrest?---Look, I don't - I don't recall.
10:12:47 2
10:12:48 3 There were also weekly briefings, which he discusses with
10:12:53 4 you on 19 January 2004, which refer to Ms Gobbo. To put
10:12:57 5 this in context, by that time she had been involved in the
10:13:00 6 representation of ■, she'd visited ■, and had been involved
10:13:06 7 in the representation of ■. Here is a reference to his
10:13:13 8 note stating, which he believes to be a complaint, so he
10:13:19 9 believes - his evidence appears to be that it was about a
10:13:22 10 complaint made against Ms Gobbo. Does that jog any
10:13:25 11 memories with you of complaints being made potentially
10:13:29 12 about her representing different people in conflict?---No,
10:13:32 13 it doesn't.
10:13:33 14
10:13:33 15 Do you recall ever having concerns that she was
10:13:35 16 representing ■, ■ and ■, or ■, ■ and had represented ■ and
10:13:43 17 has a conflict?---No.
10:13:44 18
10:13:44 19 How about when Carl Williams sent letters to all and sundry
10:13:50 20 complaining about it? Was it an issue for you?---No.
10:13:53 21
10:13:54 22 Was that because you had no issue with her acting in
10:13:55 23 conflict because it assisted Victoria Police?---No, that's
10:13:57 24 not the case at all.
10:13:58 25
10:13:58 26 We then see C and this initially - we didn't have an answer
10:14:04 27 from you until you found your notes, but we can see -
10:14:06 28 sorry, D. Can we go to the next page. It's a handwritten
10:14:10 29 note, points for meeting with you, okay? It was in
10:14:13 30 relation to matters he intended raising with you. One of
10:14:17 31 the dot points referred to Ms Gobbo. He has no
10:14:21 32 recollection of what was discussed. The timing was the
10:14:24 33 date that ■ was due to sign his statement and
10:14:26 34 Ms Gobbo expressed concern about that. You now have a note
10:14:30 35 in your diary which confirms that. Again, did you have any
10:14:33 36 concerns at that stage that Ms Gobbo was, on one view,
10:14:38 37 telling the police how to improve ■'s statement?---I recall
10:14:48 38 the issue and, again, I think I was asked about this by
10:14:51 39 Mr Winneke. I mean, if she was acting for that person, it
10:14:55 40 was appropriate that she saw the statement.
10:14:58 41
10:14:58 42 Would you have discussed it with Mr Horgan at all, about
10:15:02 43 the - - - ?---No, I don't believe I did. I believe the
10:15:05 44 point that she made about the issue in the statement - I
10:15:09 45 mean, having looked at it now, I don't recall it, but I
10:15:11 46 think it was an unbelievable point being made by the
10:15:15 47 witness.

10:15:17 1
10:15:19 2 You obviously were involved or took certainly a more
10:15:24 3 hands-on or certainly more supervisory role in relation to
10:15:28 4 ■, ■, ■, the gangland killings, and the trials?---No, I
10:15:31 5 wouldn't say that at all. I wouldn't agree with that.
10:15:34 6
10:15:35 7 Were you aware that Mr Horgan would object to others acting
10:15:39 8 in conflict during these proceedings but not
10:15:42 9 Ms Gobbo?---No, I wasn't that involved. I wasn't involved
10:15:46 10 at all in the prosecutions.
10:15:47 11
10:15:47 12 If we have a look at paragraph 12 here, because it appears
10:15:50 13 there was quite a close relationship certainly between
10:15:53 14 Purana, Mr Horgan and Mr Tinney, who appeared to prosecute
10:15:57 15 all of those cases?---Yes, they were assigned to prosecute
10:16:01 16 those cases and my understanding is there was a very close
10:16:03 17 relationship between the OPP and Purana around the
10:16:06 18 prosecution of those cases.
10:16:07 19
10:16:07 20 Go to paragraph 12 of this statement. So we see there,
10:16:21 21 there was issues discussed about - it's all redacted - but,
10:16:28 22 in effect, it's Mr Horgan objecting to others representing
10:16:32 23 in conflict and we also know he made submissions about
10:16:35 24 Solicitor 2, in court, acting for certain parties, okay?
10:16:40 25 But as far as you were concerned, your Purana detectives
10:16:43 26 never discussed with you, despite the weekly meetings, the
10:16:48 27 issue of some solicitors or barristers acting in
10:16:51 28 conflict?---I don't believe so.
10:16:52 29
10:16:52 30 What you say about the relationship, and this is at IBAC,
10:16:56 31 p.40 - no need to put it up, I'll just read it to you -
10:16:59 32 Mr Hevey asked, on behalf of the inquiry, "Did you consider
10:17:03 33 that it might be appropriate to actually give these fellows
10:17:05 34 who are doing their work some form of direction that they
10:17:09 35 should get external legal advice or internal legal advice
10:17:12 36 from someone like Finn McCrae, or whoever was in his
10:17:15 37 position at the time?" You responded, "No, I trusted my
10:17:19 38 managers and my experience with them to date had been that
10:17:21 39 whenever these issues arose, so again the example I
10:17:25 40 provided in my statement about the two people who
10:17:25 41 eventually rolled, they acted appropriately every step of
10:17:28 42 the way. Understanding the sort of legal and ethical
10:17:33 43 issues that arise with these sorts of issues, they would
10:17:36 44 go - in my experience, they would go and get advice, they
10:17:40 45 would ask and they did ask." At p.41 of IBAC you say, "My
10:17:45 46 experience of them throughout all of Purana was I thought
10:17:49 47 that they thought they had sought advice as appropriate

10:17:49 1 throughout, not just in relation to this issue - I don't
10:17:52 2 know whether they did or they didn't in the issue, but my"
10:17:56 3 - and you're interrupted by Mr Kirkham. He says, "Sought
10:18:00 4 advice." "My experience was they generally sought advice.
10:18:02 5 They worked very close with the DPP", and then you repeat
10:18:06 6 that. "Yes, I'd have thought there was a very close
10:18:10 7 working relationship that developed with the DPP, with the
10:18:12 8 DPP himself and also Mr Horgan, because they were
10:18:15 9 ultimately prosecuting these cases and we were very
10:18:20 10 conscious that, you know, ultimately criminal convictions
10:18:24 11 are very much sustained on the basis of not only the
10:18:26 12 evidence that is obtained but the manner in which it was
10:18:28 13 obtained"?---Yes.
10:18:29 14
10:18:29 15 You stand by that?---Absolutely.
10:18:30 16
10:18:31 17 So as far as you were concerned, during conversations with
10:18:33 18 the DPP with your trusted managers, namely O'Brien, Gavan
10:18:38 19 Ryan, and also Mr Horgan, during all of those discussions,
10:18:44 20 you were of the understanding that all legal and ethical
10:18:48 21 matters were maintained so as to prevent the convictions
10:18:52 22 being overturned?---I was.
10:18:54 23
10:18:58 24 And yet the fact that she was representing some in conflict
10:19:01 25 to the benefit of Victoria Police, and that she was then
10:19:05 26 congratulated by your investigators when Carl Williams
10:19:08 27 pleaded guilty, has nothing to do with any of that?---No,
10:19:13 28 and again, as I said, you'd have to ask the investigators
10:19:17 29 why they congratulated her. On its face, I would have
10:19:21 30 assumed it was in relation to her role around [REDACTED]
10:19:24 31 [REDACTED].
10:19:25 32
10:19:25 33 Let's turn, please, to 12 September 2005. We know that
10:19:29 34 Mr O'Brien has a diary entry. I just want to consider your
10:19:32 35 evidence on this and see where we are. Correct me if I'm
10:19:36 36 wrong, but your evidence is as far as notes were concerned,
10:19:41 37 you and informers, or human sources, whatever you want to
10:19:44 38 call them, you would not use their name in a document, for
10:19:48 39 obvious security reasons?---Yes.
10:19:49 40
10:19:50 41 So we wouldn't ever see the name "Gobbo" or Jim O'Brien
10:19:53 42 coming to you saying, "Gobbo might be for turning, she said
10:19:58 43 the following to Paul Rowe and Mr Mansell", that would
10:20:00 44 never appear, do you agree with that?---No.
10:20:02 45
10:20:03 46 Also, from your statement, your second statement, this is
10:20:06 47 apparent, that you wouldn't use the fact that someone is a

10:20:08 1 legal practitioner because that could give up the goose as
10:20:12 2 well?---Yes.
10:20:13 3
10:20:13 4 And so we wouldn't have had, for example, a note in your
10:20:17 5 diary saying, "Jim O'Brien's come to me and said Mokbel's
10:20:22 6 lawyers for turning or prepared to assist"?---No, I
10:20:25 7 wouldn't have made a note to that effect, no.
10:20:28 8
10:20:28 9 So the fact that you don't have a note on 12 September
10:20:32 10 doesn't help us one way or another, do you agree with
10:20:35 11 that?---No, I agree that there's a discrepancy between
10:20:38 12 what's in my diary and what's in Mr O'Brien's diary.
10:20:41 13
10:20:41 14 And again, Jim O'Brien, being one of your trusted members,
10:20:46 15 do you dispute that he did speak to you on 12 September and
10:20:51 16 told you about an approach or told you that there was plans
10:20:56 17 in action to recruit Ms Gobbo as an informer?---Again, I've
10:21:00 18 been asked extensively about this. I can't take it any
10:21:03 19 further than saying it doesn't accord with my long-held
10:21:06 20 recollection about when I found out that Ms Gobbo had been
10:21:09 21 registered as an informer, and the diary notes that have
10:21:12 22 been found recently are consistent with my general
10:21:16 23 recollection.
10:21:16 24
10:21:16 25 Are you rewriting history because you are again trying to
10:21:19 26 distance yourself from the involvement with the initial
10:21:22 27 recruitment of Nicola Gobbo?---No, I think my answers have
10:21:25 28 been consistent with the general evidence I've given over a
10:21:28 29 long period of time, which was given from my recollection
10:21:32 30 and without the benefit of being able to see any written
10:21:35 31 material. When I went to IBAC, I had no access to any
10:21:38 32 material. I had to, to the best of my ability, reconstruct
10:21:42 33 events in my mind.
10:21:44 34
10:21:44 35 And going on through your notes, there wouldn't be a note
10:21:47 36 on the 19th, do you agree, because at that stage Ms Gobbo
10:21:50 37 still didn't have - hadn't been formally fully assessed by
10:21:55 38 the SDU?---No, I don't agree with that. I think there's
10:21:58 39 another entry in my diary, and I can't now specifically
10:22:03 40 remember where it is, but clearly I'm told something and
10:22:06 41 I've used - I've written "XXXXX" and then whatever it is
10:22:11 42 that I've been told about that person, who I think was
10:22:14 43 probably [REDACTED]. So I did make a diary
10:22:19 44 entry in circumstances where I didn't want to identify the
10:22:21 45 individual, but I did it in a way that was coded, so - - -
10:22:25 46
10:22:25 47 What I'm saying is by the 19th, she wasn't fully

10:22:28 1 assessed?--No, but you're putting to me that I wouldn't
10:22:33 2 have said - I wouldn't have made a diary note because I
10:22:36 3 didn't have anything to refer to her by, I understand that,
10:22:38 4 and that may be the case, but I'm saying there's an example
10:22:41 5 in my diary where I have referred to - where there's no
10:22:45 6 means to refer to someone because they don't have a code
10:22:48 7 name or some secret identification, and I've referred to
10:22:52 8 them as "XXXXX".
10:22:54 9
10:22:54 10 The first time you referred to her as 3838 is actually,
10:22:58 11 when we compare it to the ICRs, around the first time,
10:23:03 12 because you have these weekly meetings, is the first time
10:23:05 13 you've had the weekly meeting where she has been assessed.
10:23:08 14 You'll see from the first two ICRs, up until about 21 or 22
10:23:11 15 September, she still hasn't formally been approved or
10:23:15 16 accepted or debriefed?--Again, I was unclear as to the
10:23:17 17 date she was registered until that evidence came out in
10:23:21 18 this Royal Commission. My long-held recollection was I was
10:23:24 19 told after she was registered, and that's consistent with
10:23:28 20 the entry that I have in my diary.
10:23:30 21
10:23:30 22 Whatever the position ultimately is on that, there's no
10:23:33 23 disputing, is there, that you knew she was registered prior
10:23:36 24 to Operation Posse coming into force?--Yes.
10:23:40 25
10:23:44 26 About the authorisation of Nicola Gobbo, do you accept you
10:23:48 27 were involved - you dispute, as we already know, you were
10:23:52 28 involved in the initial process, but thereafter do you
10:23:55 29 accept you were involved in the continued authorisation of
10:23:59 30 her?---I think you have to be careful about the use of the
10:24:02 31 term "authorised". The authorising environment was the
10:24:05 32 Chief Commissioner's policy, as I recall it, that related
10:24:08 33 to the registration of human sources. That was a process
10:24:12 34 that was gone through. That was the authorising
10:24:15 35 environment for her registration as a human source.
10:24:17 36
10:24:17 37 Let's have a look at some your colleagues' statements, so I
10:24:20 38 can put them to you. Can we go to Mr Ashton's statement,
10:24:24 39 paragraph 127A - that's RC856. "Based on the belief I have
10:24:44 40 now, the following people were involved in the continued
10:24:47 41 authorisation of the use of Ms Gobbo as a human source:
10:24:50 42 Deputy Commissioner Overland." What do you say about
10:24:54 43 that?--Well, as I've said previously, I was aware that she
10:24:57 44 was being used as a human source.
10:24:59 45
10:24:59 46 That's not what this says. I'm asking you directly. Do
10:25:03 47 you accept you were involved in the continued authorisation

10:25:05 1 of the use of Ms Gobbo as a human source?---No, I don't
10:25:08 2 accept that description, because the authorising
10:25:10 3 environment was the Chief Commissioner's policy and the
10:25:13 4 policy that had been set in place around the registration
10:25:16 5 of a human source.
10:25:18 6
10:25:18 7 So you dispute that?---Well, I don't know that I dispute
10:25:22 8 it, I just think I would put it a different way. I've
10:25:26 9 admitted all along that I knew she was being used as a
10:25:30 10 human source and I had involvement in her use as a human
10:25:33 11 source, as I've set out in my evidence before this Royal
10:25:35 12 Commission.
10:25:35 13
10:25:36 14 You obviously dispute the 12 September entry from Jim
10:25:40 15 O'Brien. As an aside, Sandy White's statement - we don't
10:25:43 16 need to go there - paragraph 129, forms the view that you
10:25:47 17 were briefed by Jim O'Brien in September '05, so prior to
10:25:51 18 registration. Gavan Ryan can we pull up, another one of
10:25:55 19 your trusted detectives, Gavan Ryan's first statement,
10:25:58 20 paragraph 100, please. So his view, working with you,
10:26:39 21 reporting back to you, receiving information from the SDU,
10:26:43 22 as you can see, paragraph 100, "I believe the SDU were
10:26:47 23 responsible for the registration and management of
10:26:50 24 high-risk human sources, including Ms Gobbo. I believe the
10:26:54 25 SDU reported to Detective Superintendent - and ultimately
10:26:55 26 to Assistant Commissioner Overland". Pausing there, he is
10:27:00 27 someone who was reporting back to you, having weekly
10:27:03 28 meetings with you, and it appears that informed his view.
10:27:06 29 What do you say about that?---I think he's mistaken around
10:27:09 30 the reporting lines, which I think are clear. The SDU was
10:27:14 31 never part of the Crime Department and never part of my
10:27:20 32 command as Assistant Commissioner Crime. It didn't report
10:27:20 33 to me.
10:27:20 34
10:27:21 35 What he is saying is that you were also reported to, and
10:27:23 36 that must be based on his discussions with you?---Again,
10:27:27 37 you'd have to ask him about that, but - he's mistaken - but
10:27:30 38 the SDU was part of the Intel and Covert Support
10:27:35 39 department, it goes back to the evidence I've given around
10:27:37 40 maintenance of the sterile corridor and the need to ensure
10:27:39 41 that that ran all the way through. Because I was on the
10:27:42 42 investigation side, the SDU couldn't and shouldn't report
10:27:46 43 to me, it needed to be an entirely separate area, and it
10:27:49 44 was.
10:27:49 45
10:27:49 46 Let's go to Boris Buick, paragraph 47, please. "I played
10:28:02 47 no role in the authorisation and registration of Ms Gobbo

10:28:06 1 as a human source. At that time there was a Victoria
10:28:09 2 Police policy which governed the use of human sources and a
10:28:11 3 specialist SDU unit in place. I believe the SDU would have
10:28:15 4 been involved in the approval of Ms Gobbo's use as a human
10:28:18 5 source and that her use would have been approved at the
10:28:20 6 Superintendent level, as required by the policy. In
10:28:22 7 addition, from the outset of my work at Purana, I was aware
10:28:26 8 of the active oversight and routine reporting upwards to AC
10:28:31 9 Simon Overland". Again, any comment about that?---I'd
10:28:36 10 agree with that.
10:28:37 11
10:28:37 12 He's talking about the use of Ms Gobbo as a human
10:28:40 13 source?---No, he's talking about Purana Task Force.
10:28:42 14
10:28:42 15 He's saying - in addition, the question is - let's scroll
10:28:46 16 up, please. Let's read what he's saying. He says, "I
10:28:52 17 recall learning she was a human source" - this is paragraph
10:28:55 18 45 - "around the time the Purana Task Force were
10:28:57 19 investigating Mokbel and ████████." Note he talks about
10:29:02 20 Purana investigating, not necessarily Posse. "I did not
10:29:05 21 make a note in my day book about receiving this
10:29:07 22 information" he says at 46, and it's a paragraph purely
10:29:11 23 about Ms Gobbo?---Well, I mean, you read it that way. I
10:29:17 24 read it that he's saying in addition - - -
10:29:20 25
10:29:20 26 There are a number - - - ?---Hang on a minute. You've
10:29:24 27 asked me a question. Can you just let me answer it?
10:29:26 28
10:29:26 29 Take as long as you want?---Thank you. He's clearly
10:29:31 30 talking about the authorisation and registration, he's
10:29:34 31 referring to the policy that I've referred to and he's
10:29:35 32 referring to her being managed by the SDU, which is the
10:29:39 33 evidence I've given, and the SDU was in another department.
10:29:41 34 He has then gone on and said in addition, from the outset
10:29:46 35 he was aware of my active oversight and routine reporting
10:29:46 36 to me from Purana. I agree, Purana did report to me, but
10:29:50 37 the SDU did not.
10:29:54 38
10:29:54 39 All of these police officers - we see it in Mr Ashton's
10:29:58 40 statement because it's a different format - are asked a
10:30:00 41 particular question and they're all answering that
10:30:03 42 question, about who was involved in the authorisation and
10:30:05 43 continued use of Ms Gobbo as a source. That is a direct
10:30:09 44 answer, I would say, to that question, but you deny
10:30:11 45 that?---No, no, I'm just trying to be clear. You're
10:30:15 46 putting to me a proposition that I was responsible for the
10:30:18 47 ongoing authorisation of her use. She was - the

10:30:22 1 authorisation for her use was the force policy and her
10:30:26 2 registration. I was aware of her use.
10:30:28 3
10:30:28 4 I'm putting to you what a number of your colleagues have,
10:30:32 5 at a similar level or those immediately under you, have
10:30:36 6 given evidence about?---No, I understand that.
10:30:38 7
10:30:38 8 And you deny it, in effect?---No, I wouldn't say I deny it,
10:30:43 9 I would - I stand by the evidence that I've given.
10:30:48 10
10:30:49 11 Let's analyse, if we can, please, because I'm rather
10:30:53 12 simple, your evidence that it was the least worst option to
10:30:58 13 both sign her up later than the least worst option to ease
10:31:04 14 her out and then the least worst option to transition her
10:31:08 15 to a witness, okay. Let's have a look at what's going on
10:31:11 16 in 2005 to take stock of your first bit of evidence about
10:31:15 17 it being the least worst option to sign her up. You agree,
10:31:19 18 in 2005, by that time you'd had corruption within the
10:31:23 19 Police Force, examples, Rosenes, Strawhorn, for
10:31:27 20 example?---Yes.
10:31:27 21
10:31:28 22 You were involved in the establishment of the SDU pilot
10:31:32 23 project because of some of those concerns?---Yes.
10:31:35 24
10:31:36 25 Then had, or we certainly had around that time a major
10:31:41 26 issue for Victoria Police, firstly, Mielche?---Yes.
10:31:45 27
10:31:45 28 And the burglary?---Yes.
10:31:46 29
10:31:46 30 And then what then followed was Mr Hodson assisting the
10:31:53 31 police against Paul Dale?---Yes.
10:31:54 32
10:31:55 33 And we then find that an informer is shot dead, that's
10:32:01 34 Mr Hodson, with his wife next to him?---Yes.
10:32:04 35
10:32:05 36 So there we have fresh in the minds, I imagine, of Victoria
10:32:08 37 Police, the serious danger of anyone becoming an informer,
10:32:12 38 do you agree with that?---Yes.
10:32:13 39
10:32:14 40 And this was all in the lead up to your evidence that it
10:32:18 41 was the least worst option available to register
10:32:22 42 Ms Gobbo?---Yes.
10:32:22 43
10:32:24 44 How would it be the least worst option to register Ms Gobbo
10:32:29 45 when the exact people she was trying to rid herself of,
10:32:33 46 which was the information you were receiving, was Tony
10:32:36 47 Mokbel, who, at the time you suspected, that's Victoria

10:32:39 1 Police, was involved in a number of murders?---Because my
10:32:45 2 fear was that if assistance wasn't provided to her, that
10:32:49 3 she would continue to mix in those criminal milieus and if
10:32:56 4 she did try to distance herself or she did try to walk
10:33:01 5 away, again I think I gave this evidence to Mr Winneke,
10:33:03 6 that my experience of people like Ms Gobbo who become too
10:33:06 7 closely involved with major organised crime figures in a
10:33:10 8 role almost as a professional advisor, is they become
10:33:14 9 trapped and it's not possible for them to simply walk away
10:33:17 10 for a couple of reasons. One is they're very useful, and
10:33:20 11 the second reason is they tend to know too much, they tend
10:33:23 12 to know about the major players in the syndicate and so
10:33:26 13 they represent a risk. If they simply try and walk away or
10:33:31 14 distance themselves, that places them and their lives at
10:33:36 15 some considerable risk. So I saw no other way out for her,
10:33:40 16 she either stayed in that environment, continuing to do the
10:33:43 17 things she was doing, which put her at risk. She tried to
10:33:49 18 walk away, which put her really great risk, or we worked
10:33:50 19 with her for what I thought be a limited period of time to
10:33:54 20 try and remove that risk so that she could then get on with
10:33:56 21 her life.

10:33:56 22
10:33:57 23 And the High Court say basically now she's at risk of
10:34:00 24 death?---Well I think she has been at risk of death for
10:34:03 25 some considerable period of time.

10:34:05 26
10:34:05 27 It was foreseeable, in particular given what had happened
10:34:10 28 to the Hodsons not long before?---It was a foreseeable
10:34:13 29 risk, but so too it was foreseeable the other risks that
10:34:15 30 I've outlined, that it was very foreseeable that, you know,
10:34:18 31 if she made one wrong move or one wrong step whilst out
10:34:22 32 with the Mokbel syndicate, she may well be seriously harmed
10:34:25 33 or killed.

10:34:26 34
10:34:26 35 The truth of the matter was that you wanted to implement
10:34:30 36 the Posse plan and needed her to bring down the
10:34:34 37 Mokbels?---No, I didn't believe we did need her for Posse,
10:34:37 38 I think - - -

10:34:38 39
10:34:38 40 Just look at all the targets?---No, I don't believe that we
10:34:42 41 did need her for Posse. The issue for me with Posse is
10:34:46 42 having looked at the history of Victoria Police trying to
10:34:49 43 investigate Tony Mokbel, was that I believed that all
10:34:50 44 previous investigations had been compromised and they'd
10:34:53 45 been compromised probably by corrupt police officers in
10:34:56 46 Victoria Police and so that if any investigation were to
10:34:59 47 succeed against him and his syndicate, it needed to be run

10:35:03 1 with very tight security so that it wasn't compromised at a
10:35:08 2 very early stage.
10:35:09 3
10:35:09 4 A number of your colleagues, Gavan Ryan springs to mind as
10:35:13 5 one of them, described you as career driven and
10:35:19 6 aspirational. You've had an accusation put to you that you
10:35:22 7 had designs on the top job. Do you agree you saw Ms Gobbo
10:35:23 8 as a means to getting that?---No. No, I didn't see her as
10:35:26 9 a means, I thought she was always a highly risky
10:35:29 10 proposition for the reasons I've outlined.
10:35:33 11
10:35:34 12 Once she's registered we know by 17 May 2006, we have the
10:35:37 13 SML, if we could bring that up, that there is a discussion
10:35:40 14 about easing her out and as I understand your evidence it's
10:35:44 15 that you thought it was a risk to keep her on board and it
10:35:49 16 was time to get her out?---Yes.
10:35:51 17
10:35:51 18 That's not true?---It is true.
10:35:53 19
10:35:53 20 The reality again, let's take stock about what had happened
10:35:57 21 by 17 May 2006, she had outlived her worth at that stage,
10:36:03 22 do you agree with that?---No.
10:36:05 23
10:36:05 24 Here we are, we see the entry that we've looked at, 17 May,
10:36:10 25 two of the handlers meet with AC Overland Crime re issue of
10:36:16 26 potential reward to human source and termination process.
10:36:18 27 You were to consider acknowledgement of appreciation by
10:36:21 28 you, discuss motivation and counselling for source. And
10:36:28 29 that's all we need for this purpose. At that stage let's
10:36:32 30 have a look at what was going on. Mokbel had
10:36:34 31 disappeared?---Yes.
10:36:35 32
10:36:36 33 So she couldn't help you with him at that stage.
10:36:42 34 was behind bars and had been assisting, as you'd
10:36:49 35 hoped?---Yes.
10:36:50 36
10:36:50 37 Ditto [REDACTED]?---Yes.
10:36:52 38
10:36:54 39 Several Mokbels either charged or implicated as a result of
10:37:00 40 that?---Yes.
10:37:00 41
10:37:00 42 Posse succeeded?---Up to a point, yes.
10:37:03 43
10:37:04 44 And that's why, 17 May, you want to ease her out, job
10:37:10 45 done?---Well the job was done, but as I've said, my view at
10:37:14 46 the time she came in was if we could remove the threat to
10:37:18 47 her from the Mokbel family that was the time to transition

10:37:21 1 her out and let her get back on with her life, that's what
10:37:24 2 those discussions are about.
10:37:28 3
10:37:28 4 Can we just deal with what you did and didn't know. Can we
10:37:31 5 go back to Sandy White's notes, VPL.2000.0001.0782, and
10:37:49 6 this is his note of that meeting. Whilst that loads up, we
10:38:10 7 saw reference to counselling?---Yes, I remember that from
10:38:15 8 yesterday.
10:38:15 9
10:38:16 10 In fact let's deal with this, we'll go back to the
10:38:19 11 counselling point. The one I'm interested in, this is
10:38:22 12 obviously a discussion with you about providing a reward
10:38:25 13 for Ms Gobbo and indicating some form of acknowledgement of
10:38:28 14 appreciation, okay. Do you agree with that?---Yes.
10:38:31 15
10:38:32 16 And to that end, to be informed, you would have to know
10:38:35 17 what she'd done so as to decide the level of reward and
10:38:40 18 whether or not there should be acknowledgement of
10:38:42 19 appreciation, do you agree with that?---Yes.
10:38:46 20
10:38:46 21 They're not going to say to you, she's helped and that's
10:38:49 22 it, you would want to know the level of information, the
10:38:52 23 type of information and how she's been involved?---Yes.
10:38:59 24
10:39:00 25 So you would have known then certainly, for example, her
10:39:03 26 role in Mokbel, all the names on the Posse
10:39:09 27 document?---No, because my recollection is the reward
10:39:12 28 payment would have related to a reward that had been
10:39:15 29 offered for one of the murders, so rewards are routinely,
10:39:20 30 or sometimes offered for serious crime. So I don't
10:39:26 31 specifically remember - - -
10:39:28 32
10:39:28 33 If that's right - - - ?---I don't remember specifically
10:39:32 34 what it was about but there was no means to pay a reward
10:39:36 35 for her informing against those people.
10:39:40 36
10:39:40 37 What was being discussed was, "Let's ease her out. If
10:39:44 38 she's eased out we should acknowledge that she's helped
10:39:48 39 us"?---Yes.
10:39:48 40
10:39:49 41 It wasn't about the rewards for murders, because let's have
10:39:52 42 a look at the note: "Discuss reward process, discuss
10:39:56 43 motivation, financial reward not appropriate", so that's
10:39:59 44 not what you're talking about?---Well it is, because my
10:40:02 45 recollection is it was about - so the only way a reward can
10:40:07 46 be paid is if a reward has been offered. So rewards are
10:40:10 47 offered primarily for serious crimes, most particularly for

10:40:13 1 homicides. So again, I don't, I still don't recall the
10:40:16 2 specifics of this, but my understanding of this note is
10:40:19 3 that it must have been about a reward payment for a reward
10:40:23 4 that had been offered. I remember being very ambivalent
10:40:28 5 about that and I think I put them off on the basis that
10:40:31 6 rewards are generally only paid at the end of a
10:40:35 7 prosecution, not part way through. So that's my
10:40:39 8 understanding as to what those conversations or that
10:40:42 9 conversation was about.
10:40:43 10
10:40:43 11 We've heard evidence about, and we've seen evidence through
10:40:46 12 documents or references to not just this human source, but
10:40:49 13 generally receiving tickets to events as a thank you for
10:40:54 14 assisting the police, not in relation to murders, but
10:40:56 15 generally assisting as a human source. Now, if we have a
10:41:00 16 look at what's discussed there, we see the consideration of
10:41:03 17 acknowledgement of appreciation by you and then the next
10:41:06 18 one I'll come back to, but "Discussed funding trip to Las
10:41:10 19 Vegas to see a concert", okay?---Yes.
10:41:12 20
10:41:13 21 What they are clearly discussing is a payment or
10:41:16 22 acknowledgement or reward to her?---No, they're separate.
10:41:19 23
10:41:20 24 For performing - - - ?---They're separate things, because I
10:41:22 25 actually laughed. I remember when it was suggested to me I
10:41:25 26 laughed at it and I thought it was ridiculous, so the
10:41:28 27 reward process, as I've said, is as I've said, it actually
10:41:31 28 relates to a reward that would have been on offer for
10:41:35 29 information leading to the solving of a serious crime and I
10:41:38 30 think it was one of the murders.
10:41:40 31
10:41:40 32 I just want to ask you about the paragraph I left out. I
10:41:43 33 read it differently to how you do. I just want to put this
10:41:46 34 to you. This is, Sandy White is saying that you are
10:41:50 35 advised, so, "AC advised", okay, you were advised that
10:41:54 36 Nicola Gobbo is aware of, and it says "human source
10:41:58 37 existence". When you read it, what it means, I would
10:42:00 38 suggest to you, is you, Mr Overland, have been told by
10:42:06 39 Sandy White that in fact you were aware of her existence,
10:42:13 40 Gobbo has been told you're aware of her existence, but she
10:42:17 41 hasn't been told how much you know about her, which
10:42:20 42 indicates you knew a lot about her, okay, so let's break
10:42:23 43 that up?---Look - - -
10:42:26 44
10:42:26 45 At this time you knew a large extent of what Ms Gobbo had
10:42:31 46 been involved in and been up to, because you were behind or
10:42:34 47 overlooking this?---I knew she had provided information in

10:42:39 1 relation to the Mokbel syndicate, I knew that. I knew that
10:42:43 2 information had been important in helping us to arrest
10:42:48 3 and [REDACTED] so I did know that. But as I
10:42:54 4 said, my recollection of these notes is as I've explained.
10:42:59 5
10:42:59 6 Now, let's then move on. We know at this stage, 17 May
10:43:03 7 2006, discussions about easing her out, that doesn't
10:43:08 8 happen, and again there's a reason behind that, isn't
10:43:11 9 there?---Well if there is I'm not aware of it.
10:43:14 10
10:43:15 11 She becomes of use to you again. You became aware that she
10:43:19 12 would be of use in relation to Briars and Petra and that's
10:43:24 13 why you keep her on board again, you change your mind?---I
10:43:27 14 think only sometime after this, I think that's almost into
10:43:30 15 2007 where that became the case.
10:43:32 16
10:43:33 17 Just to see where we are. We don't need to go to a
10:43:37 18 statement unless you want to see it. In fact let's go to a
10:43:42 19 statement, paragraph 62 of Gavan Ryan's first statement,
10:43:45 20 please. So you're concerned about her safety. In May
10:43:49 21 you're talking about easing her out. Then on 11 December
10:43:57 22 2006, Mr Ryan says he spoke to you. Let's have a look at
10:44:00 23 what he says. He says, "I attend a meeting with Deputy
10:44:38 24 Commissioner" - the previous paragraph. He talks about
10:44:41 25 threats. He details some threats made to Ms Gobbo,
10:44:44 26 okay?---Yep.
10:44:45 27
10:44:46 28 "On 11 November I attended a briefing with Deputy
10:44:50 29 Commissioner Overland. My diary doesn't record why I
10:44:52 30 attended a briefing but I suspect that I'd been asked to
10:44:52 31 give a briefing by a staff officer. My diary records I
10:44:55 32 gave the Deputy Commissioner a briefing about a number of
10:44:58 33 matters relevant to Purana, including threats made to
10:45:01 34 her"?---Yep.
10:45:02 35
10:45:02 36 At that stage there's no attempt by you to phase her out or
10:45:05 37 ease her out, as you'd hoped to in May, despite the
10:45:11 38 threats?---That, with respect, was for the SDU to do. They
10:45:14 39 were managing her. That was a process they needed to go
10:45:16 40 through, that wasn't for me to do.
10:45:18 41
10:45:18 42 They had come to you on 17 May about easing her out?---No,
10:45:22 43 no, my recollection is I raised it with them at that
10:45:25 44 meeting. My recollection is they came to see me about a
10:45:27 45 reward payment and there was a discussion and it was me who
10:45:31 46 raised with them that I thought they needed to develop an
10:45:34 47 exit strategy for her.

10:45:36 1
10:45:36 2 Again, why then on 11 December, when you've, six months
10:45:40 3 later, sorry, seven months later, why aren't you picking up
10:45:46 4 the phone or asking to meet them, because here you are,
10:45:49 5 you've got one of your trusted detectives coming to you
10:45:52 6 saying, "Look, it's important for me to tell you threats
10:45:55 7 have been made to Gobbo"?---So can we scroll down a bit?
10:45:58 8
10:45:59 9 Yes?---"Deputy Commissioner Overland asked me to contact
10:46:03 10 the SDU to ask whether Ms Gobbo could be eased out."
10:46:07 11
10:46:07 12 And is that what happened?---Well I assume so.
10:46:10 13
10:46:10 14 Let's go to the SMLs and see what happens in May 2007. If
10:46:12 15 you're concerned about easing her and the least worst
10:46:16 16 options and you really care about her health, let's see
10:46:20 17 what in fact happens with Ms Gobbo. 16 May 2007. So let's
10:46:40 18 just pause here for a moment so everyone can take stock
10:46:43 19 about where we are. On the evidence of Gavan Ryan, and
10:46:47 20 this is at paragraph 70 to 71 of his statement, we don't
10:46:50 21 need to go to it, is on 1 April 2007 he's retrieved calls
10:46:56 22 between Carl Williams and Paul Dale, which you'll be aware
10:47:00 23 of, and that they involve Nicola Gobbo. So from 1 April
10:47:03 24 2007 you, the police, are aware that Nicola Gobbo is
10:47:07 25 involved in telephone conversations between Carl Williams
10:47:10 26 and Paul Dale that you would later rely on and
10:47:14 27 use?---Right.
10:47:14 28
10:47:14 29 Okay, as part of the Petra investigation?---Yes.
10:47:18 30
10:47:18 31 COMMISSIONER: So what's up on the screen - - -
10:47:21 32
10:47:21 33 MR NATHWANI: This is the SML, but just to put it into
10:47:24 34 context.
10:47:24 35
10:47:25 36 COMMISSIONER: But this seems to be 06, not 07.
10:47:27 37
10:47:30 38 MR NATHWANI: It's 06, so if we can going.
39
40 COMMISSIONER: It is 06?
41
10:47:33 42 MR NATHWANI: I think so. By 1 April 2007 the police
10:47:37 43 became aware certainly she again could be of use as far as
10:47:41 44 investigating Paul Dale is concerned?---Well I mean I think
10:47:47 45 she was a potential witness in those matters, yes.
10:47:49 46
10:48:07 47 Here we are, second entry. The third entry, sorry. Gavan

10:48:12 1 Ryan, who is headed up Petra, which has been formed shortly
10:48:16 2 before this says you have approved the SDU speaking to
10:48:20 3 Ms Gobbo about her knowledge of the Hodson murders.
10:48:24 4 Okay?---Yes.
10:48:24 5
10:48:24 6 You're aware she might be of help?---Yep.
10:48:27 7
10:48:27 8 That can be the only implication of that?---Yep.
10:48:29 9
10:48:29 10 22 May we see, "Briefed DDI Ryan re result of the debrief,
10:48:34 11 Ryan to brief Overland"?---Yes.
10:48:36 12
10:48:36 13 So there's a chain of discussion, as we can see, which I
10:48:40 14 would say is a chain of discussion that would occur - the
10:48:44 15 chain is SDU to the investigator, and they'd investigate to
10:48:48 16 you, and that would be true of Purana, Posse, Khadi,
10:48:56 17 Briars, Petra, it was the same chain of command?---It's not
10:48:59 18 a chain of command.
10:49:00 19
10:49:00 20 Chain of communication?---There was communication, I accept
10:49:03 21 that, yes.
10:49:04 22
10:49:05 23 So let's have a look then, so we see on the 22nd there. If
10:49:08 24 we then go to the 25th, okay, there's a meeting between
10:49:14 25 Mr Biggin and yourself and the handler?---Yes.
10:49:18 26
10:49:18 27 Briefing re her knowledge?---Yep.
10:49:20 28
10:49:20 29 In relation to the Dale involvement in the stolen IRs, the
10:49:25 30 burglary and the Hodson murders. It's then agreed at that
10:49:28 31 meeting she's viable re the Operation Petra investigation
10:49:32 32 and in relation to Briars, do you see that?---Yes.
10:49:34 33
10:49:35 34 "Also agreed OPI will not subpoena." So you're at a
10:49:38 35 meeting where rather than, where months earlier you thought
10:49:41 36 it was good to get her off the books for her health, it's
10:49:45 37 the exact opposite, you're authorising her use a human
10:49:49 38 source in Petra and Briars?---Well, again, the fact is she
10:49:52 39 wasn't off the books, she was still registered and still
10:49:56 40 being managed by Victoria Police. She came up as a
10:50:00 41 potential witness in both of those matters.
10:50:02 42
10:50:02 43 She's not been used here as a witness, let's be clear.
10:50:06 44 It's agreed she's viable as a human source?---Well, yeah,
10:50:11 45 but on a limited basis.
10:50:13 46
10:50:13 47 And we see what in fact follows. You're aware that Mr Dale

10:50:16 1 asserted, and we'll come to it later, but that he had been
10:50:19 2 represented by her?---He asserts that.
10:50:22 3
10:50:22 4 Waters had been represented by her?---Had been. I don't, I
10:50:29 5 don't now recall whether I knew that or not.
10:50:31 6
10:50:33 7 Let's just see what else is happening because it indicates,
10:50:37 8 I would say, your view that her health was a collateral
10:50:41 9 issue as to whether she was of use to you or not. [REDACTED]
10:50:47 10 2007 - it's redacted. They're going to bring up the
10:51:25 11 unredacted. Sorry, Mr Overland, I'm getting the unredacted
10:51:29 12 up. All right. So there we are, [REDACTED], inquiries being
10:52:01 13 made of you, or via you, re prohibiting certain questioning
10:52:06 14 [REDACTED] at OPI that would reveal her role. Pausing
10:52:10 15 there, do you agree - does the name [REDACTED] mean
10:52:15 16 anything to you?---No.
10:52:16 17
10:52:16 18 In [REDACTED] 2008 [REDACTED]
10:52:22 19 [REDACTED]
10:52:25 20 [REDACTED]
10:52:31 21 [REDACTED]
10:52:34 22 [REDACTED]
10:52:34 23 [REDACTED]
10:52:38 24 [REDACTED]
10:52:46 25 [REDACTED]
10:52:49 26
10:52:50 27 Yes?---No, I'm sorry, that doesn't ring a bell.
10:52:52 28
10:52:52 29 This is when you were heading up the Crime
10:52:54 30 Department?---What date was this?
31
10:52:55 32 2008?---No, I was the Deputy Commissioner then.
10:52:57 33
10:52:58 34 So when you're Deputy Commissioner in 2008 you're saying
10:52:59 35 you wouldn't have learnt that [REDACTED]
10:53:04 36 [REDACTED]
10:53:06 37 [REDACTED]
10:53:09 38 [REDACTED]
10:53:13 39 [REDACTED] --Well I don't know, I don't recall that information
10:53:15 40 now.
10:53:15 41
10:53:15 42 What I'm trying to suggest, Ms Gobbo going to the OPI was a
10:53:20 43 dangerous matter in relation to her risk, do you
10:53:23 44 agree?---Well I understood her anxiety about doing that,
10:53:26 45 yes.
10:53:27 46
10:53:27 47 Do you accept it was a risk to her of going to the OPI that

10:53:32 1 her role as a source would be revealed?---No, I didn't, I
10:53:35 2 didn't see that as a risk at all.
10:53:37 3
10:53:37 4 When the SDU are making these inquiries with you on 12 July
10:53:40 5 saying to, "You can you make it so that she isn't asked
10:53:44 6 certain questions because we don't want her role revealed",
10:53:48 7 what do you say, "No issue, no problem, I don't know what
10:53:50 8 you're worrying about"?---Again, I've been asked about
10:53:55 9 these matters. I do recall my investigators talking to me
10:54:01 10 about her anxiety about being called. But I didn't see
10:54:06 11 being called before a coercive hearing in front of the OPI
10:54:10 12 as a serious risk to her identity being revealed.
10:54:13 13
10:54:13 14 Just to be clear, Gavan Ryan, Jim O'Brien, the SDU, Tony
10:54:19 15 Biggin, all of them at different times, and they've given
10:54:23 16 evidence in their statements and before the Commission,
10:54:25 17 were against you sending her to the OPI because of the
10:54:29 18 risk?---I didn't send her to the OPI, she would have been
10:54:32 19 called by the OPI.
10:54:33 20
10:54:33 21 They wanted you to prohibit her being called?---I couldn't
10:54:36 22 prohibit her being called.
10:54:38 23
10:54:38 24 Let's just deal with some of that. When she goes to the
10:54:40 25 OPI, Gavan Ryan is the person who is sent along. His
10:54:45 26 evidence is that you sent him along?---Okay.
10:54:47 27
10:54:47 28 Why would you send Gavan Ryan along if you had no concerns
10:54:51 29 at all about Nicola Gobbo giving evidence at the OPI?---To
10:54:54 30 monitor the situation.
10:54:56 31
10:54:57 32 He said it's the first time in his career that he's ever
10:55:00 33 been told to go along, so what made this case more special
10:55:04 34 than any other person going to one of these compulsory
10:55:08 35 hearings?
10:55:08 36
10:55:08 37 MS ENBOM: Commissioner, I'm sorry to interrupt. Can the
10:55:11 38 unredacted source management log please be taken off the
10:55:15 39 screen?
10:55:15 40
10:55:15 41 COMMISSIONER: Yes. Have you finished with it yet?
10:55:18 42
10:55:18 43 MR NATHWANI: No, there'll be more.
10:55:19 44
10:55:19 45 COMMISSIONER: Leave it on the witness's screen and my
10:55:24 46 screen for the time being.
10:55:29 47

1 MR NATHWANI: I can get the hard copy.

2

3 COMMISSIONER: Have you got a hard copy because I've got
4 one if you need it.

5

10:55:29 6 MR NATHWANI: And I have a hard copy. The question I asked
10:55:30 7 is why is it that - what made this case so special for
10:55:34 8 Gavan Ryan? His evidence was it's the first time in his
10:55:37 9 career, and only time in his career, that he was sent down
10:55:41 10 to one of these hearings. Why did you send him on the only
10:55:44 11 time in his career, what made this case so unusual?---Well,
10:55:47 12 again, I don't specifically recall that, but I assume,
10:55:50 13 given Ms Gobbo's anxiety about appearing, and given there
10:55:55 14 were sensitivities around her appearing, I sent a senior
10:55:59 15 person like Gavin down there to monitor the situation. Now
10:56:03 16 obviously if he was there, it was done with the agreement
10:56:07 17 of the OPI. There's no other basis that he could be there.

10:56:11 18

10:56:12 19 Are you again trying to distance yourself from simply
10:56:15 20 accepting that her attending the OPI was contrary to issues
10:56:18 21 of risk and her health and safety?---No.

10:56:22 22

10:56:22 23 No, of course not. 24 July then, next entry. So we see -
10:56:39 24 it goes over two pages - Crime Department meeting with
10:56:42 25 Biggin, O'Brien, Gavan Ryan, Senior Sergeant O'Connell,
10:56:46 26 Blayney, Brown, update. "Agreed value of her as a source
10:56:50 27 is outweighed by repercussions and risk to same. Agreed to
10:56:55 28 continue deployment with no tasking. Intel received to be
10:56:58 29 assessed on an individual basis. Risk determination prior
10:56:59 30 to any dissemination." Agreed that Biggin, Sandy White - I
10:57:05 31 see that's Mr Blayney - to brief you?---Yes.

10:57:08 32

10:57:09 33 Did you get briefed?---I believe I did, I think there was a
10:57:12 34 briefing that happened I think in August, I think it is.

10:57:15 35

10:57:15 36 Do you agree that reads as simply saying, "She's of such
10:57:19 37 great value to us that it's more important than any risk to
10:57:24 38 her"?---No, because my recollection of the meeting that
10:57:35 39 then subsequently happened is that there were three options
10:57:40 40 put to me for discussion. One was to de-register her,
10:57:44 41 which wasn't recommended. I think the other - again,
10:57:47 42 there's a note somewhere that says this. I think the other
10:57:50 43 was to basically just continue on, which wasn't seen as the
10:57:54 44 best option, and the third option was to continue to manage
10:57:57 45 her but not to task her around being a human source.

10:58:00 46

10:58:00 47 I'll take you to that?---In the end I think that's what we

10:58:03 1 agreed to do. The difficulty was that she continued to be,
10:58:07 2 in a sense, a witness in relation to both, potentially both
10:58:11 3 Briars and Petra because of her involvement in both those
10:58:14 4 matters.
10:58:15 5
10:58:15 6 Do you agree - so the question I asked you was that that
10:58:18 7 reads, that paragraph reads as a risk management issue and
10:58:25 8 it effectively reads as "her value is outweighed by
10:58:28 9 repercussions and risk to same", that's what it
10:58:32 10 says?---Yes.
10:58:32 11
10:58:32 12 In effect it's saying her value to Victoria Police is more
10:58:36 13 important to any risk of - - - ?---No, I actually read that
10:58:40 14 the other way. That's how I would read it.
10:58:40 15
10:58:41 16 Let's have a look at what else is going on at that time.
10:58:44 17 Let's look at the entry on 25 July 07.
10:58:48 18
10:58:48 19 MS ENBOM: Commissioner, I'm sorry to interrupt. May I
10:58:49 20 take you to a problem in the transcript that we just need
10:58:51 21 some words removed before these words are streamed.
10:58:55 22
10:58:55 23 COMMISSIONER: Sure.
10:58:57 24
10:58:58 25 MS ENBOM: Page 12097, I won't read them out. You'll see
10:59:04 26 at line 39 Mr Nathwani begins, "So there". If we move to
10:59:13 27 line 41, do you see a word there that's problematic?
10:59:18 28
10:59:19 29 COMMISSIONER: Line 41?
10:59:20 30
10:59:20 31 MS ENBOM: Yes. "Questioning" and the next two words. And
10:59:26 32 then it appears that that person is identified in 42. So
10:59:32 33 if we take out the two words that follow "questioning" in
10:59:36 34 41, that will deal with it.
10:59:42 35
10:59:42 36 COMMISSIONER: You don't want the name - - -
10:59:44 37
10:59:44 38 MS ENBOM: That would be my preference but - that would be
10:59:49 39 my preference but I think just removing the two words
10:59:53 40 following "questioning" in 41 does also achieve the
10:59:56 41 objective.
10:59:56 42
10:59:57 43 COMMISSIONER: Okay, I would have thought it would be just
10:59:59 44 better to take out the number in 42 instead.
11:00:03 45
11:00:03 46 MS ENBOM: Yes. Take out both? I think there's a date
11:00:08 47 there.

11:00:08 1
11:00:08 2 COMMISSIONER: The first one isn't necessary if we take out
11:00:11 3 the second, is it?
11:00:14 4
11:00:14 5 MS ENBOM: I just don't know whether there's some other
11:00:17 6 biodata such as dates in there that might enable someone to
11:00:23 7 then work out who that person is.
11:00:28 8
11:00:28 9 COMMISSIONER: It's just that obviously - the line 41 words
11:00:33 10 are very relevant to the context, whereas the name of the
11:00:37 11 person perhaps not so.
11:00:42 12
11:00:42 13 MS ENBOM: Perhaps if we took out dates and the name. So
11:00:47 14 if we took out perhaps the date in 36 and 37 and 39, and
11:00:52 15 then the name and the date in 45.
11:00:57 16
11:00:58 17 COMMISSIONER: Okay. Is it the whole date needs to go or
11:01:01 18 just the date, rather than the month?
11:01:06 19
11:01:07 20 MS ENBOM: The part of the date.
11:01:07 21
11:01:08 22 MR WINNEKE: Commissioner, can we just ask for an
11:01:09 23 explanation. It's all very well for my learned friend to
11:01:13 24 say it has to be done, but what's the explanation for it?
11:01:16 25
11:01:17 26 MS ENBOM: I thought it was clear that I was deliberately
11:01:21 27 being cryptic about it. The explanation is in 41, the two
11:01:26 28 words that follow "questioning".
11:01:29 29
11:01:29 30 COMMISSIONER: It's a bit cryptic for me, I can't quite
11:01:32 31 work that one out.
11:01:33 32
11:01:34 33 MS ENBOM: Can I perhaps explain it to Mr Winneke - - -
11:01:36 34
11:01:36 35 COMMISSIONER: Yes. I wouldn't mind knowing as well.
11:02:04 36
11:02:09 37 MS ENBOM: I think Mr Winneke's view is that we take out
11:02:12 38 the two words that follow "questioning" in 41, which was
11:02:20 39 my, I think, initial submission.
11:02:24 40
11:02:25 41 COMMISSIONER: Is that your view, Mr Winneke?
11:02:27 42
11:02:27 43 MR WINNEKE: That would seem to cover it I would have
11:02:29 44 thought, Commissioner.
11:02:29 45
11:02:30 46 COMMISSIONER: It's all a puzzle to me, I don't understand
11:02:35 47 quite why, but anyway. Do you want to be heard,

11:02:37 1 Mr Nathwani?
11:02:38 2
11:02:38 3 MR NATHWANI: No. I agree with Mr Winneke, just those two
11:02:41 4 words taken out.
11:02:42 5
11:02:43 6 COMMISSIONER: All right, someone can tell me about why
11:02:45 7 later. All right then, we'll take out the two words
11:02:49 8 following "questioning" at 41. That's all that needs to be
11:02:55 9 done, from the live stream and from the transcript, thank
11:02:57 10 you.
11:03:00 11
11:03:02 12 MR NATHWANI: Sorry, I tried not to breach any of the rules
11:03:05 13 but there we are. Let's go back then where we were, which
11:03:10 14 was what in fact was going on around the time of where I
11:03:14 15 say the police were saying that her value to Victoria
11:03:17 16 Police was more important or outweighed repercussions and
11:03:24 17 risk. The next day, let's look at the entry on 25 July.
11:03:28 18 There's information that Ms Gobbo had received a call at
11:03:32 19 3.30 in the morning saying, "You talk, you die. Every dog
11:03:36 20 has its day". Instructed report to Detective Sergeant
11:03:41 21 Flynn, who was investigating previous threat under Op
11:03:45 22 Gosford. You must have been aware of Operation
11:03:47 23 Gosford?---If I was, I don't recall it now.
11:03:47 24
11:03:47 25 An operation specifically set up to investigate a number of
11:03:51 26 threats made to Ms Gobbo by the telephone, by letters sent
11:03:55 27 in the post, by having her car bombed?---Right, okay.
11:04:01 28
11:04:05 29 So were you aware, or you must have been aware, when there
11:04:08 30 was a discussion about the risk are to her the day before
11:04:13 31 when you were to be briefed later, which we'll go to it,
11:04:16 32 but around this time serious threats are being made to
11:04:19 33 her?---Well these are - well I was aware that she was
11:04:22 34 receiving threats, I accept that, but these are not my
11:04:26 35 entries, these are the Source Management Unit entries,
11:04:29 36 these are not things I've seen previously. I would be
11:04:35 37 briefed from time to time but ultimately I would be briefed
11:04:38 38 by, primarily by my investigators.
11:04:41 39
11:04:41 40 They're talking about having a meeting with you and we'll
11:04:44 41 come to it?---Yes, and there was a subsequent meeting, yes.
11:04:47 42
11:04:47 43 But I'm trying to get the context. What's happening at
11:04:50 44 that time that the view is she's more helpful as a source,
11:04:56 45 she is the subject of serious threats and there's an
11:04:58 46 operation specifically in place to investigate it. Look at
11:05:00 47 the next entry, 26 July. Information that whoever is

11:05:05 1 making the threats is using the name of a police officer,
11:05:09 2 and in fact had used phone numbers that were registered
11:05:12 3 falsely to a number of police officers during the period,
11:05:16 4 did that become known to you?---No.
11:05:18 5
11:05:19 6 So someone taunting the police?---No, I don't believe so.
11:05:23 7
11:05:23 8 Then if we go to the next page, 6 August, this is the
11:05:28 9 meeting they have with you?---H'mm.
11:05:29 10
11:05:29 11 This is what you've been discussing. Here you are, having
11:05:35 12 a meeting with Biggin, Blayney, Mr Ryan. There's a
11:05:41 13 discussion about the three options, okay. Deactivate,
11:05:47 14 ongoing management with no tasking, or witness. Let's just
11:05:51 15 look at these and consider what then happens in the future
11:05:53 16 as we go through. "Agreed witness not an option as source
11:05:58 17 would be compromised", okay?---Yes.
11:06:01 18
11:06:01 19 You obviously eventually ignored that not long after this,
11:06:05 20 do you agree?---Well, I wouldn't say I ignored it, I came
11:06:08 21 to a different view.
11:06:09 22
11:06:09 23 "Deactivation not an option by virtue of the fact that
11:06:13 24 ongoing communication required re court issues re Mokbel
11:06:14 25 trials"?---I know that's what the entry says. It's
11:06:25 26 difficult, again, trying to recall all of this, but I -
11:06:31 27 yeah, again, look I don't really have a clear recollection
11:06:34 28 of the meeting. I've seen this note previously. So I have
11:06:40 29 to accept what's in it, yes.
11:06:41 30
11:06:42 31 Let's carry on though. It's agree, "Human source to be
11:06:46 32 managed with no tasking and any intel to be risk assessed
11:06:51 33 by Biggin prior to disseminating"?---Yes.
11:06:53 34
11:06:54 35 So not to be tasked?---Yep.
36
11:06:55 37 And that was agreed?---Yes.
11:06:56 38
11:06:57 39 The next entry, on the same document, literally the next
11:06:58 40 line, there's a discussion about using her to speak to
11:07:01 41 targets of Petra and Briars?---Yep.
11:07:03 42
11:07:03 43 To [REDACTED]
11:07:06 44 [REDACTED] ?---Yes.
11:07:06 45
11:07:07 46 That's tasking?---Well that's - that's someone else's
11:07:14 47 record of a meeting that was had.

11:07:16 1
11:07:16 2 That wasn't the question. That's tasking?---Yes.
11:07:25 3
11:07:25 4 So despite agreeing that she shouldn't be tasked, the other
11:07:29 5 people coming from that meeting, if we accept it's someone
11:07:32 6 else's note, which we do, and you obviously don't accept it
11:07:36 7 to be accurate, that in fact in the same meeting there are
11:07:38 8 discussions about tasking her?---My recollection - well my
11:07:43 9 understanding of that is that, and perhaps it could have
11:07:49 10 been better expressed, but no tasking in terms of, you
11:07:52 11 know, asking her to go and do particular things or find out
11:07:56 12 particular things but I think this reference here - - -
11:07:57 13
11:07:57 14 That's tasking?---I accept that. But was to make phone
11:08:03 15 calls or have conversations to [REDACTED]
11:08:06 16 [REDACTED] that would be [REDACTED]
11:08:07 17
11:08:08 18 Look, it's tasking?---I've agreed it's tasking. I've
11:08:12 19 agreed with you. I've agreed with that.
11:08:13 20
11:08:14 21 Your evidence up to now has always been no tasking when in
11:08:17 22 fact you might be paying lip service to that. The truth of
11:08:20 23 the matter as in fact, the way you pay lip service to her
11:08:26 24 health was, "We will use Ms Gobbo to whatever end we want
11:08:31 25 and the risk to her is just a collateral issue"?---I don't
11:08:34 26 accept that. I don't accept that at all.
11:08:35 27
11:08:36 28 So let's follow through then the issue that she wouldn't be
11:08:36 29 tasked, let's see what in fact happens. Let's go to 6
11:08:40 30 September, so a month later. By context, Operation Briars
11:08:52 31 you're sitting on the top of, agree?---I'm part of the
11:08:55 32 steering committee, yeah.
11:08:56 33
11:08:56 34 So Iddles would be reporting back to you?---Yep.
11:08:59 35
11:08:59 36 Again, I guess, another trusted Detective of yours?---Yes.
11:09:03 37
11:09:03 38 Right. He's requesting to use human source Ms Gobbo to
11:09:09 39 pass info to Waters to [REDACTED]
11:09:13 40 [REDACTED]. What did you say when that was discussed
11:09:16 41 with you at these meetings that you had on a weekly
11:09:19 42 basis?---Again, this is a source management log entry, it
11:09:23 43 relates to a conversation Iddles has had, obviously, with
11:09:26 44 the Source Management Unit. I'd need to have a look at -
11:09:32 45 I'd need to see relevant reports that came to the steering
11:09:35 46 committee around that time.
11:09:36 47

11:09:37 1 It's inconceivable that Iddles would not have spoken to you
11:09:41 2 or to the steering committee about tasking Gobbo against a
11:09:45 3 police or former police officer, inconceivable, do you
11:09:49 4 agree with that?---Well, I don't - I don't recall whether
11:09:51 5 he did or he didn't.

11:09:52 6
11:09:53 7 Let's go through 8 September. There's more update from
11:09:56 8 Iddles re tasking her. And I think Ms Shann was asking you
11:10:05 9 bits and pieces about this yesterday. But then we see 13
11:10:09 10 September, the plan in action, Gobbo meets Waters and
11:10:15 11 passed on the message. So here we are, about a month after
11:10:20 12 you've had a meeting where you're saying she shouldn't be
11:10:23 13 tasked, a meeting where you're then discussing potentially
11:10:27 14 tasking her and as if by magic, 13 September she's been
11:10:31 15 tasked and she's come through. When you find out about
11:10:35 16 that, which you must have because it's significant to the
11:10:38 17 Briars investigation, during one of your meetings, did you
11:10:40 18 not turn around and say, "Hold on. I thought we agreed not
11:10:45 19 to task her."

11:10:46 20
11:10:47 21 MR GLEESON: I object, Commissioner. I know my learned
11:10:48 22 friend is trying to move as quickly as he can, but he is
11:10:51 23 drifting into the habit of embedding propositions within a
11:10:54 24 question that need to be put. He just moved on the
11:10:57 25 proposition that the witness did know something and then
11:11:00 26 asked him what he did about it. I think it needs to be put
11:11:04 27 to the witness, "Did you know", it needs to be broken down.

11:11:07 28
11:11:08 29 MR NATHWANI: Did you ever know that Ms Gobbo was tasked to
11:11:12 30 get information or pass a message on to Mr Waters?---I
11:11:21 31 remember knowing that Ms Gobbo had conversations with
11:11:26 32 Mr Waters, I do remember that. I'm not clear in my mind
11:11:30 33 whether I knew she was tasked to do that or not.

11:11:34 34
11:11:34 35 Let's go back to the evidence you gave about the 6 August
11:11:37 36 meeting just moments ago for the first time since you've
11:11:41 37 given evidence over these several days, that you recall
11:11:43 38 there may have been a discussion about Gobbo potentially
11:11:46 39 speaking to people, i.e. Waters, and it being [REDACTED]
11:11:50 40 [REDACTED] or the like. Does that refresh your memory as to
11:11:55 41 whether or not you knew - - - ?---You've just taken me to a
11:11:58 42 note that's been made by someone else that appears to
11:12:02 43 suggest there was a conversation about her making some
11:12:05 44 calls to [REDACTED], which I've accepted on
11:12:08 45 its face, so that's what the record says.

11:12:11 46
11:12:12 47 I'm asking you then, as Briars - and the targets of Briars,

11:12:16 1 to be clear, were Waters and Lalor. Are you saying - - -
11:12:20 2 ?---Well, no, they were - there were other targets. They
11:12:24 3 were - they were two of a number of targets.
11:12:26 4
11:12:26 5 Okay. Two of a number of targets. Two former police
11:12:33 6 officers?---One was a current police officer, the other was
11:12:36 7 a former police officer.
11:12:36 8
11:12:37 9 So one current and one former?---At the time.
11:12:39 10
11:12:40 11 And are you saying that you were unaware that Ms Gobbo had
11:12:44 12 been tasked to pass on a message to him?---I don't recall
11:12:48 13 now whether I was aware of that or not. Now, that is -
11:12:53 14 that's a reasonably detailed level - you know, low level of
11:12:57 15 operational detail. I'm not sure that I was aware or not.
11:13:01 16 I do recall - I do recall being aware that Ms Gobbo was
11:13:04 17 having conversations, I think, with both Mr Waters and
11:13:07 18 Mr Lalor at various points in time.
11:13:09 19
11:13:10 20 Let's go to 6 December, the 6 December entry. You'll see
11:13:31 21 there, "Re OP Briars" again?---Yep.
11:13:35 22
11:13:35 23 "Iddles requests human source to target Waters or to
11:13:42 24 advance target Waters" - sorry, "to advise target Waters
11:13:48 25 that interview is imminent before Christmas. True. And
11:13:53 26 that investigators know how address of victim was obtained.
11:13:55 27 Untrue. Human source to say that has heard investigators
11:13:58 28 confident of - interested in information. Investigators
11:14:02 29 want this done ASAP because of large meeting between all
11:14:07 30 targets tomorrow, Friday 7th of the 12th." Okay? So it
11:14:12 31 appears again as an attempt to target Waters by using
11:14:16 32 Ms Gobbo, by tasking her?---Yes.
11:14:18 33
11:14:19 34 Are you saying that that tactic that Mr Iddles appears to
11:14:24 35 be setting out was not told to you at any steering
11:14:29 36 committee meetings or weekly meetings?---Again, I don't now
11:14:33 37 recall whether it was or it wasn't. My recollection around
11:14:38 38 this time was more of Ms Gobbo as a potential witness in
11:14:44 39 these matters, not as a potential - not as a source,
11:14:49 40 because my recollection has been that the process leading
11:14:53 41 to her becoming a witness was a reasonably lengthy process
11:14:59 42 where initially the view was that wasn't a good idea, but
11:15:04 43 over time, because of the passage of events and different
11:15:06 44 things that happened, it just became more and more
11:15:09 45 important in many ways that she was called as a witness,
11:15:12 46 but also there were the ongoing issues around her safety.
11:15:16 47

11:15:17 1 Let's just analyse that. When you finally do decide to
11:15:21 2 make her a witness, the SDU's reaction is to cut ties with
11:15:25 3 her, in other words say, now she's a witness, she's yours,
11:15:29 4 or she's Petra, and Petra can deal with it?---Yes, that's
11:15:33 5 right.
11:15:33 6
11:15:33 7 They don't seem to be doing that when all of this tasking
11:15:36 8 in relation to Briars is going on. They're not saying,
11:15:39 9 "No, she's a witness now for you, Mr Overland"?---No, no.
10
11:15:41 11 "Stick her in Briars"?---No, because the process of her
11:15:43 12 becoming a witness was a lengthy process, as I've said
11:15:46 13 previously.
11:15:46 14
11:15:47 15 She was not a witness at this stage. You were acutely
11:15:51 16 aware, as one of the notes we went to say, she's viable as
11:15:53 17 a human source against Waters and also in Petra, that's
11:15:56 18 what that entry said?---So these are not my entries. My
11:15:59 19 recollection from around that time is that there was this
11:16:02 20 process of, in my mind, that more and more she looked like
11:16:06 21 a witness in relation to both investigations because of the
11:16:09 22 information that she had. There was - I recall, you know,
11:16:14 23 a long period of consideration around whether it was
11:16:17 24 advisable to use her as a witness or not and that the
11:16:21 25 trigger for that in me was the conversation, the taped
11:16:24 26 conversation she subsequently finished up having with Paul
11:16:28 27 Dale, which I think is not, not far from this date, I think
11:16:32 28 early in December of - no, sorry, that's later.
11:16:37 29
11:16:37 30 It is later?---It is later, yes, my apologies.
11:16:40 31
11:16:40 32 Let's then keep going through again as to what threats are
11:16:44 33 going just around this time. Go to 13 December?---I'm
11:16:47 34 sorry, I think about a year out, I got confused, so it's
11:16:51 35 07, not 08, so my apologies, I was I think a bit confused
11:16:55 36 about the date.
11:16:56 37
11:16:57 38 13 December, so not long after Iddles is again trying to
11:17:00 39 task her. Here we are, an informer who is high risk, is
11:17:04 40 getting still more threats. You see reporting receiving
11:17:09 41 four more messages, "Hey dog, we warned you not to call,
11:17:12 42 talk to pigs, but you being dog, call your boyfriend from
11:17:14 43 Purana. Now you'll get it, dog, one in the head and one in
11:17:17 44 the heart." That, do you agree, appears to be, at least by
11:17:21 45 inference, that the person who sent that knew she was
11:17:24 46 talking to Purana in some way or form?---It does.
11:17:27 47

11:17:28 1 "Look out the window, dog, so I can put a couple in you,
11:17:32 2 rat. You need to get raped first, then pissed on, then
11:17:36 3 kicked in the fuckin' dog head, and then shot and
11:17:38 4 splattered. It's near for you, dog. Shit the fuck up. No
11:17:42 5 pigs will help you. Just watch when you in good. Soon I
11:17:46 6 might be in your bedroom waiting or maybe get you in the
11:17:50 7 car park as you in home. Anyway it's near for you pig
11:17:55 8 lover, dog". Now again "pig lover" and "pig" is a
11:17:57 9 reference to police?---Yes, it is.
11:17:58 10
11:17:59 11 So that's someone who is saying they know at the very least
11:18:01 12 she's close to police in one way or another?---Yes.
11:18:04 13
11:18:04 14 At the time, because we're looking at the least worst
11:18:07 15 decision that you refer to each time decisions are made
11:18:12 16 about her. You're considering your evidence as using her
11:18:15 17 as a witness in Briars against even more people and she's
11:18:19 18 been tasked, it appears, in relation to Briars, yet threats
11:18:23 19 are made against her. Were you aware of these threats
11:18:25 20 being made against her?---I don't recall these threats
11:18:32 21 specifically. I was generally aware that she had received
11:18:34 22 threats, yes.
11:18:34 23
11:18:34 24 I mean this is pretty close to the bone. These are people
11:18:35 25 knowing, or at least suspecting, that she is assisting the
11:18:39 26 police?---Yes.
11:18:39 27
11:18:40 28 Why don't you pull her at this stage?---So, again, I was
11:18:46 29 confused about the date earlier, so this is in 2000 and - -
11:18:49 30 -
11:18:49 31
11:18:50 32 Seven?---Seven. I mean these were issues that were being
11:18:55 33 managed by the investigators and by the SDU.
11:19:00 34
11:19:01 35 The reality is, do you accept the reason you're not
11:19:04 36 interested in phasing her out is by this time you know, and
11:19:09 37 you wanted the bigger prize of Paul Dale, Docket Waters and
11:19:15 38 Mr Lalor?---No, I was interested in phasing her out, that
11:19:21 39 was a matter for the SDU to progress. As Briars and Petra
11:19:28 40 unfolded, you know, she became someone involved in those
11:19:34 41 matters, potentially as a witness, but obviously also used
11:19:41 42 to an extent as a source.
11:19:43 43
11:19:44 44 Do you accept the view, that has been attributed to you,
11:19:49 45 Sandy White's statement, paragraph 271, that you took the
11:19:52 46 view that "Corruption trumps everything and that public
47 confidence in the Police Force was more important than the

11:19:56 1 compromise issues surrounding Ms Gobbo"?---I don't, I don't
11:20:01 2 recall saying that to Sandy White. I think that there was
11:20:06 3 a very difficult balancing act, a very different balance to
11:20:11 4 be struck between the investigation of, you know, very
11:20:15 5 serious, probably the most serious crimes you could have
11:20:19 6 where there was a suggestion that serving police officers
11:20:22 7 were complicit in murders, and issues around source
11:20:27 8 management, witness management, so on and so forth, you
11:20:30 9 know, it was a very difficult situation.
11:20:32 10
11:20:34 11 So I fast-forward, because we come to the issue of Paul
11:20:37 12 Dale. I'm not going to take you through all of the
11:20:40 13 evidence of the SDU and Tony Biggin saying they were
11:20:44 14 against her use as a witness, but let's just go to the
11:20:47 15 headline points, please. She obviously wore a wire to meet
11:20:52 16 Paul Dale?---She did.
11:20:54 17
11:20:55 18 And you agree by doing so it was inevitable if he said
11:20:59 19 anything of note that she would have to be a witness in the
11:21:01 20 case?---It was.
11:21:02 21
11:21:03 22 And as a result it would potentially expose her role as a
11:21:06 23 police informant?---Yes.
11:21:06 24
11:21:07 25 And as a result cause significant risk to her health and
11:21:11 26 safety?---Yes.
11:21:11 27
11:21:13 28 Paul Dale, on the face of the material you had, and we've
11:21:16 29 heard your evidence when questioned by Mr Steward on his
11:21:20 30 behalf previously, you thought he was guilty of murder?---I
11:21:25 31 thought the evidence strongly suggested that to be the
11:21:29 32 case.
11:21:29 33
11:21:32 34 Also, you had in the background the fact that at that time
11:21:38 35 - sorry, I withdraw that. Paul Dale therefore was someone
11:21:42 36 who was capable, on the information you have, of harming
11:21:46 37 those who gave evidence against him?---Yes.
11:21:48 38
11:21:48 39 So let's just put this into context. If she was to become
11:21:52 40 a witness, Paul Dale potentially could have motive to harm
11:21:56 41 her?---Yes.
11:21:56 42
11:21:56 43 She was at risk of being revealed as a source wider, so
11:22:01 44 Mokbel, [REDACTED], all of those as part of the
11:22:07 45 Mokbel cartel?---Yes.
11:22:09 46
11:22:09 47 Waters?---Yes.

11:22:12 1
11:22:13 2 All these people who were dangerous individuals as far as
11:22:16 3 you were concerned, and you still decided it was the least
11:22:19 4 worst option for her, her way out to turn her into a
11:22:23 5 witness?---Well it was because, and as some of the matters
11:22:26 6 you've put to me this morning indicate, I mean clearly
11:22:29 7 people were becoming more and more suspicious about her.
11:22:33 8 If she wasn't turned into a witness and remained in the
11:22:37 9 community at large, then her life was in very real danger.
11:22:41 10 At the point of the investigators asking her whether she
11:22:46 11 would become a witness, which is what happened and she
11:22:49 12 initially agreed, I felt that the best option was to keep
11:22:52 13 her alive was to actually have her go into witness
11:22:55 14 protection at that point.
11:22:56 15
11:22:56 16 The reality is the best option was for her to just walk
11:22:59 17 away?---Well, the best option would have been for her to
11:23:02 18 walk away a long time ago, but that didn't happen.
11:23:05 19
11:23:06 20 But had she walked away you wouldn't have got Dale?---Well
11:23:09 21 I don't think it was as simple as her just walking away. I
11:23:13 22 think that my understanding was there real difficulty in
11:23:15 23 getting her to walk away and cooperate in all of that and
11:23:18 24 that I feared that if we abandoned her, that she would just
11:23:24 25 be killed and that there would then be a series of
11:23:28 26 inquiries into how it was that she had been murdered.
11:23:31 27
11:23:31 28 Do you accept you told O'Connell that he could offer her
11:23:36 29 anything that was necessary to become a witness on your
11:23:38 30 approval?---I don't believe I would put it that way.
11:23:43 31
11:23:43 32 When she sued the police, the ground in effect you settled
11:23:46 33 on, the police, was because those assertions made by
11:23:50 34 O'Connell were, you were advised were likely to be
11:23:54 35 true?---Again, I wasn't closely involved in the settlement,
11:23:57 36 and I don't have a strong recollection of the detail of the
11:24:02 37 allegations or the settlement, they were managed at arm's
11:24:05 38 length from me.
11:24:06 39
11:24:07 40 At IBAC you discussed her evidence, you've been taken to it
11:24:13 41 previously by Mr Winneke. I just want to refresh my
11:24:15 42 memory. It's at p.49, I'll read it out, there's no need to
11:24:18 43 go there. You say this, "People who were there, ultimately
11:24:20 44 directions, well, I think with this witness in particular,
11:24:24 45 I ultimately gave a direction to a Task Force not to deal
11:24:26 46 with her, not to go anywhere near her because she wouldn't
11:24:30 47 let go and she was very good at finding her way back in, so

11:24:34 1 I think that was part of the problem," and you stand true
11:24:38 2 to that, do you?---I do, and that was I think after the
11:24:41 3 settlement had been reached and I recall being asked to
11:24:44 4 provide that direction I think by Finn McCrae because he
11:24:47 5 told me that whilst she was suing Victoria Police and a
11:24:51 6 settlement was being reached, she was continuing to, or
11:24:55 7 Victorian police officers were continuing to try and deal
11:24:58 8 with her that was clearly untenable.
11:25:01 9
11:25:02 10 You then go on to say this, "And look, the other issue, as
11:25:04 11 I've said, she's the best source I've seen in 25 years on
11:25:05 12 investigation. She was unbelievable in terms of the
11:25:07 13 quality of what she could do and provide, and, you know,
11:25:10 14 it's, as an investigator, sometimes difficulty to let that
11:25:14 15 go"?---Yes.
11:25:14 16
11:25:15 17 So what you seem to be saying there is, well, "She was
11:25:18 18 difficult to get rid of, but we also found it hard to let
11:25:24 19 go of her as well"?---Yes.
11:25:25 20
11:25:26 21 That's the reality, she gave you an in to glittering
11:25:30 22 prizes, as they've been described, such as the Paul Dale
11:25:35 23 prosecution?---Well again, I wouldn't characterise it that
11:25:39 24 way. I think that she was a very good source. I think in
11:25:44 25 some ways that reflects how compromised she was because she
11:25:49 26 just knew so much about criminal activity in the State of
11:25:53 27 Victoria. Not only in relation to major drug dealing but,
11:25:57 28 as it turned out, in relation to homicides and she had, you
11:26:00 29 know, she had important information.
11:26:02 30
11:26:03 31 I just want to deal with one discrete topic separately. In
11:26:08 32 your statement, and certainly to IBAC, you indicated that
11:26:12 33 once Mr Mokbel had disappeared, she was, in many respects,
11:26:17 34 not deregistered, because she was important in providing
11:26:22 35 information, intelligence and getting Mokbel back to
11:26:25 36 Australia?---That subsequently became the situation as I
11:26:29 37 recall it.
11:26:30 38
11:26:30 39 Can we pull up Jim O'Brien's statement because he was
11:26:34 40 investigating Mokbel. Paragraph 277-280. Commissioner, I
11:26:46 41 note the time, but I have about ten to 15 minutes left, so
11:26:50 42 I'm in your hands.
11:26:52 43
11:26:52 44 COMMISSIONER: We'll have the midmorning break now then.
11:27:21 45
11:27:24 46 MR NATHWANI: Okay.
11:27:24 47

11:27:25 1 (Short adjournment.)
11:28:34 2
11:51:26 3 COMMISSIONER: Yes, Mr Nathwani.
4
11:51:28 5 MR NATHWANI: Mr Overland, just before the break I was
11:51:31 6 asking you about the period in I think about May 2007, to
11:51:35 7 put a time on it. It was when you felt that Ms Gobbo was
11:51:38 8 instrumental in providing information that brought Tony
11:51:44 9 Mokbel back from - or locating Tony Mokbel in
11:51:47 10 Greece?---That is my general recollection. I don't really
11:51:50 11 have much - have no recollection of specifics.
12
11:51:53 13 It is obviously something you put in your statement, we
11:51:55 14 don't need to go to it, but paragraph 93, paragraph 100,
11:52:00 15 paragraph 129 of your first statement detail your view was
11:52:03 16 that she was instrumental. That's contrary to the evidence
11:52:07 17 of Mr O'Brien. I want you to have a look at Mr O'Brien's
11:52:11 18 statement, paragraphs 227-280, please - sorry, 277-280.
11:52:23 19 This is his statement. He details what happens in relation
11:52:32 20 to the arrest of Mr Mokbel and then you see at 280 - -
11:52:43 21 -?---Okay. Well, I could be mistaken in that. I'm happy
11:52:45 22 to concede that.
23
11:52:46 24 In fact, to be fair to you, when asked by Mr Winneke about
11:52:48 25 this on 19 December, p.11743 and 11745, he was asking you,
11:53:00 26 and I'll read you some of it, he asks about a briefing
11:53:04 27 that's held, a monthly review, and it says, "It's also
11:53:08 28 anticipated Mokbel may be arrested in the near future and
11:53:11 29 will attempt to contact Gobbo. Then a decision will have
11:53:15 30 to be made regarding any source involvement in this?"
11:53:17 31 Answer from you, "Yep". "Would you agree that the
11:53:19 32 information that he is about to be arrested or may be
11:53:20 33 arrested in the near future must have been information that
11:53:24 34 would have come from Purana?" You reply, "Must have."
11:53:28 35 "And the recommendation is continued management by the SDU
11:53:31 36 is essential." You say, "I see that." "And would it be
11:53:36 37 fair to say that the reason Purana contacts the SDU is to
11:53:38 38 let them know that Mokbel may well be arrested soon and the
11:53:40 39 expectation is that he would call Ms Gobbo?" You say,
11:53:45 40 "That seems to be the case, yes." "And Purana would want
11:53:48 41 to know what he said to Ms Gobbo?" Answer, "Possibly."
11:53:53 42 Question from Mr Winneke, "Which could be somewhat
11:53:55 43 troubling, couldn't it, if the expectation is that
11:53:57 44 Mr Mokbel might call someone who has had, previously
11:54:00 45 represented him, he might be thinking he's speaking to a
11:54:00 46 lawyer and not knowing that the information was going to be
11:54:03 47 passed to Purana." You say, "Well, yes, she shouldn't be

11:54:07 1 talking to him in that capacity, I accept that." His
11:54:10 2 question, Mr Winneke's, to you, is, "And Purana shouldn't
11:54:14 3 have been seeking that information? Well, if they were
11:54:17 4 having a privileged conversation, yes, but it would depend
11:54:20 5 on what the conversation was." "I mean, my recollection at
11:54:22 6 that point is that Ms Gobbo has been in reasonably regular
11:54:25 7 contact with Mr Mokbel but it didn't look like a legal
11:54:28 8 professional relationship, it looked like someone who was
11:54:31 9 facilitating his continued operations of his drug network
11:54:34 10 back in Australia." Question: "Do you say that you had
11:54:39 11 evidence of communication between Gobbo and Mokbel at that
11:54:42 12 stage?" "Well, I think so, I think that's what I was being
11:54:46 13 told. I understood that she was assisting the
11:54:49 14 investigators in locating and apprehending him overseas. I
11:54:53 15 don't know the detail but my understanding was that she was
11:54:53 16 useful in providing information around the location and
11:54:56 17 capture of Mokbel in Greece." Mr Winneke then says, "I
11:54:59 18 think you just suggested that she was somehow instrumental
11:55:03 19 in his drug activities overseas. That's not what you're
11:55:04 20 saying?" The response from you, "No, no, I think my
11:55:10 21 recollection, based on what I was briefed about, was that
11:55:12 22 she was facilitating his network here in Australia while he
11:55:15 23 was overseas." Mr Winneke then asked another question,
11:55:20 24 which is, "So what, as a human source or as a", and you
11:55:24 25 reply, "No, almost as a co-accused." Mr Winneke says,
11:55:30 26 "We'd see that in Purana updates and briefing notes surely,
11:55:31 27 would we?" You say, "I think so. I mean, that's my
11:55:33 28 recollection. She was involved in that." The briefing
11:55:37 29 notes, I haven't seen, but you were taken to in great
11:55:41 30 detail by Mr Winneke. Do you agree there's no mention of
11:55:43 31 Ms Gobbo being involved in any drug network within
11:55:46 32 Australia that you allege there?---I haven't seen - not in
11:55:50 33 anything that's been shown to me, no.
11:55:52 34
11:55:53 35 You don't have any notes to that effect either?---No, no.
11:55:55 36 Look, I'm happy to concede, I could be in error here.
37
11:56:00 38 Well you are in error. I put it to you positively?---Okay.
11:56:01 39 I'm happy to concede that.
40
11:56:07 41 Let's move on then to another one of your staff members
11:56:09 42 about what they say about you, to be fair to you, and to
11:56:11 43 put this into context. Rod Wilson became your Chief of
11:56:17 44 Staff?---As the Chief Commissioner he did, yes.
45
11:56:20 46 Obviously had close access to you, do you agree with
11:56:26 47 that?---Yes.

1

11:56:27 2 Let's just go to his statement please. I just want to jump
11:56:29 3 through several paragraphs. Paragraph 12, please. Do you
11:56:35 4 see there, "My diary records the next morning, 6 June, I
11:56:39 5 was briefed by (you) that Ms Gobbo was a human source.
11:56:46 6 Mr Overland told me that I would need to coordinate with
11:56:46 7 Sandy White in relation to issues to do with coercive
8 hearings involving Ms Gobbo. I knew at that time that
11:56:51 9 White was a member of the Source Development Unit." Let's
11:56:54 10 go to paragraph 22. I'm just taking you to what he says
11:57:01 11 your involvement with Ms Gobbo was, and I assume that you
11:57:06 12 haven't read this statement?---No, I haven't.

13

11:57:09 14 Okay. I'll try and put it into context and if you want to
11:57:12 15 read more of it, just say so. He is saying - you see at
11:57:16 16 paragraph 21, 25 July, 12.30 he briefs Cornelius about
11:57:22 17 meeting Ms Gobbo. Paragraph 22, and this is in relation to
11:57:28 18 Operation Khadi, "I met with Mr Biggin, Sandy White and
11:57:32 19 Officer Smith regarding Ms Gobbo. My diary records that
11:57:36 20 ESD was happy to withdraw her from the investigation and
11:57:38 21 brief Mr Overland about doing so." So it appears you're
11:57:41 22 being kept abreast of the decision not to use her as a
11:57:45 23 witness in Operation Khadi, okay? So go to paragraph 29,
11:57:54 24 please. As you can see, he's headlined it "Briars". "On
11:57:59 25 18 July, DC Overland briefed me that Gobbo was to be
11:58:02 26 subpoenaed to be examined by the OPI in relation to the
11:58:05 27 Petra Task Force investigations. My diary records that I
11:58:09 28 was to be told if anything was relevant to Briars and DC
11:58:12 29 Overland would brief the board of management at the next
11:58:15 30 meeting", that's the Briars Task Force. "I've been shown
11:58:18 31 the weekly update and minutes from the next BoM meeting on
11:58:21 32 23 July and they do not refer to matters to do with
11:58:24 33 Ms Gobbo. I do not recall if matters relating to Ms Gobbo
11:58:27 34 were discussed. I do not believe Ms Gobbo was examined by
11:58:32 35 the OPI regarding Petra. If it did occur I would expect to
11:58:33 36 be told about it." Paragraph 30, just on the point we
11:58:38 37 dealt with earlier, he says, "With the benefit of my
11:58:43 38 diaries and certain records from Loricated, I now recall in
11:58:49 39 September 07 Waters and Lalor met with Gobbo after the OPI
11:58:50 40 hearings. Gobbo was tasked to obtain further information
11:58:55 41 from Waters." Let's go to paragraph 32. "I prepared an
11:59:08 42 update for the Briars Task Force meeting" which you would
11:59:12 43 have been part of, Mr Overland, "which referred to tasking
11:59:17 44 of 3838 as part of an ongoing investigation strategy." So
11:59:18 45 there we are, we have some evidence that you were asking
11:59:21 46 about earlier, of a briefing for the Task Force that you
11:59:24 47 sat on?---Yes, I see that.

1

11:59:26 2 Which referred to tasking of 3838. So you were obviously
11:59:30 3 being made aware of the tasking of Nicola Gobbo?---Yes.

4

11:59:33 5 And the copy - so that hopefully jogs your memory. "The
11:59:39 6 copy I have been shown has handwritten notes which I'm
11:59:41 7 informed are written by Mr Cornelius." So that's there.
11:59:46 8 If we can then go to paragraph 39. "My diary records I
11:59:59 9 spoke with Cornelius." This is September 2007, so we're
12:00:02 10 still talking about the tasking in relation to Waters, you
12:00:06 11 see that from the paragraph before?---Yep.

12

12:00:07 13 "I spoke to Cornelius later that day to indicate that
12:00:10 14 Overland would speak to Ms Gobbo's handler to see what
12:00:11 15 could be done to assist Briars. As my diary records, I
12:00:14 16 informed Waddell about Gobbo's information the next
12:00:20 17 morning." So again it looks like you were being kept
12:00:22 18 abreast of the tasking. Paragraph 41, "The day after I
12:00:26 19 returned from leave I spoke to Waddell regarding Ms Gobbo
12:00:27 20 in a potential coercive hearing. My diary records there
12:00:31 21 was no need to discuss the matter further with Mr Overland.
12:00:32 22 later that day I spoke with Cornelius about the Briars Task
12:00:36 23 Force. My diary records I wanted to further discuss Ms
12:00:39 24 Gobbo. I believe that would have related to potential
12:00:42 25 coercive hearings." He says, "I don't believe she was
12:00:45 26 ultimately coercively questioned." Paragraph 47, 17 July
12:00:55 27 '08, "I discussed the Briars Task Force with Mr Overland,
12:00:59 28 including the potential use of Ms Gobbo. I do not recall
12:01:02 29 what was discussed." So again, there again discussions
12:01:05 30 about Briars, I would say tasking that had been undertaken,
12:01:12 31 again with you directly. Thereafter, paragraph 48, please.
12:01:20 32 "On 4 September 2008, I received an email from Waddell
12:01:25 33 attaching four letters sent to and from inmates at Barwon
12:01:28 34 Prison, including one sent by Ms Gobbo to Joe Mannella.
12:01:30 35 One of these is a letter from Carl Williams in which he
12:01:34 36 recounts allegations about Ms Gobbo in effect assisting the
12:01:41 37 police and that Ms Gobbo had a conflict and acted for
12:01:43 38 Farouk Orman. I do not recall reading these letters. I do
12:01:46 39 not know if I read them at the time. I do not recall the
12:01:49 40 content of the letter when I read them preparing
12:01:51 41 statement." I need not take you to them, but some of them
12:01:54 42 contain particularly threatening material about
12:01:56 43 Ms Gobbo?---Right.

44

12:01:58 45 Paragraph 49, "My diary records the next day, 5 September,
12:02:01 46 I briefed you about Ms Gobbo at an interview. I do not
12:02:08 47 recall what was discussed. It is possible Waddell wanted

12:02:10 1 to use Ms Gobbo in the Briars investigation. Letters had
12:02:14 2 prompted him to have me ask DC Overland to consider using
12:02:18 3 Ms Gobbo." So whilst he doesn't have a recollection, he is
12:02:21 4 piecing together, it appears there, the material he has to
12:02:25 5 suggest he was talking to you about those letters and
12:02:27 6 whether or not it would be appropriate to use her in that
12:02:32 7 investigation?---(Witness nods).
8
12:02:35 9 If we then go to paragraph 51. "On 21 October I met with
12:02:42 10 Mr Rapke, Geoff Horgan and Andrew Tinney from the OPP with
12:02:48 11 you, Waddell and Iddles regarding Briars", and it was a
12:02:49 12 discussion about the evidence in that case, okay? And then
12:02:54 13 paragraph 60. This is when it's reactivated, Briars. "As
12:03:03 14 my diary records, after my discussion with Mr Waddell and
12:03:05 15 DS Iddles I briefed Cornelius about safety issues to do
12:03:08 16 with Ms Gobbo which I recall related to concerns about her
12:03:12 17 location. I believe I also talked to Cornelius about Ms
12:03:16 18 Gobbo's information being of no value to Briars. I then
12:03:19 19 briefed Chief Commissioner Overland regarding the same."
12:03:23 20 So on the face of all that material, it looks like you're
12:03:25 21 being kept abreast, and it is I think between 2006 and
12:03:29 22 2008, of decisions being made in relation to Nicola
12:03:32 23 Gobbo?---I accept that.
24
12:03:34 25 Your statement, paragraph 153-154, you say this about
12:03:41 26 steering committees, "In the course of this Royal
12:03:43 27 Commission, a misconception may have arisen in relation to
12:03:48 28 the role of a steering committee. The name itself is
29 misleading. A steering committee in the operational sense
30 provides an added level of oversight over particular
12:03:54 31 operations and procedures. Petra and Briars were set up
12:03:57 32 outside of the normal chain of Command and involved the
12:04:02 33 OPI. Each committee existed to receive information in a
12:04:04 34 summarised form from those over whom it had oversight.
12:04:09 35 It's role was not to guide investigators on the line of
12:04:10 36 enquiry or determining the forensic decisions that arose
12:04:13 37 through the course of an investigation." The last
12:04:19 38 sentence, "Its role was not to guide investigators on lines
39 of inquiry or determine the forensic decisions that arise
12:04:25 40 throughout the course of an investigation" was put to
12:04:26 41 Mr Wilson, your Chief of Staff, who was involved in a
12:04:28 42 number of those committees, and asked whether or not you,
12:04:31 43 from what he saw of your involvement, as we've set out,
12:04:36 44 whether you had any role in the forensic decisions that
12:04:39 45 were made throughout the course of the investigation and he
12:04:42 46 said you did. Now what do you have to say about that?---If
12:04:47 47 that's his recollection, that's his recollection. I stand

12:04:50 1 by the evidence I've provided.
2
12:04:53 3 He was involved, as your representative, in the phasing out
12:04:58 4 of Nicola Gobbo from a human source into a witness?---I
12:05:05 5 think so, yes.
6
12:05:07 7 Just to put that into context, she obviously signs the
12:05:10 8 statement against Paul Dale - I think it's either the end
12:05:14 9 of December 2008 or the very very beginning of January
12:05:18 10 2009. She is transitioned from the SDU over to Mr O'Connor
12:05:22 11 and others but then there has to be a Memorandum of
12:05:25 12 Understanding between you and her, the police and her?---As
12:05:31 13 part of witness security arrangements, yes.
14
12:05:33 15 And let's be clear. Your evidence has been that you phased
12:05:37 16 her out and turned her into a witness on the basis you
12:05:40 17 didn't want her to be an informer because it was risky to
12:05:43 18 her?---Yes.
19
12:05:44 20 Let's have a look at that document and see what it actually
12:05:46 21 says. The Memorandum of Understanding, please. Have you
12:05:55 22 ever seen this document?---Look, I may have. I mean I
12:06:01 23 assume - - -
24
12:06:02 25 Let's go through it just to - - -?---It's the
12:06:05 26 Chief Commissioner, so if I was the Chief Commissioner at
12:06:07 27 the time, I assume I did.
28
12:06:09 29 Just to be clear and put this in context, it has never been
12:06:12 30 signed by you or her, but Victoria Police in fact paid her
12:06:17 31 as part of the agreement set out herein, I think for the
12:06:21 32 best part of a year and a half?---Yes.
33
12:06:25 34 So let's see whether or not the intention was to phase her
12:06:29 35 out as a source. So if we scroll down, please, let's go
12:06:37 36 through it. It sets out the background. If we keep going
12:06:41 37 through, please. "Definitions." Keep going through. Keep
12:06:52 38 going through. If we now come to paragraph 4.1. So if we
12:07:01 39 go up one page, please. So "Basis for the provision of
12:07:05 40 protection and assistance". "Protection and assistance as
12:07:09 41 set out in this agreement is provided to the witness on the
12:07:09 42 following basis: (a) the witness has, subject to the
12:07:14 43 performance by Victoria Police of its obligations, set out
12:07:15 44 in the agreement, including the schedule, agreed to give
12:07:18 45 evidence on behalf of the Crown in criminal proceedings or
12:07:20 46 any Coronial inquest in relation to (1) the Hodson
12:07:27 47 investigation"?---(Witness nods).

1

12:07:30 2 (B) the witness has made statements to VicPol in relation
12:07:34 3 to Paul Dale, another person, and suspects in relation to
12:07:37 4 the murder of Chartres-Abbott, which is obviously
12:07:45 5 Briars?---Yes.

6

12:07:46 7 Then this: "The witness may, subject to the performance by
12:07:48 8 Victoria Police of its obligations set out in this
12:07:51 9 agreement, provide other assistance to Victoria Police in
12:07:56 10 relation to any other investigation or inquiry by Victoria
12:08:00 11 Police in relation to current or ongoing investigations
12:08:04 12 being conducted by the Purana Task Force and/or current or
12:08:08 13 ongoing investigations being conducted by the Petra Task
12:08:11 14 Force." That's a reference to her providing
12:08:11 15 intelligence?---Yes, it is.

16

12:08:12 17 So it's not phasing her out?---Having seen that and given
12:08:17 18 it is unsigned, I don't believe I have seen this agreement.
12:08:20 19 It would have come to me for signature, but I wouldn't have
12:08:25 20 agreed with that, I wouldn't have agreed with (c).

21

12:08:29 22 You obviously say that and it's correct, there is not a
12:08:33 23 signed version, but Mr Wilson attended these meetings on
12:08:37 24 your behalf, you had lawyers acting on your behalf and this
12:08:40 25 agreement became binding because, and I can take you to the
12:08:44 26 document, payments were made to Ms Gobbo in honorarium as
12:08:51 27 part of this contract?---Yes, no, I understand that, and as
12:08:53 28 they should be. I mean I always understood that a
12:08:56 29 consequence of her becoming a witness was that there were
12:08:59 30 significant financial implications for Victoria Police in
12:09:02 31 terms of - compensating her is not quite the right word,
12:09:09 32 but in terms of ensuring that she wasn't disadvantaged as a
12:09:12 33 consequence of that decision.

34

12:09:13 35 Paragraph (c) gives a lie to the suggestion you wanted her
12:09:16 36 phased out as a human source?---No. No, it doesn't. It's
12:09:19 37 in the document, I see that, but my view was she was a
12:09:23 38 witness and we needed to phase her out as a human source.

39

12:09:25 40 You would have been aware of this document or certainly
12:09:28 41 been providing instructions to those who wrote and drafted
12:09:31 42 this document before it - - -?---No, no, it would have been
12:09:35 43 - so there's a separate process around entering into
12:09:38 44 witness protection. There is a committee that runs all of
12:09:41 45 that. It would have been referred off through that
12:09:43 46 process. I mean ultimately if there was an agreement
12:09:45 47 reached, it would have had to come to me and I'd have had

12:09:50 1 to sign it.
2
12:09:51 3 This demonstrates that Victoria Police wanted to keep her
12:09:55 4 on board for intelligence purposes?---I accept that, yes,
12:09:58 5 but you're attributing that to me and I don't accept that.
6
12:10:01 7 It's between you and her, the agreement?---That's right
12:10:05 8 and, as I said, ultimately had the agreement been signed,
12:10:07 9 it would have to come to me and I would sign it, but in the
12:10:12 10 ordinary course of these things, I would see something like
12:10:15 11 this right at the end of the process, I wouldn't be
12:10:19 12 involved in its drafting.
13
12:10:20 14 So, again, this is another breakdown in communication or
12:10:22 15 something you're unaware of or you've given directions that
12:10:26 16 trusted Detectives and trusted people close to you - -
12:10:29 17 -?---These were matters that were being progressed by the
12:10:32 18 Petra Task Force and Rod Wilson, you tell me, had some role
12:10:36 19 in assisting or oversighting that, I accept that, but, yes,
12:10:39 20 it is essentially done by others until such point as it's
12:10:42 21 ready to sign, in which case it would then come to me as
12:10:45 22 Chief Commissioner
12:10:45 23
12:10:46 24 Commissioner, I tender that document.
12:10:52 25
12:10:55 26 #EXHIBIT RC990A - (Confidential) Memorandum of Agreement
12:11:18 27 between Nicola Gobbo and the Chief
12:11:21 28 Commissioner, unsigned.
12:10:58 29
12:10:59 30 #EXHIBIT RC990B - (Redacted version.)
12:11:05 31
12:11:05 32 MR NATHWANI: I've been asked about the date. There are
12:11:07 33 several versions, but this is, I think, the final one and
12:11:10 34 it was mid-2009, but I'll get the date confirmed in due
12:11:14 35 course.
36
12:11:15 37 COMMISSIONER: Okay. So it's is a memorandum of agreement
12:11:18 38 between Nicola Gobbo and the Chief Commissioner, unsigned.
12:11:24 39 And is it undated?
40
12:11:26 41 MR NATHWANI: It's unsigned and undated, yes. Yes,
12:11:30 42 unsigned, sorry, unsigned. There was never a signed copy.
43
12:11:34 44 COMMISSIONER: Unsigned and undated, yes. And it's the
12:11:45 45 latest version of that document, is that right?
46
12:11:48 47 MR NATHWANI: This is the final as far as I can see.

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COMMISSIONER: Final version.

MR NATHWANI: And in due course with another witness I'll exhibit this schedule showing the payments to show that it was honoured in that sense.

Dealing with the breakdown in communication potentially between you and those in or around and beneath you, at IBAC, p.39, you say - in fact, in your long statement at the beginning of IBAC, you say from the outset of your knowledge of Ms Gobbo being used, that you raised concerns about her use and the issue of privilege and a legal practitioner with both Sandy White and Jim O'Brien and then you're asked about it and you repeat that?---Yes.

At IBAC, p.46, you say you had a number of conversations with Sandy White about this. Mr White, in his statement, paragraph 249, said, "Simon Overland, a lawyer, never expressed any concern to me." What do you have to say about that?---That doesn't accord with my recollection.

Jim O'Brien, one of your trusted investigators, paragraph 67, when asked about this, or dealing with this, he said he never considered the issue of legal professional privilege, his role was to investigate, which, on the face of it, is entirely inconsistent with him being told about issues of legal professional privilege and concerns raised. Again, are you sure you raised concerns with Jim O'Brien about the use of Nicola Gobbo?---Yes.

Can I just ask you briefly about Jeffrey Pope. He became your Chief of Staff?---No.

Was there a time when you appointed him?---Sorry, in what - - -

In 2010 he left the ACC and came over back into the Victoria Police?---I think he came back as - was appointed as Assistant Commissioner Crime to the Intelligence and Covert Support Department is my recollection.

Were you involved in the interview process for him or appointment process?---I'm sure I would have been, yes.

Were you made aware by him that he had previously registered Nicola Gobbo as a human source?---No.

1

12:14:01 2 Were you aware that she had alleged against him - were you
12:14:05 3 aware that he was saying that back in 2000 Nicola Gobbo had
12:14:12 4 invited him on a romantic holiday?---No.

5

12:14:16 6 When he came over from the ACC, were you aware there were
12:14:19 7 allegations that he had been involved in inappropriate
12:14:23 8 relations with several female staff and left under a cloud?
12:14:27 9 Was that declared to you?---I think I was aware of that.

10

12:14:34 11 Was that a declaration by him or was it from the public
12:14:38 12 document in relation to an investigation into him?---I
12:14:47 13 don't now recall how I knew that.

14

12:14:53 15 Did you ever provide a reference for Mr Pope? Because
12:14:58 16 we've heard evidence about how you, Mr Ashton and
12:15:02 17 Mr Cornelius - - -?---In relation to this appointment?

18

12:15:04 19 Or any appointment?---I probably did, but I don't
12:15:07 20 specifically recall.

21

12:15:12 22 You were asked by Mr Winneke about perverting the course of
12:15:17 23 justice before Christmas and your evidence was it was
12:15:19 24 potentially - the conduct engaged in was potentially
12:15:26 25 perverting the course of justice?---Sorry, I need a bit
12:15:28 26 more context to that.

27

12:15:29 28 It was a general proposition of using Ms Gobbo as a human
12:15:32 29 source?---Okay, yes.

30

12:15:33 31 He said potentially it was perverting the course of
12:15:36 32 justice?---Well it could be, yes.

33

12:15:37 34 Do you agree those encouraging, directing or assisting
12:15:41 35 would also, if it was potentially perverting, by the same
12:15:46 36 token, be perverting the course of justice?---Again
12:15:51 37 potentially, but it would depend very much on much more
12:15:55 38 detailed facts that you're giving me.

39

12:15:57 40 Do you agree generally by act and/or omission, you,
12:16:00 41 Victoria Police, were directing, encouraging and assisting
12:16:04 42 Nicola Gobbo?---Me or Victoria Police or? - I just want to
12:16:11 43 be clear.

44

12:16:12 45 As you understand, I've put to you throughout this that you
12:16:15 46 were involved in the initial registration, the onward use
12:16:20 47 and authorisation - - -?---Well I wasn't involved in the

1 - - -

2

12:16:22 3 I understand you say that - - -?---I wasn't involved in the
12:16:28 4 original registration.

5

12:16:29 6 Finally this: you are obviously aware, we've heard through
12:16:34 7 your evidence, that Ms Gobbo's motivation in signing up, as
12:16:37 8 you understood it, was because of the grip that Mr Mokbel
12:16:42 9 held over her?---Yes.

10

12:16:46 11 And an expectation that she would do as required?---Sorry?

12

12:16:50 13 And an expectation she would do as he wished or
12:16:54 14 required?---As he wished? Yes.

15

12:16:59 16 Do you agree that what in fact replaced it was you, at the
12:17:04 17 head of Victoria Police and Victoria Police doing exactly
12:17:06 18 the same to Ms Gobbo but for the benefit of Victoria
12:17:09 19 Police?---No, I don't agree with that at all.

20

12:17:13 21 Thank you, Mr Overland.

22

12:17:16 23 COMMISSIONER: Thank you. Mr Coleman, do you have
12:17:18 24 anything?

25

12:17:19 26 MR COLEMAN: I do. Ms Enbom has asked if she could go
12:17:21 27 before me and, subject to your views, I have no problem
12:17:24 28 with that and then I'll go before Mr Chettle.

29

12:17:26 30 COMMISSIONER: All right then, that's fine. Yes, Ms Enbom.

31

12:17:28 32 MS ENBOM: Thank you, Commissioner.

33

34 <CROSS-EXAMINED BY MS ENBOM:

35

12:17:32 36 Mr Overland, the Purana Task Force, it was established
12:17:37 37 shortly after you arrived at Victoria Police in about April
12:17:41 38 2003, is that right?---April or May 2003, yes.

39

12:17:45 40 Do you recall that at the outset it was a fairly small Task
12:17:51 41 Force but that after the murders of Jason Moran and
12:17:56 42 Pasquale Barbaro in June '03, significant resources were
12:18:00 43 immediately allocated to the Task Force?---I remember the
12:18:06 44 Task Force scaling up. I mean, obviously the murders of
12:18:13 45 Jason Moran and Pasquale Barbaro were very significant.
12:18:17 46 There was quite a process, I remember, involved in terms of
12:18:20 47 getting the Task Force resourced to the extent it needed to

12:18:23 1 be and operating and that took place over a number of
12:18:27 2 months, as I recall it.
3
12:18:28 4 Do you think the scaling up took place shortly after the
12:18:34 5 Moran/Barbaro murders?---I think so, but I think I'd been
12:18:37 6 trying to get this set up with sufficient resources and
12:18:39 7 scale to do what it needed to do for some time. I think
12:18:42 8 that perhaps precipitated some of what subsequently
12:18:45 9 happened, but I don't quite recall it being in quite the
12:18:48 10 way you've described, that one followed the other.
11
12:18:51 12 You don't recall the two coinciding?---Well, no. I
12:18:56 13 certainly think - I mean, the murders of Jason Moran and
12:19:01 14 Pasquale Barbaro was what I would call a tipping point,
12:19:04 15 because at that point those series of homicides really came
12:19:08 16 into the public consciousness in the way they did. Up
12:19:11 17 until then, it just had really been a series of shootings
12:19:16 18 in the western suburbs and people didn't seem to worry too
12:19:18 19 much about that, but it was at the footy clinic and that
12:19:23 20 really I think galvanised public attention and I certainly
12:19:25 21 think it assisted in getting resources, but it was quite a
12:19:30 22 struggle to actually get a Task Force of that size
12:19:34 23 established and resourced in Victoria Police at that time.
24
12:19:37 25 A number obvious witnesses, I think, have described it as,
12:19:39 26 in the same way that you have, as the tipping point?---Yes.
27
12:19:43 28 Do you remember Chief Commissioner Christine Nixon being
12:19:45 29 involved in assisting to build the resources?---Yes, very
12:19:51 30 much so, and Deputy Commissioner Kelly also played a key
12:19:55 31 role. It certainly wasn't just me, I needed their very
12:19:58 32 active support to get the resources committed, yes.
33
12:20:02 34 And it grew, as you've said, into a much larger earlier Task
12:20:06 35 Force?---Yes.
36
12:20:07 37 And a busy Task Force?---Incredibly busy, yes.
38
12:20:12 39 And it was busy investigating a lot of
12:20:17 40 murders?---Unfortunately the murders kept happening so the
12:20:20 41 scope of the investigations being covered by Purana grew.
42
12:20:28 43 Mr Bateson, who was a Sergeant at Purana from late 2003, he
12:20:32 44 has told the Commission that 16-hour days were pretty
12:20:36 45 common?---Yep.
46
12:20:37 47 And when he wasn't at work - when he wasn't actually at

12:20:41 1 work, he was thinking about work, and he said that it was
12:20:46 2 the most intense period of his working life and that
12:20:49 3 everyone in Purana were working similar hours?---That would
12:20:52 4 be right. It was a very - it was an incredibly intense
12:20:57 5 period, yes.
6
12:20:59 7 Do you remember the hours being of that kind, people
12:21:03 8 working around the clock?---People would have been working
12:21:06 9 very long hours.
10
12:21:09 11 Now, focusing on mid-2005, do you remember that on
12:21:14 12 occasions Jim O'Brien, who was a Senior Sergeant at that
12:21:19 13 time, he would take on the Acting Inspector role at Purana
12:21:24 14 when Gavan Ryan was on leave?---Yes, I recall that.
15
12:21:27 16 Or unavailable?---Yep.
17
12:21:35 18 And Mr O'Brien has given evidence that it was on 13
12:21:39 19 September 2005 that he commenced full-time at Purana as the
12:21:44 20 Acting Inspector in charge of the Task Force?---Yes.
21
12:21:48 22 Does that sound about right?---Yes.
23
12:21:51 24 So Gavan Ryan wasn't replaced by an Inspector, he was
12:21:54 25 replaced by a Senior Sergeant who was upgraded into an
12:21:58 26 Acting Inspector role, does that sound right to you?---I
12:22:03 27 take your word for it, yes.
28
12:22:04 29 Do you know why a Senior Sergeant was given the job and
12:22:11 30 upgraded, as opposed to putting an Inspector in that
12:22:16 31 role?---Look, again, I don't specifically recall, but I
12:22:21 32 think now, knowing what I know, because Purana was about to
12:22:25 33 move on and focus on the Mokbel syndicate, Jim O'Brien was
12:22:31 34 seen as an appropriate person to lead that because of his
12:22:33 35 experience in the Major Drug Investigation Division and his
12:22:36 36 knowledge of the Mokbel syndicate. I can't quite remember
12:22:40 37 now why Gavan moved on. Did he go overseas? I mean I know
12:22:44 38 at one point he sort of left the organisation and went
12:22:46 39 overseas. I don't recall - - -
40
12:22:47 41 You're testing my memory?--- - - - why that was. It's not
12:22:50 42 unusual in, particularly these long running things, and we
12:22:55 43 did, we actually had planned staffing changes. Because of
12:22:58 44 the intense nature of the work, we quite deliberately tried
12:23:02 45 to rotate people through and not leave them in place for
12:23:04 46 long periods of time. Andy Allen was originally the
12:23:09 47 Detective Inspector and then he moved and Gavan Ryan I

12:23:11 1 think was promoted. He was a Senior Sergeant and was
12:23:14 2 promoted and took over. And then I'm not sure why Gavan
12:23:17 3 left, but then I think Jim was seen as the appropriate
12:23:20 4 person to step in and run that part of the investigation.
12:23:23 5
12:23:24 6 I think Gavan moved across to another agency?---Yes, I
12:23:31 7 remember. Yes, he went off and I think did some work
12:23:33 8 overseas.
9
12:23:35 10 You gave evidence last year that you had a high regard for
12:23:37 11 Mr O'Brien?---Yes.
12
12:23:41 13 He's been described in this Commission by one of the
12:23:45 14 investigators as very straight, up and down, matter of
12:23:52 15 fact, get on with business type of police officer. Does
12:23:53 16 that sound like the Mr O'Brien that you put in charge of
12:23:57 17 Purana?---He's a pretty forthright character, as I recall,
12:24:01 18 yes.
19
12:24:01 20 And an experienced - - -?---Was very experienced, very
12:24:07 21 experienced Detective.
22
12:24:08 23 And I take it you wouldn't have upgraded him into the
12:24:10 24 Acting Inspector role at Purana if you didn't believe that
12:24:13 25 he was an honest, diligent, hardworking policeman?---No.
26
12:24:18 27 And it wasn't your experience, was it, that he ignored or
12:24:23 28 defied your advice or directions?---No.
29
12:24:27 30 Would you say the same about Commander Terry Purton? He
12:24:33 31 didn't have a history of ignoring or defying you, did
12:24:36 32 he?---No. No, he didn't.
33
12:24:42 34 Mr O'Brien has explained in his statement that when he was
12:24:45 35 put in charge of Purana in September 2005 there were some
12:24:48 36 resourcing problems and he thought that those resourcing
12:24:53 37 problems were perhaps caused by the upcoming Commonwealth
12:24:59 38 Games and he recalls having real difficulty getting
12:25:02 39 adequate resources to do the work. And like Mr Bateson,
12:25:07 40 Mr O'Brien described his job as huge, he had a huge
12:25:14 41 workload?---Again - - -
42
12:25:17 43 We touched on the resourcing. Do you remember in September
12:25:19 44 '05 Mr O'Brien trying to get more resources?---I'm tempted
12:25:27 45 to ask what sort of resources it was he says he didn't have
12:25:30 46 enough of. I do remember, as I said, at various times we -
12:25:38 47 I mean, the resourcing of the Task Force changed depending

12:25:41 1 on the requirements, so, you know, we were conscious of
12:25:45 2 trying to make sure it had adequate resources and so that
12:25:49 3 fluctuated and I think at its biggest, I think it was
12:25:51 4 nearly 100 staff at its largest, but as I said, often the
12:25:55 5 limiter was not so much the investigators but the support
12:25:58 6 services, so surveillance, intercept capacity, even around
12:26:05 7 monitoring of intercept and I recall we brought resources
12:26:09 8 in from other areas of the Force to assist with that. I
12:26:12 9 don't specifically recall that being an issue at the time,
12:26:15 10 but, I mean, resources are always an issue in these things,
12:26:19 11 you'd always want more, and I accept that and you've just
12:26:23 12 got to sometimes make the best with what you've got, but
12:26:26 13 that said, there were significant resources in Purana and
12:26:29 14 available to Purana at all times.
15
12:26:31 16 If there were 100 people within Purana, was it then
12:26:34 17 Mr O'Brien's job to oversee all of those
12:26:39 18 people?---Essentially, yes.
19
12:26:43 20 Mr O'Brien has assisted the Commission with some evidence
12:26:46 21 about the structure within the Crime Department and within
12:26:49 22 Purana when he started there permanently?---Yep.
23
12:26:54 24 And I want to ask you about that, about your recollection
12:26:58 25 of the structure. His recollection of the structure was
12:27:01 26 that obviously you were the AC of Crime and as AC Crime,
12:27:06 27 you would have a number of Superintendents below you, so
12:27:11 28 you'd have a Superintendent in charge of sex crimes, a
12:27:15 29 Superintendent in charge of homicide, a Superintendent
12:27:20 30 dealing with organised crime and so on?---Not quite in that
12:27:24 31 fashion. And the structure changed in the time I was
12:27:30 32 there. One of the things I was doing in 2004, 2005, in
12:27:35 33 addition to the operational activity, was developing a new
12:27:40 34 organised crime strategy for Victoria Police, which was in
12:27:43 35 2004, and that was an extensive process that involved
12:27:47 36 academia, national and international experts and trying to
12:27:53 37 bring together experience and wisdom around a good
12:27:57 38 strategic approach to dealing with organised crime and then
12:28:00 39 in 2005 there was a review that was jointly undertaken with
12:28:04 40 the Boston Consulting Group that developed a thing called
12:28:09 41 the Major Crime Model for Victoria Police and that did lead
12:28:12 42 to a significant restructure in the Crime Department, but
12:28:15 43 essentially there was an Assistant Commissioner Crime,
12:28:18 44 there was a Commander, which was a little unusual, but
12:28:21 45 there was a Commander's role there as well, and then my
12:28:24 46 recollection is there were four or five Superintendents who
12:28:28 47 ran what were called divisions. They would then have

12:28:33 1 Inspectors reporting to them and it was the Inspectors who
12:28:39 2 would actually run the Task Forces or run the squads. So,
12:28:42 3 for instance, the Armed Offender Squad would have an
12:28:46 4 Inspector running it, the - I mean, there wasn't - it sort
12:28:52 5 of did change a bit. So, for instance, the Major Fraud
12:28:56 6 Investigation Division had a Superintendent running that,
12:28:58 7 the Major Drug Investigation Division had a Superintendent
12:29:01 8 running that, and there were Inspectors who ran various
12:29:04 9 sort of sub-units within those divisions. The Homicide
12:29:09 10 Squad was part of, I think, early on, the Serious Crime, I
12:29:13 11 think it was, Investigation Division, and the Homicide
12:29:15 12 Squad was headed by a Detective Inspector and then had a
12:29:20 13 number of Senior Sergeants, so that's the sort of basic
12:29:24 14 structure, but the reporting lines changed a little bit
12:29:28 15 depending on the areas and, as I say, they changed in 2005
12:29:31 16 with the implementation of the new model.
17
12:29:35 18 That's broadly consistent with Mr O'Brien's description of
12:29:40 19 the structure. I want to ask you about the role of
12:29:43 20 Commander. I think you just said that that was a bit of an
12:29:47 21 unusual role?---The Commander role at that time was an
12:29:53 22 unusual level in Victoria Police. There was - I mean,
12:29:58 23 ordinarily - I think in the - so if you went to a region,
12:30:01 24 you would find that the reporting line was from
12:30:04 25 Superintendent straight through to Assistant Commissioner,
12:30:06 26 but in the Crime Department, I think because of the
12:30:09 27 operational - you know, high profile investigations, quite
12:30:14 28 risky, there was a Commander there as well to provide an
12:30:18 29 extra layer of, I guess, supervision, in a sense, around
12:30:22 30 the operational matters.
31
12:30:24 32 Mr O'Brien was asked about Commander Purton's role and he
12:30:29 33 said that his understanding at the time was that Mr Purton
12:30:37 34 sat between you and Superintendents by rank?---Yes.
35
12:30:41 36 But he didn't really know what his role was within the
12:30:43 37 structure. He thought Mr Purton's role might have been to
12:30:47 38 drive recommendations resulting from Ceja. Christine Nixon
12:30:53 39 gave similar evidence. She said the role of Commander
12:30:55 40 didn't fit sensibly within the department and she tried to
12:30:59 41 phase it out and she thought the responsibilities of the
12:31:01 42 role were unclear?---Well, I can understand that evidence.
12:31:11 43 My view is that, and the practice was that the Commander
12:31:17 44 role did, by and large, sit between myself and the
12:31:19 45 Superintendents. So, for instance, Terry Purton would run,
12:31:25 46 I think, weekly sort of catch-ups with the Superintendents
12:31:28 47 that I wasn't part of. That would be, you know, looking at

12:31:31 1 the operational activity across the department?---But that
12:31:34 2 said, I mean Superintendents could still come direct to me
12:31:36 3 if they needed to or they wanted to, but the role of Terry
12:31:44 4 was really, he was really between me and the
12:31:45 5 Superintendents, particularly around the operational
12:31:49 6 issues. As Assistant Commissioner Crime, I had
12:31:51 7 responsibility for the operational issues, but I also had
12:31:54 8 responsibility for really exciting things like budget and
12:31:57 9 people management and asset management and so on and so
12:31:59 10 forth, so I would probably deal more directly with
12:32:03 11 Superintendents on those matters on a regular basis. Terry
12:32:08 12 would have more of an operational focus.
13
12:32:12 14 Mr O'Brien, when he was in charge of Purana, upgraded into
12:32:16 15 the Acting Inspector role. He would ordinarily - the
12:32:20 16 structure would have him reporting to a
12:32:21 17 Superintendent?---Yes.
18
12:32:23 19 His evidence is that when he was put in charge of Purana,
12:32:32 20 there was no-one in the rank of Superintendent to report
12:32:41 21 to?---That doesn't accord with my recollection.
22
12:32:44 23 Who did you think - - -?---I'd have thought he was
12:32:47 24 reporting to John Whitmore.
25
12:32:48 26 I think it might be that Mr Whitmore - I don't think he's
12:32:51 27 provided a statement to the Commission, but he might have
12:32:54 28 moved on before September 2005 when Mr O'Brien took
12:32:59 29 over?---I don't recall, but someone would have replaced
12:33:03 30 Mr Whitmore, I assume, in that role.
31
12:33:06 32 I think the evidence is there was no-one in that position
12:33:10 33 and so Mr O'Brien was reporting directly to you, because if
12:33:19 34 there was someone in the Superintendent position,
12:33:20 35 Mr O'Brien would report to that Superintendent, wouldn't
12:33:24 36 he?---That's correct.
37
12:33:24 38 And the Super would report up to you?---Yes, correct.
39
12:33:27 40 But what was actually happening was that Mr O'Brien was
12:33:29 41 reporting directly to you?---I don't think that's right,
12:33:33 42 but, you know, again, I don't specifically recall who was
12:33:37 43 in place around that time.
44
12:33:39 45 Do you remember Mr O'Brien reporting directly to
12:33:41 46 you?---Look, I do remember, you know, we'd have the weekly
12:33:46 47 Task Force meetings and I remember having regular

12:33:49 1 conversations with Jim, but I'd have thought he was
12:33:53 2 reporting, you know, through a Superintendent and, to a
12:33:56 3 certain extent, also through Terry Purton.
4

12:33:59 5 Mr O'Brien's evidence was that he didn't think that the
12:34:03 6 chain of command had him reporting to Mr Purton, so he
12:34:06 7 didn't see Mr Purton in that role?---Well, I don't agree
12:34:12 8 with that and I guess I, you know, go back to I think the
12:34:18 9 entry I made on 26 September in 2005, when I was - or 27
12:34:24 10 September, when I was having a conversation with Terry
12:34:29 11 Purton about the use of Ms Gobbo as a source and it seems
12:34:33 12 to me I made it quite clear to Terry I expected him
12:34:37 13 absolutely to be involved in those matters.
14

12:34:40 15 Perhaps there was some confusion within the Command as to
12:34:43 16 who was reporting to who?---There could have been.
17

12:34:56 18 I want to ask you about the situation underneath
12:35:03 19 Mr O'Brien. So you've said that the Task Force, at its
12:35:05 20 biggest, got to about 100 people and that Mr O'Brien's job
12:35:08 21 was to oversee those 100 people?---I think it might have
12:35:11 22 been at that size before Mr O'Brien took over. I think it
12:35:15 23 got to its biggest size around mid-2004, when there was a
12:35:20 24 lot of operational activity around the homicides. I
12:35:23 25 suspect it was smaller than that in 2005, but again, I
12:35:28 26 don't have specific information in front of me.
27

12:35:30 28 Yes. Mr O'Brien's evidence was that there were about six
12:35:36 29 or seven crews operating within Purana, so they're
12:35:41 30 operating at a level below him?---Again, that was
12:35:46 31 consistent. There were always a number of operations or
12:35:51 32 sub operations, call them what you will, happening within
12:35:54 33 Purana. They tended to be run by their own crew, so by a
12:36:01 34 Senior Sergeant or a Sergeant and a team of investigators,
12:36:04 35 yeah.
36

12:36:04 37 So you have Mr O'Brien in charge as the Acting Inspector,
12:36:09 38 then he has six or seven crews beneath him. Each crew was
12:36:14 39 headed up by a Senior Sergeant and the Senior Sergeant had
12:36:17 40 autonomy in running the investigations?---Yes.
41

12:36:27 42 And Mr O'Brien, to give the Commissioner a picture of what
12:36:31 43 was going on within Purana, explained that there were, and
12:36:34 44 this is something you touched on earlier, [REDACTED]
12:36:37 45 [REDACTED] telephone intercept monitors that were receiving
12:36:42 46 intel on a minute-by-minute basis and he was overseeing
12:36:45 47 that and directing the covert support services that were

12:36:47 1 needed. Do you have a memory of that?---So I have a
12:36:59 2 stronger recollection of resources being allocated to
12:37:02 3 listen to, monitor listening devices, but the reason I'm
12:37:06 4 pausing is that telephone intercepts was done in another
12:37:09 5 area, so it was done by - you know, it was a dedicated area
12:37:14 6 that managed that.

7
12:37:16 8 The SPU area?---Yes, the beautifully named SPU. I thought
12:37:20 9 they were responsible for the monitoring of TI product
12:37:24 10 because there would often have to be decisions made around
12:37:27 11 whether material was disseminated or not, so that was done
12:37:31 12 at arm's length is my recollection.

13
12:37:34 14 Do you have a recollection of intel coming through via
12:37:39 15 sometimes a monitor, but it might not have been a telephone
12:37:44 16 intercept?---Look, I assume there was, but again this is a
12:37:46 17 level of operational detail that I just wasn't involved in.

18
12:37:49 19 Do you recall that there was a team from the non-compliance
12:37:53 20 area of the Tax Office within Purana at one point, are you
12:37:56 21 aware of that?---That might be right. I don't specifically
12:38:00 22 recall it, but I know a major component of what Purana was
12:38:03 23 trying to do was to look at the assets, because that is and
12:38:07 24 was seen as one of the most effective ways of dealing with
12:38:10 25 organised crime, not only investigating, charging and
12:38:14 26 hopefully prosecuting and putting them in gaol, but also
12:38:16 27 taking all their money, ill-gained money away from them, so
12:38:22 28 that was a part of the focus and there may well have been a
12:38:24 29 tax team as part of that.

30
12:38:26 31 And if there was a tax team within Purana then Mr O'Brien
12:38:29 32 would have been overseeing that as well, as the person in
12:38:32 33 charge?---Look, I guess so, but again, I think Jim Coghlan
12:38:36 34 I think had a lot to do with the assets side of things, so
12:38:39 35 I assume he'd have a team working with him and he'd have
12:38:43 36 had day-to-day carriage of that.

37
12:38:45 38 But if Mr O'Brien is in charge - - -?---Yes, it's reporting
12:38:48 39 to him, yes, I accept that.

40
12:38:50 41 COMMISSIONER: Ms Enbom, maybe we can move the microphone
12:38:53 42 just a little closer. It's just a little difficult to hear
12:38:56 43 sometimes. Thank you.

44
12:39:01 45 MS ENBOM: So if Mr O'Brien didn't already have his hands
12:39:04 46 full overseeing 100 people, getting intel through the
12:39:11 47 monitors, overseeing the tax group, overseeing the crews,

12:39:16 1 he's got a big job?---Yes.
2
12:39:19 3 His job was also to receive the intelligence from the SDU
12:39:24 4 and to disseminate it, that was part of his job. I assume
12:39:27 5 you're aware of that?---Yep.
6
12:39:30 7 And he's given evidence that whilst the intelligence
12:39:33 8 received from Ms Gobbo via the SDU would have made up no
12:39:37 9 more than 5 per cent of his overall work, it was a big task
12:39:42 10 for him every day receiving that information by phone,
12:39:45 11 recording it in his diary and then passing it on to crews
12:39:52 12 and to specialist services?---M'mm.
13
12:39:55 14 His evidence was that he was receiving that information
12:39:58 15 most days, so he was receiving information most days that
12:40:03 16 he thought had probably been provided to the SDU by
12:40:07 17 Ms Gobbo?---Okay.
18
12:40:09 19 And much of that intelligence wasn't targeted, it was
12:40:12 20 downloads of information?---Right.
21
12:40:14 22 So he has pages of information?---Yep.
23
12:40:18 24 And Mr O'Brien would then, in addition to all of his other
12:40:22 25 work, move that information on to crews?---Okay.
26
12:40:26 27 So that was part of his job. Now, as a result of the
12:40:30 28 sterile corridor, which we've heard a lot of evidence
12:40:34 29 about, he'd receive that information and he'd disseminate
12:40:38 30 it to the crews but without revealing that Ms Gobbo was the
12:40:44 31 source?---Yes.
32
12:40:46 33 So if he knew that the source was Ms Gobbo, because he'd
12:40:48 34 worked it out or he'd been told, then he wouldn't tell the
12:40:52 35 crews that?---Yep.
36
12:40:53 37 And that's how the sterile corridor worked, is that your -
12:40:57 38 - -?---That's one of the ways a sterile corridor could
12:40:59 39 work, yes.
40
12:40:59 41 Is that your memory of the way in which it did
12:41:03 42 work?---Again, I wasn't that intimately involved in it. My
12:41:08 43 understanding, and again, I haven't looked at any of this
12:41:13 44 material for quite some time, but my understanding is the
12:41:15 45 principle of the sterile corridor was more about minimising
12:41:19 46 contact between the investigators and the source and having
12:41:22 47 that at arm's length, it was not necessarily so much about

12:41:26 1 knowing the identity of the source, that's my recollection.
2
12:41:31 3 The sterile corridor - the evidence is that the sterile
12:41:33 4 corridor was introduced to try and guard against
12:41:39 5 corruption?---Correct, because the examples that have been
12:41:42 6 referred to of corruption in particularly the Drug Squad
12:41:45 7 prior to my time at Victoria Police all involved
12:41:49 8 mishandling of human sources where those relationships had
12:41:53 9 become corrupt and information was going both ways and
12:41:56 10 there was also, you know, criminal conspiracies being
12:42:00 11 formed between handler and handled.
12
12:42:03 13 That's right. So if you've got a specialist unit managing
12:42:06 14 the source and you separate those people from the
12:42:09 15 investigators and you don't have the investigators having
12:42:12 16 contact with the source?---Yes.
17
12:42:13 18 But if the investigators are never told the identity of the
12:42:16 19 source, then also they can't get in contact with the source
12:42:19 20 and form a corrupt relationship?---Well, they shouldn't be
12:42:23 21 doing that anyway because that was one of the principles.
12:42:25 22 I just don't - I don't recall the sort of sense of "You
12:42:31 23 can't know who the source is" being part of the principle
12:42:35 24 of the sterile corridor, but again, I haven't looked at
12:42:37 25 this material for quite some time, so I do stand to be
12:42:42 26 corrected around that. It was more the separation, as
12:42:44 27 you've described, between source and investigator because
12:42:46 28 of the risks that that posed, or was seen to pose at the
12:42:48 29 time.
30
12:42:49 31 So do you think your belief at the time was that the
12:42:51 32 investigators who were getting the information from the SDU
12:42:55 33 knew that that information was coming from Ms Gobbo?---I
12:42:58 34 don't think I had a view about it because I don't think I
12:43:00 35 was that involved in that level of operational information.
12:43:05 36 What I'm going back to is the work I was involved in, which
12:43:09 37 was the review and the establishment of the SDU. My
12:43:13 38 recollection of the principle of the sterile corridor was
12:43:15 39 more that separation, not that the investigator couldn't
12:43:18 40 know the source of the information. I mean, as a former
12:43:22 41 investigator, I could think of all sorts of reasons why I'd
12:43:25 42 want to know the source of the information.
43
12:43:27 44 Yes, I'm sure that's right, but the - - -?---So I don't
12:43:30 45 know how it worked in practice, to be quite frank.
46
12:43:35 47 So at this time, September '05, we've got - so this is

12:43:41 1 September '05, when Ms Gobbo is registered?---Yep.
2
12:43:44 3 On the SDU side, we've got the SDU specialist unit managing
12:43:53 4 resources, it is a new unit, fairly new unit, with new
12:43:57 5 processes?---Yes.
6
12:44:00 7 Including the sterile corridor?---Yes.
8
12:44:02 9 And it is this new unit with new processes receiving a lot
12:44:06 10 of information from Ms Gobbo and the evidence is that, like
12:44:13 11 Purana, SDU had some resourcing problems?---I understand
12:44:18 12 that.
13
12:44:19 14 Do you remember that there wasn't a full-time Inspector
12:44:24 15 located at the SDU?---Look, I remember it now because it
12:44:28 16 was raised with me at IBAC. I'm not sure - I'm struggling
12:44:36 17 to recall now. I mean, I remember - I remember that as
12:44:42 18 part of the process of establishing the SDU, I gave up
12:44:45 19 resources from the Crime Department for it to be
12:44:47 20 established and I think there is some sensitivity about me
12:44:50 21 mentioning the number, but I did, I gave up a number of
12:44:54 22 highly experienced investigator positions to actually get
12:44:58 23 this thing up and running and it is a bit like the evidence
12:45:01 24 I was giving about the establishment of the Task Force. In
12:45:03 25 those days in Victoria Police, it was very difficult, there
12:45:06 26 was a contest for resources and it was very difficult to
12:45:10 27 get anything new established because the resources had to
12:45:12 28 come from somewhere. So my recollection is we did our best
12:45:17 29 to get it set up, but I accept, particularly with the
12:45:20 30 benefit of hindsight, it may not have been sufficient.
31
12:45:24 32 I take it you remember that the SDU was located in a secret
12:45:32 33 location, the office was located away from - - -?---Now
12:45:35 34 that - yes, it was, yes.
35
12:45:38 36 So the evidence is that, (a), there wasn't a full-time
12:45:42 37 Inspector overseeing the SDU at all?---Yes.
38
12:45:47 39 There was a part-time Inspector, who was moving between the
12:45:50 40 Undercover Unit and the SDU?---Yep.
41
12:45:53 42 So he is trying to look after both units?---Look, I accept
12:45:55 43 that, but I also accept at the time, you know, I did my
12:46:01 44 best to make sure this thing was established in the first
12:46:03 45 place because I thought it was needed and I actually
12:46:06 46 committed resources to it, which was a little unusual at
12:46:08 47 the time for someone in Victoria Police to give up,

12:46:11 1 particularly resources at the Sergeant and Senior Sergeant
12:46:14 2 level, so Detective Sergeants, Detective Senior Sergeants -
12:46:17 3 these are very experienced investigators - I gave up a
12:46:21 4 number of those positions from the Crime Department to get
12:46:23 5 this thing up and running.
6
12:46:24 7 And just to be clear, I'm not criticising you for the
12:46:26 8 under-resourcing?---No, I don't take it as criticism, but I
12:46:28 9 also accept - I think it is more reflective of the struggle
12:46:32 10 at the time to actually pull resources and to get anything
12:46:37 11 new established and working.
12
12:46:39 13 So if we put all of that together to assist the
12:46:43 14 Commissioner with a picture of the circumstances that
12:46:46 15 existed when Ms Gobbo was registered, what we've got is
12:46:51 16 this: we've got the SDU, a new unit, new processes, short
12:46:57 17 on resources, a unit managing high-risk sources, such as
12:47:02 18 Ms Gobbo, a source, Ms Gobbo, who is constantly in contact
12:47:06 19 with the SDU, providing information. Contrary to your
12:47:11 20 preference, we've got the SDU sitting outside of Crime
12:47:15 21 Command?---I have to accept I think I was wrong about that.
12:47:17 22 I think the arguments for having it separate from the crime
12:47:20 23 - I was persuaded by the arguments for having it separate
12:47:23 24 from the Crime Department, in the end.
25
12:47:24 26 So it sat outside the Crime Department - - -
12:47:24 27
12:47:24 28 COMMISSIONER: A number of propositions have been put. Are
12:47:26 29 you agreeing with all of those?---Yes, I think I am,
12:47:30 30 Commissioner.
31
12:47:32 32 MS ENBOM: I'm sorry.
33
12:47:36 34 We've got the SDU managing the sources, receiving the
12:47:41 35 information and then disseminating it to the Crime
12:47:43 36 Department, that's right?---Yes.
37
12:47:45 38 And is it correct - was it your understanding that the SDU
12:47:51 39 operated in a similar way to SPU, in that it received all
12:47:56 40 the information and then it disseminated the information
12:47:59 41 that officers within that unit thought - they thought could
12:48:04 42 and should be disseminated?---That, again, is my
12:48:07 43 recollection of one of the principles, that there needed to
12:48:09 44 be a filter around what information got passed through.
45
12:48:13 46 The evidence is that the SDU handlers and controller were
12:48:18 47 well aware of privilege and, like SPU, were conscious of

12:48:23 1 not disseminating that information?---Right.
2
12:48:25 3 So they'd be trying to identify it and not disseminate it
12:48:31 4 to the Crime Department?---That would be my expectation,
12:48:34 5 yeah.
6
12:48:34 7 And we've got the SDU, just to keep creating this picture
12:48:39 8 of the operation, we've got the SDU located away from the
12:48:45 9 Crime Department, or located away from St Kilda
12:48:48 10 Road?---Well, away from St Kilda Road, yes.
11
12:48:52 12 And because of the introduction of the new sterile
12:48:55 13 corridor, the investigators wouldn't know - weren't to be
12:49:04 14 told the identity of the source. You have given evidence
12:49:09 15 that that wasn't your understanding?---Well, if that
12:49:11 16 happened, that happened, but - yeah.
17
12:49:16 18 Yes. So the SDU is new, it is busy, it is under-resourced,
12:49:22 19 it is getting all this information, it is trying to get it
12:49:24 20 to the Crime Department quickly and then if we look at the
12:49:26 21 Crime Department side, we've got a busy Purana,
12:49:31 22 investigating serious crimes?---Yes.
23
12:49:34 24 There's six or seven crews, there's 100 people within the
12:49:38 25 Task Force?---Well, roughly, yes.
26
12:49:39 26
12:49:40 27 And Mr O'Brien has just been upgraded to an Acting
12:49:45 28 Inspector?---Yes.
29
12:49:45 30 And he could have done with more resources, do you agree
12:49:49 31 with that?---Well, as I said, I accept as a general
12:49:55 32 proposition we all could have done with more resources.
33
12:49:58 34 You accept that his job - he had a huge workload?---It was
12:50:01 35 a big job, I accept that, and it was a big responsibility,
12:50:05 36 yes.
12:50:05 37
12:50:05 38 And it seems that there was some lack of clarity about
12:50:08 39 Mr Purton's role?---That's not my recollection, but if
12:50:11 40 that's Mr O'Brien's recollection, that's his recollection.
41
12:50:14 42 It seems that you had a different belief or different
12:50:18 43 understanding of his role and who was reporting to him than
12:50:23 44 Mr O'Brien had?---Yes.
45
12:50:27 46 So they're the circumstances that existed at the time
12:50:31 47 Ms Gobbo is registered as a source?---(Witness nods.)

1

12:50:36 2 I think you'll see, looking at that picture, that if
12:50:40 3 Ms Gobbo was to be used as a source, there really needed to
12:50:45 4 be some formal systems in place to manage the risks that
12:50:51 5 her use - use which you described last year as a
12:51:00 6 "minefield" - carried. Do you remember that?---I do, and I
12:51:03 7 thought those systems were in place.

8

12:51:08 9 If we reflect on the circumstances and looking at where we
12:51:12 10 are now, and again I say I'm not criticising you for there
12:51:17 11 being a failure of systems and so on, but do you think
12:51:21 12 there needed to be a formal process and resources dedicated
12:51:26 13 solely to monitoring and managing the special issues that
12:51:33 14 arose in relation to Ms Gobbo within SDU and Crime
12:51:39 15 Command?---I think in light of what's happened, yes.

16

12:51:45 17 And if we put ourselves in, let's say, Jim O'Brien's shoes,
12:51:49 18 he's got a huge job, he's getting this information from the
12:51:54 19 SDU on a daily basis, he can't practically every day
12:52:00 20 second-guess whether he's entitled to get that information,
12:52:05 21 because he thinks that SDU operate like SPU, so he is
12:52:09 22 getting information he is allowed to have, so he can't
12:52:13 23 practically every day second-guess that, "Am I allowed to
12:52:17 24 have this information? I think it's come from Ms Gobbo.
12:52:22 25 Is there privileged information in there? Does the fraud
12:52:25 26 crime exception apply?" and then, for example, try and work
12:52:29 27 out who this information relates to, all the people that it
12:52:33 28 relates to, whether Ms Gobbo is acting for them at the
12:52:36 29 time, and then monitoring - and if she's not acting for
12:52:40 30 them at the time, monitoring whether or not she goes on to
12:52:44 31 act for them in the future?---(Witness nods.)

32

12:52:46 33 Do you agree that that would be placing too great a burden
12:52:49 34 on Mr O'Brien in the position that he had?---Well, I can
12:52:54 35 see the difficulties created by that situation, yes.

36

12:53:04 37 Do you see that that would be placing too great a burden on
12:53:08 38 really any investigator within Purana working 16-hour days,
12:53:11 39 to try and perform that role?---Look, again - I mean, I
12:53:22 40 understand the difficulty, I do understand the issue, I
12:53:25 41 don't want to be dismissive of it, but, you know, Purana
12:53:33 42 was incredibly busy for a long period of time, there were a
12:53:40 43 lot of balls in the air and things, by and large, as far as
12:53:45 44 I knew, appeared to be going - being managed well and being
12:53:49 45 managed appropriately, but I do understand the issue. They
12:53:52 46 are very big, very busy, very challenging, very complex
12:53:56 47 roles.

1

12:53:57 2 You have got someone like Dale Flynn, who is focused on
12:54:00 3 solving drug crimes. To expect him to get this
12:54:06 4 intelligence from Mr O'Brien, identify that it might have
12:54:16 5 come from Ms Gobbo, think about whether it might be
12:54:20 6 privileged, think about whether the fraud crime exception
12:54:23 7 might apply, think about who it relates to, think about who
12:54:27 8 she is acting for at the time, it's a difficult job, isn't
12:54:31 9 it, it would be a difficult job?---Look, it is a difficult
12:54:34 10 job, but I also say these were, you know, very experienced
12:54:39 11 investigators. You know, the nature of the work that they
12:54:44 12 did was challenging and complex and fast paced and had lots
12:54:50 13 of issues that needed to be thought through and resolved.
12:54:56 14 It's the nature of the work.

15

12:54:58 16 Can you see that, and we have covered this, but if there
12:55:07 17 was some type of system or process there to deal with those
12:55:11 18 issues, so a person who dealt with those types of issues -
12:55:16 19 - -?---Look, I think now you'd have to say we should have
12:55:18 20 done other things, I agree with that absolutely. That
12:55:21 21 seems to me to be inescapable.

22

12:55:24 23 Do you think also that if Ms Gobbo was to be used as a
12:55:29 24 source, that there really needed to be some formal guidance
12:55:32 25 and training given to investigators at the outset about
12:55:37 26 disclosure obligations and process?---Well, look, I think
12:55:45 27 there's an argument now for saying certainly that does need
12:55:49 28 to be done and covered, but my understanding at the time
12:55:51 29 was that those issues were well known to investigators. I
12:55:55 30 mean, these are issues that, as investigators, you deal
12:55:58 31 with all the time, particularly in the Crime Department,
12:56:01 32 where you're prosecuting serious crime. You know, a large
12:56:06 33 number of those matters are in the Supreme Court. You
12:56:09 34 know, you've got very, very able defence barristers
12:56:12 35 representing accused. You know, this, to my mind, was
12:56:16 36 bread and butter issues for investigators. They dealt with
12:56:20 37 it all the time.

38

12:56:21 39 Are you aware of the training that investigators got back
12:56:26 40 then about disclosure, if they got any?---No, I wasn't
12:56:31 41 aware of the Detective training in Victoria Police, but as
12:56:37 42 a practical issue, this is something I was aware that
12:56:42 43 investigators would deal with on a regular basis.

44

12:56:46 45 Of course, as in making disclosure?---Yes.

46

12:56:48 47 Your evidence last year was that you assumed that all

12:56:51 1 relevant matters would be disclosed to the
12:56:53 2 prosecution?---Yes
12:56:54 3
12:56:54 4 And then decisions made about disclosure to defence?---Yes.
5
12:56:58 6 It seems, from the evidence given in the Commission, that
12:57:00 7 investigators had a different understanding to that, in
12:57:04 8 that they understood that the golden rule - there was this
12:57:12 9 golden rule that you never identify a human source and
12:57:16 10 you've got to always protect the identity of that source
12:57:19 11 because if they're disclosed, there might be serious
12:57:21 12 consequences. So they wouldn't just tell a prosecutor that
12:57:36 13 there's a source involved and it's this person, because
12:57:39 14 that would be to expose the source, it's a safety
12:57:43 15 risk?---That wasn't my experience when I was a Detective.
12:57:48 16 You would disclose those things to a prosecutor because the
12:57:51 17 prosecutor would need to know that so that they didn't
12:57:54 18 unwittingly reveal a source, or how could they make
12:57:58 19 sensible decisions around public interest immunity claims,
12:58:02 20 around appropriate disclosure if they didn't actually have
12:58:05 21 all that information?
22
12:58:07 23 But it is the Chief Commissioner who makes the PII claim,
12:58:10 24 not the prosecutor?---I get that, but in a practical sense,
12:58:16 25 the Detectives are involved in that process with the
12:58:18 26 prosecutors, so my experience was that that information was
12:58:23 27 disclosed. I assumed that would be the case in Victoria
12:58:30 28 Police. I also think that whilst I understand the
12:58:36 29 importance of protecting the identity of a source and this,
12:58:40 30 I think, might be based on some of what I have learnt in
12:58:47 31 the time I'm here, I think might be a difference in view,
12:58:52 32 in that when someone becomes a source, then necessarily,
12:58:55 33 even though you want to keep that information secure, there
12:58:58 34 are some people who need to know that, it can't just happen
12:59:00 35 in a vacuum. So, for instance, you know, if the OPI was
12:59:07 36 running coercive hearings and they needed to call someone,
12:59:11 37 they needed to call someone, whether they were a source or
12:59:14 38 not. In a prosecution, my view is the prosecutor needed to
12:59:18 39 know that information and I would have - well, my
12:59:19 40 understanding was that it would have been provided. Now,
12:59:21 41 that appears not to be the case.
42
12:59:23 43 Your evidence was that you assumed that that's what
12:59:27 44 happened?---Yes, I did.
45
12:59:28 46 So it seems that, again, this is a situation where there
12:59:31 47 are different understandings of obligations and process,

12:59:34 1 and so do you see that there needed to be some guidance and
12:59:37 2 training from the outset to make sure that everyone was on
12:59:40 3 the same page and the right page?---I accept now that it is
12:59:45 4 important to make sure that everyone is absolutely on that
12:59:48 5 page, and that appears not to have been the case.
6
12:59:51 7 Yes. And had there been some training/guidance around
12:59:55 8 disclosure from the outset, then issues such as this one,
13:00:04 9 which I'll go through in a moment, would have been
13:00:08 10 resolved. So where there is a prosecution and the use of
13:00:11 11 Ms Gobbo as a source was a matter that ought to be
13:00:15 12 disclosed, what happens? Does Victoria Police tell the
13:00:19 13 prosecutor, which is, I think, your understanding of
13:00:22 14 it?---(Witness nods.)
15
13:00:23 16 Tell the prosecutor and there are then some discussions and
13:00:26 17 Victoria Police might make a PII claim?---Yep.
18
13:00:30 19 Or does Victoria Police engage VGS0, who then make the PII
13:00:38 20 claim, the PII claim is argued in a closed hearing, in the
13:00:42 21 absence of the prosecutors? Those types of issues needed
13:00:48 22 to be, and should have been, resolved from the
13:00:50 23 outset?---They should have been because - it's more
13:00:53 24 complex, too, because undoubtedly there would be
13:00:56 25 information reports called for and produced. In a
13:01:02 26 prosecution, it is not unusual - in fact, it is almost
13:01:05 27 standard that the defence will call for all of those things
13:01:08 28 and they're provided. If there's information in those
13:01:12 29 information reports that's come from a confidential source,
13:01:16 30 the prosecution needs to know that, because you actually
13:01:19 31 might want to make a PII claim around that and around a
13:01:24 32 whole series of things, in order to protect the identity of
13:01:28 33 the source because, as I say, sources are often identified
13:01:32 34 because of patterns of information that's provided and when
13:01:36 35 it's disclosed to the defence, the accused gets to see it
13:01:38 36 and they kind of go, "There's only one person who knew all
13:01:41 37 of that information, therefore it must be X."
38
13:01:44 39 Yes?---So that's why I don't see how you can - how the
13:01:48 40 prosecutor can do the job and how you can actually protect
13:01:51 41 the source properly if you don't actually make that
13:01:54 42 disclosure.
43
13:01:55 44 Yes. So you can see that that's an example of an issue
13:01:57 45 that needed to be ironed out at the beginning, probably
13:02:01 46 with some legal advice?---Yep.
47

13:02:03 1 "What do we do with IRs", or information reports, "do we
13:02:06 2 give them to the prosecutor and then we make our PII claim
13:02:09 3 or do we go straight to VGSO and do it that way"?---Look,
13:02:15 4 my view is if you're prosecuting things, you've got to give
13:02:16 5 it to the prosecutor and you then make your PII claim from
13:02:19 6 there, but that's just my view.
7
13:02:21 8 So if we had of ironed out those types of issues, because
13:02:26 9 it does seem that there were different
13:02:28 10 understandings?---Yep.
11
13:02:29 12 Then that would have helped to avoid investigators making
13:02:31 13 mistakes?---Yes.
14
13:02:35 15 And do you think there would have been benefit in having a
13:02:40 16 regular meeting between senior people within SDU, senior
13:02:47 17 people within Crime Command where the sole purpose of the
13:02:51 18 meeting, the sole purpose, was to discuss any issues or
13:02:55 19 concerns that might have arisen over the course of the week
13:02:58 20 in relation to Ms Gobbo, that is her use as a source?---I
13:03:08 21 think now - I think this is one of the real conundrums
13:03:14 22 around trying to protect a source and trying to keep the
13:03:17 23 identity of the source as secret as possible around the
13:03:21 24 sort of proposition that you're putting, which is the
13:03:24 25 treatment of these things is sunlight, so actually being
13:03:28 26 open and exposing these things and dealing with them in a
13:03:29 27 constructive way. Look, I don't pretend to have the answer
13:03:32 28 to that, but I think that's one of the issues that the
13:03:35 29 Royal Commission needs to try and grapple with, how you
13:03:38 30 actually balance those two things but achieve to the best
13:03:42 31 extent you can, that, you know, in future, these issues are
13:03:46 32 appropriately managed.
33
13:03:48 34 I assume you wouldn't disagree that a regular meeting where
13:03:52 35 your sole purpose is to talk about issues that have arisen
13:03:55 36 in relation to her - - -?---That's a way of doing it. I
13:03:59 37 think there's potentially other ways you could do that as
13:04:02 38 well.
39
13:04:06 40 You'll remember counsel assisting took you through events
13:04:10 41 involving - - -
42
13:04:13 43 COMMISSIONER: Just before we move on, potential other ways
13:04:14 44 of doing it, could you expand on that?---Again,
13:04:19 45 Commissioner, I think if you are going to recruit high-risk
13:04:22 46 sources, then it does lend itself to having a specialist
13:04:26 47 unit managing them. I have thought about this a bit. I

13:04:29 1 think there should be some legal support embedded in such a
13:04:32 2 unit, so that you've got people with legal qualifications
13:04:35 3 who are there and on the spot and able to give advice as
13:04:38 4 required, but I think you - even within the SDU, they
13:04:44 5 talked about intrusive supervision, so this notion that,
13:04:47 6 you know, handlers just couldn't go off and have cosy
13:04:50 7 relationships with the source. I think there needs to be
13:04:53 8 some almost independent audit - you know, really intensive
13:04:58 9 audit capacity of such a unit so that people can come in at
13:05:00 10 any time, any place and ask questions and have a look
13:05:03 11 around. Trying to keep them arm's length is always the
13:05:06 12 difficulty because, you know, this sort of regulatory
13:05:10 13 capture happens, but I think that notion of some
13:05:13 14 independent active oversight of the unit itself might be a
13:05:17 15 solution as well, but I guess they're all matters for you
13:05:22 16 to grapple with.

17

13:05:23 18 Yes. Thanks.

19

13:05:25 20 MS ENBOM: You'll remember counsel assisting took you
13:05:27 21 through the events in relation to [REDACTED] I'm not
13:05:32 22 going to use pseudonyms?---Yes.

23

13:05:36 24 I'm going to avoid that so I don't get in trouble. We know
13:05:41 25 that Ms Gobbo provided information to the SDU about the
13:05:45 26 location of [REDACTED] and a person was then
13:05:48 27 arrested?---(Witness nods.)

28

13:05:50 29 And the investigators told that person, when he was
13:05:55 30 arrested, as they were required to by law, that the person
13:05:59 31 had a right to contact their lawyer?---Yep.

32

13:06:04 33 And the person asked for Ms Gobbo. The investigators,
13:06:09 34 their evidence is that they believed that that was his
13:06:12 35 legal right, so they, in accordance with the law, said,
13:06:18 36 "You have a right to contact whichever lawyer you'd like."
13:06:21 37 He picks Ms Gobbo and they believe that that is his legal
13:06:26 38 right and that's how they've been trained. Their training
13:06:32 39 was, "You've got to tell a person who's been arrested that
13:06:35 40 that is their right and then you've got to comply with
13:06:39 41 their request." So that's what they did and Ms Gobbo
13:06:45 42 didn't refuse the instructions from the person who'd been
13:06:49 43 arrested and she then attended upon the person?---Yeah.

44

13:06:57 45 Your reaction to that situation, as someone with a law
13:07:00 46 degree, might be different to a police officer who's joined
13:07:05 47 the force straight from school, straight out of school and

13:07:08 1 spent their entire working life investigating crime?---Yep.
2
13:07:14 3 And focusing on those types of issues; when you arrest
13:07:20 4 someone, you tell them they can have a lawyer, you contact
13:07:22 5 that lawyer and so on. But do you see that if there was a
13:07:27 6 - for example, there's lots of ways to do it, but, for
13:07:30 7 example, if there was a standing weekly meeting of the kind
13:07:32 8 I described earlier, that that type of matter would have
13:07:36 9 undoubtedly arisen?---M'mm.
10
13:07:39 11 And that would have - so if the matter had arisen at that
13:07:48 12 standing meeting, then handlers and investigators who were
13:07:55 13 across that issue would get the assistance and guidance
13:08:00 14 that they needed?---Yep. I understand that.
15
13:08:12 16 Just on that topic, Mr Nathwani asked you earlier whether
13:08:21 17 Mr O'Brien had told you about - told you that Ms Gobbo had
13:08:28 18 told the SDU some tactics to use upon that person's arrest.
13:08:35 19 Do you remember that?---Yeah, I do.
20
13:08:36 21 And he asked you whether Jim had told you that and you said
13:08:39 22 you had no recollection of it?---Yes.
23
13:08:42 24 Mr O'Brien's evidence was that whilst Ms Gobbo spoke to the
13:08:49 25 SDU about some tactics, he had absolutely no interest in
13:08:53 26 Ms Gobbo's tactics in relation to that person because he
13:08:56 27 had his own tactics, he had his own way of showing that
13:09:02 28 person that it was in his interests to cooperate with
13:09:05 29 police. So could that be an explanation for why there was
13:09:09 30 no discussion between you and Jim about Ms Gobbo having
13:09:12 31 provided her tactics to the SDU?---Yes.
32
13:09:25 33 And this is a matter that the Commissioner asked you about
13:09:28 34 a moment ago, but last year you gave evidence that you wish
13:09:32 35 you had done more to support the Human Source Unit and the
13:09:39 36 investigators and yesterday you said that appropriate
13:09:42 37 measures should have been in place?---(Witness nods.)
38
13:09:47 39 Are there others that you have in mind, other than those
13:09:50 40 that I've been through and you gave evidence about earlier
13:09:53 41 in response to the Commissioner's question, that you've
13:09:57 42 thought about?---No, it's really - I mean, I think - it's
13:10:09 43 always tempting to say more training will help. I know
13:10:12 44 that when I was with Victoria Police, training comes up all
13:10:16 45 the time and the range of activities that police are
13:10:19 46 supposed to be involved in, you almost can't train them
13:10:23 47 enough and of course there is also a time commitment, so

13:10:25 1 the more you train, the less available they are, and I
13:10:29 2 remember doing work around police numbers. I mean as it
13:10:31 3 was when I was there, you know, a police officer was
13:10:34 4 unavailable almost half the year by the time you took out
13:10:37 5 leave and by the time you took out training, by the time
13:10:40 6 you took out court and everything else, so there's a
13:10:42 7 balance to be struck there. That said, though, I think for
13:10:48 8 investigators, being really clear around the legal
13:10:51 9 responsibilities around disclosure and what that means is
13:10:55 10 important, so there is a training component there as well,
13:10:58 11 but I think you've, you know, got to embed specialist
13:11:02 12 advice if you are, and I've said in my first statement, and
13:11:06 13 I think this is right, because, of course, you know whilst
13:11:08 14 all the focus is on what's gone wrong here, and
13:11:11 15 understandably so, my view is the reality is you will need
13:11:15 16 to continue to use human sources if you want to actually
13:11:18 17 deal with high end crime because you just won't catch
13:11:23 18 people otherwise and there is a public benefit in doing
13:11:26 19 that because these people do enormous harm to individuals
13:11:28 20 and to the community, but if you're going to do it,
13:11:31 21 obviously it's got to be properly resourced, it's got to
13:11:35 22 have the right skills and experience and expertise
13:11:38 23 available to it, it's got to have the right supervision and
13:11:41 24 it's got to have the right oversight and it's got to be
13:11:42 25 rigorous and independent. I think they're the general
13:11:45 26 principle that I've come up with. Training alone is not
13:11:48 27 going to solve this problem. People lose their way. I do
13:11:52 28 accept investigators are very busy and sometimes with the
13:11:55 29 best intent in the world, they lose their way, not
13:11:58 30 deliberately, but they lose their way.
31
13:12:01 32 You mean they make mistakes?---They make mistakes. We all
13:12:06 33 do.
34
13:12:06 35 They're making difficult - - - ?---Yep.
36
13:12:08 37 And they've got a hard job and sometimes they make the
13:12:11 38 wrong call?---And also sometimes the decisions you make are
13:12:14 39 really finely balanced. I mean, I found working in that
13:12:18 40 area one of the most ethically challenging areas to work
13:12:22 41 in, because you, you know, sometimes make decisions that
13:12:33 42 are life and death.
43
13:12:34 44 COMMISSIONER: That area - by saying "that area", do you
13:12:37 45 mean managing high risk human sources?---I mean more the
13:12:41 46 investigation of high risk crime, serious crime.
47

13:12:45 1 MS ENBOM: That's the first topic, Commissioner, and it's
13:12:48 2 12 minutes past 1.
3
13:12:51 4 COMMISSIONER: Yes. How much longer will you be, just so
13:12:55 5 we can make some plans for the next witness?
6
13:12:58 7 MS ENBOM: I estimate 30 minutes.
8
13:13:02 9 COMMISSIONER: Mr Coleman?
10
13:13:04 11 MR COLEMAN: I think I'll be 15 to 20 minutes at the most.
12
13:13:08 13 COMMISSIONER: Okay. And the only other cross-examination
13:13:11 14 then is Mr Chettle. You'll be some time?
13:13:17 15
13:13:17 16 MR CHETTLE: I will be some time.
17
13:13:18 18 COMMISSIONER: And it will be the end of the day again,
19 Mr Chettle.
20
13:13:20 21 MR CHETTLE: And I'll still be going at the end of today.
22
13:13:25 23 COMMISSIONER: So you won't finish today you would say?
24
13:13:26 25 MR CHETTLE: No.
26
13:13:26 27 COMMISSIONER: All right then. Then we won't be needing
13:13:27 28 the next witness today at this stage. On stand-by for 9.30
13:13:32 29 and we'll review it at the end of the day.
30
13:13:32 31 MS ENBOM: Yes, we'll make those arrangements.
32
13:13:34 33 COMMISSIONER: All right then, we'll adjourn until
13:13:35 34 2 o'clock, thanks.
35
36 <(THE WITNESS WITHDREW)
37
38 LUNCHEON ADJOURNMENT
39
40
41
42
43
44
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46
47

13:59:26 1 UPON RESUMING AT 2.03 PM:
14:01:48 2
14:01:49 3 <SIMON JAMES OVERLAND, recalled:
14:03:29 4
14:03:29 5 COMMISSIONER: Yes, Ms Enbom.
14:03:30 6
14:03:31 7 MS ENBOM: Thank you, Commissioner.
8
14:03:33 9 Mr Overland, before I move to the second topic, I think I
14:03:37 10 detected shortly before lunch that you perhaps were a bit
14:03:43 11 emotional. Was there something that you wanted to expand
14:03:47 12 on?---No, I think I made the point I wanted to make, which
14:03:53 13 is that was a very challenging time in Victoria Police for
14:04:01 14 everyone. So I accept what you've said to me about the
14:04:06 15 stressors that the investigators were under, but I think we
14:04:09 16 were all under enormous stress at that time and all trying
14:04:13 17 to do our best. It was a very difficult period of time.
14:04:17 18
14:04:21 19 Are you able to expand on some of those
14:04:28 20 difficulties?---Well, yes. I mean, I think, as I said, my
14:04:32 21 experience of the investigation of serious crime is that it
14:04:37 22 is challenging and I set some of this out, I think, in my
14:04:42 23 statement. I mean, when [REDACTED] was
14:04:49 24 murdered - - -
14:04:49 25
14:04:49 26 I should say you can use that word in isolation - those
14:04:52 27 words in isolation?---[REDACTED] ah. I'm just trying to - - -
14:04:55 28
14:04:56 29 I saw your reaction as they came out of your mouth?---You
14:04:59 30 know, we had those people under surveillance and we had -
14:05:04 31 we could have pulled [REDACTED] in - [REDACTED]
14:05:09 32 in earlier, because he was actually committing other
14:05:13 33 crimes, that we were watching.
14:05:29 34
14:05:29 35 Just take your time?---Yes, I'm sorry.
14:05:33 36
14:05:34 37 COMMISSIONER: If you want to have an adjournment?---No,
14:05:36 38 I'm right, thanks. And we made a decision not to because
14:05:40 39 we figured that charges of those nature wouldn't be serious
14:05:44 40 enough to put enough pressure on him to roll and so we
14:05:48 41 didn't do that and in the end, someone died.
14:06:03 42
14:06:05 43 MS ENBOM: And that's obviously something that's stuck with
14:06:07 44 you?---It has, h'mm.
14:06:11 45
14:06:11 46 Are there any other matters that you wish to expand
14:06:26 47 on?---Well, I think the nature of the work that you do is

14:06:32 1 you deal with death and destruction, and I want to be
14:06:35 2 cautious about saying this because I don't want to suggest
14:06:38 3 in any way that this is some sort of sophisticated ends
14:06:42 4 justifying the means, because it's not. I've tried at
14:06:44 5 every stage of my career to not only act lawfully but to
14:06:50 6 act ethically, but there are, you know, very real - really
14:06:56 7 difficult decisions that you have to make, particularly
14:06:59 8 when you get into more senior positions, you don't deal
14:07:04 9 with the easy issues, you just deal with the hard issues,
14:07:07 10 and you deal with the problems and you deal with the things
14:07:11 11 that get elevated to you because they're the things that
14:07:14 12 need to be dealt with at that level and it's difficult
14:07:19 13 because often there is no clear right or wrong answer, it's
14:07:22 14 not quite as neat and as simple as it might appear in the
14:07:26 15 movies. These are very challenging, difficult decisions
14:07:31 16 that have to be made and sometimes you get them wrong and
14:07:33 17 sometimes you get them right and sometimes you don't really
14:07:37 18 know whether you've got them wrong or you've got them
14:07:39 19 right. One of the problems is you never know the
14:07:42 20 alternative course. So, you know, we might not have
14:07:45 21 recruited Ms Gobbo, she might have gone on to live a long
14:07:50 22 and happy life or she might have been killed the next day.
14:07:56 23 I mean, you don't know. So I think you try and make the
14:07:58 24 best decisions you can at the time, and I understand the
14:08:00 25 need to be accountable and to justify what you've done, so
14:08:04 26 I don't resile from any of that, but this is difficult and
14:08:07 27 complex work. It is important work, though, because at the
14:08:10 28 end of the day, it's about protecting the community.
14:08:12 29
14:08:13 30 Yes. Thank you. Just moving to a boring topic, we should
14:08:20 31 remove the name "[REDACTED]" from the transcript
14:08:24 32 because it was used in connection with [REDACTED]?---Yeah.
14:08:28 33
14:08:28 34 COMMISSIONER: All right then. Remove from the transcript
14:08:32 35 where that name has just been mentioned by Ms Enbom and
14:08:37 36 also - - -
14:08:40 37
14:08:40 38 MS ENBOM: It looks like it's at line 11, p.12144.
14:08:47 39
14:08:47 40 COMMISSIONER: Yes, line 11, p.12144.
14:08:51 41
14:08:52 42 MS ENBOM: And what I just said has also been removed,
14:08:56 43 hasn't it, Commissioner? I thought I heard that direction.
14:08:57 44
14:08:57 45 COMMISSIONER: Yes, I did, just the name.
14:09:00 46
14:09:01 47 MS ENBOM: Thank you.

14:09:01 1
14:09:02 2 COMMISSIONER: Just the name.
14:09:03 3
14:09:03 4 MS ENBOM: Mr Overland, the next topic I want to ask you
14:09:06 5 about is your diary. You gave evidence yesterday that the
14:09:11 6 notes in your diary were probably not made
14:09:15 7 contemporaneously - I think that was your evidence - but,
14:09:19 8 rather, you'd make the notes at the end of the day, when
14:09:23 9 you had a moment?---I think I did a bit of both but, again,
14:09:27 10 I think almost invariably you were trying to back capture
14:09:31 11 what you'd done because of the pace of the role that I was
14:09:34 12 - or the roles that I was in.
14:09:35 13
14:09:35 14 There would be some days that were perhaps a little bit
14:09:39 15 quieter and so you were then able to fill out your diary as
14:09:43 16 you attended to matters?---Yes.
14:09:45 17
14:09:47 18 I want to go to your diaries and just work through some of
14:09:52 19 the entries to try and clarify the way in which you
14:09:55 20 recorded events, so I'll grab my copy. If we can perhaps
14:10:08 21 bring up the electronic copy on the screens. Mr Operator,
14:10:45 22 do you need a VPL for that? Sorry. VPL.0005.0264.0265.
14:10:58 23 That should be p.210. 6 October 2005. Excuse me,
14:12:20 24 Commissioner. Sorry, Commissioner, we're just looking for
14:12:33 25 an unredacted copy. Commissioner, we don't have an
14:13:26 26 unredacted copy in the system, so may I be permitted to
14:13:33 27 give Mr Overland his original diaries?
14:13:35 28
14:13:35 29 COMMISSIONER: Of course.
14:13:36 30
14:13:36 31 MS ENBOM: It will make it a little bit difficult for
14:13:38 32 everyone to follow, although I could hand up - to ensure
14:13:42 33 that you, Commissioner, can follow it, I can hand up to you
14:13:45 34 a hard copy, I've got a hard copy of the diaries.
14:13:48 35
14:13:48 36 COMMISSIONER: Obviously we need a copy of the diaries that
14:13:51 37 actually does have what it should have in it. So is that
14:13:54 38 to be provided to the Commission so it can be given
14:13:57 39 electronically?
14:13:59 40
14:13:59 41 MS ENBOM: A copy has been uploaded, as I understand it,
14:14:02 42 into the system, redacted for relevance. The entries I
14:14:05 43 want to go to are not directly relevant - were not relevant
14:14:07 44 to the Terms of Reference. What I want to go to is
14:14:11 45 matters - what I want to explore is how entries were put
14:14:16 46 into the diary.
14:14:18 47

14:14:19 1 COMMISSIONER: If they're not relevant to the Terms of
14:14:22 2 Reference, why are we going to them?
14:14:24 3
14:14:24 4 MS ENBOM: The subject matter is not relevant to the Terms
14:14:27 5 of Reference, but the way in which he filled out his diary
14:14:30 6 - perhaps I need to demonstrate - - -
14:14:32 7
14:14:32 8 COMMISSIONER: Then it is relevant to the Terms of
14:14:34 9 Reference and it should be before the Commission.
14:14:36 10
14:14:36 11 MR WINNEKE: Commissioner, I've got the diary here. It's
14:14:37 12 one of the reasons why I've been asking repeatedly for
14:14:42 13 diaries.
14:14:43 14
14:14:43 15 COMMISSIONER: Exactly.
14:14:44 16
14:14:44 17 MR WINNEKE: We've got them here, we're allowed to read
14:14:46 18 them, but in any event, there's the diary.
14:14:47 19
14:14:47 20 COMMISSIONER: At some point, and very soon, what we need,
14:14:50 21 Ms Enbom, is a proper working version of the diaries, that
14:14:54 22 has everything that is relevant to this witness' evidence,
14:15:03 23 including what you're asking questions on.
14:15:05 24
14:15:06 25 MS ENBOM: Yes.
14:15:06 26
14:15:06 27 COMMISSIONER: So that will need to be done in the next few
14:15:09 28 days.
14:15:09 29
14:15:09 30 MS ENBOM: Yes, Commissioner.
14:15:10 31
14:15:11 32 MR WINNEKE: For example, Commissioner, where people are at
14:15:14 33 a particular time and a particular day may well be
14:15:16 34 relevant. Mr Overland has pointed out when he looks at his
14:15:19 35 diaries, he's not here at a particular time. If we get
14:15:23 36 diaries which are redacted, we don't know.
14:15:25 37
14:15:25 38 COMMISSIONER: You can't work it out, so you need the
14:15:28 39 dates, for example.
14:15:28 40
14:15:29 41 MR WINNEKE: That's why I've asked for shaded diaries
14:15:31 42 repeatedly, we don't get them, and we might just have to
14:15:35 43 insist on it.
14:15:36 44
14:15:36 45 COMMISSIONER: Well, I am insisting on it. All right,
14:15:40 46 well - - -
14:15:41 47

14:15:41 1 MS ENBOM: Can I be heard on that issue at perhaps the end
14:15:44 2 of the day?
14:15:46 3
14:15:46 4 COMMISSIONER: You and Mr Winneke, if you can't sort it out
14:15:49 5 between yourselves, then I'll make whatever orders need to
14:15:54 6 be made.
14:15:54 7
14:15:54 8 MS ENBOM: Yes. Thank you, Commissioner.
9
14:15:56 10 Mr Overland, you've got your original diaries?---I have an
14:15:59 11 original diary in front of me now, yes.
14:16:02 12
14:16:10 13 Am I able to hand up, Commissioner, a hard copy? It does
14:16:14 14 have some highlighting in it, but I don't think the
14:16:18 15 highlighted parts are the parts I'm going to.
14:16:21 16
14:16:22 17 COMMISSIONER: So who are you handing it up to?
14:16:25 18
14:16:25 19 MS ENBOM: To you, Commissioner, so you can follow
14:16:27 20 cross-examination.
14:16:28 21
14:16:29 22 COMMISSIONER: Sure. What about everyone else? Have they
14:16:31 23 got copies?
14:16:32 24
14:16:32 25 MS ENBOM: No, I'm sorry. I'll do my best to read out the
14:16:36 26 entries.
14:16:37 27
14:16:37 28 COMMISSIONER: I think you better.
14:16:38 29
14:16:38 30 MS ENBOM: But I think you would be assisted.
14:16:42 31
14:16:42 32 COMMISSIONER: I appreciate that that will make it easier
14:16:45 33 for me, but it won't make it easier for others, and it
14:16:47 34 really illustrates the difficulty with not having a
14:16:50 35 document on the computer that can be properly accessed by
14:16:52 36 everyone as needed. So I would expect that to be sorted
14:16:57 37 out in the next little while.
14:16:59 38
14:17:00 39 MS ENBOM: Yes.
14:17:00 40
14:17:00 41 COMMISSIONER: I'll do that at the end of the day.
14:17:07 42
14:17:08 43 MS ENBOM: Mr Overland, if you could find the entry for 6
14:17:10 44 October 2005, which is on my p.210?---I have 6 October,
14:17:20 45 yes.
14:17:20 46
14:17:24 47 I'll read it out for the benefit of everyone here. What

14:17:30 1 this is recording is that on that day you commenced duty at
14:17:34 2 8.30 in the morning?---Sorry, at?
3
14:17:37 4 At 8.30 in the morning?---On the 6th, I've got myself
14:17:40 5 commencing at 8.45 in the morning.
14:17:42 6
14:17:42 7 Do you see on the first line, next to the date, "Commenced
14:17:45 8 duty 8.30"?---Sorry, I did. My apologies. I was looking
14:17:50 9 at the wrong line. Yes.
14:17:50 10
14:17:51 11 And then what you do is at 8.45 you make an entry in your
14:17:55 12 diary, "CCP", so that's Chief Commissioner of
14:18:00 13 Police?---Yes.
14:18:00 14
14:18:01 15 "with" and then someone else, "re child abuse" and so
14:18:04 16 on?---Yes.
14:18:06 17
14:18:06 18 And then there's an event at 9.30 in the morning?---Yes.
14:18:09 19
14:18:10 20 That looks like some type of meeting?---Yes, it is.
14:18:12 21
14:18:13 22 And then at 1 o'clock, that's another meeting?---Yes, it
14:18:16 23 is.
14:18:16 24
14:18:17 25 And then at 3.30, Dianne Preston?---Yes.
14:18:23 26
14:18:24 27 COMMISSIONER: 3.35 I think it is?---3.35, yes.
14:18:28 28
14:18:29 29 MS ENBOM: Thank you, Commissioner.
30
14:18:30 31 If you just read that entry. Is that a record of a
14:18:33 32 conversation with Dianne Preston?---Well, it's a summary, I
14:18:38 33 think, of an action. There's some - I did look over the
14:18:44 34 page. I've seen these other entries before. So there was
14:18:47 35 some work that Dianne Preston was doing and I think it's
14:18:52 36 just an update around the information going to the Chief
14:18:55 37 Commissioner.
14:18:55 38
14:18:55 39 So the reference there "Dianne Preston.", that is telling
14:18:59 40 us that you've had a conversation with her?---Yeah, a
14:19:00 41 conversation with her and that there's certain information
14:19:02 42 going to be sent through to the Chief Commissioner on the
14:19:04 43 following day.
14:19:05 44
14:19:05 45 Right. If we move down the page to 4.10 I think it
14:19:09 46 is?---Yes.
14:19:10 47

14:19:10 1 It looks like 7.10 but I think that's - is that 4.10?---No,
14:19:13 2 it's my writing. 4.10.
14:19:15 3
14:19:16 4 You'll see "Toni Campbell."?---Yep.
5
14:19:20 6 "Sean" - - -?---Sean Gallagher.
14:19:24 7
14:19:25 8 - - -"Gallagher.", "Paul Stewart.", "Ivan McKinney." and
14:19:27 9 then "ceased duty at 5.10"?---Yes.
14:19:30 10
14:19:30 11 So is that a record of a number of events that have
14:19:34 12 occurred between 4.10 and 5.10?---No, I read that as - Toni
14:19:42 13 Campbell, I think, was the business manager in the Crime
14:19:45 14 Department at that time, so I think they're the issues I
14:19:48 15 discussed with her, just a summary of the issues. The "Reg
14:19:52 16 21", I think, were transfers. So they're staffing issues,
14:19:56 17 basically.
14:19:57 18
14:19:57 19 So you've spoken to Toni Campbell about staffing
14:20:01 20 issues?---I've spoken to Toni Campbell about staffing
14:20:04 21 issues, I think, that's what - - -
14:20:04 22
14:20:04 23 In relation to those people?---In relation to those people.
14:20:07 24
14:20:16 25 Right. Let's look at the entry on p.216, 23 November 2005.
14:20:33 26 Do you have that one?---Sorry, which date was that?
14:20:36 27
14:20:36 28 23 November 2005, p.216?---Yes.
14:20:42 29
14:20:43 30 So you commence duty at 9 am?---Yes.
14:20:45 31
14:20:45 32 Then at 9.30, Toni Campbell?---Yes.
14:20:47 33
14:20:47 34 And do you think - see below you have "- review of"?---Yes.
14:20:51 35
14:20:52 36 And "- Ivan"?---Yes.
37
14:20:53 38 So is that a record of having a conversation with Toni
14:20:56 39 Campbell about those matters below?---I think so, yes.
14:20:58 40
14:21:00 41 If you turn the page to 217?---Yes.
14:21:03 42
14:21:07 43 So you've had your meeting with Toni at 9.30, and then at
14:21:11 44 11, do you see there's then a number of entries for the
14:21:17 45 block of time from 11.00 through to 3 pm?---Yes.
14:21:22 46
14:21:26 47 If we go through those. You've got "John Whitmore" and

14:21:33 1 then I think you've got the Armed Offenders Squad?---I
14:21:37 2 think that's what that stands for, yes.
14:21:39 3
14:21:39 4 So does that mean you've had a conversation with John and
14:21:42 5 then you've dealt with ADS matters?---No, I think I must
14:21:46 6 have been talking to him about Armed Offenders Squad
14:21:50 7 matters. That's again how I read that, I think.
14:21:52 8
14:21:52 9 Then if you move down the page, there's "Greg"?---Yes, and
14:21:55 10 again, I think I was probably still having a conversation
14:21:58 11 with John Whitmore at that time - - -
12
14:22:02 13 About Greg?--- - - - About Greg.
14:22:02 14
14:22:03 15 And then moving down to "Brad" - I'm just going to use
14:22:07 16 first names in case I shouldn't be using the full
14:22:10 17 name?---Again, I think that's - the way I read that, it's
14:22:13 18 part of the conversation I've had with John Whitmore.
14:22:16 19
14:22:16 20 So you think that's a four hour - - -?---No, it wouldn't
14:22:19 21 have been four hours. I've had a meeting with him at
14:22:23 22 11 o'clock. I don't know what I was doing between whenever
14:22:26 23 that finished at 3.00, but the next thing I've made a note
14:22:30 24 of is at 3 o'clock.
14:22:31 25
14:22:31 26 So you think that might have been a shorter meeting
14:22:34 27 then?---It wouldn't have been a four hour - I can't
14:22:36 28 conceive it was a four-hour meeting.
14:22:37 29
14:22:40 30 And then if we move over to p.222. Do you see on that page
14:22:52 31 at 2 o'clock, there's reference to a Purana update?---Yes.
14:22:58 32
14:23:00 33 Is that recording that at 2 o'clock you were briefed about
14:23:04 34 Purana matters by the people identified there?---Yes.
14:23:06 35
14:23:06 36 And then moving down - you'll see then there's a blank line
14:23:10 37 and a reference to "Finn"?---Yes.
14:23:15 38
14:23:15 39 Just reading that entry, do you think that's a reference to
14:23:19 40 Finn McCrae?---No.
14:23:20 41
14:23:20 42 No?---No, definitely not.
14:23:23 43
14:23:24 44 Is that a different event to the Purana update?---No, I
14:23:27 45 think it's the same event.
14:23:29 46
14:23:31 47 And is that apparent from the content below "Finn", where

14:23:38 1 there's a reference to a person who you've been asked lots
14:23:42 2 of questions about?---Yes, there is, there is a reference
14:23:45 3 to a person who we've talked about and other people that
14:23:47 4 we've talked about and then the next time is 2.30. So I
14:23:52 5 think between 2.00 and 2.30, they're the notes I kept of
14:23:56 6 that Purana update.
14:23:58 7
14:23:58 8 Yes. And then at 2.30 there's John Whitmore, a reference
14:24:01 9 to "John"?---Yes.
14:24:02 10
14:24:02 11 And then it looks like a reference to journalist Mark
14:24:07 12 Butler?---It does, yes.
14:24:08 13
14:24:08 14 Are they - I assume you weren't talking to John Whitmore
14:24:12 15 about journalist Mark Butler, or do you think you were?---I
14:24:17 16 think I was.
14:24:18 17
14:24:27 18 Right. Then if we look at - let's look at p.230, the last
14:24:37 19 one I think we need to go to. 9.30 am?---Yes.
14:24:47 20
14:24:47 21 Do you see that?---Yes.
14:24:48 22
14:24:49 23 "Peter" someone?---Peter Wilkins.
14:24:51 24
14:24:54 25 COMMISSIONER: Just for context, this is 16 January '06.
14:24:55 26
14:24:56 27 MS ENBOM: Thank you, Commissioner.
28
14:24:57 29 Is that a record of a conversation with Peter
14:25:00 30 Wilkins?---Yes, it is.
14:25:01 31
14:25:01 32 Then do you see there's a blank line and then "McKinney.
14:25:06 33 review of process. Discuss with Luke Cornelius"?---Yes.
14:25:09 34
14:25:09 35 Is that a separate event to the Peter Wilkins event?---I
14:25:13 36 don't think so, I think it's one and the same.
14:25:16 37
14:25:16 38 So you think you were talking to Wilkins about McKinney's
14:25:21 39 issue?---Yes.
40
14:25:21 41 And telling him that you would discuss it with Luke?---I
14:25:25 42 think so, yes. In fact, if you look at the next entry -
14:25:30 43 down at 12.10 I have a meeting with Luke and there's a
14:25:33 44 reference there.
14:25:34 45
14:25:34 46 So the "McKinney" reference is not you - do you say that's
14:25:38 47 not you recording that you've reviewed the process and your

14:25:41 1 plan - your action item, which is to discuss with
14:25:55 2 Luke?---So it looks like I'm discussing with Luke a process
14:25:58 3 that needs to be set in train to review whatever it was we
14:26:02 4 were reviewing about that individual.
14:26:04 5
14:26:15 6 Then I might just take you to one other. Let's look at
14:26:19 7 p.240. That is an entry - that's your diary entry for 6
14:26:32 8 February 2006?---Yes.
14:26:34 9
14:26:34 10 It starts on the previous page, 239?---Yes.
14:26:38 11
14:26:38 12 And at 10.30, it looks like you've spoken to Steve Linnell
14:26:43 13 about the Condello murder, is that a correct
14:26:48 14 reading?---Sorry - that's at 10.30 pm.
14:26:55 15
14:26:56 16 10.30 pm?---Yes.
14:26:57 17
14:26:57 18 Yes. So at 10.30 pm, it looks like you've spoken to Steve
14:27:01 19 Linnell in relation to the Condello murder, is that
14:27:04 20 right?---Yes, that's what the entry says.
14:27:06 21
14:27:06 22 And then on the next line, "Gavan Ryan. confirmed news".
14:27:11 23 Does that record that you've spoken to Gavan, who has
14:27:14 24 confirmed matters in relation to the Condello murder?---I
14:27:17 25 think so.
14:27:19 26
14:27:19 27 I'm sorry, I missed that. Did you say you think so?---I
14:27:22 28 think so, yes. I assume that's the date Mario Condello was
14:27:26 29 murdered.
14:27:27 30
14:27:27 31 I don't know, but I had made that assumption as well, I
14:27:30 32 must say?---Yes. I don't specifically recall, but that
14:27:33 33 seems to me what it relates to. Yes, it does, yep.
14:27:36 34
14:27:36 35 And then the next line, "Return to duty. call Jim O'Brien.
14:27:42 36 Message left"?---Yes.
14:27:43 37
14:27:43 38 And then the next line, "412 St Kilda Road."?---Yes.
14:27:49 39
14:27:49 40 What does that say?---"Been to scene".
14:27:52 41
14:27:53 42 And then the next line, "Briefed by"?---"Briefed by Gavan
14:27:55 43 Ryan and Craig Walsh."
14:27:56 44
14:27:57 45 Yes, okay. And then there's a blank line and then, "Media
14:28:01 46 conference at scene"?---Yes.
14:28:02 47

14:28:02 1 And then a blank line and then, "To local police
14:28:07 2 station"?---Yes.
14:28:08 3
14:28:08 4 So is that a record of a number of separate but related
14:28:11 5 events in that block of time between 10.30 pm and - -
14:28:18 6 - ?---1.40 am it should be.
14:28:20 7
14:28:20 8 - - - 1.40 am?---It looks like "pm", but I'm sure it is
14:28:28 9 1.40 am.
14:28:28 10
14:28:29 11 Okay. So what you've done there is for a block of time
14:28:31 12 you've recorded several events?---It's a summary of things
14:28:34 13 I did in a related matter, yes.
14:28:36 14
14:28:37 15 So they're separate conversations?---Yes.
14:28:39 16
14:28:39 17 So you've spoken to Steve, you've spoken to Gavan, you've
14:28:43 18 returned to duty and so on?---Yep.
14:28:44 19
14:28:51 20 Now I want to ask you about the entry in your diary
14:28:58 21 recording a conversation with Chief Commissioner
14:29:01 22 Nixon?---Yeah.
14:29:02 23
14:29:07 24 Can we start with your supplementary statement. I'll just
14:29:26 25 get the VPL number and we'll bring it up.
14:29:39 26 VPL.0014.0067.0077. If the operator could please move to
14:30:01 27 paragraph 41, which I think is p.0086. Do you see in the
14:30:09 28 middle of the page there, there's a reference to the entry
14:30:13 29 in your diary in relation to Ms Nixon?---Yes.
14:30:16 30
14:30:31 31 And you can see there that what paragraph 41 is doing is
14:30:35 32 it's purporting to set out the entry that's in your diary
14:30:40 33 in relation to that conversation?---Yes, yep.
14:30:42 34
14:30:43 35 And I'll take you to the original diary entry in a moment,
14:30:47 36 but you were taken to it, I think, yesterday by Mr Winneke.
14:30:55 37 Can you see there that the extract of that entry is not in
14:31:02 38 fact how that entry appears in your diary?---No, it
14:31:06 39 doesn't, no. It doesn't appear that way, no.
14:31:09 40
14:31:09 41 So I want to explore - I'll go to the original diary entry,
14:31:13 42 but what I want to do is explore whether perhaps the way
14:31:15 43 it's been presented there in your statement, inaccurately,
14:31:20 44 has perhaps given you some false confidence that the entry
14:31:23 45 in your diary is in fact a record of you speaking to
14:31:29 46 Ms Nixon. So we'll go to the original entry?---Yep.
14:31:34 47

14:31:39 1 If you go to 29 September 2005?---Yep.
14:31:44 2
14:31:45 3 Page 206?---Yes, I have that.
14:31:50 4
14:31:50 5 You can see there that what's presented in the statement is
14:31:53 6 not an accurate reflection of the diary entry and I don't -
14:31:57 7 I'm not seeking to criticise anyone, but that's the fact.
14:32:03 8 You can see that?---I can, h'mm.
14:32:05 9
14:32:06 10 Let's have a good look at the actual diary entry for 29
14:32:10 11 September 2005. I want to start in the middle of the page.
14:32:18 12 So do you see that at 9.30 am you leave to attend police
14:32:25 13 remembrance ceremonies?---I think I'm at the police
14:32:32 14 Remembrance Day ceremony at 9.30 or thereabouts.
14:32:34 15
14:32:34 16 This records you arriving there at 9.30?---Yep, I think so.
14:32:38 17
14:32:38 18 And then you're there until - you return to the office at
14:32:42 19 midday?---Yep.
14:32:43 20
14:32:45 21 And then you'll see that there's a number of entries
14:32:51 22 through to 4.30?---Yes.
14:32:55 23
14:32:56 24 It looks like a "7", but it's a "4"?---It's a "4".
14:33:01 25
14:33:02 26 It's a "4". So we have got a number of - there's some
14:33:06 27 entries there - there's some content there that relates to
14:33:09 28 the period between 12 noon and 4.30?---Yes.
14:33:12 29
14:33:14 30 And the first entry there, "Jack Blayney. briefed on issues
14:33:21 31 at" - if there's no problem referring to that, are you able
14:33:27 32 to decipher that?---"Op Trencher at MFID", Major Fraud
14:33:36 33 Investigation Division, that's what that means.
14:33:37 34
14:33:37 35 Right. So is that a record of you having a conversation
14:33:40 36 with Jack?---It is.
14:33:41 37
14:33:41 38 And he's briefed you on issues?---I assume so, yes.
14:33:45 39
14:33:45 40 And then the next line, "Op", being the operation you
14:33:50 41 referred to?---Op Trencher, yes.
14:33:52 42
14:33:53 43 "Staffing issues re" something?---Yep.
14:33:56 44
14:33:56 45 So is that a separate event to the Jack Blayney
14:33:59 46 event?---No, I think that's one and the same.
14:34:01 47

14:34:01 1 So you think you were talking to Jack about - - - ?---Yep.
14:34:05 2
14:34:05 3 - - - major fraud?---Yep.
14:34:07 4
14:34:07 5 And staffing issues?---Yep.
14:34:14 6
14:34:14 7 And then the next entry is, "To" something "outside"?---"To
14:34:18 8 work outside MFID".
14:34:21 9
14:34:21 10 Right. And then there's a reference to some
14:34:24 11 counselling?---Yep.
14:34:24 12
14:34:25 13 So do you think that you've spoken to Jack Blayney about
14:34:27 14 the matters described in the four lines - the three lines
14:34:31 15 under his name?---I do.
14:34:34 16
14:34:34 17 And then do you see there's a blank line and then "Brett
14:34:39 18 Spence."?---Yes.
14:34:39 19
14:34:40 20 "Discussed. Needs urgent" something?---"Needs urgent
14:34:44 21 resolution".
14:34:44 22
14:34:45 23 "Resolution"?---Yep.
14:34:45 24
14:34:45 25 Is that a separate event to the Jack Blayney event?---No.
14:34:49 26
14:34:49 27 You think they're related?---Yes.
14:34:51 28
14:34:52 29 So you were talking to Jack - - -?---About Brett Spence.
14:34:55 30
14:34:56 31 - - - about Brett?---Yes.
14:34:56 32
14:35:02 33 Then review "Brett Spence file"?---It's actually, "Re Brett
14:35:07 34 Spence file". Do you want me to read it?
14:35:09 35
14:35:09 36 And then I see the reference to "Blayney"?---"Grievance on
14:35:12 37 part of Blayney, Steel, Dever and Berry I think it is,
14:35:17 38 "Spence's grievance against same".
14:35:20 39
14:35:20 40 So that is a record of a conversation you've had at some
14:35:23 41 stage between midday and 4.30 with Jack - - -?---Yes, it
14:35:26 42 is, with Jack Blayney.
14:35:27 43
14:35:27 44 The reason I wanted to explore that is because you'll see
14:35:30 45 that in the first half of the entry, we have got you
14:35:35 46 commencing duty at 8.15?---Yep.
14:35:38 47

14:35:38 1 And then 8.45, "CCP."?---Yep.
14:35:42 2
14:35:43 3 And there's a reference to the three Lorcha briefs?---There
14:35:48 4 is.
14:35:48 5
14:35:49 6 And then do you see there's an action item at the end, "CCP
14:35:53 7 to consider and discuss further"?---Yes.
14:35:55 8
14:35:55 9 Then there's the blank line, "Purana. re 3838"?---Yes.
14:35:59 10
14:35:59 11 And then there's another blank line, "McKinney." and some
14:36:04 12 matters in relation to him?---Yes.
14:36:05 13
14:36:05 14 And then immediately under that, "Armed Offenders
14:36:09 15 Squad"?---Yes.
14:36:10 16
14:36:10 17 And some matters in relation to the Armed Offenders
14:36:15 18 Squad?---Yes.
14:36:16 19
14:36:18 20 That pattern there, recording pattern there, is similar to
14:36:27 21 the recording pattern I took you to at p.240. If we go
14:36:35 22 back to 240 - sorry, go forward to 240. Do you remember we
14:36:44 23 went through those entries and you gave evidence that they
14:36:46 24 were separate events? So you spoke to Steve Linnell, spoke
14:36:51 25 to Gavan Ryan, and do you see - - - ?---Yeah, I do, but
14:36:55 26 they all relate to the Condello murder.
14:36:57 27
14:36:57 28 But they're separate conversations?---Yeah, no, I
14:37:00 29 understand that.
14:37:01 30
14:37:01 31 And the "." seems to - in this entry anyway - the "." seems
14:37:05 32 to tell us that, so "Steve Linnell." and then that's what
14:37:08 33 you spoke about. If you compare that - - - ?---Yep.
14:37:11 34
14:37:11 35 If you compare that to the top half of your entry on p.206,
14:37:18 36 do you see the similar approach, "CPP." and then there's a
14:37:23 37 number of matters and then "Purana.", which might indicate
14:37:26 38 that you've actually spoken to Purana about 3838?---No, I
14:37:29 39 don't believe that's right. I understand what you're
14:37:32 40 putting to me. I don't believe that's right, because I
14:37:34 41 think I went on to speak about those other matters. So I
14:37:37 42 think the McKinney matter and the Armed Offenders Squad
14:37:42 43 matter are also matters that I would have spoken to the
14:37:44 44 Chief Commissioner about, that's the way I read the entry.
14:37:47 45
14:37:47 46 The nature of those matters means that you would have
14:37:49 47 spoken to her about them?---I think so, yes, because there

14:37:52 1 were particular issues - one is a staffing matter.
14:37:55 2
14:37:55 3 Yes?---Mr McKinney was a member of the force, and the other
14:37:59 4 was there was a - well, there were some very significant
14:38:03 5 issues with the Armed Offenders Squad. Again, there was
14:38:06 6 the subsequent OPI investigation into the Armed Offenders
14:38:10 7 Squad and I think it was around this time. So I think
14:38:13 8 they're matters that I canvassed with the Chief
14:38:16 9 Commissioner in that meeting.
14:38:17 10
14:38:17 11 Do you have any recollection of canvassing each of those
14:38:21 12 matters?---I don't have an independent recollection of any
14:38:24 13 of this, but reading the notes now that's the way I
14:38:27 14 understand them, yes.
14:38:28 15
14:38:28 16 Do you think it's possible that you've adopted there, I'm
14:38:32 17 just asking for a possibility, possible that you've adopted
14:38:35 18 there the same approach to note-taking as the approach
14:38:39 19 taken at p.240?---Well, I think - you say it's different, I
14:38:46 20 actually say it's the same. I think that I've made a time
14:38:50 21 entry, I've having a discussion with the Chief
14:38:53 22 Commissioner, and they're the matters I discussed, and then
14:38:56 23 the next thing I do is at 9.30 when I go to the police
14:39:03 24 remembrance day ceremony.
14:39:05 25
14:39:05 26 COMMISSIONER: So each time there's a different
14:39:06 27 conversation you put in a different time slot?---I did. I
14:39:08 28 admit there was an entry I think I got taken to earlier
14:39:10 29 where clearly I haven't put a time in, but I think that's
14:39:15 30 an exception, rather than the rule, so I think the time
14:39:17 31 indicates it's a new issue or a new conversation.
14:39:18 32
14:39:18 33 MS ENBOM: Yes. So what I'm trying to show you is that the
14:39:20 34 entry at p.240 at 10.30 pm, so that's dealing with a block
14:39:26 35 of time?---Yes.
14:39:26 36
14:39:26 37 Do you see you don't have times next to each event?---No.
14:39:30 38
14:39:30 39 So there is no time next to "Gavan Ryan" or "returning to
14:39:30 40 duty" and so on?---No.
14:39:32 41
14:39:32 42 Just like the entry at 206, which you see follows a similar
14:39:37 43 pattern, you have CPP.?---Yeah, no, I understand what
14:39:40 44 you're putting to me. I wouldn't say trying to hang me on
14:39:44 45 the consistency of my note-taking, I mean I don't pretend I
14:39:47 46 was consistent.
14:39:48 47

14:39:48 1 I'm not trying to hang you about note-taking?---But I read,
14:39:54 2 I read that entry at 8.45 as that is a record of what I
14:39:59 3 talked to the Chief Commissioner about before going to the
14:40:01 4 remembrance day ceremonies at 9.30, that's my understanding
14:40:07 5 of it.
14:40:07 6
14:40:08 7 That's the way you interpret it?---That's the way I
14:40:09 8 interpret it, yes.
14:40:10 9
14:40:10 10 Do you say it's not possible that you've adopted there the
14:40:14 11 same note-taking approach as that you've taken at 240,
14:40:20 12 which is to record separate events?---No, I don't believe
14:40:23 13 it is because I mean, again, I don't remember the meeting,
14:40:29 14 but - and there's no criticism in this, but getting a
14:40:34 15 meeting with the Chief Commissioner could be difficult to
14:40:36 16 do. I suspect I had a meeting organised probably to deal
14:40:39 17 with Lorcha issues because that was an investigation that I
14:40:43 18 had oversight of and it was one that was of particular
14:40:46 19 interest to the Chief Commissioner, I think she might have
14:40:49 20 referred to it in her evidence in part. So I obviously
14:40:52 21 needed to talk to her about that, and I, my taking of it is
14:40:57 22 I used the opportunity to talk to her about these other
14:41:00 23 things. We had talked about, you took me to some other
14:41:06 24 entries about Mr McKinney, so clearly there were some
14:41:08 25 issues about him, but also the AOS High Risk Brief on
14:41:14 26 Background and Strategies to Address, I mean that says to
14:41:16 27 me - the only way I can interpret that is I was talking to
14:41:20 28 the Chief Commissioner about those issues.
14:41:21 29
14:41:22 30 I assume you wouldn't go as far though as saying it's
14:41:24 31 crystal clear?---Look, it is what it is, and I accept, as
14:41:27 32 always, with these things people take different
14:41:30 33 interpretations from them, but that's not my
14:41:32 34 interpretation.
14:41:33 35
14:41:33 36 You gave evidence yesterday that reading that entry, the
14:41:35 37 one that we just went through?---Yep.
14:41:37 38
14:41:37 39 Together with earlier entries in your diary, led you to the
14:41:42 40 belief that you probably told Ms Nixon on that day, 29
14:41:47 41 September?---Yes.
14:41:47 42
14:41:48 43 That Ms Gobbo was a human source?---Yes.
14:41:50 44
14:41:52 45 So am I right that that's how you reached your belief, you
14:41:56 46 looked at the diary entry and then you looked at some
14:41:58 47 earlier diary entries?---Yes.

14:41:59 1
14:41:59 2 And then putting them together you reached the conclusion
14:42:03 3 that you probably did tell Ms Nixon that Ms Gobbo was a
14:42:07 4 source?---Yes, and as I said yesterday to Mr Winneke, I
14:42:12 5 have no independent recollection of this conversation.
14:42:14 6
14:42:15 7 Yes?---So I am reconstructing by looking at what comes
14:42:23 8 before, and I think I referred yesterday to the unusual
14:42:26 9 circumstances of actually letting the Chief Commissioner
14:42:29 10 know about the recruitment of a source, so that is my
14:42:34 11 interpretation of the note.
14:42:36 12
14:42:36 13 Yes?---But again I understand it's not clear.
14:42:39 14
14:42:40 15 I just want to go through some other matters, matters that
14:42:44 16 on your evidence you haven't considered in reaching the
14:42:48 17 conclusion about this unclear diary entry. I'll go through
14:42:54 18 each of them. The first is that Ms Nixon has given
14:42:57 19 evidence to the Commission, on oath obviously, that she has
14:43:01 20 absolutely, using her language, absolutely no recollection
14:43:06 21 of people telling her that Ms Gobbo was a human
14:43:09 22 source?---H'mm.
14:43:09 23
14:43:11 24 You'd expect, wouldn't you, that that's the type of thing a
14:43:15 25 Chief Commissioner would remember? So if she's told
14:43:18 26 barrister Nicola Gobbo is a source, it's the type of thing,
14:43:21 27 as a Chief Commissioner, you'd remember, do you think
14:43:25 28 that's right?---Well look, I don't know that I'm qualified
14:43:28 29 - you know, look, memory, as I've discovered, is a very
14:43:31 30 faulty thing. Some things you remember, some things you
14:43:34 31 don't. I had - my last experience of going to a court was
14:43:39 32 giving evidence in a murder case that was 30 years old and
14:43:44 33 it was a retrial, it's quite a well-known case, and I had
14:43:48 34 to go along and give evidence and in the course of that I
14:43:51 35 was given access to various materials, some of which when I
14:43:55 36 was originally asked about I didn't recall and when I saw
14:43:59 37 it I did recall it. There's one document that was given to
14:44:02 38 me that is clearly my document, clearly describing
14:44:05 39 something I did, I've got absolutely no recollection of
14:44:09 40 having done those things, so I think the frailty of human
14:44:14 41 memory.
14:44:14 42
14:44:15 43 Yes, there's no doubt about that. But you yourself
14:44:18 44 remember being told that Nicola Gobbo was a
14:44:21 45 source?---Clearly I do, yes.
14:44:22 46
14:44:22 47 If it's something that you remembered, you'd expect

14:44:26 1 Ms Nixon to remember it?---Well, again, I know having
14:44:29 2 become Chief Commissioner of Police just how incredibly
14:44:34 3 busy you are, how incredibly demanding that role is, and
14:44:37 4 you get told lots of things, and I can't pretend that I
14:44:41 5 remembered everything I was told. Look, I don't know, I
14:44:43 6 mean it's entirely possible she forgot, entirely possible.
14:44:48 7
14:44:48 8 Do you think it's possible that she'd forget Simon Overland
14:44:53 9 walking into her office and telling her that barrister
14:44:57 10 Nicola Gobbo was registered as a human source?---Yes, I do.
14:45:01 11
14:45:01 12 You remember the moment you were told?---No, I don't
14:45:02 13 actually.
14 14
14:45:02 15 You don't remember the moment of being told?---No, I don't.
14:45:04 16 I've said, no, I don't remember. I've struggled to
14:45:07 17 remember exactly how and when I was told. I've said that
14:45:11 18 repeatedly. Now, having had a chance to look at my
14:45:15 19 diaries, I think it was 26 September but I accept that
14:45:18 20 there's room for dispute about that. I don't have a clear
14:45:21 21 recollection about it.
14:45:22 22
14:45:22 23 The second matter I want you to consider is that Ms Nixon
14:45:27 24 told the Commissioner that she first learned that Ms Gobbo
14:45:31 25 was a human source when it became public and she was
14:45:35 26 surprised, she was very surprised, to use her words. She
14:45:39 27 said that when the Lawyer X story broke she actually
14:45:43 28 thought it was another female lawyer?---Yes.
14:45:45 29
14:45:45 30 I'm sure you can work out who she thought - - - ?---Yeah.
14:45:50 31
14:45:50 32 The third matter I want you to consider is that Ms Nixon
14:46:01 33 that it was possible that Ms Gobbo had been referred to
14:46:05 34 her, sorry, had been referred to by her source number at
14:46:10 35 some stage in a briefing, but she didn't recall that and
14:46:17 36 she says she wouldn't have known the source's identity
14:46:21 37 anyway, if the number was used?---Yep.
14:46:24 38
14:46:25 39 The fourth matter is that Victoria Police have not located,
14:46:31 40 they've searched and they've not been able to locate any
14:46:35 41 documents, briefing notes, reports and the like to Ms Nixon
14:46:38 42 about 3838 or Ms Gobbo, and we haven't been able to
14:46:46 43 identify in any, in the dozens of diaries we've looked
14:46:52 44 through, any record of a conversation with Ms Nixon about
14:46:55 45 Ms Gobbo or 3838?---H'mm.
14:46:57 46
14:47:00 47 The next matter is that - this is the fifth matter - the

14:47:05 1 SDU kept a record of who knew Ms Gobbo was a source and
14:47:11 2 Ms Nixon is not on that list. And you'd accept, wouldn't
14:47:17 3 you, it's a big deal to reveal the identity of a human
14:47:20 4 source to anyone within Victoria Police?---Well again, I
14:47:26 5 wouldn't put it that way. As I think I said earlier, I was
14:47:29 6 perhaps not as - I mean I think some investigators and some
14:47:35 7 people in Victoria Police had this view that absolutely no
14:47:38 8 one can know about it. I don't accept that organisations
14:47:41 9 work that way, there's certain knowledge that does need to
14:47:45 10 be known. I said earlier in my evidence I couldn't recall
14:47:49 11 whether I had or hadn't told her, you know, I may or may
14:47:52 12 not have, but based on this entry I believed I said
14:47:55 13 something to her.
14:47:56 14
14:47:56 15 Yes?---I mean I understand what you're putting to me but it
14:48:01 16 doesn't change the evidence I gave yesterday about this.
14:48:03 17
14:48:03 18 Do you think that had you not, just as your diary entry on
14:48:10 19 its face records, referred to 3838, but actually named the
14:48:16 20 person, that you would have let the SDU know - - - ?---No.
14:48:19 21
14:48:20 22 - - - that the Chief Commissioner knows the identity of
14:48:23 23 this source?---No.
14:48:24 24
14:48:24 25 No?---No.
14:48:24 26
14:48:26 27 The sixth matter I want to put to you is Ms Nixon gave
14:48:30 28 evidence as to what she would have done?---Yes.
14:48:33 29
14:48:33 30 Had she been told that Ms Gobbo was a source?---Yep.
14:48:36 31
14:48:36 32 And this was the exchange. Ms Tittensor asked this
14:48:43 33 question, "Had you been told of the simple fact, 'We're
14:48:48 34 registering has Gobbo as a human source', what would you
14:48:51 35 have done?" Ms Nixon told the Commissioner that she would
14:48:57 36 have been extraordinary surprised in the first place and,
14:49:03 37 "I would have obviously then, I think, probably followed my
14:49:07 38 colleague, Graham's behaviour, when he became - I think Ken
14:49:10 39 Lay's and Graham's behaviour and look to say, 'What's the
14:49:14 40 risk we're facing here? What are the implications of this
14:49:17 41 decision? What do the implications mean? What's it mean
14:49:21 42 for prosecutions?'" And she would have gone through the
14:49:25 43 whole process. And Ms Tittensor then asked her, or put to
14:49:30 44 her that that would have involved quite some consideration
14:49:33 45 and Ms Nixon said, "Yes, it would." And Ms Tittensor asked
14:49:37 46 her, "And advice?" And Ms Nixon said, "Absolutely. And
14:49:43 47 to look to bring in, as I did in a number of other matters,

14:49:48 1 bring in legal advice, bring in, you know, people involved
14:49:52 2 in corruption or people involved in, you know, who had the
14:49:55 3 expertise that would have been able to help us think
14:49:57 4 through what are the implications and also have to report
14:50:06 5 it". It's a bit unclear what that last bit means. If we
14:50:13 6 look back at that diary note, you'll see that there's no
14:50:23 7 action item at all recorded?---No.
14:50:24 8
14:50:25 9 Next to the entry "Purana. re 3838"?---No, there's not.
14:50:30 10
14:50:32 11 That's inconsistent, isn't it, with Ms Nixon's evidence
14:50:37 12 that had she been told she would have done X, Y and Z, so
14:50:45 13 you would expect those to be recorded as action
14:50:49 14 items?---Well if that's what she'd asked to have happen,
14:50:54 15 those things would have happened. I'm not sure how much of
14:50:57 16 that I'd have recorded, probably some or all of it, but
14:51:01 17 those things would have happened.
14:51:02 18
14:51:02 19 Yes. You can see in that diary entry, there's an action
14:51:06 20 item for the previous - if you did discuss with Ms Nixon
14:51:13 21 all those matters, there's an action item for the first
14:51:15 22 item?---Look, I don't know whether I did or I didn't. As I
14:51:19 23 say, I've got no independent recollection of the
14:51:21 24 conversation.
14:51:21 25
14:51:22 26 No. But if you did discuss each of those matters with her,
14:51:26 27 including 3838, you can see from the entry above there's an
14:51:30 28 action item?---Yes.
14:51:31 29
14:51:43 30 The eighth matter I want you to think about is there's no
14:51:47 31 entry in your diary of a subsequent discussion with
14:51:51 32 Ms Nixon about 3838, that's right, isn't it? Your diaries
14:51:56 33 have been reviewed and there's no entry after that
14:51:59 34 date?---After that, no, there's not, no.
14:52:00 35
14:52:00 36 The ninth matter I want you to think about is that you
14:52:04 37 yourself, as you've said several times, actually have no
14:52:07 38 recollection of telling Ms Gobbo, sorry, Ms Nixon that
14:52:11 39 Ms Gobbo was a source?---No, I don't.
14:52:13 40
14:52:13 41 The tenth matter I want to raise is that Mr Winneke asked
14:52:18 42 you about this topic on day four of your evidence, so that
14:52:23 43 was pre Christmas, and this was the exchange. So
14:52:33 44 Mr Winneke asked you this, "Why wouldn't you tell the Chief
14:52:38 45 Commissioner about this, the fact that Ms Gobbo was a human
14:52:41 46 source?" And you answered, "Because it was an operational
14:52:46 47 matter and these are matters best dealt with at my level

14:52:49 1 and levels below." Mr Winneke asked you, or he put this,
14:52:52 2 "If something had occurred and the Chief Commissioner
14:52:55 3 hadn't been told about it, wouldn't she be looking to you
14:52:58 4 and saying, 'What's going on here, why wasn't I told about
14:53:02 5 this?'" And you explained to the Commissioner that these
14:53:04 6 are always judgment calls that you have to make, "But I
14:53:08 7 have to say my view when Christine was Chief Commissioner,
14:53:10 8 and certainly my view when I became Chief Commissioner, is
14:53:13 9 that you really don't have the time or head space to be
14:53:16 10 dealing with operational matters, this is why you have a
14:53:19 11 chain of command and these matters are to be managed
14:53:22 12 appropriately. There are times when you're briefed about
14:53:24 13 matters, but I've got to say as Chief Commissioner I wasn't
14:53:26 14 briefed much at all on operational matters." And
14:53:29 15 Mr Winneke put, then put, "To keep your Chief Commissioner
14:53:33 16 informed about what you're doing?" And you said, "Again,
14:53:36 17 these are judgment calls around when you brief up." And
14:53:40 18 Mr Winneke then put, "Do you stand by your judgment call
14:53:44 19 and say it was a correct decision not to inform her?" And
14:53:47 20 you responded, "I do." And Mr Winneke said, "You did?"
14:53:54 21 And you said, "Yes." And Mr Winneke then said, "When you
14:53:56 22 were Chief Commissioner and something like this was going
14:53:58 23 on, would you not be expected to be told?" And you said,
14:54:02 24 "Not necessarily no." Then Mr Winneke went on, "If
14:54:06 25 Ms Gobbo was killed, wouldn't the Chief Commissioner say to
14:54:09 26 go, 'What on earth has been going on?'" And you responded,
14:54:13 27 "Yeah, you'd want to know about it then but that wasn't the
14:54:18 28 situation." Further on, "Can I suggest you didn't tell her
14:54:21 29 because you were concerned about telling her?" You
14:54:23 30 responded, "No, not at all. Can I just make this point as
14:54:27 31 Chief Commissioner. You're running an organisation at that
14:54:30 32 time of 15,000 people, an annual operating budget of 2
14:54:35 33 million, you're essentially the CEO of one of the biggest
14:54:41 34 organisations in Australia. You have to delegate and you
14:54:42 35 can't be across the level of detail that you seem to be
14:54:43 36 suggesting." Mr Winneke said, "It wouldn't take a huge
14:54:47 37 amount of time to go into her office and make this known to
14:54:50 38 her?" You said, "Well, you could, but to what end?"
14:54:54 39 Mr Winneke said, "Just to say there may be a problem. And
14:54:58 40 do you say that this wasn't a significant issue as far as
14:55:01 41 you were concerned?" And you responded, "It was a
14:55:04 42 significant issue and it was an issue that was being
14:55:07 43 managed." That was the evidence that was given on day
14:55:14 44 four. Now the eleventh matter I want you to think about is
14:55:18 45 that the diary entry - - -
14:55:23 46
14:55:23 47 MR GLEESON: Commissioner, I think there's a difficulty

14:55:25 1 with this approach to cross-examine where for obvious
14:55:28 2 reasons an accumulation of matters, we're up to eleven, I
14:55:32 3 haven't stood up because I thought it was going to end.
14:55:34 4
14:55:35 5 COMMISSIONER: Yes.
14:55:35 6
14:55:36 7 MR GLEESON: The witness is not being invited to comment on
14:55:38 8 each of them and, of course, what will be put at the end
14:55:41 9 is, "If you take all of that into account do you think your
14:55:45 10 note might be construed differently?" I understand the
14:55:48 11 line of questioning. But, with respect, he should be given
14:55:50 12 the opportunity to address each of them, because otherwise
14:55:53 13 it will be a blanket no. He's interrupted a couple of
14:55:57 14 times to address them but the Commission might be assisted
14:56:02 15 by his response to the specific points I suspect.
14:56:05 16
14:56:05 17 MS ENBOM: Yes, I don't have any opposition to that. Is
14:56:07 18 there anything you'd like to - - -
14:56:09 19
14:56:10 20 COMMISSIONER: You might need to remind him.
14:56:12 21
14:56:13 22 MS ENBOM: Let's start with the evidence I read out?---Can
14:56:15 23 I help? Look, I accept what you're putting to me but my,
14:56:18 24 my take on this is, I don't resile from anything I said to
14:56:22 25 Mr Winneke. I mean it was a judgment call at the end of
14:56:25 26 the day as to whether I told her or not. Prior to my
14:56:29 27 diaries being found I had nothing that indicated to me that
14:56:31 28 I had told her and so therefore I wasn't prepared to say,
14:56:35 29 no, I did tell her, because I couldn't categorically say
14:56:39 30 that I did.
14:56:40 31
14:56:40 32 Yes?---Now having seen my diary entry, my interpretation of
14:56:45 33 that entry and the matters that preceded are that I told
14:56:48 34 her something. And I think I must have. In my view, the
14:56:52 35 only reason to tell her, for the reasons I've gone into in
14:56:56 36 my statement, was because I, as I've said all along, I
14:57:00 37 understood the significance of this and I let her know. So
14:57:04 38 my take on this is I told her because I thought she needed
14:57:07 39 to know, not because I thought she needed to do anything
14:57:10 40 about it. That was for me to manage.
14:57:13 41
14:57:13 42 Yes. And then that's the evidence you gave when you saw
14:57:16 43 the diary entry?---So you can put all of these things to
14:57:19 44 me, that remains my evidence.
14:57:21 45
14:57:22 46 Yes. Do you want to comment on any of the other matters
14:57:25 47 that I - - -

14:57:26 1
14:57:26 2 COMMISSIONER: Any of the matters either individually or
14:57:28 3 collectively is really what you're being asked and if you
14:57:31 4 want them repeated that can be done?---I understand that,
14:57:35 5 Commissioner. Look I think that - I mean Christine is
14:57:37 6 suffering from the same difficulty we're all suffering
14:57:40 7 from, these events took place a long time ago and you know
14:57:44 8 we've been asked to try and recall what we did and what
14:57:48 9 happened and I think the other risk around all of this is
14:57:51 10 it was significant at the time, but it's become a heck of a
14:57:56 11 lot more significant with the passage of time. So it runs
14:57:59 12 the risk of taking on exaggerated significance because of
14:58:02 13 everything that's happened since. And you go, well, how
14:58:05 14 could you possibly have not known of this? But at the time
14:58:08 15 it was one piece of information that was significant at a
14:58:11 16 time when there were lots of pieces of information that
14:58:14 17 were very significant and the nature of the roles are such,
14:58:17 18 that you were dealing with significant information all the
14:58:21 19 time, and as Chief Commissioner I used to say, you know,
14:58:26 20 you'd never get anyone coming through the door to give you
14:58:28 21 good news. You'd just get a procession of bad news or
14:58:28 22 difficult issues or problems to deal with.
14:58:28 23
14:58:29 24 COMMISSIONER: That's the role, isn't it?---It's the nature
14:58:32 25 of the role, Commissioner, exactly. And so, you know, it's
14:58:34 26 not, I don't think, unusual that you wouldn't necessarily
14:58:38 27 recall that.
14:58:39 28
14:58:39 29 MS ENBOM: Yes, but don't you think it's a bit unusual that
14:58:42 30 when the Lawyer X story breaks in the paper, she's taken by
14:58:46 31 surprise and thinks it's someone else?---Not if you've
14:58:50 32 completely forgotten things, which is, as I've learnt,
14:58:53 33 entirely possible.
14:58:54 34
14:58:54 35 Do you think it's a bit strange that given the evidence
14:58:57 36 she's given, that if she had been told that Nicola Gobbo
14:59:00 37 was a source, that she wouldn't have - - - ?---No, I think.
14:59:04 38
14:59:05 39 - - - been involved in something - - - ?---No, I think
14:59:07 40 again, and I think this is a real difficulty, that, you
14:59:10 41 know, now if you're asked to comment on something that you
14:59:13 42 were told about 15 years ago, it's very difficult to
14:59:17 43 divorce your thinking from everything that's happened in
14:59:19 44 the interim and to then not go, "Oh, well, of course I
14:59:24 45 would have done all of those things." Now, you may not
14:59:26 46 have done all of those things at that time because you
14:59:29 47 didn't know everything that was to flow in the following 15

14:59:32 1 or 20 years. So, I've struggled with that myself, not to,
14:59:35 2 in a sense, re-invent your thinking at the time. It's a
14:59:39 3 real difficulty because of the passage of time and because,
14:59:42 4 of course, now we know so much more or we're aware of a
14:59:46 5 whole series of things that hadn't yet happened.
14:59:49 6
14:59:50 7 Yes. Can you see that the diary entry is perhaps
14:59:54 8 consistent with you having not told Ms Nixon the identity
14:59:59 9 of 3838 because it simply refers to 3838? So, for example,
15:00:06 10 it could have said - if what you were trying to record here
15:00:09 11 was, having told Ms Nixon the person's identity, then it
15:00:14 12 could have said, "Purana. re 3838, identity", or "Purana re
15:00:20 13 3838 risk management", or it could have looked like the
15:00:24 14 entry earlier in your diary of the conversation with Terry
15:00:29 15 Purton where you talk about an audit trail and so
15:00:33 16 on?---Look, again, I think I accepted yesterday it's
15:00:35 17 possible. I can't remember exactly what I said. It's
15:00:38 18 possible. It's not how I interpret that note with respect
15:00:42 19 to everything that is happening around it, but it's
15:00:44 20 possible. I can't exclude it, let's put it that way.
15:00:52 21
15:00:52 22 Do any of the additional matters that you hadn't
15:00:55 23 contemplated when you first read the diary entry, were
15:00:58 24 there any additional matters I went through, the eleven
15:01:01 25 matters, and I was always going to give you the opportunity
15:01:04 26 to answer this question, do any of those additional matters
15:01:08 27 or a combination of them make you less confident?---No.
15:01:12 28
15:01:13 29 Don't make you less confident at all?---No.
15:01:15 30
15:01:23 31 Do you think that bringing a fair mind to all of those
15:01:30 32 matters now, that there's every chance that the diary entry
15:01:36 33 is a record of you saying to Ms Nixon, for example, "Purana
15:01:45 34 is to get intelligence from a new source, 3838. She's an
15:01:51 35 important source and she's being managed by the SDU",
15:01:56 36 something to that effect?---Again, I don't recall the
15:02:02 37 specific conversation, so I can't categorically deny
15:02:06 38 anything, but it doesn't make sense to me that I would have
15:02:09 39 had a conversation of that nature with the Chief
15:02:12 40 Commissioner. I mean ultimately this is a matter for the
15:02:15 41 Commissioner and others to form a view about. My evidence
15:02:18 42 is my evidence. I believe, by virtue of having been able
15:02:24 43 to see the entries in my diary, that I must have told her -
15:02:30 44 well, I told her, I must have told her about 3838, and if I
15:02:34 45 told her about 3838, it only seems logical that I would
15:02:39 46 have told her, as the Chief Commissioner, who 3838 was. I
15:02:42 47 can't see any other reason for me to have the sort of

15:02:45 1 conversation that you've just described with her because
15:02:47 2 it's kind of a nothing conversation.
15:02:49 3
15:02:50 4 Not if, for example, this must be a possibility at least,
15:02:53 5 the Chief Commissioner said during your conversation,
15:02:57 6 "What's happening with Purana? Have there been any big
15:03:02 7 developments?" And you could have responded, "Yes, there's
15:03:04 8 a new source, we expect she'll have some good information".
15:03:08 9 Is that not even a possibility?---No, I don't think it is.
15:03:12 10 I think if she had asked me about developments, I'd have
15:03:16 11 probably spoken about other things at that time. Look I
15:03:18 12 don't know, I mean it's difficult, because I don't
15:03:20 13 remember, so.
15:03:24 14
15:03:25 15 That's the diary entry. So that's topic 2. You don't
15:03:37 16 remember where the meeting was with Ms Nixon?---I assume it
15:03:44 17 was in her office because that's almost invariably where I
15:03:48 18 met with her. So that would have been in the Victoria
15:03:53 19 Police Centre and I think that the police remembrance
15:04:01 20 ceremony would have been down on St Kilda Road, so that
15:04:04 21 kind of makes sense to me that that's where it was.
15:04:07 22
15:04:07 23 Okay, that's topic 2. Moving forward.
15:04:10 24
15:04:11 25 COMMISSIONER: Have you finished with these diaries?
15:04:13 26
15:04:13 27 MS ENBOM: Yes, Commissioner.
15:04:14 28
15:04:14 29 COMMISSIONER: I'll return it to you, thank you.
15:04:19 30
15:04:19 31 MR WINNEKE: I wonder if we can have the diary returned,
15:04:24 32 Commissioner?
15:04:24 33
15:04:24 34 COMMISSIONER: Yes, certainly.
15:04:27 35
15:04:28 36 MR GLEESON: Commissioner, while that's happening, could I
15:04:31 37 request through you that we obtain an unredacted copy of my
15:04:35 38 client's own diaries. We've asked numerous times and we
15:04:40 39 can't get them.
15:04:40 40
15:04:41 41 COMMISSIONER: It doesn't seem an unreasonable request.
15:04:45 42
15:04:45 43 MS ENBOM: I would have expected you'd have access to the
15:04:45 44 original diaries. But if they want a copy taken, we can
15:04:50 45 make a copy.
15:04:50 46
15:04:50 47 MR GLEESON: Certainly they're sitting in the room, but I'd

15:04:54 1 rather them sit in my chambers so I can look at them.
15:04:57 2
15:04:57 3 COMMISSIONER: You want a copy?
15:04:58 4
5 MR GLEESON: Yes.
6
15:04:59 7 MS ENBOM: We can provide a copy. Whether they can sit in
15:05:02 8 chambers on a shelf is obviously a matter we'll need to
15:05:05 9 deal with, but we can provide a copy.
15:05:07 10
15:05:08 11 COMMISSIONER: You'd like one too?
15:05:10 12
15:05:10 13 MR WINNEKE: We'd like a copy, Commissioner.
15:05:13 14
15:05:13 15 MS ENBOM: Commissioner, I'll need to get some instructions
15:05:16 16 about it because, as you know, Commissioner, we have not,
15:05:19 17 to my recollection, provided complete unredacted diaries
15:05:23 18 for any member to counsel assisting.
15:05:25 19
15:05:26 20 MR WINNEKE: If fact that's not correct. My learned friend
15:05:29 21 might well say they provided a couple of diaries
15:05:32 22 unredacted.
15:05:33 23
15:05:33 24 MS ENBOM: Inadvertently absolutely.
15:05:36 25
15:05:37 26 MR WINNEKE: I might say when they have been provided
15:05:39 27 they've been of most significant use to us, and we've been
15:05:43 28 permitted to retain them and, Commissioner, in my
15:05:48 29 submission we ought be provided with these and obviously
15:05:54 30 they'll be treated with the utmost care.
15:05:57 31
15:05:57 32 MS ENBOM: Can I speak to Mr Winneke about it, because it
15:06:00 33 is a departure from what we've been doing for the last 12
15:06:05 34 months and it will create big issues because there will be
15:06:07 35 highly sensitive matters in there over which there will be
15:06:10 36 legitimate PII claims.
15:06:12 37
15:06:12 38 COMMISSIONER: I would have thought it's not negotiable
15:06:19 39 that everyone who has standing leave should be given copies
15:06:22 40 of the sections of the diary that have been cross-examined
15:06:25 41 upon.
15:06:25 42
15:06:26 43 MS ENBOM: Yes.
15:06:26 44
15:06:26 45 COMMISSIONER: And also enough of the diaries to understand
15:06:30 46 what dates entries relate to and the times entires relate
15:06:34 47 to. That seems to me to be a minimum, so if there's

15:06:36 1 anything further needed that can be discussed amongst
15:06:40 2 counsel and, as I said, I'll deal with it if you can't sort
15:06:43 3 it out.
15:06:44 4
15:06:45 5 MS ENBOM: Thank you, Commissioner. The next topic,
15:06:47 6 Mr Overland - - -
15:06:48 7
15:06:49 8 COMMISSIONER: The difficulty is that until the diaries are
15:06:51 9 looked at by the Commission, the Commission doesn't know
15:06:54 10 whether the parts that you claim as being irrelevant are
15:06:58 11 irrelevant, that's the problem.
15:07:00 12
15:07:00 13 MS ENBOM: Yes, and certainly there has been no difficulty
15:07:03 14 for the last 12 months in allowing counsel assisting to
15:07:07 15 inspect diaries and then identify entries that they would
15:07:12 16 like and then we provide those.
15:07:12 17
15:07:13 18 COMMISSIONER: It makes it a lot more difficult for the
15:07:16 19 Commission's legal team to do that.
20
21 MS ENBOM: It does, I appreciate that.
22
15:07:16 23 COMMISSIONER: Because they have to go down to your
15:07:19 24 premises, and that's much more difficult than doing it in
15:07:23 25 their own offices, secure offices I might add.
15:07:25 26
15:07:25 27 MS ENBOM: Yes, I do appreciate that there's obviously real
15:07:28 28 nervousness about certain material.
29
15:07:32 30 The next topic, Mr Overland, is Jim O'Brien's diary
15:07:37 31 entry for 12 September 2005. That's the entry that records
15:07:44 32 a conversation with you and there's a reference to Ms Gobbo
15:07:49 33 and opportunities, do you remember that one?---Yes, I do.
15:07:52 34
15:07:53 35 That entry is pre Ms Gobbo's registration?---Yes.
15:07:56 36
15:07:57 37 And so you were asked a lot of questions about that?---Yes,
15:08:01 38 I was, yep.
15:08:02 39
15:08:05 40 And your evidence was that your recollection is that you
15:08:07 41 were told about Ms Gobbo after she was registered and so
15:08:10 42 you're a bit puzzled about Mr O'Brien's entry?---Yes.
15:08:14 43
15:08:15 44 Because it's pre registration?---Yep.
15:08:17 45
15:08:18 46 But I wonder if this is the explanation, so I want to
15:08:21 47 explore this with you. When you spoke to Jim on 12

15:08:25 1 September 05, arrangements had already been made by that
15:08:30 2 time for Ms Gobbo to speak to the SDU?---Yes.
15:08:34 3
15:08:36 4 So if Jim had told you on the 12th at the meeting something
15:08:42 5 like, "She's with the SDU" or "She's heading to the SDU",
15:08:47 6 or made a reference to the SDU in that conversation, then
15:08:53 7 is it possible that you perhaps thought that what he was
15:08:57 8 conveying to you was that she was registered?---Yes, it's
15:09:00 9 possible.
15:09:01 10
15:09:01 11 And that could be the explanation?---It could be.
15:09:04 12
15:09:08 13 The next topic is Mr O'Brien's entry of 15 November 2005.
15:09:15 14 Mr Winneke cross-examined you about that and he put - I
15:09:23 15 don't think I need to bring it up, just to deal with this
15:09:27 16 short point. He put to you that if we go to 15 November
15:09:37 17 he, that is a reference to Jim, he's at the office with
15:09:42 18 Hill, AC Crime, Purton and Grant and various other people.
15:09:45 19 Then you were asked, "Was that a meeting that you would
15:09:48 20 have been at?" And you said, "It seems to suggest I was
15:09:53 21 there." I will actually take you to the diary entry?---I
15:09:56 22 remember the diary entry.
15:09:57 23
15:09:57 24 You remember the diary entry?---Yeah, I do.
15:10:00 25
15:10:00 26 Do you remember that the start of the diary entry says, "At
15:10:05 27 AC office," with a bunch of people?---Yes.
15:10:11 28
15:10:11 29 To the extent that you're able to comment, do you think it
15:10:14 30 may be that the meeting was in your office, but without you
15:10:18 31 being?---I think that's what it means. I was overseas at
15:10:21 32 the time.
15:10:21 33
15:10:21 34 You were?---So I can't have been there, so I think it
15:10:24 35 actually is an indication that the meeting was in the AC's
15:10:27 36 office, I think that's what it refers to.
15:10:29 37
15:10:29 38 Do you have a recollection that that happened from time to
15:10:32 39 time, that members would have meetings in your office, use
15:10:35 40 your space in your absence?---Well, yes. I mean I assume
15:10:38 41 Terry Purton was the Acting Assistant Commissioner at the
15:10:43 42 time, he would have been sitting in that office and he
15:10:49 43 would have used that office for the purpose of having
15:10:51 44 meetings.
15:10:52 45
15:10:53 46 Mr Nathwani cross-examined you about conflicts of interest
15:11:02 47 that his client had in acting for multiple

15:11:06 1 people?---(Witness nods.)
15:11:07 2
15:11:08 3 In relation to the same matter. And he asked you whether
15:11:14 4 Jim O'Brien - I withdraw that. He asked you whether
15:11:19 5 anyone, any of the investigators had told you that she was
15:11:27 6 accepting briefs when she shouldn't have been because there
15:11:30 7 were conflicts of interests and I think you said you didn't
15:11:34 8 have any recollection of that?---Yes.
15:11:36 9
15:11:36 10 Mr Bateson, he gave evidence to the Commission over many,
15:11:40 11 many days and this issue was explored in enormous detail.
15:11:45 12 He explained that he expected that Mr Horgan was thinking
15:11:49 13 about that issue?---Right.
15:11:50 14
15:11:51 15 And dealing with it?---Right.
15:11:52 16
15:11:52 17 So Mr Horgan is prosecuting these various matters?---Yep.
15:11:56 18
15:11:57 19 And he knows that Ms Gobbo's acting for different people in
15:12:03 20 relation to the same matter, and so Mr Bateson's
15:12:06 21 expectation was that Mr Horgan, as the prosecutor, as the
15:12:10 22 person engaged in the legal proceeding, would deal with any
15:12:14 23 conflicts. Do you think, if that was Mr Bateson's
15:12:19 24 expectation, would that be a reason why he wouldn't tell
15:12:24 25 you about potential conflicts?---It's an explanation.
15:12:30 26
15:12:30 27 It's a matter he's not thinking about and dealing with
15:12:35 28 because someone else is, there'd be no reason - it would be
15:12:39 29 on odd thing for him to then tell you about it?---Yes.
15:12:42 30
15:12:43 31 If it's not even on his radar?---Yes. I don't think I had
15:12:48 32 many conversations with Stewie Bateson around that time, I
15:12:52 33 think as a Detective Sergeant I wouldn't normally have
15:12:55 34 spoken to him anyway, it would have normally been the
15:12:58 35 Inspector or possibly one of the Senior Sergeants, but
15:13:01 36 probably more likely the Inspector.
15:13:03 37
15:13:03 38 Yes. The next topic, and I'm almost finished, is the wire
15:13:11 39 that Ms Gobbo wore to record her conversation with Paul
15:13:15 40 Dale?---(Witness nods.)
15:13:16 41
15:13:18 42 And do you remember giving evidence that to the best of
15:13:23 43 your recollection you thought that it was Ms Gobbo's idea
15:13:26 44 to embark on that?---That was my recollection, yes, or is
15:13:30 45 my recollection, yes.
15:13:30 46
15:13:31 47 Do you, trying to work out how you came to that view, do

15:13:38 1 you think it might have been Mr Davey or Mr Solomon who
15:13:44 2 told you that?---No, I don't think they'd have told me
15:13:48 3 that. I recall, I think being - learning of that at one of
15:13:53 4 the steering committee meetings, that she'd had the meeting
15:13:58 5 and that she had worn a wire.
15:14:00 6
15:14:00 7 I asked if it might have been one of those guys who told
15:14:09 8 you because they've provided witness statements to this
15:14:10 9 Commission in which they, their evidence is that it was in
15:14:11 10 fact Ms Gobbo's idea to, her suggestion to wear the
15:14:16 11 wire?---No, I don't believe I spoke to either of those
15:14:18 12 officers about that, but again, you know, I could be wrong
15:14:21 13 in that, but I don't recall that.
15:14:23 14
15:14:33 15 They're the only matters, Mr Overland. Thank you,
15:14:37 16 Commissioner.
15:14:39 17
15:14:40 18 COMMISSIONER: Yes Mr Coleman.
15:14:42 19
15:14:42 20 MR COLEMAN: Do you want me to start now, Commissioner?
15:14:44 21 I'm in your hands. I'll probably be able to finish if not
15:14:49 22 by the afternoon break, then shortly - - -
15:14:51 23
15:14:52 24 COMMISSIONER: Sure. But I think first of all - is there a
15:14:53 25 problem, Mr Gleeson?
15:14:56 26
15:14:56 27 MR COLEMAN: No, he's assisting me.
28
15:15:02 29 COMMISSIONER: Yes, thanks, Mr Coleman, let's start.
15:15:02 30
31 <CROSS-EXAMINED BY MR COLEMAN:
32
15:15:05 33 Mr Overland, my name is Coleman, I appear for Mr Ashton.
15:15:10 34 Now you've been asked a lot of questions and there's been a
15:15:12 35 lot of evidence generally about diaries and I want to ask
15:15:17 36 you some questions about that. You can rest easy, I'm not
15:15:20 37 going to go to your diaries, I'm going to ask you some
15:15:23 38 general questions?---Okay.
15:15:24 39
15:15:24 40 You were asked some questions before Christmas - - -
15:16:01 41
42 COMMISSIONER: Is the microphone close enough? We need the
43 microphone closer, please.
44
45 MR COLEMAN: How's that? I'm not sure that I can do it
46 this way.
47

15:16:02 1 COMMISSIONER: Maybe we'll take the afternoon tea break and
15:16:06 2 it can be sorted out.
15:16:41 3
15:16:42 4 (Short adjournment.)
15:17:48 5
15:38:38 6 COMMISSIONER: Yes, Mr Coleman.
15:38:38 7
15:38:39 8 MR COLEMAN: Thank you, Commissioner. I'm sorry about that
15:38:41 9 distraction.
10
15:38:41 11 COMMISSIONER: No, no, you can't be blamed for your height.
15:38:45 12
15:38:47 13 MR COLEMAN: Mr Overland, as we were saying before the
15:38:49 14 break, I wanted to ask you some questions about diaries and
15:38:53 15 specifically the keeping and taking of diaries. You were
15:38:56 16 asked by Mr Winneke just before Christmas about Mr Ashton
15:39:00 17 stopping taking a diary. Do you remember those
15:39:04 18 questions?---I do, yes.
15:39:04 19
15:39:04 20 And that followed a meeting that you attended with
15:39:07 21 Mr Ashton, Mr Nolan and Mr Cornelius on 20 February
15:39:11 22 2007?---Right.
23
15:39:12 24 And Mr Winneke said to you, as is the fact, that Mr Ashton
15:39:18 25 ceased taking contemporaneous notes the next day, from 21
15:39:20 26 February?---Right.
27
15:39:23 28 And you were asked whether there was any connection between
15:39:25 29 that meeting and, to your knowledge, Mr Ashton ceasing to
15:39:29 30 take notes and you said, "I don't recall a connection now
15:39:32 31 but it's possible there may be one because of the
15:39:34 32 sensitivity of the matters, they were highly
15:39:38 33 sensitive"?---Yes.
34
15:39:38 35 I think you're referring there to the matters that you were
15:39:40 36 discussing at the meeting, and I think it related to the
15:39:43 37 Briars Task Force?---I think that's around the time Briars
15:39:45 38 was being established, yes.
39
15:39:47 40 And you said - Mr Winneke said, "So it may be that you
15:39:51 41 suggested to him, 'Look, it might be sensible if you didn't
15:39:54 42 keep a diary, keep a regular diary'?" And you said, "Well,
15:39:58 43 I might have suggested that. I don't remember it" - and
15:40:01 44 for the transcript, this is p.11017 and the next page - "I
15:40:07 45 don't remember it, I'm sure we would have spoken about
15:40:08 46 operation or security and information security, they were
15:40:11 47 key factors in my mind at the time"?---Yes.

1

15:40:15 2 You were then asked some questions by Mr Holt about
15:40:18 3 recording of sensitive information, including in diaries.
15:40:23 4 Do you remember those questions?---I do.

5

15:40:24 6 And this is at pp.11929-930. And Mr Holt asked you about
15:40:30 7 some of the risks that keeping diaries, including keeping
15:40:34 8 sensitive information, could pose and your evidence was
15:40:37 9 that diaries can often be carried around and misplaced. Do
15:40:41 10 you remember saying that?---I do remember saying that at
15:40:43 11 some point, yes.

12

15:40:44 13 And that there's a risk that in the discovery process, it
15:40:47 14 may lead to diaries being produced with the result that
15:40:50 15 entries that might appear innocuous would in fact be
15:40:53 16 significant. Do you remember saying that?---I do.

17

15:40:55 18 And that was a risk that you still maintain would be
15:40:58 19 present if a person kept a diary?---That is a risk, yes.

20

15:41:03 21 And you said the information security could be breached by
15:41:06 22 production of the diaries in the discovery process,
15:41:08 23 correct?---Correct.

24

15:41:09 25 And you said that information - sorry, the protocols for
15:41:14 26 keeping and disseminating sensitive information would be
15:41:17 27 entirely appropriate. Do you remember saying that to
15:41:19 28 Mr Holt?---Yes.

29

15:41:22 30 Diaries, of course, could also be the subject of subpoenas
15:41:25 31 for production?---Yes.

32

15:41:26 33 And the same risks that would be present in terms of
15:41:30 34 discovery would, I suggest, be also present in terms of
15:41:34 35 production of diaries under subpoena?---Yes.

36

15:41:38 37 Bodies such as the OPI, which deal with the investigation
15:41:42 38 of matters such as police corruption and have coercive
15:41:46 39 powers, ideally, would you agree, should have some
15:41:51 40 statutory protection from - which gives them statutory
15:41:53 41 protection from producing material that they may gather
15:41:57 42 which might be sensitive?---I think many of them do have
15:41:59 43 much such protections, yes.

44

15:42:01 45 And that's an ideal situation, where the officers of those
15:42:06 46 bodies can keep and gather information which is then
15:42:08 47 safeguarded otherwise from protection?---Yes.

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Other than in accordance with the statutory provisions which govern that organisation?---Yes.

By the way, you've given some evidence, and I think Mr Holt asked you questions about this, that in Victoria Police, up to a certain rank there was a requirement for members to keep diaries?---Yes.

And after that rank, I think it's Inspector, is it?---I think so. Look, I'm a little out of date with the internal - - -

Anyway, it's in the police manual, there's no requirement for senior officers to keep diaries as long as they keep adequate records?---No. Correct.

Were you aware that at the OPI there's no such requirement as well?---I wasn't.

But ideally, obviously - I withdraw that. Would you agree that if it was felt by an officer of an organisation such as the OPI that there weren't adequate statutory protections to prevent disclosure of sensitive information, that it would be legitimate for that officer or employee to be concerned about keeping a diary which would record such sensitive information?---Yes.

And would you agree in those circumstances that one legitimate method of dealing with that concern would be for that officer to stop keeping a diary, at least until adequate statutory protections were put in place?---That could be a view people would arrive at, yes.

I think you've agreed the meeting that Mr Winneke asked you about on 20 February 2007 was with respect to Task Force Briars?---I think so, yes.

And I think that Task Force commenced about 2007?---Early in 2007 is my recollection.

And continued - I think there was an interruption, but it continued really until 2010, is that right?---It did. I now, again by virtue of material I've seen as part of this process, it did come to a halt I think at the end of 2008 for a period of time.

15:44:04 1 And then it recommenced?---And then it recommenced, yeah.
15:44:05 2
15:44:06 3 Mr Ashton was asked about this meeting as well by
15:44:09 4 Mr Winneke. Are you aware of the evidence that he gave
15:44:11 5 with respect to this meeting?---No, I haven't looked at his
15:44:14 6 evidence.
7
15:44:14 8 Do you know that Mr Ashton did, prior to 21 February and
15:44:18 9 then subsequently, which we'll come to, keep a diary when
15:44:22 10 he was at the OPI?---Look, I don't recall now whether I did
15:44:32 11 or I didn't.
12
15:44:33 13 I can tell you that you did?---I accept that.
14
15:44:37 15 It was suggested by Mr Winneke to Mr Ashton that at the
15:44:42 16 meeting on 20 February, that there was some agreement
15:44:46 17 reached between you, and I assume Mr Cornelius and the
15:44:50 18 others at the meeting, that at least Mr Ashton would stop
15:44:54 19 taking diaries. You don't suggest that there was such an
15:44:57 20 agreement made at that meeting, do you?---I don't recall, I
15:45:00 21 don't recall whether such an agreement was made or not, so.
15:45:02 22
15:45:04 23 Mr Ashton denied that such an agreement was made. You
15:45:07 24 don't have any cause, do you, to take issue with that
15:45:09 25 evidence?---No, I can't dispute that evidence.
26
15:45:17 27 Mr Ashton gave evidence about his reasons for stopping
15:45:19 28 taking a diary and those reasons included that he had
15:45:22 29 concerns about the adequacies of the statutory protections
15:45:25 30 in place at the time which would mean that material such as
15:45:30 31 his diary would be produceable under subpoena?---Yep.
32
15:45:35 33 And having regard to the matters that I've just taken you
15:45:37 34 to, that if he had that concern, or if he were advised that
15:45:43 35 that was a problem by others, that would be a legitimate
15:45:46 36 concern in your eyes?---Yes, it would be and I think I
15:45:51 37 recall this being an issue generally for the OPI. I'm not
15:45:54 38 saying specifically about this, but I do recall there were
15:45:57 39 a number of legislative, or problems with the legislation
15:45:58 40 that the OPI was operating under at that time and I think I
15:46:01 41 recall something of this nature.
42
15:46:03 43 That's right. And we'll come to it. There was a change of
15:46:06 44 the legislative regime which governed the OPI in July of
15:46:11 45 2008?---Yes.
46
15:46:13 47 Mr Ashton gave evidence that he had spoken to the legal

15:46:16 1 department at the OPI about his decision to stop taking a
15:46:21 2 diary. Would you accept that from me?---I accept that.
3
15:46:24 4 And he also spoke to the Director of the OPI at the time
15:46:28 5 when he took that decision?---I accept that.
6
15:46:30 7 And he recorded in his diary - I'm sorry, he gave evidence
15:46:35 8 that - it was suggested by Mr Winneke, as I said, that
15:46:42 9 there was an agreement and he denied that. And he gave
15:46:44 10 evidence when Mr Winneke asked him again to explain his
15:46:47 11 reasons as to why he stopped taking his diary, as I say,
15:46:53 12 because he was concerned about the statutory protections.
15:46:56 13 In his diary - can we bring up IBAC.0015.0002.0006. And
15:47:09 14 can we go to p.15 at the top right-hand corner, please - I
15:47:16 15 withdraw that. No, that's the right page. Go back to the
15:47:20 16 13. Can you see down the bottom of the left-hand page
15:47:23 17 there, under the heading for "17:00", right down the bottom
15:47:30 18 it says, "In light of the recognition of weaknesses in OPI
15:47:33 19 subpoena provisions, I took a decision not to retain an
15:47:38 20 official diary until the matter was clarified. That was
15:47:42 21 done on 1 July 2008. Now that OPI has adequate subpoena
15:47:45 22 production, I will resume my official diary. For matters
15:47:49 23 in the intervening period, I refer to correspondence and my
15:47:55 24 electronic diary." So that's what Mr Ashton wrote in his
15:47:59 25 diary?---Right.
26
15:47:59 27 He gave evidence to Mr Winneke that he'd written that not
15:48:02 28 on 21 February 2007, but I think he said it was just before
15:48:07 29 he'd recommenced taking diaries and you can see he
15:48:12 30 recommenced on 2 July 2008?---Right.
31
15:48:15 32 Now, as I said to you, and I think you mentioned it, the
15:48:20 33 Police Integrity Act of 2008 received Royal assent on 1
15:48:25 34 July 2008?---I'll have to take your word for that.
35
15:48:29 36 Take my word for that. And I want you to also accept from
15:48:31 37 me that that Act contained provisions in ss.22 and
15:48:36 38 following which gave significantly more firm and greater
15:48:41 39 protection to the production of material gathered by the
15:48:45 40 OPI?
41
15:48:48 42 MR WINNEKE: Commissioner, I don't know whether that is in
15:48:50 43 fact correct. I think what it did was to regularise the
15:48:52 44 manner in which a claim for public interest immunity could
15:48:57 45 be made. I don't accept that proposition.
46
15:48:59 47 COMMISSIONER: They're really matters for submission,

15:49:01 1 aren't they?
2

15:49:02 3 MR COLEMAN: Quite. The point is, though, would you - if
15:49:05 4 it's right that the statute had either the effect that
15:49:09 5 Mr Winneke just said, or the effect that I've just said,
15:49:11 6 and having regard to the fact that Mr Ashton recorded the
15:49:13 7 matters that we've just looked at and then recommenced
15:49:16 8 taking the diary on 2 July, you would have - you would
15:49:21 9 agree, I would suggest, that the concerns that he'd been
15:49:25 10 expressing prior to the legislative changes had been
15:49:28 11 addressed and therefore he was quite content to recommence
15:49:31 12 taking the diary?---That's the interpretation of the
15:49:36 13 matters you've put to me. I mean, I think really whether
15:49:40 14 Mr Ashton kept a diary or not whilst with the OPI was a
15:49:43 15 matter for Mr Ashton and the OPI.
16

15:49:45 17 It's certainly not consistent with any agreement being made
15:49:47 18 on 20 February 2007 at the meeting we've talked about that
15:49:52 19 he stopped taking a diary?---Yeah. No, it's not.
20

15:49:55 21 And, indeed, if you look at p.15 of the diary, you can see
15:49:59 22 an entry for 7 July 2008 on the right-hand side at 16:00
15:50:08 23 hours, where Mr Ashton records a Task Force meeting for
15:50:11 24 Briars, Oprah and Petra, do you see that?---Yes, I do.
25

15:50:16 26 And if you go over to p.19, on 21 July at 16:00 hours,
15:50:23 27 there's another entry with respect to the same sort of
15:50:27 28 matters. So again I want to suggest to you that it's just
15:50:31 29 simply inconsistent with there being an agreement having
15:50:33 30 been made at the 20 February meeting in 2007 that he stop
15:50:38 31 taking a diary with respect to those matters?---Yes, I
15:50:42 32 accept that.
33

15:50:50 34 On another matter, you were asked some questions by
15:50:52 35 Mr Winneke about a diary entry of Mr White of 3 May 2007
15:51:01 36 which records that you had met with Mr Brouwer, the
15:51:04 37 Director of OPI, and informed him of the identity of
15:51:08 38 Ms Gobbo as a human source. Do you remember those
15:51:10 39 questions?---Yes, I do.
40

15:51:11 41 Do you want me to take you to the diary entry or the
15:51:14 42 evidence that you have given?---Would you mind? I think
15:51:18 43 that would be helpful, if I could have another look at it.
44

15:51:21 45 Yes. The diary entry is referred to at transcript p.11729.
15:51:27 46 I can give you the diary entry number if you want. It is
15:51:30 47 VPL.0100.0096.0612. This is an entry where Mr White

15:51:49 1 records a meeting with Mr Biggin, "3838 update. Agreed
15:51:56 2 cannot yet deactivate but to wind down. No tasking, no
15:51:58 3 intel. Advise re Brouwer knowledge of Gobbo's ID by DC
15:52:01 4 Overland." Do you remember that entry and Mr Winneke asked
15:52:05 5 you some questions about that?---Yep.
6
15:52:09 7 And if you go over the page, please, as well, and then
15:52:27 8 you'll see - do you see at the top of p.290 in the
15:52:34 9 left-hand side there, "Advise re Brouwer knowledge human
15:52:39 10 source ID by DC Overland." Do you see that?---I do.
11
15:52:44 12 Mr Winneke asked you whether, having regard to that entry,
15:52:49 13 you believed you had spoken to Mr Brouwer about Ms Gobbo's
15:52:52 14 identity and you said, "I possibly did, yeah." And
15:52:59 15 Mr Winneke said, "Well, Mr Ashton has given evidence that
15:53:02 16 he didn't know the identity of Ms Gobbo until a later time"
15:53:05 17 and you answered yes. And you say, "Do you think you might
15:53:08 18 also - do you think you may have discussed it with
15:53:10 19 Mr Ashton, putting aside what the evidence with respect to
15:53:13 20 Khadi", that's Operation Khadi, "suggests or might not
15:53:17 21 suggest, do you think you might have also spoken to
15:53:20 22 Mr Ashton about it?" And you said, "Well, I'd be surprised
15:53:25 23 if I spoke to Mr Brouwer without Mr Ashton", and Mr Winneke
15:53:25 24 said, "Yes". You said, "I'd be surprised about that."
15:53:29 25 And Mr Winneke said to you, "Well, that's a note of
15:53:33 26 Mr White, I mean it's second, third-hand conceivably
15:53:34 27 hearsay, but he's obviously got an impression that you had
15:53:37 28 spoken to Brouwer. If you were going to speak to anyone at
15:53:40 29 the OPI, it would more likely to be Ashton, wouldn't it,
15:53:43 30 about this?" And you said, "Well, yes, but I did meet with
15:53:46 31 Mr Brouwer from time to time"?---Yes.
32
15:53:50 33 You don't suggest, do you, that even after Mr Ashton joined
15:53:53 34 the OPI, that every meeting or conversation you had with
15:53:56 35 Mr Brouwer was always in the presence of Mr Ashton, do
15:53:58 36 you?---Not every one, no.
37
15:54:01 38 We know, for example, that, from your supplementary
15:54:04 39 statement and the diaries that you've now produced, that in
15:54:08 40 June of 2004 you met with Mr Brouwer to discuss the
15:54:11 41 Fitzgerald Inquiry and then in August 2004 you met with
15:54:16 42 Mr Fitzgerald, Mr Brouwer and Mr Carroll. Admittedly, that
15:54:21 43 was prior to Mr Ashton joining the OPI?---I was just going
15:54:24 44 to say, I think it was before Mr Ashton had joined the OPI.
45
15:54:26 46 But the point you made in answer to my last question was
15:54:28 47 the same, isn't it, that even after Mr Ashton joined the

15:54:31 1 OPI, you don't suggest that every meeting you had with
15:54:33 2 Mr Brouwer or every conversation that you had with him was
15:54:35 3 in the presence of Mr Ashton, do you?---No, I don't suggest
15:54:38 4 that.
5
15:54:41 6 So having regard to those matters, wouldn't you accept that
15:54:44 7 it's possible that the diary note that we've looked at,
15:54:48 8 where you say, "Advise re Brouwer brow knowledge of human
15:54:51 9 source identity by DC Overland" indicates that you had a
15:54:54 10 conversation with Mr Brouwer about that fact not in the
15:54:57 11 presence of Mr Ashton?---Well, again, it's someone else's
15:55:01 12 diary note. That's what it indicates, yeah.
13
15:55:05 14 And you'd accept that that is a rational
15:55:08 15 explanation?---Yes, it is. Yes, I accept that.
16
15:55:15 17 Finally, I want to ask you some questions about the SWOT
15:55:19 18 analysis document that was prepared at the end of 2008 and
15:55:23 19 I'm sure you remember the questions you've been asked about
15:55:25 20 that?---Yeah.
21
15:55:28 22 Now you say you don't recall seeing this document at the
15:55:30 23 time and you gave evidence at transcript 11859 that you
15:55:37 24 don't believe the document went to the Petra steering
15:55:40 25 committee?---That's my recollection - or that's my
15:55:44 26 evidence, yes.
27
15:55:44 28 Mr Ashton's evidence about this document is that he doesn't
15:55:47 29 believe that he was shown the document?---Right.
30
15:55:50 31 He says, because of its contents, including the reference
15:55:53 32 to a possible OPI review into the legal and ethical
15:55:58 33 implications of the use of Ms Gobbo as a source, if he'd
15:56:00 34 seen it, he's clear that he would have remembered
15:56:03 35 it?---Yeah.
36
15:56:04 37 And he says that he was surprised by its contents when he
15:56:07 38 saw it in preparing for this Royal Commission because it's
15:56:12 39 a document he says he would have remembered seeing?---Yes.
40
15:56:14 41 And he says that if he'd been shown it on the Petra
15:56:18 42 steering committee, it would have caused him to ask
15:56:20 43 questions as to why it would be necessary for the OPI to be
15:56:24 44 doing reviews and he would have wanted to know what's going
15:56:28 45 on with the human source that would make such a review
15:56:31 46 necessary. Would you accept that that was his
15:56:33 47 evidence?---Yes.

1

15:56:33 2 And he said he would have been very concerned about the
15:56:36 3 contents of the document and he would have taken it to the
15:56:39 4 Director of the OPI?---I accept that.

5

15:56:41 6 And he was quite firm and confident that he'd never seen it
15:56:44 7 before, but he says that he should have seen it?---I accept
15:56:48 8 that.

9

15:56:48 10 You don't have any reason to doubt the truthfulness or the
15:56:52 11 accuracy of that evidence, do you?---No.

12

15:56:57 13 You said, in answer to one of Mr Winneke's questions, that
15:57:01 14 if the SWOT analysis got to you, it would have got to
15:57:04 15 Mr Ashton. I just want to ask you a couple of questions
15:57:06 16 about that?---Sure.

17

15:57:08 18 You don't suggest, do you, that you gave it to
15:57:10 19 Mr Ashton?---I don't recall receiving it. I don't think it
15:57:13 20 got to me.

21

15:57:14 22 Quite. But I think you accepted that it was possible that
15:57:16 23 you did and you might have a faulty recollection about
15:57:19 24 that?---Yeah. Look, I can't categorically say it didn't,
15:57:22 25 but I don't believe it did.

26

15:57:25 27 Would you accept that the only way it would have got to
15:57:28 28 Mr Ashton was through the Petra steering committee?---Yes.

29

15:57:33 30 And again, you say you don't believe it went to the
15:57:36 31 steering committee?---I don't believe so.

32

15:57:39 33 If the possibility that your recollection was faulty and
15:57:42 34 that you did receive the document is in fact the position
15:57:46 35 and it was received by you, but not the steering committee,
15:57:49 36 it's more likely than not, therefore, isn't it, that
15:57:52 37 Mr Ashton did not receive the document?---Yes. Well, it's
15:57:57 38 possible. Yes, it's consistent. On that basis, yes, he
15:58:01 39 wouldn't have seen it, unless it went to the steering
15:58:03 40 committee.

41

15:58:03 42 Yes, they're the matters, thank you, Commissioner.

43

15:58:06 44 COMMISSIONER: Thank you. I think, Mr Chettle, you're
15:58:09 45 next.

46

47

<CROSS-EXAMINED BY MR CHETTLE:

1

15:58:10 2 Mr Overland, you, I think, agreed at IBAC that you were
15:58:16 3 involved and supportive of the decision to create the SDU
15:58:22 4 in the first place?---Yes.

5

15:58:23 6 There's been words used like "patron" and "sponsor" and
15:58:26 7 things of that sort and you take issue with that, but you
15:58:29 8 agree that you showed some interest in the development of a
15:58:33 9 model like the SDU?---Well clearly. I could see the need
15:58:40 10 for it, given the events that preceded its establishment,
15:58:43 11 and I was involved in the review process and, as I said
15:58:47 12 earlier today, you know I committed resources to it, so I
15:58:51 13 thought it was a sensible thing to do.

14

15:58:53 15 And indeed I'm not going to take you through these
15:58:55 16 particular entries, but in your early diary entries you
15:58:59 17 have meetings with Mr Biggin and Sandy White in relation to
15:59:02 18 the creation of the Unit?---I do, and my recollection now
15:59:06 19 is that this was a recommendation, I think, that came out
15:59:10 20 of the Ceja review, that I think Commander Purton had been
15:59:16 21 involved in, and it was one of the outstanding
15:59:18 22 recommendations and I think in a way I commissioned - after
15:59:22 23 a conversation with Terry, commissioned the review that led
15:59:26 24 to the establishment of the SDU to action that
15:59:28 25 recommendation from the Ceja review.

26

15:59:31 27 And it's important to understand that it was their job to
15:59:34 28 manage high risk informers?---It was.

29

15:59:37 30 And by definition, high risk informers obviously carried
15:59:41 31 with them a number of risks to the themselves and to the
15:59:45 32 organisation and to the members who are handling
15:59:47 33 them?---Yeah, they do.

34

15:59:48 35 And it's for that reason that there needs to be specialists
15:59:52 36 to deal with them and to hopefully ensure that the sins of
15:59:57 37 the past, where handlers and - or police officers running
16:00:03 38 sources were getting way too close to their
16:00:07 39 informers?---That had certainly been the case leading up to
16:00:11 40 the establishment of the SDU.

41

16:00:12 42 And that was the basis of the whole sterile corridor
16:00:16 43 concept, is that those who are involved with the management
16:00:20 44 of the informer will be distinct and different from those
16:00:23 45 involved in running the investigations?---That's correct,
16:00:27 46 and while I don't recall the detail now, I mean as part of
16:00:31 47 the review process we had officers go overseas and look at

16:00:34 1 how other international forces were doing it and I think
16:00:37 2 that's where the idea or the principle came from.
3
16:00:39 4 Yes, the Commission has heard a lot about that, but you
16:00:42 5 were being - discussing that with Sandy White and with
16:00:46 6 Biggin back in '03 and '04?---Yep.
7
16:00:53 8 That was set up and conducted in accordance - the
16:00:57 9 registration of high risk informers was regulated by the
16:01:00 10 Chief Commissioner's policy at the time?---Yes.
11
16:01:02 12 And that was augmented by the standard operating procedures
16:01:09 13 that were developed for the running of the Unit?---Yes.
14
16:01:14 15 And I don't suggest you knew the standard operating
16:01:16 16 procedures?---No, I certainly didn't, but that sounds
16:01:19 17 right.
18
16:01:19 19 But there would be - - ?---There would be, yep.
16:01:20 20
16:01:21 21 - - - you'd expect, and this was a new and evolving
16:01:24 22 concept. I mean it was a new thing for Victoria Police and
16:01:26 23 the Commission has had evidence that they were effectively
16:01:29 24 modifying policy and changing it on the go, in order to try
16:01:33 25 and improve best practice?---Well, again, that sounds
16:01:35 26 consistent with my experience of starting anything up; you
16:01:39 27 tend to refine as you go, you don't get it right the first
16:01:43 28 go.
29
16:01:43 30 Correct. Now, some questions were asked of you earlier
16:01:49 31 about the similarity of the covert units, of SPU, Special
16:01:56 32 Projects Unit, receiving information and then not
16:01:58 33 disseminating it because it's legally professionally
16:02:00 34 privileged. That happens a lot, doesn't it?---With
16:02:04 35 telephone intercepts it can be an issue, yes, absolutely.
36
16:02:08 37 Yes. Because they monitor all the intercepts?---Yes, they
16:02:11 38 do.
39
16:02:11 40 Two crooks talking to each other and in the middle of it
16:02:14 41 all the crook rings his lawyer?---Yep.
42
16:02:16 43 So what the investigators will get will be a break where
16:02:19 44 obviously something hasn't been provided to them. They'll
16:02:22 45 get the crooks talking to each other but not the
16:02:24 46 privileged - - -?---Not the privileged conversation, no.
47

16:02:29 1 In order to maintain transparency, the SDU were expected to
16:02:35 2 make proper records of what they were told?---Yes.
3
16:02:39 4 You understood that, where possible, in the case of
16:02:43 5 Ms Gobbo, the conversations they had with her were tape
16:02:49 6 recorded. You'd expect that to be sensible?---I think that
16:02:52 7 was part of the process, yes.
8
16:02:55 9 And comprehensive notes should be taken and you saw some of
16:02:59 10 them before?---Yes.
11
16:03:00 12 Contact reports made in relation to all the contacts they
16:03:05 13 had with her?---Yes.
14
16:03:06 15 The idea is that they be fully transparent and not
16:03:12 16 editorialise or choose and select what they write down.
16:03:16 17 You can follow the logic behind that?---Yeah, I do. I
16:03:19 18 think it was to have a complete record, yes.
19
16:03:22 20 So it's not for them to say, "Look, she's told us that
16:03:25 21 something is legally professionally privileged, we won't
16:03:27 22 record it or we won't put it in the notes." What they
16:03:30 23 should do is record it but not disseminate it. Does that
16:03:34 24 make sense?---That makes sense, yes.
25
16:03:37 26 Did you - I take it from when you were shown an ICR before,
16:03:43 27 you've never seen those before?---Not prior to the
16:03:45 28 Commission, no. They're not something I saw.
29
16:03:47 30 But in order to prepare yourself for the evidence at the
16:03:51 31 Commission, you've reviewed some of the documents that the
16:03:54 32 SDU compiled, I take it?---I think I was shown an ICR but
16:04:02 33 only so I knew what one was.
34
16:04:04 35 But you saw - you've certainly seen some entries from the
16:04:08 36 source management log?---I've had matters put to me during
16:04:12 37 the course of my evidence, yes.
38
16:04:14 39 Indeed, when you went to IBAC, various portions of the
16:04:17 40 records of the SDU were put to you. I'll refresh you later
16:04:22 41 on, but I took you to some of the very entries that you'd
16:04:26 42 been shown?---They did. I'm just trying to remember
16:04:29 43 whether I saw them, whether they were read to me. I don't
16:04:32 44 actually now recall.
45
16:04:33 46 They were in the transcript, which you were provided
16:04:35 47 with?---Sorry, the transcript?

1
16:04:37 2 Did you get a transcript of your evidence?---No. No, I
16:04:40 3 don't believe I did.
4
16:04:40 5 Prior to - to help prepare your statements - - -?---No, I
16:04:44 6 haven't reviewed the transcript.
7
16:04:45 8 You haven't read it?---No.
16:04:47 9
16:04:48 10 All right. Can I have p.8209, please. Some evidence was
16:04:58 11 given by Mr Black. One of the controllers, if you look at
16:05:05 12 the list on the left-hand side, you'll see his name?---Yes.
13
16:05:08 14 You know who I'm talking about?---Yep.
15
16:05:13 16 He said this to the Commissioner at p.8209, "At the end of
16:05:17 17 the day we were, you know - we have a chain of command, we
16:05:20 18 have a set of rules and instructions and we do as we're
16:05:23 19 told." And that is in fact - that's their job, isn't it,
16:05:27 20 to do what I've just gone through with you?---Sorry, to
16:05:36 21 record - - -
22
16:05:37 23 To manage and record what they do with them?---Yeah, that's
16:05:40 24 what they were set up to do, to manage high risk informers,
16:05:44 25 yeah.
16:05:44 26
16:05:44 27 And they did that in the context of the
16:05:46 28 Chief Commissioner's policy and the standard operating
16:05:49 29 procedures that were developed?---I imagine so, yes.
30
16:05:52 31 And that's what they're supposed to do?---Yes.
32
16:05:57 33 You indicated that in order to - there are a number of
16:06:02 34 anti-corruption - I withdraw that and start again in
16:06:05 35 English. A number of anti-corruption techniques or
16:06:08 36 policies were put in place such as - I've mentioned
16:06:11 37 recording everything. The integrity tests for the members
16:06:19 38 of the Unit were the highest integrity tests available,
16:06:22 39 weren't they?---I don't recall that now, but I accept that
16:06:25 40 if that's what you're putting to me.
41
16:06:27 42 There were high level integrity tests taken to ensure that
16:06:31 43 the people who were doing the job were not like some of the
16:06:34 44 people who'd been involved in the past, all right. There'd
16:06:38 45 been real issues with the way informers had been
16:06:40 46 managed?---Yes, there had been.
47

16:06:43 1 Not the least of which, and fresh in the minds of
16:06:46 2 everybody, was Terry Hodson?---Well, that was - yes.
3
16:06:57 4 Any contact - in fact, the policy was that any contact with
16:07:00 5 a source that wasn't registered would be deemed to be
16:07:04 6 corrupt. You're not supposed to deal with people unless
16:07:09 7 they're registered as a source?---Yes.
8
16:07:11 9 And as far as - where you've got a position such as
16:07:15 10 Ms Gobbo, where she's actually wearing two hats at some
16:07:18 11 stage, she's representing crooks as their lawyer. At the
16:07:23 12 same time she has got a role with Victoria Police as an
16:07:27 13 informer?---Yes.
14
16:07:30 15 You've heard - the Commission has heard in this case that
16:07:34 16 on many occasions - on some occasions, I should say, the
16:07:38 17 investigators asked the SDU to provide material to Ms Gobbo
16:07:43 18 which may in fact have been more appropriately done in her
16:07:48 19 official legal capacity rather than her informer capacity.
16:07:51 20 Do you know what I mean? That is she's shown a transcript,
16:07:54 21 for example, of a conversation between Jim O'Brien and
16:07:59 22 Mr Bateson, I think, who went out to see somebody in
16:08:05 23 prison, one of the You follow?---Right. Yes.
24
16:08:09 25 The investigators are discouraged from having contact with
16:08:13 26 people who are informers?---Yes.
27
16:08:16 28 And even though the person may in fact be acting not as an
16:08:21 29 informer but in their legal capacity, it is difficult for
16:08:26 30 an investigator to know the difference, isn't it?---Yes, it
16:08:29 31 is.
32
16:08:29 33 And that would perhaps explain why it was that the
16:08:32 34 investigators sought the help of the SDU to get in touch
16:08:36 35 with Ms Gobbo rather than go directly to her
16:08:39 36 themselves?---Yep.
37
16:08:39 38 You can see the point - the problem?---I can see the point.
39
16:08:43 40 Because it's been stressed with this new model that
16:08:45 41 investigators are not supposed to have a role with
16:08:47 42 informers?---No, they're not.
43
16:08:49 44 That is the whole point of the sterile corridor?---Yes.
45
16:08:58 46 You maintain that the safest option for her was to be
16:09:03 47 registered and dealt with as an informer?---I do.

1
16:09:08 2 And you said that that had to be done with appropriate
16:09:11 3 audit trails?---Yes.
4
16:09:13 5 By that, you mean records of what was said to her and what
16:09:18 6 she said to them?---Yes.
7
16:09:20 8 Just what I've been running through with you, the need to
16:09:23 9 have proper full records, audit trails, of what she said
16:09:27 10 when and where?---Yes.
11
16:09:33 12 You have no information or reason to believe that that in
16:09:37 13 fact didn't happen, that there were full records kept of
16:09:40 14 everything she said to them, to the SDU?---The only thing I
16:09:44 15 know about the operation of the SDU with respect to
16:09:47 16 Ms Gobbo is essentially what I've learnt either through
16:09:50 17 IBAC or through this process.
18
16:09:56 19 You would have some overview about the sort of nature of
16:10:00 20 the information she supplied because of what came through
16:10:04 21 to you in your Purana briefings - I'm not talking about a
16:10:09 22 fine toothcomb?---No. I'd have some detail, yes.
23
16:10:13 24 I mean, as an example, we saw one with Mr Winneke where she
16:10:17 25 told the SDU Lanteri was cooking for Mokbel and that ended
16:10:21 26 up coming to you, that's just an example of one of
16:10:24 27 them?---Yeah, it was reported to me, yeah.
28
16:10:26 29 Everything that you saw was consistent with the fact that
16:10:29 30 she was providing information about ongoing and current
16:10:32 31 criminal activity?---Yes.
32
16:10:34 33 Nothing you saw was to suggest in any way that they were
16:10:39 34 targeting privileged information in relation to current
16:10:44 35 clients?---Not that I saw.
36
16:10:47 37 I take it you haven't read the submissions that have been
16:10:50 38 made to this Commission on the website?---No.
39
16:10:55 40 If you do, you'll see that everybody in Australia seems to
16:10:58 41 assume that what was happening is Nicola Gobbo was sitting
16:11:01 42 down with her clients, getting instructions in relation to
16:11:04 43 their defences and then telling it to the police. That
16:11:07 44 just didn't happen, to your knowledge, did it?---Not to my
16:11:10 45 knowledge.
46
16:11:10 47 Because that would be in breach of legal professional

16:11:13 1 privilege and her duty to her clients?---Yes, it would be.
2
16:11:17 3 You told Mr Winneke that you'd read the High Court
16:11:19 4 decision?---I haven't read the High Court decision.
5
16:11:22 6 Or you've heard the words - - -?---I've heard the words
16:11:25 7 that have been quoted, yes.
16:11:26 8
16:11:26 9 It won't take you very long to read it if you do, it's a
16:11:30 10 fairly short judgment, but when they refer to the police
16:11:32 11 encouraging Ms Gobbo to breach her duties to her client, do
16:11:37 12 you have any idea what they're talking about?---No, I
16:11:39 13 didn't.
14
16:11:40 15 Do you know what it is that, even now, the SDU are said to
16:11:45 16 have done that led to those comments by the High
16:11:48 17 Court?---No, I don't.
18
16:11:50 19 You were aware, I take it, in 2012, what was called the
16:11:58 20 Comrie report was prepared as a secret report?---No, I
16:12:02 21 don't think I was. I think it was probably mentioned to me
16:12:05 22 - if it was mentioned at IBAC, it was mentioned there, but
16:12:08 23 I had no knowledge of the fact that that was being done.
24
16:12:11 25 So you've never read it?---Never read it, no.
26
16:12:15 27 Okay. You're aware that it was relied upon, in part, by
16:12:20 28 Mr Justice Ginnane in the litigation that found its way to
16:12:24 29 the High Court?---I think I am now, but only well down the
16:12:31 30 track.
31
16:12:35 32 That report found, in part, that the SDU targeted
16:12:41 33 privileged information and strategically involved itself in
16:12:46 34 current cases, do you follow, before the courts?---Right.
35
16:12:52 36 On the basis of that, you could understand, if that were
16:12:56 37 true, why the High Court made the comment that it did in
16:13:00 38 relation to the conduct of the police?---Yes.
39
16:13:04 40 Whether that's true or not will depend upon the records,
16:13:06 41 obviously?---Well, yes.
42
16:13:09 43 All right. You indicated that you believed she would
16:13:20 44 always end up being compromised?---I thought the longer she
16:13:24 45 was with the organisation, the greater the chance that that
16:13:26 46 would be the case.
47

16:13:27 1 That's perhaps a bit different from what I understood your
16:13:29 2 evidence to be to Mr Winneke?---No, I think that was my
16:13:32 3 evidence to Mr Winneke.
4

16:13:34 5 So it's not your view that it was inevitable that she would
16:13:37 6 be compromised?---I didn't think it was inevitable, but I
16:13:42 7 thought the longer she was with the organisation, the more
16:13:45 8 likely and in fact inevitably - that it would become
16:13:50 9 inevitable the longer she remained part - or was associated
16:13:53 10 with the organisation as a human source.
11

16:13:55 12 Clearly, for nearly four years, she was managed by the SDU
16:14:00 13 and her identity - she wasn't compromised?---Well, I think
16:14:08 14 that's a matter of some conjecture. I think there was
16:14:11 15 certainly people who were suspicious of her through that
16:14:15 16 time and there were certainly threats being made that
16:14:17 17 indicated people were suspicious of her activity, but I
16:14:24 18 accept that some of that may have been in relation to
16:14:28 19 people she was acting for because, of course, I've also
16:14:32 20 given evidence that Mokbel and Williams, to an extent,
16:14:36 21 expected her to act in their best interests regardless of
16:14:40 22 who she was formally acting for.
23

16:14:42 24 Correct, and in due course - tomorrow I'll take you to some
16:14:43 25 entries which will show that the SDU were fully aware of
16:14:46 26 those threats and those threats were directly related to
16:14:49 27 her role in acting for people who assisted police?---Okay,
16:14:52 28 all right, I accept that.
29

16:14:54 30 And that you'd be called a dog and threatened if you get
16:14:58 31 your client to roll against the big pins?---I accept that.
32

16:15:01 33 Is that a convenient time, Commissioner? No, we go to
16:15:06 34 4.30. Sorry, I apologise.
35

16:15:08 36 COMMISSIONER: Wishful thinking.
37

16:15:09 38 WITNESS: It is convenient for me, Mr Chettle.
39

16:15:13 40 MR CHETTLE: I'm happy to keep going.
41

16:15:16 42 In your statement, you make reference to the SDU recruiting
16:15:24 43 Ms Gobbo. Do you remember - - -?---Yes.
44

16:15:27 45 You know now, I take it, that they didn't go out and get
16:15:32 46 her, she was brought to them?---I understand that now,
16:15:36 47 yeah.

1

16:15:36 2 And that, again, consistent with what I was saying to you
16:15:39 3 before, was their job. Someone like - and it was Bob Hill
16:15:42 4 who made the request for assistance. You know
16:15:46 5 Mr Hill?---Yeah, I do know Mr Hill.

6

16:15:47 7 At that stage he was Acting Inspector, I think, at the
16:15:51 8 MDID?---Yes.

9

16:15:52 10 And there had been approaches to the MDID, that you've
16:15:56 11 heard about, where she was displaying emotion in court and
16:16:01 12 speaking to Mansell and Rowe and over the course of about a
16:16:04 13 week leading up to the 16th, approaches were made and a
16:16:10 14 request for assistance was ultimately made to the SDU to
16:16:14 15 have them assess her for management?---Yes, I understand
16:16:18 16 that.

17

16:16:19 18 Now, under the Chief Commissioner's policy, evidence has
16:16:24 19 been given to the Commissioner that registration process is
16:16:30 20 not a simple matter of giving a number, it's a process that
16:16:33 21 takes place over a period of time?---Yes.

22

16:16:35 23 There's an assessment for suitability conducted by the SDU
16:16:40 24 to determine whether she fits the category?---Yes.

25

16:16:43 26 And you would have expected that over a period of time,
16:16:46 27 there would have been meetings or conversations with her
16:16:50 28 where that assessment process took place?---My recollection
16:16:56 29 is based on the work I did around the policy, that's, I
16:16:59 30 think, the sort of process that was set in place, yes.

31

16:17:02 32 At some stage, even when you were Chief Commissioner, you
16:17:06 33 would have had some idea, I assume, about the policy that
16:17:08 34 applied to informers?---Yes.

35

16:17:09 36 Because it got amended. I'm not suggesting the policy,
16:17:11 37 when you were there, was the same as it was when she was
16:17:14 38 there?---No, it did get amended.

39

16:17:16 40 It was an evolving thing?---Yes.

41

16:17:24 42 Mr Sandy White has given evidence that the registration of
16:17:29 43 Ms Gobbo was not complete until the risk assessment was
16:17:32 44 finished and the risk was accepted by the source registrar
16:17:38 45 signing off on the risk assessment on behalf of Victoria
16:17:41 46 Police, and that's the way it worked, isn't it, as you
16:17:44 47 understand it?---I mean, my memory of all of this is a

16:17:47 1 little bit shaky, I have to admit, but I accept that that
16:17:50 2 sounds like the proper process, yes.
3
16:17:52 4 The evidence here is that the risk assessment was completed
16:17:55 5 in November of 2005 some time - - -?---Right.
6
16:18:01 7 - - - before it was taken to what was then Inspector
8 Cowlshaw?---Right.
9
16:18:06 10 Although he claims not to remember getting it, I might tell
16:18:09 11 you?---Right.
12
16:18:10 13 And it was signed off and the risk was accepted by
16:18:13 14 Superintendent Thomas, who was the officer in charge of the
16:18:16 15 division at that time?---Right.
16
16:18:20 17 Your diaries - again, I hate to come back to them - but
16:18:23 18 they have reference to your having a conversation about her
16:18:27 19 management with - or about Mr Thomas, don't they? Do you
16:18:33 20 recall that?---My diaries reference a conversation with
16:18:38 21 Terry Purton in which I - - -
22
16:18:40 23 No, no. Can I take you to 27 September '09, and that's the
16:18:43 24 one you're thinking about?---Yeah.
25
16:18:44 26 It reads at 3.45 with Terry Purton you have a debrief re
16:18:49 27 3838?---Yep.
28
16:18:50 29 And then you have some discussion with him about security
16:18:54 30 re her information?---Yep.
31
16:18:56 32 You were worried that she not be compromised in any way by
16:19:01 33 her information being leaked from this Police Force?---Yes.
34
16:19:05 35 And the note reads, "Discuss with Ian Thomas re
16:19:08 36 management"?---Yes.
37
16:19:09 38 That is because Ian Thomas was the Superintendent in charge
16:19:12 39 of the division, in charge of looking after her?---I think
16:19:17 40 probably the Acting Commander at that time of that area.
16:19:19 41 There was a commander in charge of - was he Acting
16:19:23 42 Commander or Superintendent? I don't - - -
43
16:19:24 44 I don't know. I believe he was the Superintendent in
16:19:27 45 charge of the unit?---I think, and I stand to be corrected,
16:19:30 46 he might have been the Acting Commander in charge of the
16:19:32 47 Intel & Covert Support department, in which case the unit

16:19:37 1 was part of that department.
2
16:19:38 3 He leaves, I think, in February of '06, somewhere around
16:19:44 4 there?---Right. But I think that Dannye Moloney had
16:19:47 5 actually been appointed to that role but was still tied up
16:19:51 6 with Ceja matters and I think in the interim, my
16:19:53 7 recollection is that he acted whilst Dannye was still off
16:19:56 8 doing Ceja stuff until he came across to take up that role.
9
16:19:59 10 Whatever title he's got - - -?---He's senior in that
16:20:02 11 department, I'm happy to accept that.
12
16:20:03 13 And it is clear from your diary about discussing her
16:20:06 14 management with him, or for Purton to discuss her
16:20:12 15 management with him, that he would have been aware of her
16:20:14 16 registration?---Yes.
17
16:20:17 18 I mean, he has made a statement, as I understand it, saying
16:20:20 19 he knows nothing, "I don't remember, I know nothing, I
16:20:24 20 don't know anything about it"?---Look, all I can say is I
16:20:29 21 think my note indicates talking to Terry about the need to
16:20:32 22 talk to him about this and to actually make sure that, you
16:20:35 23 know, we've got everything in order.
24
16:20:40 25 There is no doubt that she was registered?---Yes.
26
16:20:42 27 There is no doubt that risk assessments were
16:20:45 28 compiled?---Yes.
29
16:20:45 30 And as far as you're aware, the process that's required to
16:20:49 31 be carried out by the Chief Commissioner's policy was
16:20:54 32 complied with?---That was my belief, yes.
33
16:21:02 34 I'm told that there's a reference to this - I don't need to
16:21:10 35 pull it up. There's a meeting on 27 September 05 which, in
16:21:16 36 the source management log, reads, "Meeting with Acting
16:21:23 37 Commissioner Thomas. Discussed security measures for HS
16:21:25 38 intel. Agreed higher level of protection required and all
16:21:28 39 documents to be delivered to Registrar McLean, who will
16:21:33 40 record same in a petitioned IMU database." That is
16:21:37 41 consistent with your direction, isn't it, that there be
16:21:40 42 proper steps taken with Acting Commander Thomas, as you
16:21:44 43 rightly say, about the security of her documents?---Yes.
44
16:21:54 45 Do you know in order to deal with the standing operation -
16:22:04 46 SOPs that the SDU had, this request for assistance document
16:22:08 47 was developed? It was just an internal record to

16:22:10 1 effectively record or document the process of commencing a
16:22:16 2 registration or a possible registration?---Look, again, if
16:22:21 3 I was aware of it, I don't recall it now. I don't pretend
16:22:24 4 that I was across that process at all.
5
16:22:26 6 The evidence in this case shows that that request for
16:22:29 7 assistance was made by Bob Hill but the paperwork was
16:22:32 8 completed by the SDU and then the assessment process
16:22:37 9 started, leading to what I said?---I accept that.
10
16:22:41 11 That all being the case - it is probably semantics - but
16:22:46 12 that paragraph in your statement which said that they
16:22:50 13 recruited her, you're using that in the sense of recruited
16:22:53 14 her when she was brought to them?---I now understand more
16:22:57 15 about the events that transpired. I mean, my recollection
16:23:02 16 was that she was distressed and talking to investigators,
16:23:08 17 she was referred to the SDU and she was recruited through
16:23:13 18 that process. That was my understanding at the time I made
16:23:16 19 the statement. There's subsequently information been made
16:23:19 20 known to me that amends that slightly.
21
16:23:20 22 I'm probably sensitive to the word "recruited"?---I
16:23:23 23 understand what you're saying. I don't disagree with what
16:23:26 24 you've put to me, it is consistent with other information
16:23:28 25 that has been put to me in the course of my evidence.
26
16:23:30 27 You got to know Sandy White reasonably well during the
16:23:33 28 course of your dealings with him in 03, 04?---Well,
16:23:39 29 reasonably well, yes. As a [REDACTED] - I would deal
16:23:45 30 with [REDACTED] periodically. I probably dealt with
16:23:48 31 him as much as most [REDACTED]
32
16:23:51 33 He was regarded as being the most qualified source handling
16:23:57 34 person in Victoria Police at that stage?---I think that's
16:23:59 35 right, yes.
36
16:24:00 37 He was one of the people who'd been overseas to try and
16:24:05 38 source best practice?---I think that's right - he and Geoff
16:24:09 39 McLean, I think, if I recall rightly.
40
16:24:15 41 And in your dealings with him, he clearly had a strong
16:24:19 42 enthusiasm and dedication to try and make this work?---Yes.
43
16:24:27 44 He was, as the Commission has heard, someone of the highest
16:24:33 45 integrity?---That was my understanding.
46
16:24:38 47 Just one of the brief points. You say at some point in

16:24:43 1 your statement that you discussed your concerns about her
16:24:45 2 management with those who were handling her and those who
16:24:49 3 were - the investigators; you put them both in
16:24:53 4 there?---Yes.
5
16:24:54 6 Let me suggest to you that you had on one occasion at least
16:24:58 7 a conversation with Sandy White in relation to the topic of
16:25:04 8 legal professional privilege. My instructions are he
16:25:06 9 recalls talking to you about it?---I accept that, yes.
10
16:25:09 11 But it would have been apparent to you that he was all over
16:25:12 12 it, he knew about the problem and was dealing with
16:25:15 13 it?---Well, that is my recollection. I thought we were all
16:25:18 14 all over it and were dealing with it appropriately.
15
16:25:20 16 I'm not suggesting you saw it, but he had obtained from
16:25:24 17 England documents which assisted with source management, if
16:25:30 18 I can put it that way. There is some degree of sensitivity
16:25:32 19 about them, if you follow?---I was aware that there was a
16:25:35 20 range of material that was brought back from the overseas
16:25:37 21 study tour.
22
16:25:38 23 And they told you that they had stuff to help them with
16:25:41 24 what they were doing?---Look, I accept that. I don't
16:25:43 25 specifically recall it, but I accept it.
26
16:25:51 27 He - this is significant - understood, and you would have
16:25:54 28 been aware that he understood, I suggest, that legal
16:26:00 29 professional privilege did not extend to ongoing crime or
16:26:05 30 current or future crime by clients?---No.
31
16:26:12 32 At no stage, I suggest, did you ever discuss with him the
16:26:15 33 issue of conflict, that is that she shouldn't act for
16:26:21 34 people that she provides information about. I'm not
16:26:24 35 suggesting you didn't know about it?---That might be right.
16:26:27 36 As I say, my recollection around that is strongest around
16:26:31 37 talking to my investigators about that.
38
16:26:33 39 And, in fact, at page - can you bring up transcript pages?
16:26:40 40 Can I have p.11754, please, of your evidence. To put this
16:26:47 41 in context, at IBAC you said you had conversations with
16:26:51 42 Sandy White about concerns you had, and I don't dispute
16:26:56 43 that you said that, and indeed, in your statement you said
16:26:59 44 it when I took you to it before?---M'hmm.
45
16:27:02 46 But what you said to Mr Winneke, at p.11754, is - see that
16:27:08 47 in front of you?---I've got that page in front of me.

1

16:27:12 2 Down the bottom, at about point 39, "Would you have told
16:27:17 3 the SDU that they should make it clear to Ms Gobbo that she
16:27:20 4 shouldn't represent anyone who might be arrested because of
16:27:22 5 her information, would you have given them the instructions
16:27:26 6 or only your investigators that instruction?" "I think
16:27:29 7 I've given that instruction to the investigators because I
16:27:32 8 thought it was more likely that they would be dealing with
16:27:34 9 those issues. I do recall early on talking to the SDU
16:27:38 10 about the privilege issue, but I don't think I mentioned
16:27:41 11 the conflict." Do you see that?---Yeah, I do.

12

16:27:45 13 So to be fair to you, your evidence is a little bit all
16:27:49 14 over the place in relation to who you spoke to and what
16:27:52 15 about and I don't blame you. It is 15 years ago. Do you
16:27:57 16 accept that what you said there, at 11754 and 11755, is
16:28:02 17 accurate?---Well, to the best of my recollection, yes.

18

16:28:08 19 So again, it probably doesn't matter because you'll see
16:28:12 20 when you look at the records that the issue of conflict was
16:28:15 21 addressed by Sandy White and by others and Ms Gobbo was
16:28:18 22 told repeatedly that she shouldn't act for people that
16:28:22 23 she's provided information for and she said she knew
16:28:25 24 that?---Right.

25

16:28:27 26 You also said when you were at IBAC that you were of the
16:28:33 27 view that issues of conflict and ethics were really matters
16:28:38 28 for her?---Well, they were primarily, yes.

29

16:28:40 30 And that's still your view?---Well, I don't see how she can
16:28:45 31 avoid her responsibilities around those things.

32

16:28:49 33 So to give you an example of actually what happened in one
16:28:53 34 of the examples, you've heard about the tomato tins, I
16:28:57 35 assume?---Well, I have, but it is somewhat of a mystery to
16:29:01 36 me, I have to admit, Mr Chettle.

37

16:29:03 38 Well, I'll see if I can help you in the one minute I've
16:29:05 39 got. She was appearing in a trial in the Supreme Court and
16:29:09 40 during the course of that trial, one of the co-accused gave
16:29:13 41 her documents that they did not want to take into court
16:29:16 42 because they related to an import that they were going to
16:29:19 43 do in the future, a future drug importation, ironically
16:29:24 44 while they're on trial for drug importation?---That doesn't
16:29:28 45 surprise me.

46

16:29:28 47 She copies those documents, gives the originals back to the

16:29:32 1 people involved and then provides it to the SDU?---Right.
2
16:29:36 3 Now, on any view, that is ongoing - future criminal
16:29:41 4 activity and would not be legally professionally
16:29:44 5 privileged?---I wouldn't have thought so.
6
16:29:45 7 That is then dealt with appropriately, it is handed off to
16:29:49 8 someone in the Drug Task Force, customs get hold of it and
16:29:55 9 Mr Karam and others are arrested in relation to that
16:29:57 10 importation?---Right.
11
16:30:00 12 During the course of - I should tell you the trial that she
16:30:08 13 was acting for goes to conclusion and the accused, much to
16:30:13 14 her horror and disappointment, are acquitted, and she
16:30:18 15 expresses that to the handlers.
16
16:30:21 17 COMMISSIONER: She's continued to act for him after
16:30:24 18 having passed the - - -?---Yes, I understand. So the
16:30:26 19 client got off.
20
16:30:28 21 MR CHETTLE: Got off and was acquitted?---Yeah.
22
16:30:30 23 She is told by the SDU and, indeed, by the Federal Police,
16:30:34 24 that she is not to have any involvement with representing
16:30:37 25 any of these people when the charges come forward in the
16:30:40 26 future?---I thought that was good advice.
27
16:30:42 28 And she tells us, the SDU, that she understands that, but
16:30:46 29 subsequently, after she leaves the police control, after
16:30:50 30 she's no longer being run by Victoria Police, she goes on
16:30:54 31 to act for these people?---Right.
32
16:30:56 33 That can hardly be laid at the feet of the SDU, can it?---I
16:31:00 34 wouldn't have thought so, no.
35
16:31:02 36 Now is it a convenient time, Commissioner?
37
16:31:04 38 COMMISSIONER: How much longer will you be, Mr Chettle?
16:31:06 39
16:31:07 40 MR CHETTLE: I've got a couple of hours at least,
16:31:09 41 Commissioner.
42
43 COMMISSIONER: A couple of hours at least?
44
16:31:09 45 MR CHETTLE: At least. I'll try and trim it down, but I'm
16:31:12 46 on p.1 of 8 at the moment.
47

16:31:13 1 COMMISSIONER: 1 of 8.
2
3 MR CHETTLE: 1 of 8.
4
16:31:14 5 COMMISSIONER: That doesn't sound too bad. We might not
16:31:18 6 take as long as - I'm optimistic. You might not take as
16:31:22 7 long as you think. Perhaps you'll be able to organise it
8 overnight to be concise.
9
16:31:26 10 MR CHETTLE: I've written this three times, Commissioner.
11
16:31:29 12 COMMISSIONER: Excellent. Mr Gleeson, re-examination?
13
16:31:32 14 MR GLEESON: About an hour, Commissioner.
15
16:31:33 16 COMMISSIONER: And Mr Winneke?
17
16:31:36 18 MR WINNEKE: Commissioner, there might be about an hour.
19
16:31:40 20 COMMISSIONER: Okay. Well, it doesn't really sound as
16:31:42 21 though we're going to need our next witness before
16:31:45 22 lunchtime. Perhaps we'll say at least 12 o'clock at this
16:31:54 23 stage and we'll know by mid-morning whether he'll be needed
16:31:59 24 before 2.00.
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16:32:01 26 MS ENBOM: Thank you, Commissioner.
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16:32:02 28 COMMISSIONER: We'll adjourn until tomorrow at 9.30.
16:32:53 29
16:32:54 30 <(THE WITNESS WITHDREW)
16:32:54 31
32 ADJOURNED UNTIL THURSDAY 23 JANUARY 2020
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