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These claims are not yet resolved.

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Wednesday, 23 October 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Counsel Assisting	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Mr S. Holt QC
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDP	Ms R. Avis
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for Faruk Orman	Mr M. Koh
Counsel for Pasquale Barbaro	Mr C. Wareham
Counsel for AFP	Ms I. Minnett
Counsel for Chief Commissioner of Police	Mr A. Coleman SC Mr P. Silver

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09:36:45 1 COMMISSIONER: Yes, we've got the witness on the line and
09:36:48 2 we're still in open hearing.
3
09:36:50 4 MR WINNEKE: Yes.
5
09:36:51 6 COMMISSIONER: Mr Winneke. The appearances are as they
09:36:55 7 have been save that Mr Coleman is appearing with Mr Silver
09:37:00 8 today for Mr Ashton.
9
09:37:01 10 MR WINNEKE: Yes, Commissioner. I've got some questions
09:37:04 11 that I can deal with in open hearing before we move into an
09:37:08 12 area where I think we'll need to go into the private
09:37:12 13 hearing, not the complete private hearing, but the usual
09:37:17 14 private hearing.
09:37:19 15
09:37:19 16 <OFFICER BLACK, recalled:
17
09:37:22 18 MR WINNEKE: Can you hear me, Mr Black?---Yes, I can.
19
09:37:25 20 I was asking you some general questions last night about
09:37:30 21 the way in which information was disseminated and what you
09:37:37 22 say is that by and large, as far as you were concerned in
09:37:42 23 any event, when you passed on information, whether it be
09:37:46 24 verbally, there would generally be an accompanying
09:37:49 25 information report?---When I passed on the information
09:37:53 26 there was always an information report.
27
09:37:57 28 Yes. Indeed, to be fair to you, it seems to be, if you
09:38:00 29 have a look at the ICRs, certainly with respect to the
09:38:04 30 periods in which you were handling, and they were periods I
09:38:07 31 think early on in the piece, firstly, from about 25
09:38:11 32 November 05 through to 3 January, that appears to be the
09:38:15 33 case?---Yes.
34
09:38:16 35 And that was your MO, to do it that way?---Yes.
36
09:38:23 37 I think then you had a very short stint of handling
09:38:27 38 Ms Gobbo for about 24 hours on 12 and 13 April 2006 when
09:38:34 39 Mr Smith was away at Easter time; is that right?---Yes.
40
09:38:38 41 It appears thereafter that you were not involved in
09:38:42 42 handling Ms Gobbo as a handler at the SDU; is that
09:38:46 43 right?---Yes.
44
09:38:47 45 And indeed I think about May of 2006 you were promoted to a
09:38:54 46 PII [REDACTED] at the SDU and thereafter you had
09:38:58 47 controlling obligations for the remainder of your period at

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09:39:02 1 the DSU/SDU until 2009; is that right?---Correct, I was
09:39:10 2 gazetted as a full-time controller there.
3
09:39:11 4 And thereafter I think on a number of occasion, which I'll
09:39:13 5 come to in due course, you undertook some controlling
09:39:18 6 duties when Mr White was away on leave or elsewhere, would
09:39:24 7 that be fair to say?---On occasions, yes.
8
09:39:29 9 It's not all together clear, when you look at the records,
09:39:33 10 the source management log, when in fact there has been a
09:39:36 11 change of controller because it does appear when you look
09:39:38 12 at the SML, I don't know whether you've done this exercise,
09:39:41 13 but the occasions when your notes appear to suggest that
09:39:43 14 you're handling, it just doesn't appear in the SML that
09:39:47 15 that's the - you're controlling - I withdraw that. It
09:39:50 16 doesn't appear in the SML to be the case?---That would be
09:39:53 17 fair. There was a separate form that we used to complete
09:39:56 18 called a Change of Participants and they were compiled and
09:40:00 19 lodged with the Human Source Management Unit.
20
09:40:09 21 You agree, you've gone through the SMLs and it doesn't
09:40:16 22 always appear to be the case, or in fact on no occasions
09:40:22 23 after you end up being the handler does it appear in the
09:40:24 24 SMLs that you're a controller?---The SML is something we
09:40:28 25 created. It's an organic document which improved with
09:40:33 26 time.
27
09:40:34 28 There were practices which seemed to change - when I say
09:40:38 29 practices, different handlers had different practices.
09:40:41 30 Some handlers, and I was putting to you yesterday that on
09:40:46 31 very many occasions some handlers would not put in
09:40:49 32 information reports despite the fact that they would be
09:40:51 33 passing on verbal disseminations of information and you
09:40:55 34 can't, I take it you don't argue with that
09:40:57 35 proposition?---No.
36
09:40:59 37 In such circumstances, albeit there might well be a
09:41:04 38 reference in the ICR that the handler has passed on the
09:41:09 39 information to the point of contact at Purana, it's not
09:41:14 40 always, in fact it's difficult to really get a grasp on
09:41:20 41 which information has been handed over or disseminated in
09:41:24 42 the absence of an IR, do you accept that proposition?---It
09:41:28 43 would be reflected in their diaries.
44
09:41:31 45 It may be or it may not be. You'd need to look at each of
09:41:36 46 the diaries and work out what was passed on and what
09:41:39 47 wasn't, and even then, I suggest to you, it's not always

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09:41:42 1 clear?---I suggest if they've contacted their point of
09:41:45 2 liaison, whether it's for this particular individual or
09:41:50 3 others, it's reflected in their diary. Their diary is one
09:41:53 4 of the primary pieces of evidence.
5
09:41:54 6 I follow that. I mean that's what you'd hope to be the
09:41:57 7 case but can I suggest to you this, without - and we've
09:41:57 8 gone through plenty of diaries and looked at plenty of
09:42:01 9 these ICRs, can I suggest to you, and it may well be you've
09:42:06 10 done the same, but can I suggest to you that it is a
09:42:09 11 difficult exercise to work out in many cases what
09:42:12 12 information has been passed on. Do you dispute
09:42:14 13 that?---Well I do dispute it, from the point of view that
09:42:17 14 the controllers and handlers were in contact regularly and
09:42:22 15 we checked the diaries each fortnight over and above the
09:42:25 16 contact reports.
17
09:42:27 18 Yes, all right. How many weeks all up do you think that
09:42:36 19 you were the controller of Ms Gobbo?---It wouldn't be many.
20
09:42:38 21 No, it wouldn't be, would it? It would probably be about
09:42:41 22 eight weeks in the entire period that she was registered,
09:42:44 23 wouldn't it?---I'd be surprised if it's that long.
24
09:42:47 25 To the extent that you can say, that's it, isn't it?---I
09:42:50 26 wouldn't disagree with that.
27
09:42:55 28 I'm not going to go into detail about this but you were
09:42:58 29 involved in the very early stages of this project, that is
09:43:01 30 the SDU project. You came on board in about late 2004,
09:43:08 31 would that be fair to say?---Yes, November 2004.
32
09:43:15 33 You didn't have an involvement in the creation of the
09:43:19 34 Standard Operating Procedures, did you?---No. Not the
09:43:27 35 first SOPs for the Dedicated Source Unit.
36
09:43:31 37 No, all right. You think you may have had some involvement
09:43:34 38 in the update which I think occurred in about 2008?---Yeah,
09:43:38 39 it was a learning environment as the weeks went by and we
09:43:43 40 kept value adding to best practice.
41
09:43:46 42 All right. What I want to do is ask you about your
09:43:51 43 involvement, your knowledge of Ms Gobbo. It's clear enough
09:44:01 44 that you didn't know Ms Gobbo before - or is it clear, you
09:44:09 45 didn't know Ms Gobbo before your involvement with her at
09:44:12 46 the SDU, DSU?---I knew of her through my experience with
09:44:18 47 the court systems but I had no personal contact with her at

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09:44:20 1 all.
2
09:44:21 3 You were at the [REDACTED] Squad prior to coming to the DSU;
09:44:25 4 is that right?---Yes.
5
09:44:25 6 Had you had - you were involved in the PII [REDACTED] Task Force,
09:44:29 7 were you, or were you doing other things?
09:44:31 8
09:44:31 9 MR CHETTLE: Commissioner, I'm just a bit concerned about
09:44:35 10 the amount of bio data.
11
09:44:39 12 MR WINNEKE: I follow, yes, okay. You didn't have any
09:44:41 13 dealings with her in that area?---No.
14
09:44:43 15 Okay. And you'd never charged a person for whom she had
09:44:50 16 appeared?---No.
17
09:44:51 18 Did you ever appear in a case as a witness in any
09:44:54 19 proceeding in which she had appeared or been
09:44:57 20 involved?---Not that I recall.
21
09:45:01 22 You were at the DSU when Ms Gobbo was first brought on; is
09:45:12 23 that right?---Yes.
24
09:45:16 25 You weren't involved in the initial meetings, and I think
09:45:21 26 there was an initial meeting on 16 September 2005, but were
09:45:26 27 you updated by Mr White and did you discuss with him and
09:45:31 28 the other members of the DSU the fact that she was coming
09:45:36 29 on board and the general circumstances surrounding
09:45:44 30 that?---Yes.
31
09:45:46 32 Because indeed you've said before that you were very
09:45:49 33 cautious about the initial contact with Ms Gobbo?---Yeah,
09:45:55 34 we were very sceptical of it and tried to identify risk,
09:46:02 35 value and motivation.
36
09:46:06 37 Did you yourself have any involvement in that?---At that
09:46:12 38 particular time our Unit was quite small.
39
09:46:15 40 Yes?---Mr White was running the Unit and we had just four
09:46:19 41 full-time handlers, which I was one of the four.
42
09:46:24 43 So there were general discussions within the office about
09:46:27 44 this activity, bringing her in?---Yes.
45
09:46:30 46 You didn't get a full briefing about her until 18 October
09:46:34 47 2005, if we accept what's in the SML, because it was at

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09:46:37 1 that time that you were designated as being a co-handler of
09:46:42 2 her; is that right?---Correct.
3
09:46:43 4 One of the things that you say, I think in your statement
09:46:48 5 at paragraph 15, is that you have experience in the
09:46:52 6 pro-active recruitment of human sources, right?---I'm just
09:46:58 7 referring to paragraph 15 if I may.
8
09:47:00 9 I think it is in paragraph 15. We'll do it in a general
09:47:05 10 way. One of the things that you claim experience
09:47:12 11 in?---Yes.
12
09:47:13 13 There is evidence that Mr White had had discussions at an
09:47:20 14 earlier stage, that is in about 2004, around a time when
09:47:25 15 Ms Gobbo was ill and was in hospital, about the potential
09:47:29 16 of her being recruited as a human source. Now I'm not
09:47:34 17 suggesting that you were at the SDU or DSU in July or
09:47:40 18 August of 2004, but did you hear when you came on and when
09:47:47 19 you were having discussions with Mr White about any earlier
09:47:51 20 consideration that had been given to recruiting
09:47:56 21 Ms Gobbo?---No.
22
09:48:01 23 There is information in the risk analysis or the risk
09:48:09 24 report, which you signed off on in November, that she had
09:48:14 25 been talking to a number of other groups of police officers
09:48:20 26 prior to the time that she came to the DSU, you're aware of
09:48:25 27 that?---Yes.
28
09:48:27 29 And indeed the risk analysis suggests that she had been
09:48:32 30 speaking to members, several police members, including
09:48:38 31 members of Operation Purana, the MDID regarding the
09:48:44 32 possibility of assisting police and there was also some
09:48:47 33 suggestion that current members of the Australian Federal
09:48:51 34 Police and the Australian Crime Commission may also be
09:48:54 35 aware that she was considering the possibility of covertly
09:48:57 36 assisting police. Now that's in a document that you signed
09:49:00 37 and you perused I think on 25 November when you signed off,
09:49:08 38 or thereabouts anyway. Do you accept that?---Absolutely.
39
09:49:15 40 Did you make any inquiries about that of Mr Smith, who
09:49:20 41 obviously filled out that form, or did you have any
09:49:26 42 knowledge yourself about who she was speaking to?---Well
09:49:29 43 we'd been assessing her over a period of six to seven
09:49:32 44 weeks.
45
09:49:33 46 Yes?---We had several meetings with her and ultimately how
09:49:38 47 this risk assessment culminated, Mr Smith completed the

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09:49:46 1 risk assessment.
2
09:49:47 3 Yes?---On 15 November and sent it to me, which I perused,
09:49:50 4 and made my endorsements and completed it.
5
09:49:55 6 No, I understand that. Did you speak to him about people
09:50:00 7 with whom she had been communicating, that is police
09:50:02 8 officers?---Yes.
9
09:50:03 10 And who do you understand that they were?---Well it's
09:50:10 11 addressed in the initial hand-over document from the Drug
09:50:15 12 Squad to us.
13
09:50:17 14 Right. So that's the extent of your knowledge. As far as
09:50:20 15 you're concerned it was the MDID, that is Mansell and Rowe,
09:50:24 16 who she'd approached?---Yes.
17
09:50:28 18 The hand-over document, what, is that the request for
09:50:31 19 assistance?---Correct.
20
09:50:35 21 I don't know if there's anything in that about
09:50:40 22 communications with Purana. Did you know who it was at
09:50:43 23 Purana who she was speaking to at the time?---She's a - 38
09:50:48 24 is obviously a barrister, a lawyer representing assorted
09:50:52 25 clients and quite active in the court community. She was
09:50:57 26 dealing with several people in the Crime Department, Purana
09:51:00 27 were just one group of them.
28
09:51:02 29 Look, I'm asking you direct questions about what's in this
09:51:04 30 document. If you're signing off on a risk assessment
09:51:07 31 surely you would want to know who she's speaking to, why
09:51:12 32 she's speaking to those people, because all of that's
09:51:16 33 relevant to the potential that she may be exposed in due
09:51:18 34 course, isn't it?---Absolutely.
35
09:51:21 36 Right. What I'm simply asking you is do you believe that
09:51:27 37 you did drill into who it was in fact that she was speaking
09:51:30 38 to?---I knew who it was.
39
09:51:32 40 And who was it?---That's how she come to being directed to
09:51:36 41 our office.
42
09:51:37 43 No, I understand that. Putting aside the MDID, who at
09:51:40 44 Purana was she speaking to?---I'm not particularly sure of
09:51:44 45 the investigators but the prime group back then were
09:51:49 46 relatively small.
47

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09:51:50 1 Well, what about - were you aware as to why it would be or
09:51:58 2 how it would be that there would be members of the AFP and
09:52:01 3 potentially the ACC who may have been aware that she was
09:52:04 4 considering the possibility of covertly assisting
09:52:06 5 police?---Well a lot of the jobs the MDID are doing are
09:52:12 6 joint investigations, so I'm not too sure how broadly that
09:52:17 7 was discussed but that was on our radar.
8

09:52:20 9 Do I take it from your answers that when you signed off on
09:52:25 10 this risk assessment you didn't really drill into it and
09:52:28 11 find out exactly who it was and why?---I was acutely aware
09:52:33 12 she had made an approach to members of the MDID to possibly
09:52:37 13 give assistance to Victoria Police and that's how we
09:52:40 14 commenced our assessment over a six to eight week period,
09:52:43 15 and that's how (indistinct).
16

09:52:47 17 I take the answer to my question is no, you didn't really
09:52:50 18 drill into those other aspects of it?---I was aware of the
09:52:53 19 areas that had input into this assessment but particularly
09:53:00 20 our point of focus were the MDID members and backgrounds.
21

09:53:04 22 I still take that as a no, you didn't, is that right?
09:53:09 23 Should I accept that as a no?---No, I knew she was speaking
09:53:13 24 to members at Purana and absolutely making an approach to
09:53:19 25 Victoria Police to assist through MDID.
26

09:53:22 27 And that's the extent of your knowledge?---Yes.
28

09:53:28 29 And that was the extent of your knowledge when you signed
09:53:30 30 off on the risk analysis?---Well I agree with everything
09:53:34 31 that Mr Smith - I mean we discussed it. I mean this was a
09:53:41 32 document that took several weeks to prepare and it was an
09:53:48 33 ongoing piece of discussion in the office.
34

09:53:51 35 So it was very carefully considered and prepared, was
09:53:53 36 it?---Yes.
37

09:53:54 38 When you got the full briefing on the 18th - let me stop
09:54:06 39 there. Would you also have spoken to Mr White about his
09:54:09 40 knowledge of Ms Gobbo?---Yeah, we had a very close, secure
09:54:15 41 office and we discussed all matters in relation to sources
09:54:20 42 around the office quite openly.
43

09:54:22 44 If his evidence is that he had considered recruiting her
09:54:28 45 when she was vulnerable and ill in hospital in about August
09:54:32 46 of 2004, one assumes that is something that would have been
09:54:36 47 discussed, wouldn't it?---Different times. All I can say

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09:54:42 1 is it wasn't discussed in my presence.

2

09:54:49 3 The full briefing that you get on 18 October 2005 would
09:54:55 4 effectively have been filling you in on what was going on
09:55:05 5 with Ms Gobbo, what it was proposed to use her for, would
09:55:11 6 that be fair to say?---Yeah, we were still trying to
09:55:18 7 determine her access and viability and motives.

8

09:55:20 9 And so if - the evidence that we have is that she came to
09:55:29 10 Mansell and Rowe because she'd been briefed to appear for a
09:55:33 11 particular person and she felt that she was unable to
09:55:39 12 appear for that person because of a conflict that she had
09:55:42 13 between that person and Tony Mokbel - you know the person
09:55:47 14 I'm talking about, don't you?---Yes.

15

09:55:52 16 PII

09:55:57 17

18

19

09:56:08 20

21

09:56:18 22 You're aware of that, that she'd been briefed to appear at
09:56:22 23 a bail application for Mr Bednarski and she had, in tears,
09:56:28 24 approached Mansell and Rowe and said that she was in this
09:56:31 25 very difficult conflicted position and ultimately that all
09:56:35 26 led to her coming on board and speaking to Mr White and
09:56:40 27 others on 16 September 2005, you're aware of that at that
09:56:45 28 stage?---Yes.

29

09:56:47 30 You also would have been aware that she had been briefed
09:56:51 31 and had appeared for a person by the name of [REDACTED] who was
09:56:56 32 also arrested in that [REDACTED] operation, and you were aware of
09:57:00 33 that I take it?---Yes.

34

09:57:02 35 And that she had been involved in advising that person as
09:57:06 36 to his rights and things that he could do and in the end
09:57:11 37 that person ended up I think making a statement and
09:57:16 38 providing evidence against other people, including
09:57:19 39 Mr Bednarski, you're aware of that?---I'm not aware of the
09:57:23 40 details in relation to [REDACTED] but I'm certainly aware of
09:57:25 41 the details in relation to Mr Bednarski. I knew that he
09:57:28 42 was [REDACTED] and that was the extent of it.

43

09:57:32 44 It may well be that that ultimately put her in a conflicted
09:57:36 45 situation, both with respect to Mr Bednarski and Mr Mokbel
09:57:40 46 if [REDACTED] making a statement, so that would be something,
09:57:43 47 I suppose, even if you weren't aware of it immediately,

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09:57:46 1 it's something that would have come to your attention in
09:57:48 2 the course of discussions that you had?---Yes.
3
09:58:01 4 You would have understood that the idea in bringing her on
09:58:04 5 board was to use her to gather evidence which would enable
09:58:11 6 police to put the Mokbels, that is Milad and Horthy Mokbel
09:58:17 7 and Tony Mokbel, behind bars for as long as possible, that
09:58:22 8 was the idea of getting it, wasn't it?---And other
09:58:25 9 entities.
10
09:58:25 11 And other identities?---Yes.
12
09:58:31 13 And as I said, that approach followed the claim, somewhat
09:58:35 14 ironically, that Ms Gobbo had made that she was in conflict
15 between Tony Mokbel and Mr Bickley do you follow
09:58:36 16 that?---Yes.
17
09:58:37 18 And you understand the irony in all of that, do you?---It's
09:58:40 19 not lost on me.
20
09:58:41 21 No. So effectively she'd found herself in a position where
09:58:44 22 she's acting for Tony Mokbel, having been briefed by a
09:58:47 23 solicitor to appear for Mr Bickley on a bail application,
09:58:51 24 and she finds it difficult to do so, she claims, and she
09:58:55 25 ends up in the hands of police, correct?---Yes.
26
09:58:58 27 I take it you would have considered the ethical issues that
09:59:02 28 were swirling around all of those factors?---Absolutely.
29
09:59:12 30 Having considered them, is it something that needed to be
09:59:15 31 considered in the risk assessment or the risk analysis when
09:59:19 32 it came to considering whether or not it was appropriate to
09:59:22 33 register Ms Gobbo?---Yes.
34
09:59:30 35 We don't see any issues in the risk assessment about those
09:59:37 36 somewhat problematic conflictual or ethical issues that
09:59:41 37 Ms Gobbo faced, do you accept that?---Well we mention
09:59:46 38 several times in the risk assessment the fact that she's a
09:59:49 39 barrister.
40
09:59:51 41 Yes?---And active in the criminal community, yeah.
42
09:59:54 43 I follow that, but that's just one factor of it. Then
09:59:57 44 you've got the ethical issues which are swirling around it
10:00:01 45 because she's acting for people in relation to whom she's
10:00:04 46 providing information. Now clearly those would have been
10:00:07 47 issues that would have occurred to you and to Mr White and

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10:00:11 1 to other people handling her?---Well it's mentioned in the
10:00:15 2 risk assessment.
3
10:00:16 4 Well it's mentioned, but what's mentioned is the fact that
10:00:20 5 she's a barrister and she's currently acting for several
10:00:24 6 members of the Mokbel criminal cartel, including Tony
10:00:29 7 Mokbel, so that's certainly mentioned, isn't it?---Yes, and
10:00:33 8 we talk about that if her role is exposed Victoria Police
10:00:36 9 could come under extreme scrutiny.
10
10:00:43 11 And you accept also - I suppose if you look at the risk to
10:00:51 12 the integrity of the information, it may well be that there
10:00:54 13 might be problems or risks in association with the
10:00:57 14 integrity of the information if that information is being
10:01:00 15 provided in circumstances where it's being given in
10:01:06 16 conflict of a duty that Ms Gobbo owes to her clients, that
10:01:10 17 is clients for whom she's acting and appearing before the
10:01:14 18 courts?---That was one of our major concerns.
19
10:01:21 20 One of your major concerns, that conflicting issue, is
10:01:24 21 it?---Absolutely.
22
10:01:25 23 Right from the very outset you were concerned about the
10:01:29 24 question of conflict?---Absolutely. She's a barrister.
25
10:01:34 26 Did you then consider the potential effect that that may
10:01:36 27 have on any evidence that might be obtained as a result of
10:01:41 28 Ms Gobbo's conduct?---Yes.
29
10:01:43 30 That was considered from the outset as well, was it?---Yes.
31
10:01:53 32 If that was considered, it doesn't find it's way into the
10:01:58 33 risk assessment anywhere?---I'll draw you back to the point
10:02:04 34 where we've said several times, on the registration
10:02:07 35 document it says she's a lawyer/solicitor, in the risk
10:02:12 36 assessment we talk about the mere fact she's a - her
10:02:15 37 occupation, she's a barrister, she's active in the law
10:02:18 38 community and that if the source was compromised Victoria
10:02:23 39 Police would come under extreme scrutiny.
40
10:02:27 41 Yeah, what you say - - - ?---I mean this was - Victoria
10:02:29 42 Police - we had never done risk assessments before. I mean
10:02:33 43 we had compiled a seven page risk assessment. I think at
10:02:39 44 that point in time it was probably the most comprehensive
10:02:41 45 risk assessment on a human source Victoria Police have ever
10:02:44 46 produced.
47

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10:02:45 1 Right?---And we were trying to deliver best practice, not
10:02:48 2 just for Victoria, but across Australasia.
3
10:02:51 4 Yeah, okay. You'd never used a human source who was a
10:02:55 5 lawyer before, correct?---The first to my knowledge.
6
10:03:00 7 And you'd never used a human source who was a lawyer acting
10:03:03 8 for clients who were the very people that she was providing
10:03:08 9 information against either, had you?---First time.
10
10:03:18 11 Those ethical problems, were those problems which were
10:03:23 12 discussed with senior members of Victoria Police before she
10:03:27 13 was registered?---Well, the registration went all the way
10:03:32 14 up to a Superintendent so I don't know what levels above
10:03:36 15 the Central Source Registrar it was discussed.
16
10:03:39 17 Yes. You were considering the issues of conflict of
10:03:44 18 interest that Ms Gobbo had between her obligations to her
10:03:48 19 client in circumstances where she's acting as an agent for
10:03:55 20 Victoria Police, so those are matters you're
10:03:57 21 considering?---Absolutely.
22
10:03:58 23 You're considering the possibility of evidence that might
10:04:01 24 be obtained because of that relationship being useless,
10:04:06 25 unable to be used, you were considering that matter, were
10:04:10 26 you?---Yes.
27
10:04:12 28 You were considering the possibility that if the evidence
10:04:15 29 was going to be used, any person in relation to whom or
10:04:20 30 against whom it was going to be used may need to be
10:04:23 31 notified of that because of the need to appropriately
10:04:26 32 disclose, pursuant to the common law obligations to
10:04:29 33 disclose to people charged with criminal offences, you
10:04:32 34 would have been considering those matters at the
10:04:35 35 outset?---Well the challenge that we set ourselves was to
10:04:37 36 make sure we didn't put ourselves in that position to avoid
10:04:45 37 that very specific information.
38
10:04:47 39 I'm not talking about legally professionally privileged
10:04:51 40 information, I'm simply talking about a barrister who is
10:04:54 41 purporting to act for a person when in fact that person is
10:04:57 42 acting as an agent for Victoria Police, do you follow what
10:05:00 43 I'm saying?---I follow your point, but we actively avoided
10:05:06 44 matters that related directly to legal professional
10:05:09 45 privilege.
46
10:05:11 47 So what, did you act - - - ?---She's a barrister.

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1
10:05:13 2 Yes. No, I understand that. Did you actively consider the
10:05:20 3 difficulties that would arise if Ms Gobbo continued to act
10:05:23 4 for people in circumstances where she had provided
10:05:26 5 information to police about those people?---Yes, and I
10:05:30 6 think that's reflected in the three and a half years that
10:05:33 7 we managed.
8
10:05:36 9 All right. Look, can I say this, that on the very first
10:05:40 10 occasion that you met with Ms Gobbo, that is on 28 October
10:05:43 11 2005, Ms Gobbo made it pretty plain to you that as far as
10:05:50 12 she was concerned that sort of conflict, that sort of
10:05:53 13 ethical difficulty, wasn't going to prevent her from acting
10:05:56 14 for people?---Well we gave her very strict guidelines and
10:06:03 15 we expected her to adhere to that.
16
10:06:07 17 Yes?---I mean the issue for us is that we need to make sure
10:06:13 18 she wasn't killed, exposed, because therefore she would be
10:06:19 19 murdered. And that was then a personal safety issue for us
10:06:22 20 as well.
21
10:06:22 22 Yes?---So we were motivated to ensure we achieved our task.
23
10:06:25 24 Can I put a simple proposition: if Ms Gobbo ended up
10:06:31 25 appearing for a person and advising a person as to their
10:06:35 26 rights, that is purported to be an independent legal
10:06:38 27 advisor, in circumstances where unbeknownst to the very
10:06:42 28 person she's advising she is an agent of Victoria Police
10:06:46 29 doing her best to assist the police to put that person
10:06:49 30 behind bars, that means that there is a real problem about
10:06:59 31 whether or not this person is going to get a fair trial and
10:07:03 32 is being afforded their rights under the Crimes Act, do you
10:07:08 33 accept that proposition?---That's fair, absolutely.
34
10:07:11 35 And so if, despite your exhortations, despite you saying to
10:07:15 36 her, "Look, we don't want you to appear for people who
10:07:20 37 you've provided information about", if she does ignore that
10:07:23 38 advice and do the very thing that you've asked her not to
10:07:27 39 do, doesn't it place you in a very difficult position
10:07:30 40 because you're then obliged to consider disclosing to the
10:07:34 41 person who doesn't know what's going on that which you know
10:07:38 42 is going on?---That's a complex question.
43
10:07:43 44 Well it's a simple question, Mr Black?---Can I answer?
45
10:07:49 46 Yes?---I wasn't aware that had taken place in my time.
47

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10:07:53 1 All right, all right. Well, let's just have a look at what
10:07:58 2 was said on 28 October 2005 when you first go and meet
10:08:05 3 Ms Gobbo, and I suggest to you she makes it very plain that
10:08:09 4 she is going to continue to act for a person who is the
10:08:14 5 main target of this operation when this person comes to
10:08:20 6 court. Now let's listen to this, this is a transcript of
10:08:23 7 28 October, when you were there with Mr White and I think
10:08:26 8 Mr Smith. This was the day that you were introduced to
10:08:30 9 her. Can we play this. Commissioner, I think we can do
10:08:34 10 it. I think we've done it, and we've removed any names
10:08:39 11 that might cause difficulties.

10:09:19 12
10:11:59 13 (Audio recording played to hearing.)

10:11:59 14
10:11:59 15 The first thing is this: initially there's a
10:12:02 16 discussion about privilege, information which is
10:12:07 17 privileged, and this is at a fairly early stage in
10:12:12 18 proceedings, and what that discussion's about, and I
10:12:17 19 suggest to you is there's an exploration about whether or
10:12:21 20 not she could provide privileged information and at that
10:12:25 21 stage of the game she's reticent to do so, albeit the
10:12:30 22 police are saying, Mr White's saying, "Look, it's a matter
10:12:33 23 for you but we're more than happy to hear it", do you
10:12:36 24 accept that proposition?---Yes.

25
10:12:38 26 But then she comes to this issue of conflict and there's a
10:12:47 27 couple of blanks on the transcript there and you know who
10:12:50 28 the person we're talking about, I take it?---Yes.

29
10:12:55 30 Who's the target of this operation, and the exchange is
10:12:59 31 really this, "Well look, I'm going to have difficulties
10:13:02 32 telling you this information". Then Mr White says, "Well,
10:13:07 33 look, you could withdraw, because of the conflict you can
10:13:11 34 withdraw from acting for him for the greater good". Do you
10:13:17 35 accept that that's what was said?---Yes.

36
10:13:20 37 And she said, "Why on earth would I do that?", or something
10:13:24 38 along those lines. Then there's the comment, "Does he pay,
10:13:27 39 does he?" And she says, "Yes, he pays". Do you follow
10:13:32 40 that, that that's the effect of the discussion?---Yes.

41
10:13:35 42 So there's a few things that arise out of that and
10:13:40 43 certainly at that stage there's an issue with respect to
10:13:43 44 privilege and she appears to be respecting it at that
10:13:47 45 stage, but I'll come to that. It appears that she is quite
10:13:50 46 happy and indicating that she will act for a person at the
10:13:54 47 same time as providing information against them, that would

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10:13:58 1 have been something that you've heard from her right
10:14:01 2 upfront there, correct?---Yes.
3
10:14:05 4 And the other thing that we can take from that is that the
10:14:08 5 police knew - well, certainly Mr White, were of the view
10:14:13 6 and understood that there was a real issue if Ms Gobbo was
10:14:18 7 to act for someone and continue acting for someone at the
10:14:22 8 same time as providing information against them, because he
10:14:27 9 makes the suggestion, "Well you could withdraw from
10:14:30 10 representing him because of a conflict of interest like
10:14:34 11 that for the greater good of telling us". So it appears
10:14:39 12 that Victoria Police, you - well certainly Mr White and
10:14:41 13 perhaps you, do you accept that you were aware of that
10:14:44 14 issue of conflict of interest?---Yes. As I said, it was
10:14:47 15 one of the main issues from the very start of the
10:14:50 16 relationship during our assessment phase.
17
10:14:54 18 She's saying to you at the outset, "Why on earth would I do
10:14:58 19 that? Does he pay? Yeah, actually, he does pay". So the
10:15:02 20 other troubling aspect of that is Ms Gobbo appears to be
10:15:06 21 unconstrained ethically to the extent that she's quite
10:15:09 22 happy to say, to give information to you about this person,
10:15:11 23 then act for him in due course without him knowing that
10:15:14 24 she's an agent of Victoria Police, and finally take money
10:15:19 25 from him. Do you accept that those are issues which would
10:15:22 26 cause all sorts of difficulties?---Absolutely.
27
10:15:30 28 What I'm going to suggest to you ultimately, and what has
10:15:33 29 become clear is, that those sorts of issues which were
10:15:37 30 apparent at the very outset ultimately came to fruition to
10:15:43 31 the nth degree when the following year came around, do you
10:15:46 32 accept that that's the case?---What do you mean by when the
10:15:51 33 following year came around?
34
10:15:53 35 Well when arrests were made as a result of information that
10:15:55 36 was provided by Ms Gobbo, when Ms Gobbo turned up to advise
10:16:00 37 people who were the subject of the information she had been
10:16:04 38 providing, to assist the police in rolling these people,
10:16:08 39 that's what I mean. Do you accept that proposition?---I've
10:16:12 40 been a piece of conversation that took place at a meeting.
10:16:16 41 I think, what's this, the second or third meeting we've had
10:16:19 42 with, fourth meeting we've had with the source?
10:16:25 43
10:16:25 44 About that, but your first, yes?---Yeah, so - sorry, what
10:16:30 45 date is this meeting that you're referring to?
46
10:16:33 47 28 October?---28 October. So we're still in the assessment

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10:16:37 1 phase. We haven't completed the risk assessment. We are
10:16:40 2 assessing and establishing boundaries and building rapport
10:16:44 3 with this individual.
4
10:16:45 5 No, I follow that?---That's our job. That's why this took
10:16:48 6 so long. So to take pieces of conversation like this in
10:16:53 7 isolation probably doesn't accurately reflect what we're
10:16:59 8 trying to achieve.
9
10:17:00 10 Well it may not?---So that relating to arrests that took
10:17:03 11 place the following year is perhaps not quite accurate in
10:17:06 12 the context of this conversation.
13
10:17:08 14 It may not be. I suggest it is. But ultimately what I'm
10:17:13 15 doing is putting to you something that you have been privy
10:17:15 16 to on 28 October, a few weeks before you sign off on a risk
10:17:20 17 analysis or a risk assessment, which doesn't make mention
10:17:22 18 of any of the matters which I've been dealing with, that is
10:17:25 19 that you're dealing with a potentially unethical barrister
10:17:28 20 who's potentially prepared to act contrary to the interests
10:17:31 21 of her clients, whilst accepting money from them, and
10:17:36 22 acting in the interests of Victoria Police. Now that
10:17:38 23 doesn't find it's way into your risk assessment, do you
10:17:42 24 accept that?---I disagree with that. I think we discussed
10:17:45 25 the themes of that when we talk about she's an active
10:17:49 26 criminal barrister and that if her relationship with
10:17:52 27 Victoria Police becomes known, Victoria Police will be
10:17:57 28 subject to great scrutiny, you know.
29
10:18:00 30 Yes?---I mean it's a seven page risk assessment that took
10:18:03 31 six weeks to compile over about four or five meetings.
32
10:18:07 33 Yes?---So again, in context - I mean Blind Freddy could
10:18:14 34 have read that risk assessment and be alerted to some of
10:18:18 35 the detail we had in that risk assessment. That was a
10:18:20 36 significant piece of work.
37
10:18:22 38 What you do say is because of the source's occupation and
10:18:25 39 particular position, and perhaps you could have said and
10:18:29 40 potential to act unethically in the interests of Victoria
10:18:33 41 Police - that wasn't there - if compromised the handling of
10:18:37 42 this source would come under extreme scrutiny. This could
10:18:40 43 embarrassment and criticism of the Force. So aside from my
10:18:46 44 addition to that risk analysis, you accept that that's the
10:18:49 45 risk analysis that you signed off on?---I'm just trying to
10:18:53 46 understand the "unethical" piece. How do you draw that
10:19:00 47 conclusion?

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1
10:19:02 2 Would you like to have a barrister appearing for you if you
10:19:06 3 happened to be in trouble and you paying that barrister a
10:19:10 4 considerable amount of money in circumstances where that
10:19:12 5 barrister was actually acting for the person who was
10:19:15 6 prosecuting you, would you like that, Mr Black?---My
10:19:20 7 understanding is if I'm committing a crime my legal
10:19:25 8 representative is able to breach LPP if it's in furtherance
10:19:28 9 of serious crime.
10
10:19:31 11 If you - - - ?---Crime matters not before the court. So
10:19:34 12 I'm just trying to understand how do we get that she's
10:19:37 13 acting unethically at this point in time?
14
10:19:40 15 If you were - if you had been charged with a criminal
10:19:44 16 offence, you would like to have a barrister who was
10:19:46 17 representing you and not representing someone else I take
10:19:49 18 it?---Absolutely.
19
10:19:51 20 Right, okay. Ultimately whilst at this stage there seems
10:20:07 21 to be a recognition on the part of Ms Gobbo of the
10:20:12 22 obligations of legal professional privilege, I take it that
10:20:15 23 you would have become aware subsequently that Ms Gobbo had
10:20:22 24 in effect discarded any pretence that she was respecting
10:20:28 25 her client's confidentiality, were you aware of
10:20:34 26 that?---What do you mean by discarding her
10:20:37 27 confidentiality?
28
10:20:38 29 On 9 June the following year when Ms Gobbo was having a
10:20:41 30 face-to-face meeting with Mr White and she was being asked
10:20:44 31 about the matters that had been referred to in earlier
10:20:48 32 discussions, that is about privilege, Ms Gobbo effectively
10:20:52 33 said that that discussion that she was having with you back
10:20:59 34 in October of 2005 was at a time when she was actually
10:21:04 35 trying to not tell you things that were privileged but
10:21:07 36 she'd woken up to that now and she was telling you, that is
10:21:14 37 Victoria Police privileged information. Were you told
10:21:17 38 that?---Look, we were aware of that's the realm, that's the
10:21:24 39 area of some of the information that she was discussing
10:21:27 40 with us.
41
10:21:27 42 Yes?---But what needs to be looked at is what was
10:21:34 43 disseminated? What did we, what did we - we can't control
10:21:36 44 what she tells us. We can give her instructions. I think
10:21:41 45 in fairness we need to look at what was actually
10:21:43 46 disseminated by us to, as it were, Victoria Police.
47

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10:21:47 1 Righto. I'm just dealing with this question of privilege
10:21:50 2 at the moment and whether Ms Gobbo's actually respecting
10:21:53 3 it. And ultimately, certainly in the following year, 2006,
10:21:57 4 what she's saying to you is, "That was at a time when I did
10:22:02 5 respect privilege but now, when I tell you stuff about" the
10:22:07 6 person who we were referring to before - in other words she
10:22:12 7 says this - I'll read to you what's at VPL.0005.0097.0536
10:22:21 8 at p.815?---Sorry, if I may? "Telling you", are you
10:22:26 9 referring to the Unit or Mr White?

10

10:22:30 11 Yes, telling the Unit. No, I'm not suggesting you were
10:22:34 12 there?---Thank you.

13

10:22:37 14 The transcript goes like this. Mr White says, "And he said
10:22:41 15 you wanted to tell us about that. And then I think it was
10:22:44 16 Adam doesn't want me to talk about it or Adam's not
10:22:49 17 prepared to talk about it unless he says it's okay". And
10:22:52 18 she says, "Yeah". Mr White says, "I don't want to talk
10:22:55 19 about it". Ms Gobbo says, "And also, that was back at a
10:22:58 20 time when I was trying to actually not tell you things that
10:23:03 21 were privileged but I've woke up to that now". Mr White
10:23:06 22 says, "Is that, can be privileged? Actually can it be
10:23:09 23 privileged?" Ms Gobbo says this, "Of course it is. Why
10:23:14 24 isn't it? Why isn't it? When I sit here and say to you
10:23:17 25 this is exactly what", the person we're talking about we
10:23:22 26 can't say, "will do, this is what he'll say to you, I mean
10:23:24 27 all of what is communication, well mine with him, is
10:23:27 28 privileged but I'm way past that now". Mr White says,
10:23:30 29 "M'mm". And she says, "Long past that". She's saying to
10:23:38 30 the Unit, "I'm not respecting my clients' privileges", do
10:23:45 31 you accept that?---Well that's a piece of conversation you
10:23:49 32 pulled out of tens of hours of conversations we've had with
10:23:53 33 her, so in isolation you could make that inference, but we
10:23:58 34 were reasonably confident we were managing what was
10:24:03 35 disseminated and what was not.

36

10:24:05 37 Right. Subsequently she said on a number of other
10:24:07 38 occasions - I mean if you go through all of these
10:24:10 39 transcripts this sort of stuff is repeated, what Ms Gobbo
10:24:13 40 is saying to you, do you accept that?---Yes.

41

10:24:18 42 So what you say is, "Look, we do our best to filter through
10:24:23 43 it and work out what we can and what we cannot disseminate
10:24:26 44 of the information which we receive which may well be the
10:24:30 45 subject of legal professional privilege"?---We were trying
10:24:33 46 to establish what her motive was, any risks to her, and
10:24:39 47 building rapport with her. If it's a matter that's

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10:24:43 1 important to her, she feels the need to discuss it, we will
10:24:46 2 listen to her. But our job was to filter off what we
10:24:50 3 thought didn't fall foul of privilege and we then
10:24:55 4 disseminated what we could on information reports.
5
10:24:59 6 Yes, okay?---I mean with all due respect, we go into these
10:25:05 7 meetings and are recording them. We were trying our best
10:25:11 8 to do the best possible job we could on behalf of Victoria
10:25:14 9 Police.
10
10:25:15 11 I understand that, but you certainly did recognise that
10:25:18 12 what was going on was problematic, didn't you?---It was a
10:25:24 13 minefield.
14
10:25:28 15 Yes. Whether or not you say you filtered out legal
10:25:34 16 professional privileged information or not, you're part of
10:25:37 17 Victoria Police, you are part of the organisation which
10:25:40 18 ends up prosecuting her clients and if she's telling you,
10:25:43 19 albeit members of the SDU and you attempt to filter out the
10:25:46 20 information, but if she's telling you information which is
10:25:49 21 privileged, she's still telling it to the enemy, if you
10:25:52 22 like?---But I don't think - you need to look at what did we
10:25:56 23 do with that information.
24
10:25:57 25 Exactly, righto. Nonetheless, can I say this to you, it
10:26:02 26 would have been apparent to you, albeit you say that you
10:26:06 27 didn't want to receive information about people for whom
10:26:13 28 she's going to continue to act for, it would have been
10:26:16 29 apparent to you at the very early stages of the
10:26:19 30 relationship, your relationship, the Unit's relationship,
10:26:22 31 that she was going to do that, that she was going to
10:26:25 32 provide you with information about her clients, do you
10:26:28 33 accept that?---It was inevitable she was going to discuss
10:26:34 34 her clients.
35
10:26:34 36 Not only was it inevitable, it was the very design of the
10:26:38 37 program because she's acting for Tony Mokbel, you know
10:26:41 38 that, because when you're speaking to her on 28 October
10:26:46 39 she's telling you about the proceedings that she's engaged
10:26:48 40 in for him, do you accept that?---Yes.
41
10:26:50 42 And she's quite prepared to tell you information about
10:26:54 43 him?---Yes.
44
10:26:55 45 Indeed, you were tasking her to meet and obtain information
10:26:59 46 from, for example, Danielle McGuire about, which would
10:27:04 47 assist Victoria Police in prosecuting Ms Gobbo's client

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10:27:08 1 Tony Mokbel, do you accept that?---In relation to ongoing
10:27:11 2 serious crime, yes.
3
10:27:20 4 There were other people, a number of other people who you
10:27:24 5 knew she was acting for and you were trying to get
10:27:30 6 information in relation to those people as well,
10:27:34 7 correct?---Yes.
8
10:27:44 9 You knew, for example, that she was providing information
10:27:48 10 about [REDACTED] correct?---Yes.
11
10:27:56 12 And he was a person who was part of the police program.
10:28:03 13 The idea was to get him caught up in criminal behaviour, up
10:28:07 14 to his neck in criminal behaviour, in addition to that
10:28:09 15 which he'd already been charged for, and then put him into
10:28:15 16 a position whereby he's going to be forced to roll against
10:28:20 17 the heavier people like the Mokbels, that was part of the
10:28:23 18 program?---I disagree with that. [REDACTED] from my
10:28:32 19 recollection, was already charged and before the courts in
10:28:35 20 relation to matters before we got involved with 38.
21
10:28:40 22 He was, and indeed the - then he was on bail?---Correct.
23
10:28:44 24 And then Ms Gobbo's providing a wealth of information
10:28:51 25 against him which is then used ultimately to arrest him and
10:28:57 26 the idea is that he would assist police, that's the - he's
10:29:06 27 one of the main branches, if you like, of the Operation
10:29:10 28 [REDACTED]---Yeah, that was a matter for Purana.
29
10:29:20 30 Do you understand the proposition that once a lawyer
10:29:26 31 reports serious criminal conduct on the part of their
10:29:31 32 client it effectively puts them in an impossible position
10:29:37 33 with respect to their client and they can't, the lawyer
10:29:39 34 couldn't act for that client any longer?---Well, conflict
10:29:45 35 is a matter for the lawyer.
36
10:29:48 37 Yeah?---Primarily.
38
10:29:49 39 Do you understand the conflict though, do you understand
10:29:51 40 that proposition? That as a matter of common understanding
10:30:00 41 of ethics, if a person such as a lawyer reports that their
10:30:04 42 client is engaged in serious criminal conduct, they can't
10:30:10 43 seriously act for that person any longer. Is that
10:30:12 44 something that strikes a chord with you?---I agree with the
10:30:16 45 proposition, it makes sense.
46
10:30:23 47 Do you understand the obligation, the police obligations of

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10:30:26 1 disclosure?---Yes.
2
10:30:30 3 Do you understand that Victoria Police in prosecuting a
10:30:33 4 person has an obligation to disclose material to them which
10:30:38 5 may be relevant to their defence?---Yes.
6
10:30:43 7 And that is regardless of whether such information is
10:30:47 8 sought, do you accept that?---Absolutely.
9
10:30:54 10 Even if that information isn't sought by way of a subpoena
10:30:58 11 or by way of a s.8A document in a committal proceeding,
10:31:02 12 it's something, that in order to ensure a fair trial, that
10:31:07 13 Victoria Police has an obligation to hand that information
10:31:10 14 over, do you accept that?---Absolutely.
15
10:31:13 16 And it's a legal obligation, a legal obligation?---It's a
10:31:19 17 legal obligation, it's a moral obligation, it's what we
10:31:22 18 swear our oath of office to.
19
10:31:31 20 You certainly had an awareness at the time that you signed
10:31:41 21 the risk assessment that there were concerns about
10:31:44 22 Ms Gobbo's veracity, would that be fair to say?---Yes.
23
10:31:51 24 Whilst you're not in a position to say, or would you, that
10:31:57 25 Ms Gobbo had an involvement in any serious offence such as
10:32:03 26 - and I know one of the things that concerned you at
10:32:08 27 various stages was some sort of involvement Ms Gobbo had in
10:32:11 28 the death of the Hodsons, that's something that you've been
10:32:15 29 concerned about I take it; is that right?---From day one.
30
10:32:19 31 You're not suggesting that she was actually involved in it
10:32:22 32 but what you are suggesting is that she may at least have
10:32:25 33 had some sort of consciousness that she may in some way or
10:32:29 34 another have been involved in their ultimate demise?---It
10:32:32 35 was pretty obvious she was at least a person of interest.
36
10:32:38 37 That may well have had some impact, as far as you were
10:32:41 38 concerned, on her decision to become a human
10:32:44 39 source?---Possibly.
40
10:32:46 41 And it was one of the things that you considered?---Yes.
10:32:49 42 To this day I still don't think we've got an adequate
10:32:53 43 handle on what her motivation primarily was.
44
10:32:55 45 I follow that. I mean if what she's saying overtly to
10:32:59 46 police or the reason she's providing to police is that she
10:33:04 47 doesn't, she's in a difficult position because she can't

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10:33:07 1 act for [REDACTED] and Mokbel, that surely can't be a
10:33:11 2 motivation for her doing all of the extraordinary things
10:33:14 3 she did subsequently, if she's concerned about a
10:33:21 4 conflict?---That's a complex question. She may have - I
10:33:27 5 mean one of the propositions is she may have seen assisting
10:33:32 6 Victoria Police as a way out of the predicament she'd
10:33:37 7 placed herself in.

8
10:33:40 9 Yes. That is, that she might have in some way been
10:33:45 10 complicit in some sort of offending and might be best to
10:33:49 11 get in the head of any investigator, something like
10:33:52 12 that?---We never crossed that threshold but she was a
10:33:57 13 person of interest, she was an active barrister in the
10:33:59 14 criminal world engaged by the Mokbel cartel, she had a lot
10:34:03 15 on her plate.

16
10:34:04 17 If I could just deal with a couple of matters. We've
10:34:08 18 indicated that you've been involved in the risk assessment
10:34:13 19 of Ms Gobbo. I've asked you a couple of questions about
10:34:19 20 that. One of the things that I think - I don't know
10:34:31 21 whether it finds its way into the risk analysis, but you're
10:34:36 22 reasonably confident that there's this thing known as an
10:34:41 23 AOR which is in some way useful to ensure that a person
10:34:47 24 behaves themselves as an informer and that reduces the
10:34:51 25 risk; is that right?---Yes.

26
10:34:57 27 I think part of the - in fact I'll see if I can find it -
10:35:03 28 part of the risk control measures is the AOR and the DSU
10:35:08 29 protocols, I think that's what you say, do you accept
10:35:11 30 that?---Yes.

31
10:35:15 32 Implementation of the DSU SOPs and the AOR I think you say
10:35:22 33 as controlled measures. With the AOR, what that really is
10:35:35 34 is an obligation upon a human source not to commit criminal
10:35:40 35 offences; is that right?---Correct.

36
10:35:46 37 You weren't seriously concerned that Ms Gobbo would commit
10:35:51 38 a criminal offence so that really didn't apply to her, did
10:35:54 39 it?---Well, it's applicable to all sources.

40
10:36:01 41 Yes?---But she was in a unique position where I think she'd
10:36:06 42 done at least seven years as a barrister by this stage.

43
10:36:09 44 Yes?---She was in a unique position that we probably hadn't
10:36:14 45 contemplated before.

46
10:36:17 47 Really I suppose if this was to have been done properly,

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10:36:22 1 even if it could have been done, there would have to have
10:36:29 2 been some sort of acknowledgement on her part, for example,
10:36:33 3 that she simply couldn't appear for people who she had
10:36:36 4 provided information against, would you accept that?---Yes.
10:36:43 5 It was part of her ethics of being an officer of the court.
6
10:36:48 7 Yes. It really should have been made clear to her that,
10:36:51 8 "If you want to provide information to us, you simply
10:36:55 9 cannot act for the people in relation to whom you're
10:36:58 10 providing information", that should have been spelt out in
10:37:02 11 bold and underlined as far as any acceptance of
10:37:06 12 responsibility was concerned, do you accept that?---I think
10:37:08 13 we told her that several times throughout our relationship.
14
10:37:14 15 "If", for example, "you were to turn up and provide advice
10:37:17 16 to someone, it should have been made plain that that's the
10:37:23 17 end of the relationship between Victoria Police and you,
10:37:26 18 and not only that, we're going to be forced into a position
10:37:28 19 where we're going to have to tell that person that you're
10:37:31 20 not an independent legal advisor", that should have been
10:37:34 21 made plain at the very outset, shouldn't it?---Mr Sandy
10:37:37 22 White had several very strong conversations which were
10:37:41 23 recorded which specifically addressed that issue.
24
10:37:43 25 All right. You've listened to a lot of these I take
10:37:46 26 it?---Yes.
27
10:37:46 28 And can I suggest to you that nowhere is it suggested that
10:37:53 29 if she is to do any of those things the police will
10:37:58 30 disengage with her and be forced to compromise her position
10:38:01 31 by telling the person who she's purporting to act for, do
10:38:08 32 you accept that?---I accept the fact about the disclosure,
10:38:11 33 but she was told several times that "if you act for that
10:38:13 34 person the relationship will be ended".
35
10:38:16 36 But it never did though, did it, the relationship wasn't
10:38:19 37 ended?---She gave us responses that we were comfortable
10:38:24 38 with and we proceeded.
39
10:38:25 40 All right, we'll come to that. What you say in paragraph
10:38:32 41 62, insofar as LPP obligations are concerned, and you
10:38:38 42 accept that's only one part of the problem here, legal
10:38:41 43 professional privilege, the other part is this overall
10:38:44 44 issue of a conflict of interest and the inability to act
10:38:47 45 for both sides of the transaction, do you accept
10:38:50 46 that?---Yes.
47

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10:38:51 1 But let's deal with LPP. What you say is that you
10:38:56 2 understood the issue of LPP and it was an agreed set of
10:39:09 3 terms that the SDU was not going to discuss or actively
10:39:12 4 seek information on her current clients who she was
10:39:19 5 currently representing in active matters before the courts,
10:39:21 6 that's what's in your statement at paragraph 62; is that
10:39:26 7 right?---Yes.
10:39:26 8
10:39:26 9 "Not going to discuss or actively seek information on her
10:39:32 10 current clients who she's currently representing." How
10:39:36 11 does that sit with the whole purpose of the operation to
10:39:39 12 put the Mokbels behind bars?---This is in relation to
10:39:47 13 disseminating information.
14
10:39:48 15 All right. You weren't going to discuss or actively seek
10:39:54 16 information on her clients, that's what you say in
10:39:56 17 paragraph 62?---Yes.
10:39:58 18
10:39:58 19 I suggest to you that that's simply not right because the
10:40:00 20 whole purpose of the exercise was to get information about
10:40:02 21 her clients?---Our job was to gather intelligence.
22
10:40:08 23 Yes?---To stop the criminal offending going on in Victoria,
10:40:11 24 all the murders and the drug trafficking and the killing of
10:40:14 25 the people through drug overdoses and if she was able to
10:40:17 26 assist us primarily, and Purana, to stop that, and we
10:40:23 27 weren't breaching LPP, that was the intelligence we
10:40:26 28 collected, documented and disseminated.
29
10:40:29 30 I'm not suggesting that that's not - the ultimate end is to
10:40:35 31 prevent all the criminal activity, that's clearly a good
10:40:39 32 cause, but it's really a question of whether the means
10:40:41 33 justifies the ends, isn't it, that's the real point in this
10:40:44 34 whole thing?---No, it's not. I completely reject that
10:40:48 35 supposition. It's not about the means justifying the ends.
10:40:51 36 We were acutely aware from the moment we set up this Unit
10:40:54 37 that we would have to justify what we did or, more
10:40:57 38 importantly, what we didn't do. And the amount of
10:41:00 39 documented material we have compiled is probably
10:41:02 40 unprecedented, considering the fact we started as a group
10:41:06 41 of five of us. The amount of material that we have
10:41:09 42 gathered and the level of scrutiny that we're prepared to
10:41:12 43 put ourselves through.
44
10:41:14 45 Yes?---Here we are today. I think that speaks volumes for
10:41:18 46 what our objectives were.
47

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10:41:21 1 Here we are today, yes?---(Indistinct) any noble corruption
10:41:24 2 in all of this, ends justifies the means. We were there to
10:41:27 3 do a job for Victoria Police under strict supervision and I
10:41:31 4 think that's what we did.
5
10:41:33 6 You're about my vintage. Have you heard of a fellow called
10:41:37 7 Nostradamus?---Yes.
8
10:41:39 9 You didn't have to be Nostradamus to predict that we were
10:41:43 10 going to end up here?---It's inevitable by the nature of
10:41:47 11 the work that we did. I mean the very nature of why the
10:41:50 12 Unit was set up was to try and prevent some of the crazy
10:41:55 13 stuff going on in Victoria both internally and externally
10:41:58 14 in Victoria Police.
15
10:41:59 16 What you say in paragraph 65 of your statement is, "The
10:42:03 17 first conversation I had with Ms Gobbo regarding her LPP
10:42:07 18 obligations was during a phone contact as the handler.
10:42:11 19 This is documented in contact report 009 dated 28 November
10:42:16 20 2005 at 08:18 hours. I discussed this very issue during
10:42:22 21 this call". If we can go perhaps to p.64 of the
10:42:34 22 ICRs?---Can I get a copy of that? Can I get that up on the
10:42:38 23 screen?
24
10:42:39 25 That's what I'm trying to do.
26
10:42:40 27 COMMISSIONER: It will come up on the screen in a
10:42:42 28 minute?---Yes.
29
10:42:52 30 MR WINNEKE: Do you see under "Mr Bickley [REDACTED] - we'll
10:42:56 31 just move up the screen a bit. The other way. You, in
10:43:06 32 support of your proposition that you discussed legal
10:43:11 33 professional privilege and determined not to receive such
10:43:15 34 information, you rely on this conversation; is that
10:43:19 35 right?---Yes.
36
10:43:25 37 She calls you and the conversation goes along these lines:
10:43:29 38 She's told that Mr Bickley [REDACTED] called her last night, wants to
10:43:33 39 visit her. "Appointment set at the office 3 o'clock
10:43:35 40 today", that's Monday 28 November. She's not clear of his
10:43:40 41 intentions. He claimed that the AFP told him not to speak
10:43:47 42 to Ms Gobbo. She sees no legal or ethical barrier from
10:43:51 43 speaking with him, that's what that's meant to be, is it,
10:43:57 44 she's got no legal or ethical barrier that she sees from
10:44:02 45 speaking to him; is that right?---Correct.
46
10:44:05 47 And that she will update you as a result of the

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10:44:09 1 meeting?---Correct.
2
10:44:10 3 There's nothing about legal professional privilege
10:44:12 4 there?---Well, with all due respect, you know, I'm the one
10:44:16 5 that wrote that document. I'm the one that had the
10:44:20 6 conversation with her. I've gone to great pains of putting
10:44:23 7 that line in. I actually discussed the issue about legal
10:44:27 8 or ethical barriers.
9
10:44:29 10 Yes, but what I'm saying - - - ?---I had this conversation.
10:44:30 11 I called her back to discuss what the issues were and
10:44:33 12 that's what I've recorded in the contact report. So I'm
10:44:36 13 not trying to hide it.
14
10:44:38 15 No, no I follow that. But what I'm suggesting to you is
10:44:40 16 it's got nothing do with legal professional privilege. The
10:44:43 17 issue clearly there is conflict. If we go to p.38 of the
10:44:46 18 ICRs, p.1745. It says this, this is in relation to
10:44:58 19 ██████████ "Ms Gobbo advised the FedPol that she
10:45:03 20 represented a person named on the warrant. She advises the
10:45:07 21 handler that she got ██████████ to roll and doesn't want this
10:45:15 22 getting out". What she's saying there is she got ██████████ to
10:45:20 23 roll against ██████████, do you see that?---Yes.
24
10:45:23 25 That's what this is all about. The AFP is saying to
10:45:24 26 ██████████, "Gobbo can't act for you because she's acting
10:45:28 27 for a fellow called ██████████ who's making a statement against
10:45:31 28 you". Now Gobbo's saying to you, "I've got no problem with
10:45:36 29 acting for ██████████. Well it's quite clear that she has
10:45:39 30 no understanding of ethical obligations and that's what
10:45:43 31 that's about, it's got nothing to do with legal
10:45:45 32 professional privilege, do you accept that?---I agree with
10:45:50 33 that, yes.
34
10:45:51 35 If we come back to where we were before, so despite the
10:45:55 36 fact that Ms Gobbo perceives that she's got no - what she
10:46:00 37 says there is, "I don't want this getting out, I don't want
10:46:04 38 anyone else to know that I got ██████████ to roll against
10:46:07 39 ██████████, I want that to be kept quiet, then I'm going to
10:46:12 40 act for ██████████. Come back here. Then if we roll down
10:46:15 41 the ICR. Do you see that? Keep going. So you having had
10:46:22 42 this conversation where you say, "I don't want to get LPP
10:46:27 43 information about ██████████". She's saying, "Well look,
10:46:30 44 I'm going to act for ██████████". The meeting lasts for an
10:46:34 45 hour at the PII ██████████ "Long story concerning AFP
10:46:37 46 wanting ██████████ to make a statement against Tony Mokbel
47 as a ██████████. AFP will contact ██████████ on Wednesday

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10:46:41 1 to speak further with him. [REDACTED] has convinced himself
10:46:44 2 that he's under surveillance. She's told [REDACTED] to
10:46:48 3 speak with the AFP to establish exactly what the AFP want
10:46:52 4 from him. She's not seen the AFP brief against him.
10:46:52 5 Concerned that he's recording the conversation", et cetera.
10:46:55 6 But the advice is always ethical and lawful. Well is that
10:46:59 7 not information which she's gleaned seeing a client? Is
10:47:04 8 that not legally professionally privileged
10:47:08 9 information?---Yes.

10

10:47:08 11 Do you accept the proposition that you haven't told
10:47:12 12 Ms Gobbo that you don't want LPP?---We can't control what
10:47:15 13 comes out of her mouth and what she decides to discuss with
10:47:19 14 us. Our job is to sit there and listen and set some
10:47:26 15 parameters and that's exactly what was done. We assumed
10:47:31 16 that every contact we had - you know, part of our job was
10:47:35 17 to defeat surveillance, that's our part of our trade craft.
10:47:40 18 We assume every single time, we assume everybody's
10:47:43 19 recording us or that we were captured on other things
10:47:47 20 having these conversations. That's fine. That's the
10:47:50 21 environment we operate under. And the question I say is
10:47:54 22 well, what can we do with that information? She told us.
10:47:58 23 We wrote it down. We didn't action it. Nothing was
10:48:01 24 disseminated.

25

10:48:02 26 Mr Black, what you've said to this Commission in your
10:48:05 27 statement is, "I told her not to get LPP" and the very
10:48:10 28 next, an hour-odd later, some time later, that's exactly
10:48:14 29 what you get from her. SO either you didn't tell her that
10:48:17 30 you didn't want LPP or she's starkly ignored you and told
10:48:21 31 you and you've written it down. Do you accept that
10:48:24 32 proposition?---Absolutely I wrote it down because that's
10:48:26 33 what she told us. These matters impact on our personal
10:48:30 34 safety as well as hers and if there's a reason why she
10:48:35 35 needs to talk to us about it, we're there to listen. The
10:48:39 36 question is: what did we do with it? Nothing. It got
10:48:42 37 documented, as we're required to do, on a contact report.
10:48:45 38 It was never disseminated.

39

10:48:47 40 Why do you want to get information which is LPP?---I didn't
10:48:52 41 actively - we did not actively seek matters that were
10:48:56 42 subject to LPP. If that was our motivation why didn't we
10:49:01 43 disseminate it?

44

10:49:02 45 Can I suggest to you that the process going on here, and
10:49:05 46 what started very early on, is Victoria Police saying to
10:49:12 47 her, "Look, we'll take any information from you that we

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10:49:16 1 want". Ms Gobbo starts out saying, "I can't give you
10:49:19 2 legally professionally privileged information", but
10:49:22 3 Victoria Police say, "Well look, we're happy to have it,
10:49:25 4 we'll get it from you, we'll take the information, then
10:49:27 5 it's a question of what we do with it". And pretty soon,
10:49:30 6 the following year, Ms Gobbo is saying, as a consequence of
10:49:34 7 the conduct of Victoria Police, "Don't worry, I've thrown
10:49:37 8 LPP out the window, I've thrown ethics out the window and
10:49:40 9 I'll give you what you want". That's what seems to have
10:49:44 10 occurred, with respect?---Again, that's one line, I
10:49:47 11 suggest, taken out of context that you're trying to apply
10:49:50 12 as a broad brush summation of what we were doing. That's
10:49:54 13 not the case at all. If you look at all that conversation
10:49:57 14 prior to and after when she makes that statement I think to
10:50:00 15 Mr Sandy White, there's probably more context around that.
10:50:04 16 But the question is what did we do with the information?
10:50:09 17 It was never disseminated.
18
10:50:13 19 Then if we also on that same page, 65, you see the next
10:50:18 20 entry there. He's obviously a person who's a client of
10:50:27 21 Ms Gobbo, correct?---Yes.
22
10:50:33 23 She's telling you information about him?---Yes.
24
10:50:41 25 Certainly there's an information report
10:50:46 26 there?---Absolutely.
27
10:50:47 28 That concerns payment of money, it seems?---Well, our view
10:50:53 29 was that that was money laundering, proceeds of crime and
10:50:58 30 that's serious crime offending that was taking place.
31
10:51:08 32 There's talk about legal fees?---Yeah, but you've got to
10:51:11 33 read the entire contact report to again get that in
10:51:16 34 context. The activities of that person, that particular
10:51:19 35 criminal, it was quite apparent what that individual was
10:51:22 36 involved in and what the syndicate were doing.
37
10:51:27 38 All right. What you say is, "Look, insofar as I assert
10:51:33 39 that I don't want to get information from her about her
10:51:36 40 clients", what you say is, "Well, really we do want to get
10:51:42 41 information from her about her clients that relates to
10:51:45 42 criminal conduct", correct?---If they're involved in
10:51:51 43 current or future criminal conduct that's serious then
10:51:55 44 we're absolutely interested in that because that's our job.
45
10:52:11 46 Can I just take you to a couple of other entries. If we
10:52:14 47 go, for example, to 1 December 2005 at ICR 70, p.70.

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10:52:23 1 There's a reference to information provided about Tony
10:52:29 2 Mokbel. It's about his profile and she talks about his
10:52:33 3 father dying when he was young. It's a common thread that
10:52:37 4 she shares with him. He's very protective of his mother.
10:52:45 5 Mokbel calls her many times a day, et cetera. Now those
10:52:50 6 matters are confidential matters between a lawyer and a
10:52:55 7 client, aren't they?---Absolutely.
8
10:52:56 9 Well they find their way into information reports, do
10:53:01 10 they?---No. They're documented on a contact report and we
10:53:06 11 use that bio data to build rapport, ongoing rapport.
10:53:10 12
10:53:10 13 What, "TM profile - DSU value added", what's all that
10:53:15 14 about?---That's a profile we're building on that
10:53:17 15 individual.
16
10:53:17 17 On Mokbel?---Yes.
18
10:53:19 19 For what purpose? Just for the hell of it?---No, to build
10:53:27 20 a criminal profile on that individual.
21
10:53:29 22 To give you a better chance to prosecute him?---He's an
10:53:32 23 active target for Victoria Police.
24
10:53:35 25 And you've got legally professionally privileged
10:53:40 26 information from Ms Gobbo to do it?---I disagree that's
10:53:41 27 subject to LPP.
28
10:53:44 29 Do You? You've just agreed with me that it was. You
10:53:48 30 disagree now, do you?---I do, absolutely.
31
10:53:51 32 Do you change your evidence about that; is that
10:53:53 33 right?---No, I'm not changing my evidence. If you'd like
10:53:55 34 to re-ask the question I'll answer the question.
35
10:53:57 36 I'll ask it again. The information about the father dying
10:53:59 37 when he was young, common thread that she shares with
10:54:03 38 Mr Mokbel, he's very protective of his mother. Obviously
10:54:07 39 that's information that she has received from Mr Mokbel and
10:54:11 40 she is acting for Mr Mokbel?---See, again, this is - the
10:54:17 41 context of it is important. This is a common thread the
10:54:23 42 human source shares with Tony Mokbel. That was a rapport
10:54:26 43 building thing, that that's something she had in common
10:54:30 44 with Tony Mokbel.
45
10:54:31 46 So this is a profile on Tony Mokbel, not on Gobbo, on
10:54:35 47 Mokbel, to enable police to deal with him, to prosecute

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10:54:39 1 him?---It went into a profile, that's as far as I'm going
10:54:48 2 to take it. And it's our profile, it's the DSU profile,
10:54:52 3 it's not a document shared with Victoria Police.
4
10:55:00 5 Are you not part of Victoria Police?---Well, we don't
10:55:02 6 disseminate DSU material with Victoria Police other than
10:55:08 7 information reports.
8
10:55:10 9 What's the point of getting information?---So we can better
10:55:14 10 target individuals who are committing crime.
11
10:55:17 12 Tony Mokbel?---Absolutely.
13
10:55:18 14 On behalf of Victoria Police?---Yes.
15
10:55:21 16 So you're getting information which is legally
10:55:23 17 professionally privileged to prosecute him or to assist in
10:55:28 18 it?---I will submit again that this information is in
10:55:31 19 relation to current serious offending that's being
10:55:33 20 committed and not subject to matters before the court.
21
10:55:35 22 All right, okay. I think I've said you become a handler on
10:55:48 23 25 November, right?---Yes.
24
10:55:52 25 You get information from her about a fellow called Karam,
10:55:56 26 Rob Karam?---Yes.
27
10:55:59 28 You know she's acting for Karam at that stage?---Yes.
29
10:56:04 30 She's providing information, including mobile phone
10:56:07 31 numbers, et cetera?---Yes.
32
10:56:09 33 And that information is recorded and put into, in some
10:56:17 34 cases, certainly information about telephone numbers and
10:56:21 35 the like, that's used by Victoria Police?---Yes.
36
10:56:29 37 Do you establish whether or not she gets that mobile phone
10:56:37 38 number in her capacity as a lawyer?---I don't know. The
10:56:39 39 relationship between her and Karam was a confusing one.
10:56:43 40 It's quite clear he had romantic inklings to her, so it's
10:56:51 41 pretty hard to distinguish what's professional and what's
10:56:54 42 private.
43
10:56:59 44 Can I say this, the real point is this: there was no real
10:57:04 45 effort to distinguish information which came as a basis or
10:57:09 46 as a result of a personal relationship or a professional
10:57:12 47 relationship from Ms Gobbo, I'm putting that to you?---No,

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10:57:18 1 I disagree. On that contact report I make in that, various
10:57:27 2 exchange over days and stuff, it's quite clear that the
10:57:30 3 relationship between Karam and 38 is not just professional.
10:57:36 4 I mean we discuss at length lustful commentary and
10:57:40 5 behaviour and acts. Like it's hardly a professional
10:57:46 6 relationship where someone's getting instructions in
10:57:48 7 chambers or somewhere else. Like it's hardly the conduct
10:57:55 8 of a normal professional barrister/client relationship.
9
10:58:01 10 Look, these are complex issues, aren't they?---Yes.
11
10:58:06 12 These are issues about which you should have sought advice,
10:58:09 13 legal advice, do you accept that proposition?---At this
10:58:14 14 point in time?
15
10:58:16 16 Yes?---Absolutely. Back in our commencement of our
10:58:21 17 relationship, back in 2005, we thought we had a reasonable
10:58:28 18 handle on LPP.
19
10:58:32 20 Yes?---Would we have done it differently? Absolutely.
21
10:58:36 22 Can I say this: what you say now quite readily is, "Look,
10:58:40 23 with the benefit of hindsight we should have got legal
10:58:44 24 advice about this", you accept that?---Yes.
25
10:58:46 26 Can I suggest to you that it was begging out for legal
10:58:49 27 advice in 2005, begging for legal advice?---Well that's
10:58:57 28 your summation.
29
10:59:00 30 No, I'm putting it to you as a question?---Can I finish my
10:59:04 31 response?
32
10:59:04 33 By all means?---We did our job. This individual was
10:59:07 34 brought to us by upper levels of Victoria Police Command,
10:59:11 35 by the MDID. We conducted an assessment over I think about
10:59:15 36 five meetings, six week period. We completed all the
10:59:20 37 checks and balances we possibly could.
38
10:59:23 39 Yes?---We completed a risk assessment, completed a
10:59:25 40 registration, handed it to at least a Detective
10:59:29 41 Superintendent who accepted the risk, and off we went.
42
10:59:31 43 Okay?---If someone bothered to read the risk assessment, we
10:59:36 44 flagged the obvious concerns there.
45
10:59:38 46 What I want to know is this: you say to yourself, look, you
10:59:43 47 say to the Commission that you were conscious of the

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10:59:46 1 ethical problems that this threw up, this whole exercise,
10:59:53 2 correct?---Yes.
3
10:59:54 4 I've gone through them, I'm not going to go through them
10:59:58 5 again?---Sure.
6
11:00:00 7 You obviously spoke to Mr White about them?---Yes.
8
11:00:04 9 I'm talking about - and I want you really to think about
11:00:05 10 this - in the period prior to her being registered you
11:00:08 11 spoke to Mr White. Did you speak to Mr Calishaw and raise
11:00:14 12 with him these really hard issues, ethical issues and
11:00:19 13 problematic issues that we're talking about?---Well at the
11:00:24 14 time Calishaw was, Inspector Calishaw was our
11:00:28 15 officer-in-charge of this very Unit.
16
11:00:29 17 So did you have these discussions, "Look, Mr Calishaw, I've
11:00:34 18 got some real problems with this. There's ethical issues
11:00:37 19 about whether she can act for these people. There's
11:00:40 20 ethical issues about whether the information can be used.
11:00:45 21 There's ethical issues about, legal issues about disclosure
11:00:46 22 if she misbehaves". Did you discuss those issues with
11:00:52 23 Calishaw, you personally?---No.
24
11:00:54 25 Who did? Did anyone?---Inspector Calishaw was a regular
11:01:01 26 visitor to the office.
27
11:01:02 28 Listen to the question. I'm really trying to find out who
11:01:05 29 discussed it with him. Do you know who discussed it with
11:01:07 30 him?---Mr Calishaw was present at various meetings at
11:01:13 31 various times around the office at the Dedicated Source
11:01:16 32 Unit. At that point in time we were still based in the
11:01:20 33 St Kilda Road Police Complex.
34
11:01:21 35 Were these really thorny legal issues, ethical issues,
11:01:26 36 tossed around with Mr Calishaw in your presence?---I don't
11:01:29 37 recall any.
38
11:01:31 39 Do you recall any time when those sorts of issues that
11:01:34 40 we've been discussing, do you recall personally being
11:01:38 41 present when any senior officer was a part of a discussion
11:01:43 42 where those ethical issues, legal issues, problematic
11:01:46 43 issues, were discussed?---I was a handler at that time.
11:01:51 44 You'd have to take that up with Sandy White as far as he
11:01:54 45 was the controller.
46
11:01:55 47 So the answer's no?---(Indistinct).

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1
11:02:01 2 I'm just trying to get to the bottom of who knew, do you
11:02:04 3 follow what I'm saying?---Yes. A PII [REDACTED]
11:02:06 4 speaking to - we have a chain of command for good reasons.
11:02:09 5 Whether Mr Calishaw was at the office when these matters
11:02:14 6 were discussed, I can't recall. He was a regular visitor
11:02:16 7 when all this was going on. Did Sandy White have
11:02:20 8 conversations with Mr Calishaw? I expect he would have, he
11:02:24 9 was the controller in charge of the Unit at the time. And
11:02:26 10 Mr Calishaw was our officer-in-charge and he reported to
11:02:31 11 the Central Source Registrar.
12
11:02:34 13 All right then. Now you have another face-to-face meeting
11:02:36 14 with Ms Gobbo on 13 December, you and Mr White. Do you
11:02:41 15 recall that?---Yes.
16
11:02:43 17 I think you record that in your notes. During the course
11:02:48 18 of that discussion there were a few things considered and
11:02:57 19 one of the issues considered over a fairly lengthy
11:03:00 20 conversation was who Ms Gobbo could assist police to roll
11:03:11 21 and in effect bring the Mokbels, bring Tony Mokbel or Milad
11:03:15 22 Mokbel to book, do you accept that? And you went through a
11:03:19 23 few names. Just have a look at your notes if you want
11:03:23 24 to?---This is in a contact report?
25
11:03:28 26 It's in your notes, I think if you go to your notes?---My
11:03:33 27 diary, yes.
28
11:03:35 29 Your diary?---Yes.
30
11:03:42 31 Have you got your diary there - in fact just before you do
11:03:46 32 and before I forget, go to p.188 of your diary. It's on 23
11:03:53 33 November. Do you see that?---Yes.
34
11:04:06 35 There's a 9 am entry where you review the risk assessment
11:04:09 36 and you complete the update, the controller's comments and
11:04:15 37 then you take it to Calishaw direct by hand?---Correct.
38
11:04:21 39 On that occasion did you see Mr Calishaw?---Yes.
40
11:04:28 41 Did you simply hand the form to him or did you have a bit
11:04:32 42 of an in-depth discussion about some of the problematic
11:04:37 43 issues that you saw and we've discussed about the
11:04:39 44 registration of Gobbo?---Mr Calishaw knew that the risk
11:04:43 45 assessment was coming. That's the reason why I took it to
11:04:47 46 him by hand.
47

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11:04:48 1 Yes?---And handed it to him and he was going to peruse it.
2
11:04:53 3 Okay. Just in answer to my question - and look, I'm asking
11:04:56 4 this question for a reason. Is it yes or no, do you think
11:04:59 5 that you had an in-depth discussion with him about problems
11:05:02 6 associated with registering a criminal barrister to provide
11:05:05 7 information against her clients?---No.
8
11:05:08 9 Okay. If I can then come back to 13 December, and I
11:05:13 10 apologise. If we have a look at your entries it seems that
11:05:49 11 - I'm sorry, just hang on. Have a look at p.230 of your
11:05:59 12 diary?---Yes.
13
11:06:10 14 Is that an entry on 13 December?---Yes, it is.
15
11:06:23 16 Possible avenues against Tony Mokbel, the first one is Adam
11:06:31 17 Ahmed after losing his appeal?---Yes.
18
11:06:33 19 He's a client of Ms Gobbo's? Had been?---Yeah, he was also
11:06:38 20 involved in a relationship with Ms - with her as well.
21
11:06:42 22 Mr Bickley Yes.
23
11:06:45 24 After he reads his brief, so that's a possibility?---Yes.
25
11:06:48 26 That's an avenue that was examined, and I'll come to this
11:06:51 27 in due course?---Sure.
28
11:06:54 29 There's a name called Abdul Radi?---Yes.
30
11:06:59 31 He was a possibility. Another client of Ms Gobbo? Was
11:07:04 32 that the case or not?---I'm not sure about Radi.
33
11:07:07 34 The next person clearly was a client of Ms Gobbo's -
11:07:10 35 possibility?---Yes.
36
11:07:11 37 And then there's - if we go down we can see another name
11:07:15 38 there, Danielle McGuire?---Yes.
39
11:07:19 40 And then over the page. The next one?---Yes.
41
11:07:30 42 The Solicitor 2. She's acting at that stage for - Gobbo's
11:07:35 43 acting for that person at that time?---Yes.
44
11:07:39 45 And the other person, the last name, it's actually Emeido
11:07:46 46 Navaroli, she'd acted for him. Or I think advised him. I
11:07:50 47 think she'd advised him, do you accept that?---If that's

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11:07:54 1 the case, I accept that. I don't know if we actually knew
11:07:57 2 that - it's unclear whether or not we knew that she was
11:08:04 3 actually, professionally acted for him.
4
11:08:07 5 I think you'll find that you did because she told you that
11:08:10 6 she'd come to see - he'd come to see her with Tony Mokbel
11:08:15 7 on one occasion about an ACC hearing?---Okay, I accept
11:08:22 8 that.
9
11:08:24 10 If we could just play a short grab of a conversation that
11:08:29 11 you have early on, you and Mr White have with Ms Gobbo
11:08:35 12 about - and this concerns Mr Bickley This is on the
11:08:39 13 same date, 13 December 2005. This is at p.0363.
14
11:09:00 15 COMMISSIONER: Just while we're looking for that, the
11:09:02 16 earlier tape, did you want to tender that or is it already
11:09:10 17 tendered?
18
11:09:11 19 MR WINNEKE: I think I'll tender that, Commissioner,
11:09:13 20 because I don't believe it has been.
21
11:09:15 22 COMMISSIONER: It hasn't been tendered today but has it
11:09:17 23 been tendered previously?
24
11:09:19 25 MR WINNEKE: It is part of Exhibit 282 but that particular
11:09:22 26 aspect of it I think ought tendered as an individual. I
11:09:26 27 think Mr Skim is having difficulty, perhaps if we could
11:09:29 28 have our morning break five minutes earlier to get this
11:09:31 29 cued up.
30
11:09:31 31 COMMISSIONER: Just before we do that, let's tender that
11:09:34 32 earlier one.
33
11:09:36 34 #EXHIBIT RC626 - Tape of 28/10/05 between Sandy White,
11:09:43 35 Smith, Black and Gobbo.
36
11:10:02 37 COMMISSIONER: I think you said that's already been edited?
38
11:10:04 39 MR WINNEKE: It has been edited, Commissioner. Perhaps if
11:10:07 40 Mr Holt can have a look at that and see whether it's
11:10:11 41 possible for that to be published.
42
11:10:13 43 COMMISSIONER: Right.
44
11:10:14 45 MR WINNEKE: That would be appreciated.
46
11:10:16 47 COMMISSIONER: The transcript I think's also been edited?

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1
11:10:21 2 MR WINNEKE: It has, yes.
11:10:21 3
11:10:21 4 COMMISSIONER: The transcript will be B.
5
6 <EXHIBIT 626B - Transcript.
7
11:10:23 8 COMMISSIONER: All right. Then we'll have the mid-morning
11:10:25 9 break, thank you.
10
11 (Short adjournment.)
12
11:37:18 13 COMMISSIONER: Yes Mr Winneke.
11:37:18 14
11:37:19 15 MR WINNEKE: Thanks Commissioner. I think we're right now
11:37:22 16 with that. It's only a short extract but it's on 13
11:37:26 17 December 2005. You'll see the transcript has got red on
11:37:31 18 it, Commissioner. Now, obviously it's a question of
11:37:34 19 interpretation, the actual evidence is what we can hear and
11:37:37 20 this is what, obviously what we think we can hear but if
11:37:41 21 it's something different everyone has the opportunity to
11:37:44 22 provide a different transcript.
11:37:45 23
11:37:46 24 COMMISSIONER: Yes, understood.
11:37:48 25
11:37:48 26 MR WINNEKE: If we could play this transcript, it's the
11:37:51 27 start of a meeting on 13 December. Play this recording.
28
11:38:12 29 (Audio recording played to the hearing.)
11:39:15 30
11:39:15 31
11:39:15 32 All right. Now that last bit was you, I think there'd been
11:39:20 33 some discussion about the amount of coffee that Ms Gobbo
11:39:23 34 drank. You probably, or you may or may not recall that but
11:39:29 35 you heard the audio and you could read the
11:39:34 36 transcript?---Yes.
11:39:35 37
11:39:36 38 For the most part what I suggest to you is being discussed
11:39:44 39 is [REDACTED] getting his brief, do you accept
11:39:50 40 that?---Yes.
11:39:51 41
11:39:53 42 And then there's a discussion about whether Ms Gobbo is
11:39:58 43 acting or isn't acting for him and then she makes the
11:40:02 44 comment, "He doesn't know that I'm responsible for [REDACTED]
11:40:05 45 [REDACTED] rolling on him. I'm a magnet to these people,
11:40:09 46 what can I say, they feel comfortable". I think I asked
11:40:13 47 you before about that entry and the [REDACTED] is a

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11:40:18 1 reference to a person by the name of [REDACTED] who rolls on him
11:40:22 2 and makes the statement, do you accept that?---Yes.
11:40:25 3
11:40:26 4 Then Mr White says, I suggest, "It's a stalemate, didn't
11:40:31 5 you say you had a conflict of interest with him?" What I
11:40:35 6 suggest is that's again Mr White making it plain, at least
11:40:44 7 that he understands that there's this issue of conflict of
11:40:49 8 interest that Ms Gobbo has and on that occasion - he's
11:40:55 9 talking about Ms Gobbo having a conflict and not being in a
11:40:59 10 position to act for [REDACTED]. Do you see that?---Yes.
11:41:02 11
11:41:05 12 And she says, "Well what else could I say? If [REDACTED] s
11:41:12 13 threatening me about being involved in some ecstasy
11:41:16 14 manufacturing syndicate what else am I going to say?" Do
11:41:20 15 you recall that being said?---No. I accept what's on the
11:41:26 16 transcript.
11:41:26 17
11:41:26 18 You heard it I take it and read the transcript?---Well I
11:41:31 19 just heard it then. I'm not sure if I was even in that
11:41:35 20 area when this conversation took place that specific part
11:41:40 21 that we've isolated.
11:41:41 22
11:41:41 23 Yes, I follow what you're saying?---I don't refute what I
11:41:45 24 just heard.
11:41:46 25
11:41:46 26 It appears to be at about the time that you're setting up
11:41:49 27 and you've gone into the PII [REDACTED] or whatever it is and
11:41:52 28 you're setting up and there's some discussion about getting
11:41:55 29 coffee and so forth, do you accept that?---Correct.
11:41:57 30
11:41:59 31 You make the comment - it appears to be, "I'll jump on your
11:42:08 32 grave there", is that in reference to Ms Gobbo indicating
11:42:14 33 that she would be acting for [REDACTED] or not or is it
11:42:21 34 something to do with something else?---I think at that
11:42:24 35 particular point in time I think I was just organising to
11:42:27 36 get her a coffee.
11:42:28 37
11:42:28 38 All right. In any event, I asked you before about what
11:42:35 39 went on during the course of that meeting and really there
11:42:42 40 was an eliciting of information from Ms Gobbo about a whole
11:42:45 41 number of different people, some of whom were her clients,
11:42:48 42 but there was a fair degree of discussion about [REDACTED]
11:42:54 43 If we go to, if we can put up the transcript, I don't have
11:42:59 44 tapes of this, but if we go to p.386 to 389.
11:43:05 45
11:43:05 46 COMMISSIONER: Do you want to tender that now?
11:43:07 47

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11:43:07 1 MR WINNEKE: I tender that, Commissioner, and the audio,
11:43:09 2 the transcript and the audio.
11:43:11 3
11:43:13 4 #EXHIBIT RC627A - Tape.
11:43:17 5
11:43:19 6 #EXHIBIT RC627B - Transcript
11:43:23 7
11:43:23 8 MR HOLT: There's no issue with the transcript, I've
11:43:26 9 checked it as we go, that can be published.
11:43:29 10
11:43:29 11 COMMISSIONER: Thanks.
11:43:29 12
11:43:30 13 MR WINNEKE: Just whilst we're getting that transcript up,
11:43:32 14 that appears to be also another recognition on the part of
11:43:36 15 Mr White, if you accept what he's saying, "It's a
11:43:40 16 stalemate, didn't you say you had a conflict with him?"
11:43:44 17 That's another recognition that he had, that you had, that
11:43:47 18 there were real problems - certainly he had, that there
11:43:50 19 were problems with Ms Gobbo acting in conflict, do you
11:43:54 20 accept that?---Yes.
11:43:55 21
11:43:56 22 And you understood those conflict issues yourself, I take
11:44:00 23 it?---Yes.
11:44:01 24
11:44:03 25 Now, if we go to p.386 we see, as it goes on, you say,
11:44:17 26 "Now, [REDACTED], that's a reference to effectively you
11:44:21 27 inviting some information about [REDACTED] at 386 I think it
11:44:29 28 is, right. 0386, I was told that's where it was. We might
11:44:40 29 have to do a bit of searching. I wonder if you could do a
11:44:47 30 word search and see if you can find '[REDACTED]'. It
11:44:52 31 might not be that page. Whilst we're searching can I read
11:44:55 32 this out to you. You say, "Now, [REDACTED]". Ms Gobbo
11:44:59 33 says, "Yeah". And you say, "He got served with his brief
11:45:02 34 today, did he?" And she says, "No, he rang yesterday, he
11:45:10 35 rang today". And you say, "Yeah". Ms Gobbo says, "And I
11:45:17 36 ran into his solicitor at court this afternoon, Theo
11:45:23 37 Magazis and I just said to Theo, 'Listen, [REDACTED] keeps
11:45:26 38 ringing' As a courtesy I've got to tell a solicitor that
11:45:27 39 his client who I don't act for keeps ringing me".
11:45:43 40
11:45:43 41 COMMISSIONER: Yes, it looks like we've got the transcript
11:45:46 42 up.
11:45:49 43
11:45:50 44 MR WINNEKE: "Ran into his solicitor at court this
11:45:53 45 afternoon, Theo Magazis. I said to him", do you see that?
11:45:58 46 "As a courtesy I've got to tell a solicitor that his client
11:45:58 47 who I don't act for keeps ringing me". You say, "Yeah".

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11:46:00 1 Gobbo says, "And I said, 'Do you know what it's about?'
11:46:04 2 And he said, 'The brief came out, not good'. And I said,
11:46:08 3 'Oh yeah'. I said, 'Did anyone roll on him?'" And she
11:46:12 4 says, playing dumb, "'Did anyone roll?' I said, 'How bad
11:46:20 5 is that [REDACTED] statement', 'cause I know he rolled
6 even though the Drug Squad didn't want to tell me the truth
11:46:24 7 about that but - and he said, he said, [REDACTED]
11:46:28 8 statement is [REDACTED] because he's tried [REDACTED]
11:46:32 9 [REDACTED] position'." You say, "No really". Gobbo says, "No
11:46:35 10 kidding. And I said, 'Oh yeah', and he said, 'And your
11:46:37 11 client, he made a signed statement as well'", and that's a
11:46:41 12 reference I suggest to [REDACTED] that we've referred to. "And
11:46:44 13 I said, 'Really, he must, he must have made it after the
11:46:48 14 bail application'" and she's recounting her conversation
11:46:52 15 with Mr Magazis. "He said, 'I can't remember what date it
11:46:57 16 was'". She said, "I hope to God it wasn't signed the date
17 of the bail application. But anyway, I said, I said,
11:47:00 18 'Look, he's rang'. I said, [REDACTED] called me, so if you
11:47:04 19 want me to', I said, 'If you don't mind, he wants to see
11:47:08 20 me, have you got a problem with that?' Theo said, 'No,
11:47:10 21 not all' so it's 4.30 tomorrow". What she's saying there
11:47:14 22 is, and despite the fact that she's acted for a person who
11:47:18 23 had made a statement against [REDACTED] despite the fact
11:47:23 24 that she's providing information to Victoria Police against
11:47:26 25 [REDACTED], she's saying, "I'm prepared to see him, read his
11:47:31 26 brief and in effect act as a legal advisor to him". Do you
11:47:37 27 accept that's the gist of what Ms Gobbo is saying to you in
11:47:40 28 that discussion?---Yes.

11:47:43 29
11:47:45 30 And I take it that at this stage, by this time we're
11:47:52 31 talking about December 2005, albeit you may not have a
11:47:57 32 strong recollection now but what I'm suggesting to you is
11:48:01 33 that by this stage in 2005 the SDU, Mr White and yourself
11:48:07 34 were well across Operation [REDACTED]'s brief, the investigation
11:48:12 35 plan, which included having or getting information against
11:48:18 36 [REDACTED] charging him and then rolling him to get him
11:48:23 37 to give information against Mokbel, et cetera, do you
11:48:26 38 accept that?---Our brief from Purana was to identify an
11:48:34 39 avenue we could take them to that would essentially close
11:48:41 40 down the Mokbel drug cartel.

11:48:44 41
11:48:44 42 Yes?---He was one of several people we were considering and
11:48:48 43 assessing.

11:48:49 44
11:48:49 45 Yes. Well, I think you - I follow what you're saying. By
11:48:54 46 this stage I think there's been a presentation, certainly
11:48:57 47 at which Mr White was involved where Mr O'Brien presented

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11:49:00 1 operation, the investigation plan, which included the use
11:49:04 2 of Ms Gobbo, the use of information Ms Gobbo provided, in
11:49:09 3 order to roll a couple of people, one of whom we can't name
11:49:12 4 but the other one is [REDACTED] with a view to getting
11:49:19 5 the Mokbels behind bars, do you accept that
11:49:22 6 proposition?---Yes.

11:49:22 7
11:49:23 8 Okay. Now, so effectively what is going on there is, in
11:49:32 9 pursuance of that plan there's discussions about Ms Gobbo
11:49:36 10 becoming involved in the sense that she then, not only does
11:49:41 11 she provide information against [REDACTED] but she is
11:49:47 12 insinuating herself in as [REDACTED]'s legal advisor, do
11:49:53 13 you accept that?---Yes.

11:49:55 14
11:49:57 15 And that is something that the DSU at that stage was
11:50:02 16 prepared to have occur?---It was one avenue of inquiry,
11:50:12 17 yes, that we were assessing.

11:50:13 18
11:50:13 19 It was something that the DSU was prepared to condone, that
11:50:18 20 avenue of inquiry as you call it or that investigation
11:50:22 21 plan?---It was one of several targets we were looking at,
11:50:25 22 yes.

11:50:25 23
11:50:25 24 Now then, if we move on in that particular conversation, we
11:50:29 25 get to p.196 of the - Commissioner, I'm going to deal with
11:50:37 26 a number of these, I'm happy to tender them as we go along
11:50:41 27 or as one bundle at the end.

11:50:43 28
11:50:43 29 COMMISSIONER: Perhaps one bundle at the end. Are they all
11:50:46 30 similar time frame?

11:50:48 31
11:50:48 32 MR WINNEKE: All on 13 December, all part of this
11:50:50 33 conversation.

11:50:51 34
11:50:51 35 COMMISSIONER: Okay.

11:50:58 36
11:51:00 37 MR WINNEKE: Just so as we're clear about this, what I'm
11:51:03 38 suggesting to you is - perhaps, and it will become clear as
11:51:09 39 we go through this, that the SDU, Mr White was prepared to
11:51:16 40 condone and indeed to encourage a situation whereby not
11:51:22 41 only did Ms Gobbo provide information about [REDACTED] with
11:51:25 42 a view to having him dealt with in due course, but also
11:51:31 43 Ms Gobbo being his legal advisor. Now do you understand
11:51:38 44 that, that's what I'm putting to you?---Yes, I understand
11:51:43 45 that.

11:51:43 46
11:51:43 47 You accept that proposition?---Again it's the context. The

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11:51:47 1 reason - you know, the thing we need to have a look at is
11:51:53 2 what did we do with this information? The fact is our
11:51:56 3 understanding was [REDACTED] was talking about bribing
11:52:02 4 someone to get off some charges.
11:52:04 5
11:52:04 6 Yes, I follow that?---That's serious criminal offending and
11:52:08 7 that was one of the things we were considering.
11:52:10 8
11:52:10 9 That's part of it, but the major point of this exercise,
11:52:13 10 and this will become clearer, is to get the Mokbels and
11:52:18 11 ultimately what happens is when [REDACTED] is arrested, what
11:52:22 12 happens is Ms Gobbo advises [REDACTED] about what to do,
11:52:26 13 what course he should take, as his legal advisor but whilst
11:52:31 14 also being an agent of Victoria Police. That's what
11:52:34 15 ultimately happens. Do you understand that and do you
11:52:38 16 accept that proposition?---Yes.
11:52:41 17
11:52:41 18 And what was occurring here is the early stages of that
11:52:45 19 process. Do you accept that?---Well we had been told by
11:52:53 20 the source that [REDACTED] was preparing to bribe someone to
11:52:56 21 get off some charges.
11:52:58 22
11:52:59 23 All right?---I thought that's an - I would have thought the
11:53:02 24 court would want us to pursue that.
11:53:06 25
11:53:06 26 What I suggest to you is that ultimately the DSU wasn't
11:53:11 27 interested in that and that was going to be a bit of a
11:53:14 28 problem. What you wanted was to get [REDACTED] charged,
11:53:18 29 one way or the other, with a view to him rolling on the
11:53:21 30 Mokbels. Now that's, that's what I'm going to suggest to
11:53:25 31 you?---I disagree with that. [REDACTED] wasn't our only
11:53:29 32 option we were exploring, but if he wants to bribe people
11:53:32 33 to pervert the course of justice then we're obligated to do
11:53:38 34 something about that.
11:53:38 35
11:53:39 36 I follow that. You could have said to Ms Gobbo, "Look, you
11:53:43 37 shouldn't act for him, don't act for him. If you want to
11:53:46 38 give us the information we're more than happy to receive
11:53:49 39 the information if you get it in a social capacity, but for
11:53:54 40 heaven's sake do not act for him", you could have said
11:53:57 41 that, couldn't you?---We could have, yes.
11:53:59 42
11:54:00 43 You didn't?---She told us about some serious criminal
11:54:03 44 offending that was about to happen and that's what we acted
11:54:06 45 on in relation to [REDACTED].
11:54:07 46
11:54:08 47 Mr Black, you're not grappling with the question that I'm

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11:54:12 1 putting to you. What I'm saying to you, and this is quite
11:54:13 2 serious, I want you to listen. You could have said to her,
11:54:17 3 "We want to get the information from you, we say it's
11:54:21 4 serious this business about the bribe, we want to get that
11:54:24 5 information but do not act for him", you could have said
11:54:26 6 that, couldn't you?---Well there's two parts to that
11:54:30 7 question. The fact is she had disclosed to us serious
11:54:34 8 offending that PII [REDACTED] was about to commit on. Now
11:54:39 9 that's what we actioned.

11:54:40 10
11:54:41 11 Yes, but you - - - ?---I think we had warned her not to act
11:54:46 12 for people.

11:54:46 13
11:54:46 14 Righto, let's keep going anyway?---Yes.

11:54:49 15
11:54:50 16 If we get to p.0541, which is 196, Mr White says, and this
11:54:59 17 is about Tony Mokbel, "What would be his biggest concern?"
11:55:04 18 And Ms Gobbo said, "That [REDACTED]".
11:55:10 19 Mr White said, "Yeah, and what's the chance of that
11:55:12 20 happening?" She says, "I don't think he will". Then if we
11:55:15 21 go down, something we can't hear, "Said to him, you know,
11:55:20 22 'I really want to be, I want to see your hand-up brief
11:55:24 23 first' - because from his record of interview and from what
11:55:26 24 has, what I told him that I had understood to be the
11:55:29 25 situation about [REDACTED], and she says, "I couldn't
11:55:33 26 tell him that that was the course he should take. Bear in
11:55:37 27 mind I had to lie to him and say that I didn't know" and
11:55:42 28 what you can't, what isn't written there but when you
11:55:46 29 listen to it it says, "I had to lie to him and say that I
11:55:51 30 didn't know that [REDACTED] He doesn't know that I
11:55:55 31 was responsible for that". Now, you'll need to accept that
11:55:59 32 from me, that when you listen to it I suggest to you that
11:56:02 33 that's what is said. And that appears to be consistent
11:56:06 34 with what she's been saying elsewhere, do you agree with
11:56:10 35 that?---That would make sense.

11:56:12 36
11:56:12 37 "I don't know what the strength or otherwise of it is. I
11:56:16 38 don't know that he's, your chances of him taking that
11:56:20 39 course of action are regardless of what advice I gave him."
11:56:24 40 "Yeah", says Mr White. "He had Mansell", and that's a
11:56:28 41 reference to police officer Darren Mansell, "And his
11:56:32 42 cronies threaten him with everything under the sun in a
11:56:36 43 course of a number of hours the night of his arrest",
11:56:40 44 that's a reference back to the earlier arrest. "I
11:56:43 45 understand there were AFP officers there as well, although
11:56:46 46 that's probably not in the brief, and if he didn't [REDACTED]
11:56:49 47 then why would he do it now particularly if he's trying to

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11:56:54 1 bribe somebody?" Then she talks about the \$130,000 bribe
11:56:59 2 action plan. Mr White says, "Is that still ongoing, is
11:57:03 3 it?" She says, "That's still ongoing, yeah. He calls that
11:57:08 4 plan B". Mr White says, "So he still thinks that",
11:57:12 5 et cetera, et cetera, "That'll fix it up", so in other
11:57:14 6 words he still thinks that the \$130,000 bribe will fix it
11:57:18 7 up. And she says, "Yeah, I've worked out, I haven't worked
11:57:24 8 out who it is or who's ripping who but somebody's going to
9 get a lot of money out of it. But they've got to be people
11:57:33 10 like that all round" and then there's further discussion
11:57:35 11 about that. And then the topic, sort of you move away, or
11:57:39 12 at least the discussion between Mr White and Ms Gobbo moves
11:57:46 13 away to Mr Ahmed, Adam Ahmed. That goes on for a while
11:57:52 14 talking about Mr Ahmed. As I understand it these
11:57:55 15 conversations that you had with Ms Gobbo flowed often from
11:57:59 16 one subject to the next, do you agree with that?---Yes.

11:58:01 17
11:58:01 18 Then if we move on to p.202, Mr White brings the
11:58:08 19 conversations back to the people who [REDACTED] the
11:58:12 20 Mokbels. And he says at about two-thirds of the way down,
11:58:18 21 he says, "Okay. I think the chances of him actually, but I
11:58:23 22 just want to go through this. So you've got him, you've
11:58:26 23 got [REDACTED] the light"
11:58:30 24 That's a reference to the possibility [REDACTED]
11:58:33 25 [REDACTED] light, [REDACTED]
11:58:35 26 Would that be fair to say?---Yes.

11:58:37 27
11:58:37 28 "He might upon the reality of what the brief shows", says
11:58:43 29 Ms Gobbo. Mr White says, "Yeah, once he has a look at the
11:58:47 30 brief and he gets some advice about the brief. Are you
11:58:49 31 going to give him that advice? Are you going to give him
11:58:52 32 the advice on the brief?" And over the page Ms Gobbo said,
11:58:59 33 "I've got to get it from him first though". White says,
11:59:03 34 "Yeah, so he may find himself, well he might change his
11:59:07 35 mind". In other words, he might change his mind and he
11:59:10 36 might end up [REDACTED] I suggest. And she says, "He will
11:59:14 37 but not until, yeah, no, but hang on, not until the
11:59:21 38 committal mention, because remember the committal mention"
11:59:24 39 - and then there's the date about the \$130,000 thing"
11:59:29 40 Mr White says, "Oh well what can we do about that?" She
11:59:34 41 says, "Not much. How can we get involved", says Mr White.
11:59:36 42 "I don't know because I don't know who he's dealing with
11:59:38 43 other than telling John that he's dealing with this bloke
11:59:43 44 Joe, who's the guy who came to court to give evidence. I
11:59:49 45 don't even know about, know who he is". Then there's an
11:59:54 46 ongoing discussion. The prime idea is to [REDACTED]
11:59:57 47 [REDACTED] in the meantime he's got this plan B

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12:00:02 1 of \$130,000 and Mr White says, "What can we do about that?"
12:00:08 2 Then there's discussion about the \$130,000 bribe. That
12:00:11 3 goes on for a while. If you go over to the following page,
12:00:22 4 "When's the committal mention? It's on 17 January, or the
12:00:27 5 27th, something like that. At that point in time when he
12:00:29 6 realises that he's been ripped off 130,000 grand and he
12:00:33 7 knows the strength of the evidence is sufficient to convict
12:00:37 8 him, if those two things ... [REDACTED] and
12:00:38 9 Ms Gobbo says, "Yeah, [REDACTED] To wanting to [REDACTED] his
12:00:42 10 [REDACTED] he [REDACTED] be".

12:00:46 11
12:00:46 12 COMMISSIONER: Sorry, I think you've lost us a bit. What
12:00:46 13 page are you reading from now?

12:00:49 14
12:00:49 15 MR WINNEKE: 204, I apologise. I didn't realise that you
12:00:53 16 were looking.

17
18 COMMISSIONER: Yes.

19
12:00:56 20 MR WINNEKE: 204. I got carried away. If you just catch
12:01:02 21 up and read that, Mr Black?---Yes, I think we've past that
12:01:11 22 point.

12:01:12 23
12:01:12 24 Yes. So effectively the \$130,000 is a bit of a nuisance.
12:01:17 25 That's plan B. We want to get past that, we want to get
12:01:21 26 him to a position where he realises that he's in all sorts
12:01:25 27 of strife. The \$130,000 isn't going to do anything and he
12:01:29 28 realises the strength of the brief is such that [REDACTED]
12:01:33 29 [REDACTED] Do you see what
12:01:36 30 I'm saying?---Yes.

12:01:37 31
12:01:37 32 Effectively it appears to be the case that the \$130,000,
12:01:41 33 which you say is the main focus of it, isn't really the
12:01:44 34 issue, that's more of a side line, the real point is to get
12:01:49 35 him past that and get to the point where he realises that
12:01:52 36 he's in strife, do you follow that?---Look, bribing people
12:01:59 37 was a common MO for the Mokbel cartel. This is not an
12:02:06 38 unfamiliar hypothetical situation, so we took the bribe
12:02:12 39 very seriously.

12:02:13 40
12:02:14 41 I accept what you're saying but the point is this:
12:02:18 42 ultimately if you keep reading it says, "When he realises
12:02:25 43 he's been ripped off, in other words 130,000 grand is no
12:02:29 44 good. He knows that the strength of the evidence is
12:02:31 45 sufficient to convict him, if those two things [REDACTED]
12:02:34 46 [REDACTED] Yeah, [REDACTED] Wanting [REDACTED] his
12:02:38 47 [REDACTED] which means [REDACTED] correct?---With all

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12:02:43 1 due respect I think that's about helping himself. I mean
12:02:48 2 he may come to the realisation the brief is that strong he
12:02:53 3 has no other choice, why not [REDACTED] and [REDACTED]
12:02:56 4
12:02:56 5 I agree. "Are you going to be in a position where you
12:02:58 6 might be able to give him some advice and guidance which
12:03:03 7 way to go?" Ms Gobbo says, "I'll give anyone that
12:03:08 8 advice"?---Her job is to do the best interest of her
12:03:11 9 client.
12:03:12 10
12:03:13 11 Yeah. See that's the point?---Which is a common - - -
12:03:17 12
12:03:18 13 That's the point we're at?---- - - problem.
12:03:21 14
12:03:21 15 Her job is to do the best - her job should be to do the
12:03:23 16 best for her client but ultimately what she's doing here is
12:03:27 17 acting as an agent of Victoria Police and that's what's
12:03:31 18 being condoned by Victoria Police, do you follow?---I think
12:03:33 19 that's a stretch with all due respect. I don't think you
12:03:38 20 can just extrapolate that point out. I think in fairness,
12:03:41 21 we're targeting someone who is about to commit a bribe, who
12:03:47 22 will, he [REDACTED] and [REDACTED]
12:03:52 23 with [REDACTED] many of them did.
12:03:54 24
12:03:54 25 Ultimately what you want to happen is Ms Gobbo to be there
12:03:57 26 at the punch line to say to him, [REDACTED]
12:04:00 27 [REDACTED], that's what you want to happen, isn't it?---I
12:04:09 28 don't draw that strong an inference from it. If you go
12:04:14 29 back and look at the words clinically I don't think that's
12:04:17 30 exactly what that piece of transcript is saying.
12:04:21 31
12:04:21 32 It's a matter of interpretation?---Well, that's my
12:04:23 33 position.
12:04:24 34
12:04:24 35 What's your interpretation?-- [REDACTED] his
12:04:29 36 [REDACTED]
12:04:30 37
12:04:30 38 Yes, but is he not entitled to have at the time that he's
12:04:35 39 arrested an independent legal representative to advise him
12:04:39 40 of his rights?---That's his choice.
12:04:43 41
12:04:43 42 No. Do you accept the proposition that he's entitled to
12:04:46 43 have an independent legal practitioner representing him,
12:04:49 44 that is a legal practitioner who is not an agent of
12:04:56 45 Victoria Police?---Well that's a different proposition.
12:04:58 46
12:04:58 47 Do you accept it?---He is entitled to have legal

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12:05:02 1 representation, yes.
12:05:03 2
12:05:03 3 An independent legal representative who is not an agent of
12:05:08 4 Victoria Police?---So I'm just trying to understand how do
12:05:11 5 you think that that - how does that extrapolate that this
12:05:15 6 refers to 3838?
12:05:16 7
12:05:17 8 Because Mr White says, "Are you going to be in a position
12:05:19 9 where you might be able to give him some advice and
12:05:21 10 guidance about which way to go"?---Yes.
12:05:23 11
12:05:24 12 Right. "So we get into the position where we've got him
12:05:30 13 where we want him, that is he's got this overwhelming case
12:05:34 14 and are you going to be in a position to [REDACTED]
12:05:37 15 [REDACTED] the [REDACTED] ---That's the question Mr White asks.
12:05:43 16
12:05:44 17 And what that is, I suggest to you, is the beginning of an
12:05:47 18 arrangement to have an agent of Victoria Police give advice
12:05:51 19 to a person which is not independent but is advice that the
12:05:54 20 police want [REDACTED] ---Well on the next page at
12:05:59 21 550, her answer is there, "If he wants me to".
12:06:03 22
12:06:03 23 But he won't know, will he, that she's an agent of Victoria
12:06:09 24 Police because you'll never tell him?---That's correct.
12:06:11 25
12:06:14 26 If we go on, "If he wants me to because you're not
12:06:19 27 actually". She says, "No, I'm not actually acting and
12:06:23 28 engaged. I might be clever tomorrow and say to him that I
12:06:27 29 have been asked to consider [REDACTED] position. I haven't
12:06:31 30 really but I can make a phone call and then I wouldn't be
12:06:34 31 lying to him beforehand, 'And if you want to me act for
12:06:38 32 you, you've got to say', so right now or I may be just
12:06:43 33 creating more mess". Mr White says, "If he says that he
12:06:48 34 wants you to act for him, can you act for him? Yes, but
12:06:52 35 not if part of what he then does is put Tony in because I'm
12:06:55 36 acting for Tony. I can't do it. At that point in time if
12:07:01 37 you got instructions to that effect you'll withdraw"? She
12:07:06 38 says, "I wouldn't be able to act for him but I would, I
12:07:10 39 would still, nothing will, nothing will stop me from still
12:07:13 40 saying to him, 'Listen, you've got real problems, these are
12:07:17 41 your options'. Yeah, and then what he does is a matter for
12:07:21 42 him", do you see?---Correct.
12:07:24 43
12:07:24 44 What she's effectively saying is, "Look, I can do it behind
12:07:28 45 the scenes. I'll tell him, albeit I can't do it
12:07:32 46 officially, I can't do it aboveboard. I'll tell him behind
12:07:35 47 the scenes [REDACTED] Do you accept that

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12:07:40 1 proposition?---I still say ultimately it's a matter for
12:07:45 2 Bednarski.
12:07:46 3
12:07:46 4 Again, I don't want to repeat myself but it's a matter for
12:07:50 5 him knowing all of the information, so what he should know,
12:07:54 6 and ultimately what happens is he doesn't know that he gets
12:07:58 7 advised by Ms Gobbo, who's acting as an agent for police,
12:08:02 8 and gets the advice [REDACTED] That's what
12:08:06 9 happens ultimately, you're aware of that, aren't you?---I
12:08:09 10 don't want to speak on behalf of Sandy White but it's quite
12:08:13 11 clear from the transcript there when you read it in
12:08:16 12 totality that he is exploring several options and
12:08:21 13 hypotheticals. The fact is she's not acting for him in
12:08:25 14 this particular matter.
12:08:26 15
12:08:26 16 What she's saying is, "Nothing will stop me from saying to
12:08:31 17 him, 'You've got real problems', in other words I will
12:08:35 18 behind the scenes tell him this is what the situation is,
12:08:39 19 you're going to have to [REDACTED] or you should [REDACTED]
12:08:40 20 [REDACTED] That's what you, I suggest, [REDACTED], ultimately
12:08:43 21 want [REDACTED] --We're exploring what options - if she
12:08:48 22 wants to give him that advice - I mean where does it say on
12:08:53 23 the transcript that's exactly what we want to take place?
12:08:56 24
12:08:56 25 Do you know what occurs ultimately?---Without refreshing my
12:09:01 26 memory, no.
12:09:01 27
12:09:02 28 What I can suggest to you ultimately occurs is there is in
12:09:05 29 fact a tacit agreement, if not an actual agreement, set out
12:09:09 30 in the ICRs that Mr Bednarski when arrested will be advised
12:09:13 31 by Ms Gobbo. She won't go to the police station but she'll
12:09:17 32 do it over the telephone. That's what ultimately occurs,
12:09:20 33 do you accept that?---If that's what ultimately occurs,
12:09:23 34 that's fine. But you're cross-examining me in relation to
12:09:26 35 specific pieces of transcript.
12:09:26 36
12:09:28 37 No, I understand that?---I'm trying to assist as best I
12:09:30 38 can.
12:09:30 39
12:09:31 40 I appreciate that, thank you.
12:09:36 41
12:09:37 42 MR CHETTLE: Commissioner, can I just mention a technical
12:09:39 43 problem which I think has become apparent. I'm told that
12:09:43 44 there is a very small gap between speaking and talking, the
12:09:48 45 witness and Mr Winneke have been talking over each other.
12:09:52 46 But I'm told the throughout all these witnesses there's a
12:09:55 47 very slight gap between - - -

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12:09:56 1
12:09:56 2 COMMISSIONER: Perhaps if both people pause before
12:09:59 3 answering.
12:09:59 4
12:10:00 5 MR CHETTLE: Yes.
12:10:00 6
12:10:00 7 COMMISSIONER: That's a good idea, Mr Chettle. I hadn't
12:10:03 8 appreciated that that was adding to the difficulty. I
12:10:05 9 thought it was just relating to the fact you couldn't see
12:10:09 10 each other when you're asking questions.
12:10:11 11
12:10:15 12 MR WINNEKE: I think that makes it difficult as well,
12:10:15 13 Commissioner.
12:10:15 14
12:10:15 15 COMMISSIONER: I think that's causing problems so I think
12:10:16 16 that is a good suggestion. So if both people, both the
12:10:19 17 person asking and the person answering just pause for two
12:10:23 18 or three seconds before responding there will be less
12:10:26 19 talking over and it should make for a more amicable
12:10:32 20 discussion perhaps?---Thanks Commissioner. There's about,
12:10:37 21 it seems to be probably just over a second delay which
12:10:41 22 makes things a little hard doing this remotely.
12:10:44 23
12:10:45 24 MR WINNEKE: I didn't appreciate it because I can't see the
12:10:46 25 witness.
12:10:47 26
12:10:47 27 COMMISSIONER: If you both just wait, count to two before
12:10:51 28 speaking?---Thank you.
12:10:53 29
12:10:54 30 MR WINNEKE: All right. Then that discussion goes on and
12:11:02 31 there's, as we've shown from your notes, you go through a
12:11:10 32 number of options for people who [REDACTED] to [REDACTED]
12:11:13 33 police in [REDACTED] Mr Mokbel. And if we get to
12:11:22 34 about p.223, which is - 223. We see Mr White say, "Yeah
12:11:36 35 okay. Who else is there that we should seriously be
12:11:40 36 looking at from the point of view of [REDACTED] them
12:11:44 37 to". Ms Gobbo says, [REDACTED]. Mr White says, "Yeah, he's
12:11:50 38 got no real criminal history, has he? No. He has a
12:11:55 39 million dollar business or whatever it is". She says, "He
12:11:58 40 had an assault charge from years ago but that's it". What
12:12:02 41 do we say about him? In fact I wonder, Commissioner,
12:12:10 42 perhaps if - I wonder whether it might be fairer if we
12:12:22 43 don't use or publish his name, I'm just concerned about - -
12:12:26 44 -
12:12:26 45
12:12:27 46 COMMISSIONER: The name of?
12:12:28 47

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12:12:28 1 MR WINNEKE: [REDACTED] name.
12:12:33 2
12:12:33 3 COMMISSIONER: Yes. It's probably, I don't know who it is.
12:12:37 4
12:12:37 5 MR WINNEKE: I understand that.
12:12:39 6
12:12:41 7 COMMISSIONER: Probably for reputational reasons it will be
12:12:45 8 fairer not to. We'll remove that name from the transcript
12:12:48 9 and from the streaming.
12:12:50 10
12:12:50 11 MR WINNEKE: All right. "What do we say about him, he may,
12:12:55 12 something for Tony". Then you know who I'm talking about,
12:12:58 13 I take it, Mr Black?---Yes.
12:13:00 14
12:13:02 15 "Just in the scheme of things, he's someone who" - now you
12:13:08 16 can't read it but if you listen to it I suggest it says,
12:13:12 17 "May well crumble. But then what could you charge him
12:13:17 18 with?" In other words there's this discussion about the
12:13:20 19 potential of having someone charged who might then succumb
12:13:26 20 to pressure to plead guilty [REDACTED] Do you
12:13:30 21 accept that's what this discussion is about?---Yeah, our
12:13:35 22 focus was to see who else could be, who's committing
12:13:40 23 offences.
12:13:40 24
12:13:40 25 Yes, I follow?---Yes.
12:13:42 26
12:13:43 27 "He's someone who may well crumble, but then what could you
12:13:48 28 charge him with? He's been to the ACC and answered his
12:13:51 29 questions there. I'm not sure rightly or wrongly."
12:13:54 30 Ms Gobbo said, "I don't know, I've never seen his
12:13:57 31 transcript. So how would you go about putting a bit of
12:14:00 32 pressure on him? Or how would you go putting a bit of
12:14:05 33 pressure on him", a question of emphasis, whether it's you
12:14:09 34 or police generally. "That's why I just said to myself ...
12:14:14 35 charge him with anything. How would he go with a tax
12:14:18 36 investigation?" She says, "Pretty bad. Would he? Yeah,
12:14:19 37 pretty bad but he's been interviewed by the ATO. Yeah,
12:14:24 38 that was some time ago, yeah". Mr White says, "Was that
12:14:28 39 after you said he got some money, you said somebody set him
12:14:36 40 up for business? A bloke PII [REDACTED]", over the page, 'PII [REDACTED]
12:14:43 41 PII [REDACTED] yeah, set him up financially. I don't know, that's
12:14:46 42 all in the transcript, the ACC transcript which I've never
12:14:47 43 seen a copy of. Yeah, but I understand the story is that
12:14:50 44 PII [REDACTED] gave money and then paid PII [REDACTED] some money, still owes
12:14:54 45 him some money. I don't really understand", and there's a
12:14:57 46 reference to this person who owned the PII [REDACTED]
12:15:05 47 PII [REDACTED] "So", Mr White says, "That tax investigation, was

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12:15:08 1 that pre his business starting up with the business? No.
12:15:12 2 Or after? I don't know. All I know is that when he got
12:15:13 3 served with the ACC summons he came and saw me. He's
12:15:17 4 supposed not to tell anyone that he had one but he came and
12:15:22 5 saw me with Tony which was really not fantastic and he
12:15:23 6 wanted ... he wanted to show me the ATO investigation tape
12:15:28 7 so that then I could confirm what his answers were in the
12:15:31 8 tape so that I can make sure that his answers he was going
12:15:34 9 to give to the ACC were consistent with that. And I said
12:15:37 10 to him, 'I couldn't give a fuck what's on the ATO tape', if
12:15:42 11 it was, you are, you have the right to remain silent and
12:15:46 12 you don't and you answer questions, who cares, the ACC is
12:15:51 13 on oath so it doesn't matter if the two are completely
12:15:54 14 different so I never heard the tape". Effectively there
12:15:58 15 what Ms Gobbo is doing is telling you about private,
12:16:02 16 privileged communications and offering suggestions and
12:16:05 17 having discussions with you about the way in which a person
12:16:08 18 who had previously been in to her to seek legal advice
12:16:12 19 might be used by Victoria Police in a way that could
12:16:17 20 further the ends of Victoria Police. Do you accept that
12:16:20 21 proposition?---We're exploring who, who that potential
12:16:27 22 target, that potential person of interest was.
12:16:29 23
12:16:30 24 Yes, and you're exploring it with a barrister, getting
12:16:33 25 information from a barrister that she has gleaned in the
12:16:37 26 course of her professional relationship with clients, do
12:16:40 27 you accept that?---He was also a suspect for laundering
12:16:44 28 money, so that was our area of interest.
12:16:46 29
12:16:47 30 Look he may well have been, Mr Black?---He was.
12:16:49 31
12:16:49 32 Do you accept the proposition that I put to you?---No.
12:16:51 33
12:16:52 34 You don't, right. Now, can I ask you - I'll tender that
12:17:00 35 transcript, Commissioner.
12:17:06 36
12:17:10 37 COMMISSIONER: The - - -
12:17:11 38
12:17:11 39 MR WINNEKE: I've read from transcript at
12:17:22 40 VPL.2000.0002.4213 at 0363.
12:17:27 41
12:17:27 42 COMMISSIONER: Just a minute.
12:17:29 43
12:17:29 44 MR WINNEKE: That's the audio, yes.
12:17:31 45
12:17:31 46 COMMISSIONER: I think it started at 0394 and then it went
12:17:34 47 from 0546 to 0549.

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12:17:39 1
12:17:40 2 MR WINNEKE: Perhaps if I can do it this way, Commissioner.
12:17:42 3 What I will tender is - on the actual document itself, this
12:17:46 4 one is numbered from p.196 through to 226.
12:17:52 5
12:17:52 6 COMMISSIONER: All right. This is transcript - SDU
12:18:00 7 conversations with Nicola Gobbo on 13 December 08 from
12:18:04 8 pp.196 to 226. 13 December 05 sorry.
12:18:11 9
12:18:12 10 MR WINNEKE: Pages 196 to 226, yes.
12:18:15 11
12:18:20 12
12:18:21 13
12:18:21 14 #EXHIBIT RC628A - (Confidential) SDU conversations with
12:18:01 15 Nicola Gobbo on 13/12/05 from pp.196 to
12:18:05 16 226.
12:18:22 17
12:18:25 18 #EXHIBIT RC628B - (Redacted version.)
12:18:26 19
12:18:27 20 There are also some relevant matters there that we might
12:18:29 21 need to have a look at as well, Commissioner.
12:18:32 22
12:18:32 23 COMMISSIONER: Yes.
12:18:32 24
12:18:33 25 MR CHETTLE: Sorry, Commissioner, for the transcript, I
12:18:35 26 know this isn't a court and I know I haven't got a right to
12:18:39 27 object, but when you get a proposition of law in relation
12:18:41 28 to whether someone was a client and whether something is
12:18:44 29 privileged, put by a silk to a policeman, it shouldn't be
12:18:48 30 based on reality. What happened here was that this man,
12:18:53 31 call him who he is, comes in with the client, with Tony
12:18:57 32 Mokbel, it's not suggested that he was a client, there is
12:19:01 33 no evidence he was a client and therefore there may be no
12:19:06 34 issues of privilege. The proposition is put by Mr Winneke.
12:19:09 35 It may or may not be correct. What I'm concerned about is
12:19:12 36 just putting the balancing view that it's not clear in my
12:19:16 37 respectful submission that he was a client.
12:19:17 38
12:19:17 39 COMMISSIONER: You'll be able to cross-examine or
12:19:20 40 re-examine. You'll be able to re-examine. You'll also be
12:19:24 41 able to make submissions. You've got that on the record
12:19:27 42 now.
12:19:27 43
12:19:28 44 MR CHETTLE: Thank you.
12:19:28 45
12:19:28 46 COMMISSIONER: Yes.
12:19:29 47

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12:19:32 1 MR WINNEKE: Now, Mr Black, can I just put this proposition
12:19:34 2 to you: whether or not in fact there was a relationship
12:19:38 3 between Ms Gobbo and this person as a matter of fact, we
12:19:47 4 may not know, but what she did say to you in the course of
12:19:51 5 that conversation is that he came in to see her and it
12:19:56 6 appears from that discussion that he was seeing her with
12:19:59 7 respect, or having been issued with a summons to attend
12:20:04 8 before the ACC, at least that much we can accept, can't
12:20:08 9 we?---On the basis of the information?

12:20:15 10
12:20:15 11 Yes?---I'm - what did we - okay. So we're scoping out,
12:20:26 12 we're trying to understand who this individual is, that's
12:20:30 13 what's reflected in the transcript.

12:20:32 14
12:20:32 15 All right. In any event what we say is what's on the
12:20:36 16 transcript is what's on the transcript and whether or not
12:20:39 17 he was a client, do you know or are you able to say or
12:20:42 18 not?---I didn't think he was.

12:20:46 19
12:20:47 20 Can I suggest to you it at least looked like, at least from
12:20:51 21 what you were told it's at least conceivably possible there
12:20:56 22 was a situation of client/lawyer when the person comes in
12:20:59 23 with a summons from the ACC, that would seem sensible,
12:21:03 24 wouldn't it?---I don't know if that's what's reflected in
12:21:08 25 the transcript.

12:21:09 26
12:21:09 27 All right. Okay. Let's just rely on the transcript, shall
12:21:14 28 we? If we go to 29 December 2005. Can you turn your diary
12:21:19 29 to p.270?---Two hundred and?

12:21:27 30
12:21:27 31 I'm sorry, just hang on. 29 December 2005?---Yes, starts
12:21:47 32 on p.267, yes.

12:21:49 33
12:21:51 34 Yes. If you go through that to about 14:02, which is on
12:21:59 35 p.270, do you see that?---Yes, I have that.

12:22:02 36
12:22:02 37 It seems that there's a long discussion that you have with
12:22:07 38 Ms Gobbo and it seems that you've called her, is that
12:22:10 39 right?---Yes.

12:22:14 40
12:22:14 41 This is RCMPI.0090.0001 and this is at p.82. There's a red
12:22:29 42 letter 80 at the top so it's the next page. You've got
12:22:33 43 that there in front of you?---Yes.

12:22:35 44
12:22:36 45 And there's discussions about Milad Mokbel and Tony cooking
12:22:43 46 at Gisborne and so on. And there's a reference to
12:22:50 47 instructions and that's I think you giving her

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12:22:52 1 instructions, "Go to the party if you wish, decision for
12:22:57 2 you"?---Yes.
12:22:58 3
12:22:58 4 "At the party keeping up appearances. Will put future
12:23:06 5 tasking and deployment opportunities for us and Ms Gobbo",
12:23:10 6 do you see that?---Yes.
12:23:11 7
12:23:11 8 Then over the page there's references to Mokbel again. And
12:23:16 9 then at - the conversation appears to go from about 2
12:23:21 10 o'clock to 2.30. Then you call the investigator?---Yes.
12:23:26 11
12:23:29 12 And she is the person who receives information, is that
12:23:38 13 right?---At that point in time she was our point of liaison
12:23:44 14 for Purana and us.
12:23:44 15
12:23:45 16 You updated her about Ms Gobbo?---Yes.
12:23:52 17
12:23:54 18 Are you able to say what you would have told her?---The
12:24:02 19 fact that the party was on in relation to [REDACTED]
12:24:08 20 attendance as well.
12:24:12 21
12:24:13 22 You'll need to take that out.
12:24:16 23
12:24:16 24 COMMISSIONER: The name will have to go out?---Apologies
12:24:19 25 Commissioner, yes.
12:24:20 26
12:24:21 27 Just refer to a person?---I'm just trying to find the
12:24:26 28 individual.
12:24:26 29
12:24:26 30 We're not allowed to use the pseudonym there. Just don't
12:24:31 31 use a name, just call them "a person". We'll all
12:24:34 32 understand who it is?---Sure.
12:24:36 33
12:24:37 34 MR WINNEKE: We can't refer to that person in any way,
12:24:39 35 shape or form.
12:24:40 36
12:24:40 37 COMMISSIONER: Even with a pseudonym?---Thank you.
12:24:44 38
12:24:45 39 MR WINNEKE: So basically what you say is you would have
12:24:50 40 updated her in the way in which you've suggested. What I'm
12:24:55 41 interested in is this: you say here, "You're warned re
12:25:00 42 what in IR v what goes into affidavit", is that
12:25:08 43 right?---That's correct.
12:25:08 44
12:25:10 45 Versus what investigators are told?---Correct.
12:25:13 46
12:25:15 47 That's all about being careful about, I assume, what is

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12:25:23 1 said in an information report, in an affidavit and what
12:25:30 2 she's actually told. What's all that about,
12:25:35 3 Mr Black?---It's all about accuracy.
12:25:36 4
12:25:37 5 Right. So what are you warning her about?---That we need
12:25:44 6 to be careful that what is reflected in the affidavit is
12:25:48 7 what's contained in the information reports.
12:25:54 8
12:25:54 9 Right?---Our job is to make sure she wasn't inadvertently
12:25:59 10 compromised and that was the whole purpose of providing
12:26:03 11 sanitised information reports.
12:26:04 12
12:26:05 13 I follow. There appears to be three different versions,
12:26:08 14 one is what's in the information report, there's a
12:26:11 15 different version about what goes into the affidavit and
12:26:13 16 there's a different version about what investigators are
12:26:15 17 told. Is that right?---Yes.
12:26:16 18
12:26:17 19 So there are three different versions of the information
12:26:21 20 that is passed on, is that correct?---No.
12:26:26 21
12:26:27 22 How many different versions are there?---You pass on the
12:26:34 23 truth.
12:26:34 24
12:26:34 25 I follow that?---Part of this is that - this is a new
12:26:41 26 process for Victoria Police in relation to having a
12:26:44 27 Dedicated Source Unit set up to manage high risk sources.
12:26:48 28 It had never been done before. So with all due respect to
12:26:53 29 the investigator, she was relatively, she hadn't had much
12:27:02 30 experience and we were just assisting her to get the
12:27:06 31 affidavits through as quickly as we could but as accurately
12:27:10 32 as we could and making sure our source wasn't inadvertently
12:27:15 33 compromised.
12:27:15 34
12:27:16 35 Effectively you're saying to her, "You have to be careful
12:27:18 36 what goes into an affidavit". The affidavit goes to a
12:27:21 37 court, correct?---Absolutely.
12:27:24 38
12:27:24 39 And you don't want to put into the affidavit anything which
12:27:28 40 might reveal the source, right?---Well even, reveal even
12:27:34 41 the origin of the source, whether it's from a person, from
12:27:38 42 surveillance, anything. I mean I talk in my statement
12:27:42 43 about attesting to the accuracy of affidavits which contain
12:27:47 44 source based information from our unit. I mean these are
12:27:52 45 the steps we went to through the evolution of high risk
12:27:58 46 source management for Victoria and providing best practice.
12:28:04 47 We had to make sure that the intelligence in these

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12:28:07 1 affidavits were absolutely accurate.
12:28:09 2
12:28:09 3 I follow, it's got to be accurate. The idea is not to
12:28:11 4 mislead obviously?---Clearly. That's part of the reason as
12:28:16 5 I discussed in my statement in maintaining the list of who
12:28:19 6 knew about this individual.
12:28:20 7
12:28:20 8 Ultimately there is an issue of disclosure which becomes
12:28:28 9 relevant, as far as Ms Gobbo is concerned, and people who
12:28:32 10 are charged with offences as a result of information that
12:28:37 11 Ms Gobbo provides, you understand that?---Yes.
12:28:40 12
12:28:41 13 And as time went by that was an issue that Victoria Police,
12:28:46 14 the SDU, I suggest, became very concerned about and became
12:28:50 15 very involved in, do you accept that proposition?---Yes.
12:28:55 16
12:29:01 17 In what way do you say that the SDU became concerned and
12:29:06 18 involved?---Making sure that the investigators don't
12:29:13 19 inadvertently compromise the source because otherwise she'd
12:29:19 20 be murdered.
12:29:21 21
12:29:21 22 Yes. And ultimately the effect of that was that people who
12:29:28 23 were charged, even if they were charged as a result of
12:29:30 24 their own barrister providing information, may not have
12:29:33 25 found out about that, do you accept that?---Our objective
12:29:40 26 was to keep her alive and not disclose her identity or her
12:29:45 27 assistance. As far as disclosure was concerned, we were
12:29:48 28 alive to the issue but that wasn't our primary concern.
12:29:52 29 That was a matter for the investigators.
12:29:54 30
12:29:55 31 Did you give consideration to the criminal justice
12:29:59 32 process?---Of course, that's what we do our jobs for.
12:30:01 33
12:30:03 34 Ultimately do you accept that questions of public interest
12:30:07 35 immunity are matters for the court to
12:30:10 36 determine?---Absolutely.
12:30:11 37
12:30:11 38 And if the court or the defence or the prosecutor doesn't
12:30:15 39 know about matters which are relevant then the court can
12:30:18 40 never determine those matters, do you accept that?---Yes.
12:30:20 41
12:30:25 42 If you can just have a look at an entry on 30 December at
12:30:30 43 p.105 of the ICR. Again I don't want you to read the name
12:30:36 44 of the person that it relates to. ICR p.105. This is
12:30:49 45 during the period of time that you were the handler. I
12:30:51 46 think we've established that you were the handler from 25
12:30:54 47 November through to 3 January, is that right?---Yes.

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12:31:00 1
12:31:00 2 You'll see that there's an issue of welfare. The source
12:31:04 3 was worrying about betraying the person's trust but is of
12:31:08 4 the belief that it's the correct thing to do. She is
12:31:13 5 looking after Jim Valos's, that's a solicitor's office,
12:31:17 6 whilst he is away on holidays, which is a regular
12:31:19 7 arrangement with the source?---Yes.
12:31:21 8
12:31:22 9 Do you see that? Was that ever a matter of concern at the
12:31:26 10 SDU that Ms Gobbo was doing that? It appears on a number
12:31:30 11 of occasions she was looking after solicitor's offices.
12:31:34 12 Was that ever a matter that was of concern to the
12:31:37 13 SDU?---No.
12:31:37 14
12:31:42 15 She was clearly a person who was very keen on accumulating
12:31:46 16 information if she could, right?---Yeah, that's, that would
12:31:54 17 seem to be part of her nature.
12:31:57 18
12:31:57 19 Did you know, certainly you may have heard that, evidence
12:32:02 20 that at one stage Ms Gobbo was going into other barrister's
12:32:06 21 chambers to seek out information. Were you aware of that
12:32:09 22 at the time when it occurred?---No.
12:32:11 23
12:32:11 24 Another barrister, I should say, on one occasion?---No.
12:32:15 25
12:32:31 26 You handed back, I think, the SIM card, you handed over the
12:32:36 27 phone on 3 January. You became a handler again for a very
12:32:40 28 short period on 12 April, do you accept that?---Yeah.
12:32:45 29 Just, could I just, could I have that contact report back
12:32:49 30 up and just move, just in fairness. Just up above that
12:32:57 31 entry. So - yeah, okay. The very night before the similar
12:33:09 32 issue is discussed in relation to her - I mean there's a
12:33:14 33 lot of context. Again, just taking that line out of that
12:33:18 34 statement from the contact report from the 30th, you need
12:33:22 35 to look at what happened on the 29th. Here is the
12:33:25 36 individual that leaves a DVD for the source to watch.
12:33:29 37
12:33:30 38 Yes?---Meant to be a client. Leaves - all about, you know,
12:33:36 39 the DVD is there. It's entitled Leap of Faith. I think
12:33:42 40 that's all about some sort of religious, some bogus fraud
12:33:46 41 story tale. But he leaves that DVD for her to watch.
42
12:33:50 43 Yes?---As a result of that she feels a bit bad about -
12:33:52 44 she's watched the DVD, feels a bit bad. That's fine. We
12:33:57 45 then go on to discuss that it's a voluntary thing and the
12:34:03 46 source can cease her assistance at any time she wants.
12:34:08 47

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12:34:09 1 I follow that, I follow that?---Just to give some balance I
12:34:13 2 just wanted to draw that, you know the source accepted the
12:34:17 3 discussion and we moved on.
12:34:18 4
12:34:19 5 But what you then went on and said was that you reminded
12:34:24 6 the source what damage the drugs can do to the community
12:34:28 7 and that that person needs to stop his life of crime.
12:34:31 8 She's back on board again, do you see that?---I go back to
12:34:34 9 the original point there, she can stop at any time she
12:34:38 10 wants.
12:34:38 11
12:34:39 12 Why do you need to remind her about the damage that drugs
12:34:43 13 can do, this is all about persuading - - - ?---I'm sorry, I
12:34:48 14 spoke over you.
12:34:48 15
12:34:49 16 No, no, I didn't wait, sorry. You go?---Our oath of office
12:34:57 17 is to, you know, stop harm to people as one of many things.
12:35:02 18 These people are shipping millions of dollars of drugs out
12:35:06 19 to the community and that's our focus. If she wants to
12:35:11 20 help us with that, terrific. If she doesn't, that's her
12:35:16 21 choice.
12:35:16 22
12:35:16 23 What you're really saying is the ends justifies the
12:35:20 24 means?---I reject that out of hand yet again. That is not
12:35:23 25 the case.
12:35:24 26
12:35:24 27 Desperate times deserve desperate measures, that's been the
12:35:32 28 police line, hasn't it?---We have acted according to law
12:35:34 29 and that's what we did. We followed our procedures and I
12:35:36 30 did what Victoria Police command permitted us to do.
12:35:39 31
12:35:39 32 You wanted her to remain on board and that's why you
12:35:43 33 dropped the line about the damage to the community and he
12:35:47 34 needs to stop his life of crime and that's done to persuade
12:35:50 35 her to stay on board, that's your, what do you call it,
12:35:55 36 your trade craft, isn't it?---That was part of persuasion,
12:36:00 37 but at the end of the day they're the facts of the matter.
12:36:02 38 If she wants to leave the relationship she's more than
12:36:06 39 welcome to. We had plenty of other work to do.
12:36:09 40
12:36:12 41 COMMISSIONER: To complete it, the final note under that
12:36:15 42 heading that you took us back to, Mr Black, is, "Source
12:36:20 43 accepted the advice", that is the advice from the SDU and
12:36:24 44 agreed with the DSU, correct?---I put the proposition that
12:36:30 45 she agreed that it's a voluntary thing. If she wants to
12:36:33 46 help us she can.
12:36:34 47

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12:36:35 1 Would you agree - - - ?---If she doesn't she can leave.
12:36:38 2
12:36:39 3 The last note you were taken to, "Reminded source of damage
12:36:45 4 that drugs do to the community. That person needs to stop
12:36:50 5 his life of crime. Source accepted the advice and agreed
12:36:54 6 with DSU". That's the complete reference that you referred
12:36:58 7 us to?---That, Commissioner, that - I stand by what the
12:37:04 8 contact report reflects despite what's there. She made the
12:37:08 9 decision. I think it was her choice.
12:37:14 10
12:37:14 11 Yes, okay. Fair enough.
12:37:16 12
12:37:16 13 MR WINNEKE: With a bit of assistance from you?---She's a
12:37:21 14 barrister, she can make up her own mind.
12:37:23 15
12:37:24 16 COMMISSIONER: I think we'll just let the document speak
12:37:27 17 for itself now, thanks. We've explored that thoroughly.
12:37:30 18
12:37:31 19 MR WINNEKE: Right. Now, you take over as a handler again
12:37:38 20 on 12 April for 24 hours. At that stage it's pretty clear
12:37:44 21 to you that things were heating up, if I could put it that
12:37:48 22 way. There was the establishment of a new lab and - do you
12:37:55 23 accept that?---Yes.
12:37:56 24
12:37:59 25 And perhaps if we go to ICR p.237. This is your ICR,
12:38:20 26 number 26?---Yes.
12:38:23 27
12:38:23 28 You take over as handler on the 12th for a short
12:38:28 29 period?---Yes.
12:38:28 30
12:38:28 31 Do you see that, do you see the entry there, "Established a
12:38:34 32 new lab"?---Yes.
12:38:34 33
12:38:35 34 Location's given. There's some details about events which
12:38:39 35 are going to occur?---Yes.
12:38:41 36
12:38:41 37 Obviously things are, the plan that Posse has put in place
12:38:45 38 is coming to the boil, do you accept that?---Yes.
12:38:49 39
12:38:57 40 It's a reasonably short ICR, but that's your ICR and so
12:39:01 41 you're aware of what's going on?---Yes.
12:39:04 42
12:39:07 43 You cease being the handler and you go about your own
12:39:11 44 duties. This operation continues and in the background
12:39:14 45 you're aware that it is continuing and - accept
12:39:18 46 that?---Yes.
12:39:18 47

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12:39:19 1 And you have discussions with your fellow members of the
12:39:27 2 SDU, particularly Mr White, do you agree with that?---Yes.
12:39:30 3
12:39:34 4 On 20 April, a few days later, a couple of days before the
12:39:41 5 arrest, Mr White and Ms Gobbo and Mr Smith have a
12:39:50 6 conversation and during the course of that conversation
12:39:58 7 there's a discussion about a bit of a legal issue. This is
12:40:04 8 at p.272 of the transcript VPL.0005.0097. This is an
12:40:19 9 exhibit, Commissioner. This is where Mr White is coming
12:40:28 10 back to - this is number 64 in the list that Mr Skim's been
12:40:33 11 given. Number 64. Whilst that's being looked for, this is
12:40:41 12 an occasion where Mr White comes back to this issue - - -
12:40:44 13
12:40:44 14 COMMISSIONER: Sorry, just a minute. I think Mr Skim is
12:40:46 15 having some difficulty. Have you got the VPL number?
12:40:50 16
12:40:51 17 MR WINNEKE: VPL.0005 - this is the transcript - 0097.0011
12:41:02 18 and the audio is 2000.0002.4224. Don't worry about it.
12:41:21 19 This is the one where Mr White says, "Look, from a purely
12:41:24 20 technical point of view, if you talk to the person, give
12:41:28 21 him legal advice before he's interviewed and he makes a
12:41:31 22 confession and I'm speaking theoretically here", and
12:41:35 23 Ms Gobbo says, "Yeah". Mr White says, "I'm not saying this
12:41:38 24 is going to happen" and she says, "Aha, h'mm". Mr White
12:41:43 25 says, "But wouldn't it be the case down the track that a
12:41:46 26 defence barrister could argue, well the advice that he got
12:41:48 27 prior to participating in the record of interview was not
12:41:50 28 impartial because it was done on behalf of the police by a
12:41:54 29 person that was acting for the police" and Ms Gobbo said,
12:41:58 30 "Who in the fuck is gonna say that?" And Mr White said,
12:42:02 31 "It's a theoretical question, right? It's not, I'm trying
12:42:07 32 to". Ms Gobbo said, "Anybody say that, why would anybody
12:42:12 33 say that?" Mr White says, "No one's going to say that and
12:42:16 34 I'm trying to understand what - the conflict of interest
12:42:16 35 area is not something that we ever deal with, all right,
12:42:21 36 for you it's, and I mean some people could put up an
12:42:24 37 argument that a person who's a barrister perhaps would
38 never help the police and still represent the person that
12:42:28 39 she's helping the police with. I'm just trying to get my
12:42:29 40 head around this. Could you - maybe it's even pointless
12:42:33 41 talking about it because you might actually think I'm
12:42:36 42 going". She says, "Probably, but what's the real point?"
12:42:39 43 He says, "Forget it, I'm just". She says, "No, no, no,
12:42:43 44 what's the real point?" Mr Smith chimes in, "Just the
12:42:46 45 ethics of the whole situation", and she says, "The general
12:42:49 46 ethics of all of this is fucked". Have you heard that
12:42:52 47 before?---Yes.

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12:42:54 1
12:42:55 2 Did you know back in 2006 at about this time that that's
12:43:03 3 what Ms Gobbo was saying to Mr White?---What date was this
12:43:08 4 conversation?
12:43:09 5
12:43:09 6 This is on 20 April 2006?---Yeah, I didn't know at that
12:43:14 7 date, no.
12:43:14 8
12:43:14 9 Did you have knowledge at around this time that Ms Gobbo
12:43:19 10 was saying to Mr White or to other handlers, "Look, what
12:43:26 11 I'm doing here at the very least, if not what we're all
12:43:29 12 doing, is ethically bad. It's wrong as far as I'm
12:43:33 13 concerned ethically"?---No.
12:43:35 14
12:43:37 15 Do you think that's something that was discussed at all in
12:43:40 16 meetings?---Yes, but after this particular date that we're
12:43:50 17 referring to here.
12:43:51 18
12:43:51 19 When was it, when do you say it was discussed?---Well I
12:44:00 20 think the week, the week following his arrest.
12:44:05 21
12:44:05 22 Yes, okay, I follow that. Later on in the same
12:44:10 23 conversation - I'll come to that shortly - but later on in
12:44:13 24 the same conversation, this is at p.278, Ms Gobbo, this is
12:44:23 25 clip 65 - I can read this out. I don't think there's any
12:44:32 26 real need to play it. If I read this out to you. Unless
12:44:36 27 Mr Skim is able to get it reasonably swiftly. Perhaps if
12:44:42 28 we just put it up on the screen, p.278. That's it there.
12:45:04 29 Have you got the audio? We might as well play it.
12:45:07 30
12:45:08 31 COMMISSIONER: This has already been tendered.
12:45:10 32
12:45:11 33 MR WINNEKE: I think it has been tendered. There is a name
12:45:13 34 there which we shouldn't - I don't know whether the
12:45:15 35 transcript - I'll have to read it out and not use the name.
12:45:21 36 Otherwise we'd have to go into private session,
12:45:27 37 Commissioner. So what she says is, "Because I was being,
12:45:37 38 you know, not that I was being told all sorts of things for
12:45:40 39 years and years and putting them together because I spent
12:45:43 40 far too much time thinking about things than anything else.
12:45:43 41 The problem was being used by people, you know, manipulate
12:45:47 42 all sorts of systems or not so much criminal justice
12:45:51 43 systems, but really being used by people. That's what,
12:45:54 44 that's part, that's part of it was a guilty conscience I
45 guess, but it's not from, not doing anything illegal myself
12:46:00 46 but from knowing about these and not doing anything about
12:46:05 47 them. With the person it's just gone way in one direction

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12:46:09 1 because he's now decided that, I mean I'm almost, or
12:46:14 2 probably bordering on conspiring with him where, you know,
12:46:19 3 when I sit down and have these conversations with him and
12:46:21 4 he's telling me about how much he's [REDACTED] and how much
12:46:24 5 this and how much that, why am I the equivalent of an aider
12:46:29 6 and abettor?" It probably should be why am I not the
12:46:34 7 equivalent of an aider and abettor, do you accept
12:46:37 8 that?---Yes.

12:46:37 9
12:46:38 10 "What are you doing to assist", says Mr Green. She says,
12:46:43 11 "Okay, forget about assisting but I'm encouraging, I'm
12:46:47 12 inciting him, I'm conspiring with him". Do you accept if
12:46:51 13 that's coming from Ms Gobbo and that's her view as a
12:46:54 14 barrister, that that's a troubling thing?---I apologise, so
12:47:01 15 this is 20 April?

12:47:03 16
12:47:03 17 Yes, the same day?---I follow, thank you. Yes.

12:47:06 18
12:47:08 19 Firstly, did you know that, did any - did Mr White or
12:47:12 20 Mr Green say to you, "Look we've had a conversation with
12:47:15 21 Ms Gobbo and she's effectively said to us that she's
12:47:18 22 encouraging it and inciting and conspiring with this
12:47:23 23 person"?---No.

12:47:23 24
12:47:24 25 That was never said?---No.

12:47:26 26
12:47:27 27 If that was the case, if that in fact was the case I take
12:47:33 28 it you'd accept that that would be very troubling?---Yes.

12:47:38 29
12:47:44 30 You recall earlier on when we had - one of the earlier
12:47:48 31 clips I played to you, she said, "I don't talk to clients
12:47:52 32 about these matters. I don't want to speak to them about
12:47:55 33 it, I don't want to know about it". That seems to be
12:48:00 34 inconsistent with what she was saying earlier, doesn't
12:48:03 35 it?---Yes.

12:48:04 36
12:48:04 37 So it seems at the very least either she wasn't telling the
12:48:07 38 truth then, she's not telling the truth now or she's moved
12:48:12 39 on considerably from where she was before?---Yes, it was a
12:48:18 40 constant, it was a constant issue for us to deal with and
12:48:21 41 manage.

12:48:21 42
12:48:22 43 What I was suggesting to you before was that because of the
12:48:27 44 engagement of the SDU and what might well have been
12:48:31 45 regarded by her as tacit encouragement, she's been engaging
12:48:37 46 in this sort of conduct on behalf of Victoria Police, that
12:48:40 47 might be what's occurred?---I'm not sure how to answer

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12:48:55 1 that. I don't think I can answer that proposition.
12:48:57 2
12:48:57 3 One of the things that you considered in your risk
12:49:01 4 assessment was the fact that she was likely to be an
12:49:03 5 enthusiastic agent of Victoria Police, that was one of the
12:49:09 6 concerns, wasn't it, or - - - ?---Yes.
12:49:13 7
12:49:15 8 I should take you to it if I'm going to put the
12:49:23 9 proposition?---The reason I'm troubled in answering this
12:49:27 10 question is because this is her state of mind and it goes
12:49:31 11 to one of the fundamental things was the fact that we got
12:49:37 12 her from the Drug Squad. We thought, you know - I don't
12:49:43 13 know how to phrase this, I'll say it as it is, like we were
12:49:49 14 unaware she had been registered by Victoria Police on two
12:49:53 15 previous occasions. That had never been shared with us.
16
12:49:55 17 Yes?---Which goes to her state of mind, and this is my
12:49:56 18 pause in addressing your question.
19
12:49:58 20 I follow?---This is a day behind and we're almost operating
12:50:03 21 on two separate platforms here because she has this
12:50:06 22 knowledge in her head, she has already been exposed to
12:50:09 23 Victoria Police, she has already assisted them on two other
12:50:11 24 occasions that we knew nothing about, nothing at all.
12:50:14 25
12:50:14 26 No, I understand that. You've said in one of your
12:50:18 27 statements that you regard that as being grossly negligent
12:50:22 28 not to have told you about that?---Absolutely.
12:50:24 29
12:50:24 30 But can I deal with this. Firstly, what you say is that's
12:50:29 31 a question of her state of mind, right?---Yes.
12:50:31 32
12:50:31 33 But that's the state of mind of a barrister who's been
12:50:36 34 dealing with this particular person on behalf of Victoria
12:50:39 35 Police, do you accept that proposition?---Yes.
12:50:42 36
12:50:43 37 And if you accept what she's saying as true it might well
12:50:47 38 be thought that the train's come off the track?---That's
12:50:53 39 fair.
12:50:53 40
12:50:55 41 And then things get worse when she actually turns up on the
12:51:03 42 day that he's arrested and goes into bat for Victoria
12:51:07 43 Police to get him to roll, do you accept that? I think
12:51:13 44 that's what you were alluding to before, wasn't
12:51:18 45 it?---There's a lot in that question. I don't know about
12:51:21 46 getting him to roll. Yeah, look, I wasn't there for that.
12:51:28 47

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12:51:28 1 No, I follow that. Yeah, I asked you about the risk
12:51:35 2 assessment and you said in the risk assessment, I think
12:51:37 3 Mr Smith said, "It is possible that the source enjoys
12:51:40 4 acting as a police agent"?---Very much.
12:51:43 5
12:51:44 6 "This does not seem to be the source's main motivation for
12:51:48 7 assisting the police. Risk exists if the source becomes
12:51:53 8 over enthusiastic about the role." That seems to be
12:51:56 9 consistent with what she's saying, that's a risk to
12:51:59 10 Victoria Police of exposure?---Absolutely, and if we had
12:52:06 11 have known she'd been registered twice before, that would
12:52:09 12 have been most helpful.
12:52:10 13
12:52:11 14 Can I make this point. What I'm saying to you is that
12:52:13 15 Mr White and Mr Green are being told this. That should
12:52:16 16 have set alarm bells ringing?---I think I would expect that
12:52:22 17 those two officers would have, were already alive to that
12:52:26 18 possibility.
12:52:27 19
12:52:27 20 If they were, shouldn't it have been, shouldn't something
12:52:31 21 have been done about it?---I'm not even sure what exactly
12:52:38 22 took place following this meeting on 20 April.
12:52:41 23
12:52:41 24 Should there have been a very clear questioning about,
12:52:45 25 about what she meant by that? What she had done by way of
12:52:50 26 encouraging, inciting and conspiring, or conspiring?
12:52:54 27
12:52:55 28 MR CHETTLE: That's what did happen if you continue with
12:52:57 29 the conversation rather than take it out of context.
12:53:00 30
12:53:00 31 MR WINNEKE: Right, let's continue with it. "Keep going.
12:53:05 32 "You're not inciting him. Keep going. You'd like".
12:53:13 33 Mr Smith says, "Yeah, you'd have to be like, if you were a
12:53:17 34 [REDACTED] and you're saying, 'No, no, don't do
12:53:20 35 that, do it like this, and you'll get [REDACTED] out of
12:53:24 36 it'. Yeah." Mr Smith also jumps in because he says, "I
12:53:30 37 can't see it though. If you're sitting there and he's
12:53:31 38 telling you stuff". And she says, "Yeah, but I'm not
12:53:34 39 saying that, I'm inquiring about it, 'So how's this going?
12:53:38 40 How's that going?' How else am I supposed to get things
12:53:42 41 out of him?" Mr Green says, "So you'd be using that
12:53:44 42 knowledge for potentially other clients that you have that
12:53:48 43 are in a nasty situation. Acquiring knowledge, isn't it?"
12:53:52 44 Mr White says, "All those other things, I know." Move on.
12:53:58 45 "But equally, look at it from the other, from an entirely
12:54:01 46 different point of view, if any of ... find out about it,
12:54:01 47 I'm gone. Nothing you can do would protect me, nothing.

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12:54:05 1 Would they really? Yeah." That's clearly there's a
12:54:09 2 suggestion that she would be killed if they found out about
12:54:12 3 it, one assumes, or harmed, would that be fair to
12:54:17 4 say?---Yes. Make no mistakes they would kill her.
12:54:20 5
12:54:20 6 "Okay. And someone comes up to you and says, 'What would
12:54:28 7 you say, what are you going to say?' Get fucked. Pardon",
12:54:30 8 et cetera. In effect there's been a sort of a fairly scant
12:54:35 9 legal analysis of what Ms Gobbo was saying but they
12:54:38 10 certainly didn't drill into what she was doing and why what
12:54:42 11 was it that she was concerned that she might have aided and
12:54:45 12 abetted, I'm sorry, assisted, encouraged, or incited,
12:54:50 13 conspired - sorry, I withdraw that. Incited or conspired.
12:54:54 14 There was no, I suggest, close analysis of that at all. It
12:54:59 15 was, if anything, the people there were trying to suggest
12:55:02 16 that that wasn't the case or at least hoped that wasn't the
12:55:05 17 case, I put it to you?---It seems she's raised the
12:55:10 18 possibility. They're alive to the issue, they're asking
12:55:15 19 questions and exploring hypotheticals with her to get to
12:55:18 20 the bottom of it. I don't know what's passed, what the
12:55:22 21 rest of this transcript shows because I haven't seen it for
12:55:25 22 a fair while, but is that where it ends?
12:55:27 23
12:55:28 24 I don't know, Mr Chettle might go further. I've taken you
12:55:31 25 further. What I do suggest is that at the very least if
12:55:35 26 you've got a barrister saying that, that is a concern, do
12:55:39 27 you accept that?---Yes.
12:55:40 28
12:55:44 29 Now if we go to p.297. There's further discussion and
12:55:57 30 Ms Gobbo says, "What does Jim think of, what does he think"
12:56:02 31 - have we got that, "What does he think from the point of
12:56:07 32 knowing that the person, and I might say for the sake of
12:56:09 33 making it really messy, Frank and Steve, and probably
12:56:13 34 Dragan, are not gonna ring anybody else but me, that's just
12:56:17 35 - I mean what does Jim think about this?" That's a
12:56:17 36 reference to Jim O'Brien and Ms Gobbo is trying to find out
12:56:20 37 what Jim O'Brien, the investigator, thinks about it. "You
12:56:29 38 know what you said before about, what would we know about,
12:56:33 39 thank you. You know what you said before about what would
12:56:37 40 we know about the person, what he's doing right now without
12:56:40 41 you. Something like that." And she says, "I don't follow
12:56:44 42 that". And then Mr Smith says, "He's been thinking the
12:56:48 43 same thing, they would have been struggling without it".
12:56:52 44 In other words, she's saying, "Well would what Mr O'Brien
12:56:56 45 say about me acting in this messy way" and effectively
12:57:03 46 she's being told, "Well look, we wouldn't have got the
12:57:07 47 information without you". So - do you accept that?---Well

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12:57:15 1 that seems to be what's on the transcript, yes. I wasn't
12:57:19 2 there for this conversation so I can only rely on what's in
12:57:22 3 front of me.

12:57:23 4
12:57:23 5 It goes on, she says, "I know, I know that. But you're
12:57:32 6 asking what would he think about all those people wanting
12:57:36 7 to talk to you on the night". So she's getting to the
12:57:40 8 conflict issue and Ms Gobbo says, "Yeah, yeah." He says,
12:57:43 9 "That's just normal, he would know that. He would know, I
12:57:46 10 mean all these". Mr White says, "That you've mentioned,
12:57:49 11 will ask, yeah". Ms Gobbo says, "Yeah, I know, he knows, I
12:57:53 12 know, I know. I know but I'm saying what does he think
12:57:58 13 that there's, would someone like him think there's some
12:58:02 14 massive conflict or not?" Mr Smith says, "No, no, this is
12:58:06 15 us, this was us wondering about your situation and round
12:58:10 16 tabling and thinking we should discuss it with you. He's
12:58:13 17 not". Mr Green says, "No, no, all he wants to know".
12:58:18 18 Mr Smith says, "Don't care what he thinks. All he wants to
12:58:24 19 do is to be saying thank you to me", says Ms Gobbo. Right.
12:58:30 20 Again, there's this concern that, obvious concern that
12:58:34 21 Ms Gobbo has about her turning up and advising on the
12:58:38 22 night. "What's Mr O'Brien going to think about it? Don't
12:58:43 23 worry about it, we wouldn't have got the information
12:58:46 24 without you. He should just say thank you." That's the
12:58:50 25 effect I suggest of that discussion, do you agree with
12:58:53 26 that?--Well, I don't mean to be difficult but there's a
12:58:58 27 lot of critical gaps and missing words in that whole
12:59:01 28 previous page.

12:59:01 29
12:59:02 30 Yes, I know?---Which as we all know one missing word can
12:59:05 31 change the context of it. I don't mean to be difficult but
12:59:07 32 it's a bit hard for me to comment any further than what I
12:59:12 33 have as far as what they were discussing on the night.

12:59:15 34
12:59:16 35 No, I follow that. I follow that, Mr Black. Can I say
12:59:19 36 this: ultimately I suggest what's being discussed there is
12:59:23 37 an issue which you know well, and you knew very well at the
12:59:27 38 outset and you knew ultimately came to fruition and was an
12:59:31 39 issue which troubled you, I suggest?---That's fair.

12:59:35 40
12:59:36 41 Then what does happen is that on that day in [REDACTED] the
12:59:50 42 arrests take place. I'm just wondering whether I can do
12:59:58 43 this - I'm wondering whether I can do this in this sort of
13:00:03 44 environment. I think I probably can't, Commissioner. I
13:00:06 45 think I'm going to have to go into private session.

13:00:08 46
13:00:09 47 COMMISSIONER: Yes, all right then. I don't think we need

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13:00:14 1 an adjournment, do we, to do that? The transcribers and
13:00:19 2 technology is okay? I'll just make the order. Under s.24
13:00:21 3 of the *Inquiries Act* access to the inquiry during this
13:00:26 4 section of the evidence of the witness is limited to legal
13:00:30 5 representatives and staff assisting the Royal Commission,
13:00:33 6 the following parties with leave to appear in the private
13:00:36 7 hearing and their legal representatives, State of Victoria,
13:00:39 8 Victoria Police, Graham Ashton, Director of Public
13:00:42 9 Prosecutions and Office of Public Prosecutions,
13:00:47 10 Commonwealth Director of Public Prosecutions, Ms Nicola
13:00:48 11 Gobbo, the SDU handlers, Australian Federal Police. The
13:00:51 12 legal representatives of the following parties with leave
13:00:54 13 to appear, namely Pasquale Barbaro, Person 14, Faruk Orman.
13:01:00 14 Media representatives accredited by the Royal Commission
13:01:03 15 are allowed to be present in the hearing room. The hearing
13:01:05 16 is to be recorded but not streamed or broadcast. Subject
13:01:08 17 to any further order there is to be no publication of any
13:01:12 18 materials, statements, information or evidence given made
13:01:16 19 or referred to by the Commission which could identify or
13:01:19 20 tend to identify the persons referred to as Witness A,
13:01:22 21 Witness B, Witness X, Person 14, any member of the Source
13:01:27 22 Development Unit or their whereabouts. A copy of the order
13:01:30 23 is to be posted on the door of the hearing room.

13:01:33 24
13:01:35 25 (IN CAMERA PROCEEDINGS FOLLOW)

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PROCEEDINGS IN CAMERA:

13:01:39 1
13:01:39 2
13:01:40 3 MR WINNEKE: What happens, as we now know, and I take it
13:01:45 4 you know because you were kept abreast of what was going
13:01:47 5 on, is that [REDACTED] is arrested on the [REDACTED]. [REDACTED]
13:01:55 6 [REDACTED] is arrested on the [REDACTED]. They're brought into
13:02:01 7 [REDACTED] Ms Gobbo is contacted. She's been down at
13:02:05 8 the prison visiting [REDACTED] I think on the day, and Carl
13:02:10 9 Williams, and she's told by her handler, Mr Smith, I
13:02:16 10 believe, that [REDACTED] and [REDACTED] had been arrested and she comes
13:02:21 11 in - she speaks to them first over the telephone and then
13:02:27 12 she comes in and gives them advice and then there's a pitch
13:02:33 13 made by initially I think Mr O'Brien, Mr Flynn with the
13:02:40 14 assistance of Mr Smith, at which point [REDACTED] says, "I'm
13:02:46 15 not doing anything until I speak to Ms Gobbo". Again, now
13:02:50 16 for the third time, and Ms Gobbo turns up again. You're
13:02:54 17 aware that those matters happened I take it, are
13:02:58 18 you?---Yes.

13:02:58 19
13:02:59 20 The evidence has been that [REDACTED] said that he wanted to
13:03:07 21 speak to Mr Flynn and Ms Gobbo alone and they were there
13:03:10 22 alone speaking for quite some time and during the course of
13:03:15 23 that period of time [REDACTED] agreed to assist Victoria
13:03:20 24 Police and make statements and provide what other
13:03:23 25 assistance that he might provide, do you accept
13:03:26 26 that?---Yes.

13:03:27 27
13:03:29 28 And indeed Mr Flynn said that Ms Gobbo was actively
13:03:41 29 assisting in having that situation come to fruition.
13:03:46 30 That's the effect of what he said. Do you accept
13:03:50 31 that?---That's what I understand, yes.

13:03:51 32
13:03:54 33 I think then what occurs thereafter is that the assistance
13:04:03 34 provided by [REDACTED] involves getting [REDACTED]
13:04:13 35 [REDACTED]. You're aware that that occurred I take it in the
13:04:18 36 days following the arrest on the [REDACTED]?---Days afterwards I
13:04:24 37 became aware of that, yes.

13:04:25 38
13:04:25 39 And also getting evidence against [REDACTED] and [REDACTED]
13:04:31 40 [REDACTED]?---Yes.

13:04:33 41
13:04:35 42 And [REDACTED] indeed. You understand that, is that
13:04:41 43 right?---Yes.

13:04:41 44
13:04:45 45 You were made aware of the goings on, in fact I think if we
13:04:48 46 go to your diary on Monday, [REDACTED], this is at p.64 of
13:04:53 47 your diary - just excuse me. I might be wrong about this.

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13:05:18 1 Could you go to [REDACTED] in your diary. It's at p.178. I
13:05:30 2 apologise, I take that back. I take that back. Have you
13:05:39 3 found it?---I've got the - yes, [REDACTED] 2006.
13:05:44 4
13:05:44 5 You get - no, that's 2007. Sorry, Mr Skim, that's the
13:05:50 6 wrong one. If we go to p.64 which is at 139 of the
13:05:57 7 RCMPI?---Yes.
13:05:57 8
13:05:58 9 On the Monday you'd been off, on Saturday, Sunday, Monday
13:06:02 10 the [REDACTED] on duty at the office. Coro and inquiries. Then
13:06:05 11 at 10.15 you record that you've had a full debrief of
13:06:10 12 developments in Operation [REDACTED] in furtherance to the call
13:06:13 13 from Mr White at 17:00 hours on the previous day, is that
13:06:20 14 right?---Yes.
13:06:22 15
13:06:22 16 So he'd contacted you on the previous day at 5 o'clock and
13:06:29 17 given you a full brief?---Yeah, Mr White called me briefly
13:06:33 18 on Sunday the [REDACTED] at 5 pm and filled me in on what had
13:06:40 19 taken place.
13:06:41 20
13:06:41 21 Then you got a full brief the following morning in
13:06:44 22 furtherance of what you'd been told the previous day, is
13:06:47 23 that right?---Correct, on Monday the [REDACTED].
13:06:50 24
13:06:50 25 Yes, okay. That's what I was asking about, whether you
13:06:56 26 knew about what had gone on, that's how you knew about what
13:07:00 27 had gone on?---Correct.
13:07:01 28
13:07:01 29 And about the plans that were taking place, that is that
13:07:04 30 there was going to be evidence obtained against these
13:07:07 31 various other people. So effectively you were abreast of
13:07:11 32 what was going on at that stage?---I had a briefing on what
13:07:17 33 had taken place. I wasn't across all the forensic details,
13:07:23 34 what the investigators were doing, but I had a broad brush
13:07:27 35 idea of what had taken place over the weekend.
13:07:29 36
13:07:29 37 Mr White was keeping you up to speed. If we go over to the
13:07:32 38 next page of your diary, you'll see at 27 minutes past 7 in
13:07:38 39 the pm you get a message from Mr White telling you that
13:07:45 40 [REDACTED] had been arrested per the Operation [REDACTED]
13:07:50 41 plan?---Correct.
13:07:51 42
13:07:51 43 You had a brief subsequently I think. If you go to p.76 of
13:07:56 44 your diary. You got a briefing by Mr Smith. He called the
13:08:04 45 source for a meeting after the Operation [REDACTED] arrest. So
13:08:07 46 you're being kept abreast of what's going on?---Correct.
13:08:10 47

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13:08:22 1 You, I take it, had heard that she had turned up and
13:08:27 2 advised those three people, that is [REDACTED], [REDACTED], [REDACTED]
13:08:42 3 [REDACTED] and [REDACTED], four people?---I wasn't aware
13:08:49 4 of all four but - look, I knew about [REDACTED] and her
13:08:54 5 contact with the others.
13:08:55 6
13:08:57 7 You knew that it was very, as far as you were concerned,
13:09:02 8 her involvement at that stage of the operation was
13:09:06 9 troubling?---Yes.
13:09:09 10
13:09:09 11 Indeed wrong, it was simply wrong, she should not have been
13:09:13 12 there?---Sorry, the question?
13:09:19 13
13:09:20 14 It was wrong, she should not have been there. She should
13:09:24 15 not have been advising these people at all. Do you accept
13:09:31 16 that?---At the police station?
13:09:34 17
13:09:34 18 Yes?---It probably wasn't the greatest decision in
13:09:39 19 hindsight.
13:09:40 20
13:09:40 21 Can I put this to you, and I put this to other officers
13:09:44 22 previously. If you've got a person wanting to get legal
13:09:47 23 advice they're entitled to an independent legal advisor,
13:09:52 24 aren't they?---Yes.
13:09:52 25
13:09:53 26 And if a young Constable came up with a ruse of putting
13:09:58 27 them through to the Sergeant who is in the next room
13:10:02 28 pretending to be a solicitor, that would be an outrageous
13:10:07 29 perversion, wouldn't it?---We had discussions that week as
13:10:13 30 far as - - -
13:10:14 31
13:10:14 32 No, no?---- - - her - - -
13:10:17 33
13:10:17 34 Can you just answer that question?---Can you put the
13:10:19 35 question to me again, please?
13:10:21 36
13:10:22 37 If a ruse was suggested to you as an investigator to this
13:10:27 38 effect, that we've got a bloke who is wanting legal advice,
13:10:31 39 he's a suspect, we're about to interview him, I don't want
13:10:35 40 him to go and ring an independent solicitor because if that
13:10:38 41 occurs he'll shut his trap, he won't say anything. So what
13:10:43 42 we're going to do is put him through to someone who is
13:10:47 43 pretending to be a solicitor, that is a Sergeant in the
13:10:49 44 next room, and that Sergeant is going to be saying to him,
13:10:52 45 "Look, you're in all sort of strife, you've got to assist
13:10:55 46 the police. You tell the police everything, that's your
13:10:57 47 best chance". Now that would be a perversion of the course

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13:11:00 1 of justice, wouldn't it?---As a hypothetical, yes.
13:11:03 2
13:11:03 3 You as an experienced investigator knew all of these
13:11:06 4 factors, that a person is entitled to an independent legal
13:11:10 5 advisor, correct?---Yes.
13:11:12 6
13:11:12 7 And if Ms Gobbo's turning up and purporting to be an
13:11:17 8 independent legal advisor when in fact she is an agent of
13:11:21 9 Victoria Police and is assisting the police in getting
13:11:23 10 these people to roll, then I suggest to you at the very
13:11:26 11 least that is very troubling?---Yes.
13:11:32 12
13:11:34 13 That's something that you were aware of at the time?---I'm
13:11:39 14 sorry, what do you mean at the time?
13:11:41 15
13:11:41 16 In the days afterwards?---Yeah, it was a topic of debate,
13:11:47 17 absolutely.
13:11:48 18
13:11:49 19 Who did you debate it with?---Most of the office.
13:11:53 20
13:11:54 21 And who was at the office when you discussed
13:12:00 22 it?---Certainly Mr White.
13:12:01 23
13:12:01 24 Yes. Did you have these discussions where you raised your
13:12:07 25 concerns in the presence of all of the other members of the
13:12:11 26 SDU at office meetings?---Yes, it was, it was discussed as
13:12:18 27 far as a tactical decision and the reasons why Mr White
13:12:24 28 made that decision in consultation with the investigators
13:12:28 29 were explained and it boiled down to a decision in relation
13:12:32 30 to her security.
13:12:33 31
13:12:34 32 Mr White made the decision that she should be there to
13:12:38 33 provide advice for these people?---I can't recall the exact
13:12:41 34 forensic details but it wasn't a decision he reached alone,
13:12:44 35 it was in consultation with the investigators.
13:12:46 36
13:12:47 37 And which investigators?---I believe Mr O'Brien and
13:12:53 38 Mr Flynn was involved.
13:12:54 39
13:12:54 40 Was Mr Biggin involved?---I'm not aware of that.
13:12:58 41
13:12:59 42 Are you aware that Mr Biggin was there on the night?---No,
13:13:02 43 I'm not.
13:13:04 44
13:13:07 45 Are you aware that he had been briefed on the night?---I
13:13:12 46 expect he would have been. I can't remember at what point
13:13:15 47 in time, whether he had control over us or whether he was

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13:13:20 1 still looking after the other support services.
13:13:22 2
13:13:26 3 Are you aware of any other superiors, for example Mr Hardy,
13:13:32 4 who you expressed your concerns to?---I expressed - the
13:13:38 5 culmination of Operation ██████, I would assume, I would
13:13:42 6 assume all of executive command would have been at least
13:13:46 7 aware of the situation, the unfolding events.
13:13:48 8
13:13:48 9 Which officers would you say would have been aware of
13:13:51 10 it?---Certainly the Crime Department.
13:13:55 11
13:13:55 12 Right up to Mr Overland?---Well, you'd have to, I'm sure
13:14:01 13 Mr O'Brien will be able to shed exact details on that, but
13:14:05 14 it's a significant event.
13:14:06 15
13:14:07 16 Okay. I take it it was your view after this occurred that
13:14:21 17 Ms Gobbo should be removed and got out of the SDU?---Yes.
13:14:29 18
13:14:38 19 And it appears that there was a meeting on 17 May 2006,
13:14:42 20 it's recorded in the SML?---Sure. Have you - - -
13:14:55 21
13:14:56 22 We'll see if we can get it?---Have you got that up?
13:14:59 23
13:14:59 24 Just before we move to that, do you know whether in your
13:15:04 25 diary there's a reference to that debate occurring about
13:15:12 26 the problems involved in Ms Gobbo turning up, the potential
13:15:17 27 that she had engaged in - perhaps I withdraw that. Do you
13:15:22 28 believe there was a potential that she had engaged in
13:15:25 29 improper, if not criminal conduct?---Criminal conduct?
13:15:34 30
13:15:35 31 Yes. By pretending to be an independent legal advisor
13:15:41 32 whilst in actual fact advising these people on behalf of
13:15:44 33 Victoria Police?---My view was that it could be the subject
13:15:52 34 of review, absolutely. As with all of our decisions that
13:15:59 35 we make during investigations.
13:16:02 36
13:16:02 37 COMMISSIONER: Yes all right we will adjourn now until 2
13:16:05 38 o'clock.
13:16:05 39
13:16:05 40 <(THE WITNESS WITHDREW)
13:16:05 41
13:16:05 42 LUNCHEON ADJOURNMENT
43
44
45
46
47

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13:16:06 1 UPON RESUMING AT 2.00 PM:
14:03:01 2
14:40:41 3 COMMISSIONER: I understand the position is, as a result of
14:40:44 4 some confidential material that's been provided to me and
14:40:49 5 to counsel assisting during the lunch break, Mr Holt, you
14:40:55 6 want to have a short confidential hearing with only counsel
14:41:02 7 assisting and legal representatives for Victoria Police and
14:41:09 8 the State present, is that right?
14:41:11 9
14:41:11 10 MR HOLT: Yes, Commissioner. Essentially to determine what
14:41:13 11 course might be taken in relation to this issue.
12
14:41:17 13 COMMISSIONER: Yes. Yes, it seems that will have to be
14:41:19 14 done.
14:41:21 15
14:41:22 16 MR OTTER: Commissioner, just briefly, I'd seek leave to
14:41:24 17 appear in relation to this hearing on behalf of - - -
18
14:41:27 19 COMMISSIONER: Yes, I think for this hearing even - and I
14:41:30 20 think, Mr Otter, you're representing various media
14:41:36 21 interests.
14:41:36 22
14:41:37 23 MR OTTER: That's correct.
24
14:41:38 25 COMMISSIONER: I understand that for this hearing it is to
14:41:43 26 be done in the absence of - it'll only be a brief hearing
14:41:49 27 but I'm requested to do it in the absence of anybody other
14:41:57 28 than the parties that I've mentioned and there are reasons
14:42:01 29 for that, prima facie reasons for that in the confidential
14:42:06 30 material that's been provided. I don't expect this will be
14:42:11 31 a long hearing so I'd suggest, if you don't mind, just
14:42:16 32 waiting until hearing the outcome of what happens as a
14:42:19 33 result of that hearing.
14:42:19 34
14:42:20 35 MR OTTER: Thank you, Commissioner.
36
14:42:21 37 COMMISSIONER: All right. Under s.24 of the Inquiries Act
14:42:32 38 access to the Inquiry during this application of Victoria
14:42:41 39 Police is limited to legal representatives and staff
14:42:45 40 assisting the Royal Commission, the legal representatives
14:42:55 41 of the State of Victoria and Victoria Police. The hearing
14:43:00 42 is to be recorded but not streamed or broadcast. A copy of
14:43:04 43 this order is to be posted on the hearing room door.
44
14:43:16 45 We need to have a short adjournment to allow the
14:43:19 46 necessary secure arrangements to be made about the
14:43:23 47 transcript.

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(Short adjournment.)

(IN CAMERA CONFIDENTIAL HEARING FOLLOWS)

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These claims are not yet resolved.

1 (UPON RESUMING IN CAMERA):

2
3 COMMISSIONER: Yes, the witness is present.

4
5 <OFFICER BLACK, recalled:

6
7 MR WINNEKE: Thanks Commissioner. Mr Black, I just want to
8 ask you a couple of questions about some events which were
9 occurring in the period after [REDACTED] of 2006. I've
10 already asked you some questions about that. Firstly,
11 could we have a look at the source management log on 17 May
12 2006. Whilst we're getting that, do you have a copy, a
13 hard copy of your diary there?---Yes.

14
15 Just before I ask you questions about the source management
16 log, are you able to go to your diary and have a look at
17 the days immediately after [REDACTED] of 2006 and tell us
18 when you had office meetings? What I'm getting to is when
19 you had meetings and it was at least a likelihood that
20 there would have been discussion about what had occurred on
21 [REDACTED], right?---So following, as we discussed, [REDACTED]
22 2006.

23
24 Yes?---We had an office meeting held by Sandy White later
25 in that same day, the [REDACTED].

26
27 That's at 18:45?---Correct.

28
29 And you don't have a note who was present at that time I
30 take it?---No, there'll be - it'll be reflected in Sandy
31 White's diary.

32
33 Yes, so we can - - - ?---Or on an update, office minutes.

34
35 Okay. When you say office minutes, what are they? Where
36 would we find those?---They're on the SDU computer, on the
37 - there's copies of them on the existing databases as we
38 speak.

39
40 Okay. Have you seen those documents, those sorts of
41 minutes?---I've seen them some time ago.

42
43 That's that meeting. What about after that? Do you say
44 there would have been discussion in that meeting about what
45 had occurred on the [REDACTED]?---I'm not sure, I have no
46 reference to it.

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15:18:14 1 Is it likely, given the views that have been expressed - I
15:18:17 2 mean we've heard evidence, for example, from Mr White that
15:18:19 3 he was so concerned about Ms Gobbo having attended on the
15:18:23 4 [REDACTED] that he was even considering placing her under arrest,
15:18:30 5 gave thought to it but - - -
15:18:32 6
15:18:33 7 MR CHETTLE: That was actually before she went,
15:18:35 8 Commissioner, not afterwards, which is - - -
9
15:18:38 10 MR WINNEKE: When it was anticipated that she would attend
15:18:40 11 he even considered placing her under arrest. Did you ever
15:18:46 12 speak to him about that?---Speak to Sandy White?
13
15:18:50 14 Yes?---About placing her under arrest?
15
15:18:53 16 Yes, about his views that he might even place her under
15:18:56 17 arrest if she decided to attend, was that ever raised with
15:19:00 18 you?---No.
19
15:19:07 20 There might or might not have been debate at that meeting
15:19:10 21 on the [REDACTED] but would you say it's more likely that there
15:19:15 22 would have been?---Oh, I would expect - the notation I've
15:19:21 23 got here is "admin. and ops" so I would expect, yeah, we
15:19:26 24 would have discussed - well, when we had other jobs and
15:19:30 25 other sources going there was absolutely no walking away
15:19:35 26 from the fact that that was a significant event from
15:19:37 27 Saturday.
28
15:19:38 29 Yes?---You'd have to check Sandy White's diary or see if
15:19:42 30 there's a set of minutes for that meeting. Again, this was
15:19:46 31 a - yeah, we'd only, we were still an evolving office so
15:19:52 32 these processes became better and better.
33
15:19:55 34 What about after that?---Have we - sorry, are you able to -
15:20:11 35 have we got the office - surely we've got the minutes to
15:20:16 36 all the SDU meetings?
37
15:20:19 38 Have you got them?---I haven't, no.
39
15:20:22 40 All right. We'll look for those. What about the next
15:20:25 41 meeting? See, I asked you before about that and you said
15:20:38 42 it's likely that Mr White would have taken notes but there
15:20:44 43 wouldn't be anyone who was specifically logged as a
15:20:47 44 note-taker, so when you say office minutes are you talking
15:20:51 45 about a separate document or simply Mr White's notes?---No,
15:20:56 46 generally we were compiling a separate set of notes.
47

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15:21:02 1 Was there a person - - - ?---Again, with the introduction -
15:21:04 2 I guess some context, with the introduction of the
15:21:06 3 electronic diaries that made this sort of process a lot
15:21:10 4 easier for us where we can just cut and paste a document
15:21:13 5 straight into the electronic diary which improved the
15:21:16 6 efficiency and accountability of the whole process.
7
15:21:20 8 Do you think that existed at this time? I mean you're
15:21:24 9 still using - - - ?---We're still on manual diaries at this
15:21:28 10 stage.
11
15:21:28 12 It's unlikely there would have been someone tapping away on
15:21:31 13 a computer at this stage and putting them into office
15:21:34 14 minutes or am I wrong about that?---Look, if there are
15:21:38 15 minutes they'd be on the system. There certainly are some
15:21:42 16 minutes on the system. I don't know when the electronic
15:21:46 17 version started.
18
15:21:48 19 All right. Are you able to go through your diary and tell
15:21:55 20 us when your next office meeting is, because we've only got
15:21:59 21 that - - - ?---What I can tell you is what office meeting I
15:22:02 22 went to next because that will be in my diary.
23
15:22:04 24 Yes. When was that?---Doesn't mean they hadn't had one
15:22:08 25 when I wasn't there.
26
15:22:10 27 Yes?---I'm up to [REDACTED].
28
15:22:23 29 That's the next one, is it?---No, I'm just reading through
15:22:27 30 my diary.
31
15:22:29 32 You've got your complete diary, not just copies of specific
15:22:34 33 dates?---No, I've got my complete diary.
34
15:22:39 35 Yes?---Up to Friday [REDACTED], still nothing in my diary. We
15:23:33 36 seem to have had a meeting that I didn't go to that
15:23:42 37 assisted with the source on Friday [REDACTED] 2006.
38
15:23:46 39 Righto. Do you know who's present? That was - - -
15:24:00 40 ?---Without referring to contact reports it looks like
15:24:04 41 Sandy White and Mr Smith.
42
15:24:08 43 That's [REDACTED]. When's the next meeting that you
15:24:14 44 attend?---Yes, still - there's a lot of other things going
15:24:33 45 on, hence the delay in reading through.
46
15:24:37 47 Yes?---We had a workshop on 10 May 2006.

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1
15:25:16 2 Right. Who was attending at that?---It was the entire
15:25:20 3 office, it was entitled "DSU workshop".
4
15:25:26 5 Was there an Inspector there?---I would expect so. I think
15:25:34 6 - I would expect so, yeah. I don't have any detail.
7
15:25:38 8 That would have been Mr Hardy at that stage?---It was
15:25:46 9 either Mr McWhirter or Mr Hardy.
10
15:25:49 11 All right then. Thank you for that. I'd like to take you
15:25:56 12 back to 17 May 2006. There's an entry in the source
15:26:03 13 management log which reflects that Sandy White and Peter
15:26:09 14 Smith meet with Assistant Commissioner Overland and there
15:26:16 15 was a discussion about the potential reward to Ms Gobbo and
15:26:19 16 the termination process and the Assistant Commissioner
15:26:24 17 wants to consider an acknowledgement of appreciation by
15:26:29 18 him, no doubt on behalf of Victoria Police. There was also
15:26:32 19 a discussion about motivation and counselling for Ms Gobbo
15:26:37 20 and then there's also a reference, it seems, to the IMU,
15:26:44 21 which is the Informer Management Unit, and there's an
15:26:47 22 association between persons Leslie and Waters, do you see
15:26:55 23 that?---Yes.
24
15:26:58 25 Firstly, at that stage it appears that the desire or
15:27:04 26 there's at least a consideration of deregistering Ms Gobbo
15:27:11 27 and moving her off the books. Do you recall that that was
15:27:13 28 being considered at that time?---Yes.
29
15:27:18 30 Would that have been to your satisfaction if that had
15:27:22 31 occurred?---I think that was one option that we were
15:27:27 32 considering, absolutely.
33
15:27:29 34 Particularly given what had occurred on [REDACTED], do you
15:27:33 35 think that at that stage it would have been an appropriate
15:27:37 36 course to take, that is to - perhaps if I can put it this
15:27:43 37 way - cut your losses and let Ms Gobbo go?---I think we had
15:27:50 38 achieved our objective with 38 and, yeah, it was perhaps a
15:27:57 39 good time to consider de-registration.
40
15:28:04 41 This termination process, had that been discussed in that
15:28:09 42 meeting that you referred to, the weekend meeting?---I'm
15:28:16 43 not sure. I'd have to check.
44
15:28:21 45 And there's nothing in your diary about that?---No, there's
15:28:23 46 not.
47

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15:28:26 1 It appears that that didn't take place, that she wasn't
15:28:32 2 deregistered at that stage and she was kept on the books.
15:28:37 3 Do you know how that came - or why that was?---I think we
15:28:41 4 talked about, briefly yesterday, about the duty of care to
15:28:49 5 her.
6
15:28:50 7 Right?---That was the primary purpose I think of continuing
15:28:53 8 the registration. Mr Biggin and Sandy White - yeah, that
15:29:01 9 was a concern, ensuring that her safety was continued to be
15:29:07 10 monitored and supported.
11
15:29:09 12 What I don't understand is why that needs to be done by
15:29:13 13 continuing her as a registered human source, why can't that
15:29:18 14 be done after deregistering her and ceasing getting
15:29:25 15 information from her?---I'll deal with the first part of
15:29:29 16 your question first.
17
15:29:30 18 Yes?---In relation to why can't that be done whilst the
15:29:34 19 individual gets deactivated, just talking more broadly.
20
15:29:38 21 Yes?---The decision by Command was that keeping her active
15:29:43 22 on the books would permit us to continue to log movements
15:29:47 23 and contact with her and ensure that there was going to be
15:29:57 24 no compromise of her as best as we can control. Could that
15:30:04 25 be done when she was deactivated? Yeah, possibly. But
15:30:08 26 once we deactivate her we then have to close down our files
15:30:13 27 again because she's no longer a source.
28
15:30:16 29 One assumes that sources go off the books all the
15:30:18 30 time?---Yes.
31
15:30:19 32 And it seems that she'd achieved what she had been desired
15:30:23 33 to achieve, there'd been some considerable problems
15:30:26 34 associated with it. What I'm trying to understand or what
15:30:31 35 the Commission is trying to understand is why it is that
15:30:34 36 after she'd done that job, that it was determined to
15:30:39 37 continue with her after 17 May when there was this
15:30:43 38 discussion about terminating her registration, do you know
15:30:48 39 the answer to that?---That was a decision made above, by
15:30:55 40 our Inspectors and above.
41
15:30:58 42 Do you know who above?---I think at this stage Mr Biggin
15:31:04 43 had line control of us.
44
15:31:06 45 Yes?---And I'm pretty sure by this stage now we're into
15:31:10 46 June 2006.
47

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15:31:12 1 Well May?---Thereabouts.
2
15:31:14 3 17 May was this meeting with Mr Overland and it seems that
15:31:20 4 - - - ?---Oh well - - -
5
15:31:21 6 - - - there's still discussions as between Ms Gobbo and
15:31:26 7 her handlers and receiving information in the days, weeks
15:31:31 8 there afterwards?---Well with all due respect to Sandy
15:31:36 9 White and Pete Smith, I mean a [REDACTED] and a
15:31:41 10 [REDACTED] just don't go and meet the Assistant
15:31:46 11 Commissioner without the appropriate chain of command being
15:31:48 12 completely aware of all this.
13
15:31:50 14 Right. Is it unusual for a [REDACTED] and a [REDACTED]
15:31:56 15 to meet the Assistant Commissioner in these sorts of
15:32:00 16 circumstances?---I'm sure that was, the appropriate people
15:32:05 17 knew but, yeah, it would be a little unusual.
18
15:32:09 19 Is it your understanding that Mr Overland had a particular
15:32:11 20 interest in the information that Ms Gobbo was
15:32:15 21 providing?---Yes.
22
15:32:16 23 And if there was a decision to keep her on it's likely that
15:32:21 24 he was involved in that decision?---I expect so.
25
15:32:28 26 As we understand it, Mr Biggin was not in line until 1 July
15:32:32 27 of 2006?---That would be - yeah, we were pretty close
15:32:44 28 around that time, so we're still dealing with Mr Moloney
15:32:50 29 and Mr Porter.
30
15:33:00 31 Did you have much contact with Mr Moloney?---On occasions
15:33:05 32 but it was more just - we certainly did towards the end of
15:33:10 33 my time at SDU, 2008, 2009. But early doors, no, we
15:33:14 34 probably saw Mr Porter more than we did Mr Moloney.
35
15:33:21 36 On 22 May 2006 the source management log indicates a
15:33:25 37 monthly source review and by this stage it seems some days
15:33:31 38 later, it seems to show that she's continuing to be a very
15:33:35 39 productive source of intelligence regarding Purana and
15:33:38 40 since the arrest of Milad Mokbel she's been under suspicion
15:33:43 41 as an informer. There was an updated risk assessment
15:33:52 42 prepared by Mr Smith. I just want to ask you some
15:34:17 43 questions about that. There's a notation, or there are a
15:34:51 44 couple of entries I want to ask you about. If we can have
15:35:00 45 put up the risk assessment of 20 April 2006 which was
15:35:07 46 signed off by Mr Smith on 26 April 2006. VPL.2000.0003.829
15:35:26 47 something. Exhibit 295 it is.

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1
15:35:41 2 COMMISSIONER: He's magic.
3
15:35:44 4 MR WINNEKE: He is, he is magic. What we see is that
15:35:57 5 there's - have you seen this document before?---Oh some
15:36:04 6 time ago, yes.
7
15:36:05 8 It's basically the first document that you approved but
15:36:10 9 with additions which are in bold and marked with an
15:36:16 10 asterisk, do you see that at the top there?---Yes.
11
15:36:19 12 If we scroll down. Keep going. Keep going. There we are.
15:36:33 13 There's some additional risks listed there. The first is
15:36:36 14 that there's been contact with ex-member David Waters who's
15:36:44 15 been investigated for corruption matters and he was a
15:36:46 16 client of the source. In 2006 he sought a meeting with the
15:36:50 17 source and advised her that her telephone was being
15:36:52 18 intercepted, you're aware of that I take it?---Yes.
19
15:36:56 20 Some of this information came from a current VicPol member
15:36:59 21 and he's known to embellish information in the past
15:37:03 22 although he is believed to have many current contacts with
15:37:07 23 VicPol. Do you think that given the reference to Waters
15:37:15 24 during that meeting with Mr Overland, that might have been
15:37:18 25 an impetus to keep her on?---Quite possibly.
26
15:37:25 27 Your understanding is that Mr Overland was very keen to
15:37:28 28 investigate and prosecute any potentially corrupt police
15:37:34 29 officers; is that right?---He was extremely motivated to do
15:37:37 30 that, yes.
31
15:37:38 32 Then we also see below that the fact that she has
15:37:44 33 occasional social contact with Paul Dale, ex-member, who's
15:37:48 34 recently been implicated in previously unreported drunk
15:37:52 35 behaviour and he was a client of the source for a short
15:37:54 36 time and his motivations for seeing the source are unknown.
15:37:58 37 That also might be a motivation acting upon Mr Overland to
15:38:02 38 keep her on despite the view that it might have been best
15:38:06 39 to do otherwise, do you agree?---Yes.
40
15:38:09 41 Then there's further suggestions of contact with a current
15:38:16 42 Victorian Police member, whose name we can see there, this
15:38:19 43 is about the fourth last dot point, subject to an ESD
15:38:23 44 investigation. Again that is of a similar flavour, would
15:38:27 45 that be right?---Yes.
46
15:38:31 47 It also appears that a large number of members not directly

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15:38:34 1 involved with the handling of this source are aware of the
15:38:37 2 source's current role and that's a risk obviously; is that
15:38:40 3 right?---Correct.
4
15:38:46 5 "In her role as a barrister the source has been involved in
15:38:49 6 advising certain high level criminals to make statements to
15:38:52 7 assist police and this may have been perceived by those
15:38:55 8 within the Mokbel group as the source acting against their
15:38:56 9 interests which could result in physical harm to the
15:39:00 10 source", right. If we go over to p.5 of 9. We see that
15:39:17 11 there's a new risk identified and this is a risk to the
15:39:21 12 integrity of information. In order to deliver information
15:39:25 13 in a - keep going. Over the page. Keep going. Keep
15:39:31 14 going. That's it. "In order to deliver information in a
15:39:36 15 timely fashion verbal updates are regularly passed on to
15:39:43 16 Purana. And accidental disclosure of source information
15:39:46 17 may occur upon inappropriate release of police member notes
15:39:50 18 and diaries". So there are certain areas I take it that
15:39:52 19 because information is being passed on police members of
15:39:55 20 Purana might make notes in their diaries and that might
15:39:59 21 lead to what's regarded as inappropriate release of member
15:40:03 22 notes and diaries; is that right?---I think the word
15:40:07 23 "accidental" is probably appropriate when we're trying to
15:40:12 24 flesh out that point.
25
15:40:13 26 Those sorts of notes would be or may need to be produced in
15:40:17 27 court proceedings; is that right?---Correct, but at the
15:40:22 28 point of - we're trying to protect the identity of the
15:40:26 29 source and unfortunately just through the natural passage
15:40:29 30 of time and interactions between the SDU and Purana, hence
15:40:34 31 why we commenced this list of who knew.
32
15:40:37 33 Yes?---So - - -
34
15:40:38 35 Sorry, go on?---We try as hard as we can to ensure the
15:40:45 36 point of liaison protocol is adhered to and the sterile
15:40:49 37 corridor is adhered to, but in the passage of time this
15:40:56 38 process will inevitably break down and we took some steps
15:41:02 39 later on to try and circumvent that.
40
15:41:10 41 One assumes that notes would be produced, if they were
15:41:14 42 relevant, to a court proceeding and if that's the case then
15:41:17 43 there would need to be steps taken to redact their notes,
15:41:23 44 would there? Would that be the case?---Yes, if those notes
15:41:28 45 had been subject to the subpoena, then if that - that's led
15:41:35 46 to a disclosure being made in the notes, then we'd have to
15:41:39 47 commence the PII application.

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1
15:41:41 2 Or alternatively notes simply produced pursuant to a
15:41:43 3 request accompanying the delivery of a hand-up
15:41:46 4 brief?--Yeah, it's a matter for the investigators when
15:41:49 5 they're applying for the subpoena.
6
15:41:51 7 Protocols are implemented at the IMU - that's the Informer
15:41:55 8 Management Unit, is it?--Yes.
9
15:41:56 10 "Which included separate and secure directory storage for
15:42:00 11 Ms Gobbo's material and minimising IMU personnel knowledge
15:42:04 12 of this source. Without consultation to the SDU these
15:42:08 13 protocols have now been relaxed." Does that mean - the IMU
15:42:14 14 was at that stage responsible for addressing subpoenas; is
15:42:19 15 that right?---In relation to source based material, yes.
16
15:42:23 17 How was it done in such a way that if IMU personnel were
15:42:29 18 not told about the source or weren't able to access the
15:42:31 19 source's materials, how could it be that subpoenas were
15:42:35 20 appropriately considered?---You'd have to ask Mr Porter
15:42:45 21 that, he was the Central Source Registrar, but that was the
15:42:49 22 protocol at the time.
23
15:42:52 24 Was that protocol especially for Ms Gobbo or was that
15:42:58 25 something which was relevant to all of the sources that
15:43:00 26 were at the SDU?---It's appropriate, it was the standing
15:43:06 27 process for all sources across Victoria Police, whether
15:43:09 28 they're high risk or just general Victoria Police holdings.
29
15:43:15 30 I suggest that minimising IMU personnel knowledge of this
15:43:19 31 source was something particularly relevant to this
15:43:21 32 particular one, that's what it suggests?---This particular
15:43:28 33 source had significant risk factors in relation to her
15:43:33 34 compromise. Our main priority was ensuring she wasn't
15:43:37 35 disclosed and consequently murdered.
36
15:43:42 37 Do you say that there were particular provisions that
15:43:45 38 related to this source?---The flow of staff through
15:43:54 39 IMU/HSMU at that particular time was quite frequent due to
15:43:58 40 a host of a whole pile of things. The security of the
15:44:04 41 database and our records at IMU was a concern to us.
42
15:44:11 43 Yeah, okay?---And there had been some other issues at IMU
15:44:16 44 which we just wanted to be pro-active and ensure we had no
15:44:20 45 inadvertent security breach. That probably gave cause to
15:44:28 46 that point in the risk assessment.
47

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15:44:31 1 Did you have any knowledge of efforts made to protect the
15:44:34 2 fact that she had turned up on [REDACTED] to provide advice
15:44:39 3 to [REDACTED] and [REDACTED], on one view purporting to be a
15:44:46 4 lawyer. Did you know anything about that?---No.
5
15:44:57 6 If she had been there in her capacity as a lawyer, as far
15:45:01 7 as you were concerned there would be no need to hide her
15:45:04 8 involvement in that way, would you?---Sorry, can you
15:45:09 9 explain that question again?
10
15:45:11 11 If she had simply been there advising [REDACTED] and [REDACTED]
15:45:16 12 in her capacity as a legal practitioner and nothing else,
15:45:20 13 there would be no need to be concerned or take steps to
15:45:24 14 hide that fact or prevent that fact from getting
15:45:28 15 out?---Correct.
16
15:45:34 17 I want to ask you a couple of things about [REDACTED]
15:45:38 18 Are you aware that Ms Gobbo provided information to her
15:45:45 19 handlers in the nature of arrest tips to assist in the
15:45:51 20 arrest of [REDACTED] in such a way as to best enable him to
15:45:55 21 roll and provide evidence against people such as the
15:46:00 22 Mokbels?---No.
23
15:46:06 24 I want to play to you some tapes. Commissioner, we
15:46:10 25 understand that these tapes have been amended in such a way
15:46:16 26 that the names of people whose names we can't or shouldn't
15:46:22 27 mention have done so. There may be some slips. We hope
15:46:27 28 there isn't but if there are - well, we're all grown-ups.
15:46:32 29 These are [REDACTED] 2006. I'm not suggesting obviously that
15:46:39 30 you were there, Mr Black, but I'd like you to listen to
15:46:42 31 them, thank you?---Sure.
32
15:48:07 33 (Audio recording played to hearing.)
15:49:43 34
15:49:43 35 You heard that, you read that transcript?---Yeah, the
15:49:44 36 audio's pretty poor.
15:49:50 37
15:49:52 38 Yes, I know, it's not too good, I agree. In any event I'm
15:49:58 39 not too sure whether it's because there's been adjustments
15:50:02 40 made to it. It's certainly clearer in a different
15:50:05 41 environment. What I suggest to you is there are
15:50:08 42 discussions about what might occur when there's an arrest
15:50:15 43 and [REDACTED]'s arrested and it's okay if Dale Flynn
15:50:20 44 happens to be there because he knows about Ms Gobbo and
15:50:23 45 he's not going to say anything about it, but if there are
15:50:26 46 other police officers who don't then they might, do you see
15:50:31 47 that?---Yes.

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1
15:50:32 2 There's also an issue about the [REDACTED] that had been handed
15:50:35 3 over. So she'd actually been part of the, in effect she'd
15:50:40 4 been part of the evidence because she was the person who
15:50:43 5 handed [REDACTED] to [REDACTED] which was then passed -
15:50:56 6 enabled [REDACTED] to communicate with [REDACTED], were you
15:50:59 7 aware of that issue?---No.
8
15:51:02 9 In any event, there was a concern that that information
15:51:04 10 might come out. Now that's problematic, isn't it, if she's
15:51:08 11 part of that process of handing [REDACTED] over which are then
15:51:12 12 used to assist in the commission of criminal
15:51:17 13 offences?---It's a matter of her intent and her knowledge.
14
15:51:19 15 I follow that. But then she becomes part of the
15:51:22 16 evidentiary trail of events, doesn't she? She's a witness
15:51:26 17 in other words?---Depends on her intent.
18
15:51:28 19 No, no, I follow that. But she's a witness because it may
15:51:31 20 well come out that, either in the course of proceedings or
15:51:34 21 evidence or what have you, that [REDACTED] came from
15:51:37 22 Ms Gobbo, or she was involved in that process. That causes
15:51:45 23 problems?---Well what's the issue with [REDACTED]?
24
15:51:48 25 It may well lead to her identification as being involved in
15:51:52 26 this process as an informer?---It may, that's a
15:51:57 27 consideration. I'm sure Mr White addressed that.
28
15:52:04 29 She's also saying, "Mr Flynn's not going to make any notes
15:52:08 30 about it but these other police officers who don't know
15:52:12 31 about it, they may well be making notes and that might well
15:52:16 32 expose me", do you see that?---It sounds like they're
15:52:19 33 exploring some risk mitigation strategies.
34
15:52:27 35 One way to do that is to take statements which don't
15:52:30 36 contain all the information, which aren't accurate
15:52:33 37 statements. That's one of the things that they're
15:52:37 38 exploring?---I don't know how to answer that. I don't know
15:52:44 39 why you'd be doing that.
40
15:52:46 41 If we can go to the next tape, Commissioner, it's at p.168.
15:53:07 42
15:56:32 43 (Audio recording played to hearing.)
15:56:32 44
15:56:34 45 Right. Now you heard that?---Yes.
46
15:56:37 47 Do you see any problems with that?---Well ultimately it's a

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15:56:46 1 decision for him to make.
2
15:56:50 3 But the decision that he makes is going to be made in the
15:56:53 4 absence of one critical piece of information, and that is
15:56:57 5 the advice that he's getting is from a lawyer who's not an
15:57:01 6 independent lawyer but an agent of Victoria Police, do you
15:57:05 7 accept that?---No, I don't accept that.
8
15:57:11 9 Mr Black - - - ?---She's a barrister who is giving - I mean
15:57:17 10 on the face of it is that advice wrong? She says at the
15:57:24 11 end she says, "What he does is beyond me".
12
15:57:28 13 It may well be, Mr Black, but when you listen to that, and
15:57:31 14 this goes back to what I was asking you very early on in
15:57:35 15 the piece about that initial meeting you had where there
15:57:38 16 was a discussion about whether, because of this conflict,
15:57:43 17 it's appropriate for Ms Gobbo to be involved, right?---Yes.
18
15:57:49 19 And I mean when Mr White says, "Now the concern we have is
15:57:53 20 making contact with you and how we keep that quiet". I
15:57:57 21 mean does that not strike you as being somewhat
15:58:01 22 concerning?---I wasn't there and didn't ask the question as
15:58:09 23 far as context is concerned.
24
15:58:11 25 I know you weren't. This is a person, these are two people
15:58:14 26 who are having a quiet arrangement behind the scenes trying
15:58:18 27 to get this fellow ██████████ to roll. She's the supposed
15:58:22 28 lawyer, but she's not really, she's acting in the interests
15:58:25 29 of Victoria Police, and Mr White's saying, "Let's see if we
15:58:30 30 can't do this on the quiet so it doesn't get out that
15:58:33 31 you're assisting us and getting him to roll". You don't
15:58:36 32 see a problem with that?---With all due respect, this
15:58:39 33 conversation obviously took place over a period of time.
15:58:42 34 I've been shown, what, three pages of the transcript.
35
15:58:44 36 Yes?---In the end it's quite clear that he makes his
15:58:50 37 decision. She says herself, "What he does is beyond me".
15:58:57 38 She can give the advice, she can point out the obvious, the
15:59:02 39 fact that he's on bail, there's a fair chance he's not
15:59:05 40 going to get bail again, they've already discussed that
15:59:08 41 between Mr Sandy White and the source. Ultimately I think
15:59:11 42 the source sums it up in a nutshell where she says, "What
15:59:16 43 he does is beyond me."
44
15:59:17 45 Is it not a problem that this man, who is to be arrested,
15:59:23 46 is not to get an independent legal practitioner but a legal
15:59:28 47 practitioner who is conspiring with the police to get him

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15:59:32 1 to roll and assist other people?---I disagree it's a
15:59:38 2 conspiracy.
3
15:59:38 4 You don't like that word?---How's that a conspiracy?
5
15:59:42 6 It's an agreement done behind his back, on the quiet, to
15:59:45 7 get him to roll, it had been planned right from the very
15:59:48 8 start. You don't see a problem with that?---What I see is
15:59:53 9 a transcript of a conversation, a segment of conversation
15:59:56 10 that's been pulled out of obviously a long meeting. Part
15:59:59 11 of this meeting is relating to Sandy White and Mr Green
16:00:04 12 discussing with her if he was to roll and the mechanics of
16:00:07 13 that. I think ultimately where the transcript ends is
16:00:11 14 probably apt, where Mr White says, "He then makes his
16:00:14 15 decision", and the source replies, "What he does is beyond
16:00:18 16 me". How that's a conspiracy?
17
16:00:23 18 Do you think that he should be entitled to know whether
16:00:27 19 this barrister is working for the police against his
16:00:29 20 interests?---That's a matter for - all I can say is our
16:00:37 21 belief is we were acting in accordance with our policy,
16:00:41 22 with our instructions, with our supervision and we had a
16:00:45 23 difficult job to do and we did it to the best of our
16:00:48 24 ability. And ultimately we're sitting here today to be
16:00:51 25 judged on that, so be it.
26
16:00:53 27 Well look, you knew there was a going to be a Royal
16:00:55 28 Commission, didn't you?---I always anticipated the day we
16:01:00 29 would be reviewed in some format, absolutely. It's just
16:01:03 30 the nature of the business. This is - these were volatile
16:01:08 31 times with a lot of corrupt activity from within and a lot
16:01:13 32 of shootings and murders and drug trafficking going out and
16:01:18 33 impacting on the public and Victoria Police wanted it
16:01:21 34 stopped.
35
16:01:22 36 And you knew - - - ?---That was part of the reason why the
16:01:25 37 SDU was formed.
38
16:01:26 39 But what was going on with Ms Gobbo was not
16:01:35 40 right?---Ultimately we'll be judged by others about that,
16:01:38 41 but as far as our procedures and operating - I mean what we
16:01:43 42 were doing is so not right is that we were writing down
16:01:47 43 everything, covertly recording our meetings and logging
16:01:50 44 every single keystroke and document on a very discoverable
16:01:55 45 and audit trail proof system that is irrefutable and here
16:02:03 46 we are today.
47

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16:02:03 1 What was your concern about what had occurred on [REDACTED]
16:02:09 2 [REDACTED]?---The appropriateness of her giving that person
16:02:14 3 legal advice.
4
16:02:16 5 Is that not exactly the same as what we're talking about
16:02:19 6 here with [REDACTED]?---No.
7
16:02:22 8 What's the difference?---Well, the circumstances
16:02:26 9 surrounding the difference and the decision by Mr White and
16:02:33 10 the investigators and Victoria Police Command for that to
16:02:37 11 happen, you know, that was their decision on the night and
16:02:43 12 so be it. We don't have to agree all the time. They had
16:02:47 13 good reasons why that should take place and that was
16:02:50 14 primarily to protect her life. So be it. Ultimately that
16:02:53 15 individual sitting in the interview room, they are the
16:02:56 16 person that needs to make the decision. No one's holding a
16:03:00 17 gun to their head.
18
16:03:01 19 Yes?---And with all due respect, that person, who I can't
16:03:05 20 name, was caught. He was caught. He was arrested in an
16:03:10 21 [REDACTED] He was done. He has already been facing
16:03:14 22 [REDACTED] other matters for [REDACTED]. This was
16:03:16 23 new serious offending that he needed to be held to account
16:03:20 24 for and ultimately it's his decision.
25
16:03:23 26 Is he entitled to have an independent lawyer?---Of course
16:03:30 27 he is.
28
16:03:32 29 He didn't have one, did he?---Of all the people he wanted,
16:03:39 30 he wanted her. And ultimately the facts will speak for
16:03:43 31 themselves. He's the one that decided to cooperate with
16:03:46 32 police. Have a look at what he did with Mr O'Brien and
16:03:48 33 Purana after his arrest. No one's forcing him to do any of
16:03:52 34 that stuff. He is an experienced criminal who has brought
16:03:57 35 great harm upon Victoria and he knew his day had come with
16:04:00 36 or without the assistance of the human source. It was so
16:04:07 37 bad he continues to make [REDACTED] about how he
16:04:12 38 survived and committed such a heinous act of [REDACTED]
16:04:18 39 [REDACTED] for decades.
40
16:04:20 41 Down the track when there was a desire to use Ms Gobbo as a
16:04:28 42 witness, you were very keen that that not occur,
16:04:36 43 correct?---In relation to Petra, yes.
44
16:04:43 45 What about Briars?---Briars, I was probably more motivated
16:04:50 46 for that not to occur.
47

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16:04:52 1 Right. Because if it occurred her role as an informer and
16:05:00 2 your roles as handlers and controllers would be revealed,
16:05:09 3 correct?---If she became a Crown witness they will kill
16:05:14 4 her.
5
16:05:16 6 And maybe that's - - - ?---I can't put the point any
16:05:19 7 stronger.
8
16:05:19 9 Were you also concerned that what would be disclosed would
16:05:25 10 be Ms Gobbo's assistance to Victoria Police?---Yes.
11
16:05:33 12 Was it a concern to you that she would be disclosed in a
16:05:36 13 number of circumstances. Firstly, as a tasked
16:05:41 14 source?---Yes.
15
16:05:43 16 Secondly, a tasked source who is an active
16:05:49 17 barrister?---Yes.
18
16:05:50 19 Thirdly, visiting clients?---Yes.
20
16:05:53 21 Fourthly, clients who think that they have
16:05:59 22 privilege?---Yes.
23
16:06:00 24 Fifthly, clients who believe they are speaking with their
16:06:03 25 legal representative?---Yes.
26
16:06:06 27 Sixthly, that very person who then passes the information
16:06:09 28 to police?---Mr Winneke, I know you're reading my
16:06:16 29 diary - - -
30
16:06:16 31 Is that a concern that you had?---Just in some - of course,
16:06:21 32 it is, that's why I made my diary notes.
33
16:06:24 34 Seven, the human source then continued to act for the
16:06:27 35 client?---Yes.
36
16:06:28 37 Eight, furthermore, the human source then convinces the
16:06:30 38 client to plead guilty?---These are all considerations that
16:06:36 39 we need to turn our mind to. These are the perceptions of
16:06:40 40 others and these were the arguments that we needed to be
16:06:44 41 mindful of that we may address one day.
42
16:06:47 43 Yes?---You don't have to be a rocket scientist to work this
16:06:53 44 out.
45
16:06:53 46 No. And what I suggest to you is that there is a
16:06:57 47 likelihood that not only is there a perception that that is

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16:07:01 1 wrong, that a court that was aware of that would consider
16:07:04 2 that to be very wrong?---That's possible.
3
16:07:13 4 Yeah, and that police who were engaged in that conduct
16:07:16 5 might well be regarded as having engaged in reprehensible
16:07:20 6 conduct?---So that's a quote from the High Court and that's
16:07:23 7 something that grates me no end, that the High Court have
16:07:30 8 arrived at that. Unfortunately I don't think they were
16:07:32 9 presented with all the facts.
10
16:07:35 11 Well do you think that they might have had a different view
16:07:38 12 had they heard some of these transcripts, do
16:07:41 13 you?---Absolutely.
14
16:07:42 15 Yeah?---Absolutely.
16
16:07:43 17 All right?---And to the going on as far as people's
16:07:46 18 understanding of PII. Most people don't understand PII.
19
16:07:51 20 Yes?---They use it as some sort of shield and that's not
16:07:54 21 accurate, as you well know.
22
16:08:04 23 Those justifications or those matters were set out in your
16:08:08 24 justification or your arguments which were applied in an
16:08:23 25 email which was then used to attempt to convince management
16:08:31 26 not to use Ms Gobbo as a witness; is that right?---In which
16:08:38 27 matter?
28
16:08:40 29 In Briars?---Can you point me - what diary page number are
16:08:50 30 you referring to? There's some context there that I think
16:08:54 31 is important. I think you might be able to assist me. I
16:08:57 32 think I was talking to my, to our Inspector at that time,
16:09:02 33 Detective Inspector Glow, is that right?
34
16:09:05 35 That's right?---In all fairness to our officer-in-charge,
16:09:08 36 he couldn't understand why we just didn't, as it were, roll
16:09:12 37 over and just cooperate with Briars.
38
16:09:14 39 Yes?---I had to articulate those points to get him to
16:09:18 40 understand the importance of perception, that these are
16:09:20 41 some obvious questions people are going to rightfully ask.
16:09:24 42 So if Victoria Police are prepared to do that then this is
16:09:29 43 the consequences. It's not - he couldn't quite grasp the
16:09:36 44 complexities and in his defence he wasn't across - I mean
16:09:42 45 he wasn't around back when that individual was arrested at
16:09:49 46 [REDACTED]
47

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16:09:50 1 I mean what you set out there were exactly the points, I
16:09:54 2 suggest, or in effect the points that concerned very much
16:09:57 3 the High Court, those sorts of issues?---Couldn't agree
16:10:00 4 more.
16:10:01 5
16:10:01 6 You say simply a question of perception?---Yes. These are
16:10:05 7 obvious questions that one day Victoria Police will have to
16:10:08 8 answer, and here we are.
9
16:10:12 10 That's why you were also concerned about the potential that
16:10:16 11 convictions which had been achieved might be
16:10:19 12 jeopardised?---They could be, absolutely. That's the
16:10:23 13 nature of an appeal. That's the experience that we've had
16:10:29 14 over many decades dealing with the High Court.
15
16:10:33 16 It's not until a person actually finds out what's gone on,
16:10:37 17 finds out those eight points that you've set out, that they
16:10:40 18 actually know what's gone on and actually have an
16:10:43 19 opportunity to get their case before the appeal courts, do
16:10:46 20 you accept that?---I don't think it's that simplistic.
21
16:10:50 22 Come often, Mr Black. How on earth can someone appeal in
16:10:57 23 circumstances where they don't know those eight
16:10:59 24 points?---Is that a question or - - -
25
16:11:01 26 Yes, it is. It is?---So can you ask me the question,
16:11:02 27 please ?
16:11:03 28
16:11:03 29 The eight points that you set out in order to make it very
16:11:06 30 clear, some of the issues that might crop up in a Royal
16:11:10 31 Commission or in an inquiry, are those points that I've
16:11:15 32 just read out to you, the points that you set out to
16:11:19 33 explain quite clearly to DI Glow what the issues are,
16:11:22 34 correct?---I think the demonstration of me highlighting
16:11:25 35 those points was to get Mr Glow to understand the
16:11:28 36 complexity and the importance of the decision that Command
16:11:30 37 want to reach with her, particularly with Briars. It's a
16:11:37 38 completely different set of circumstances to - I'm
16:11:41 39 grappling with who I - to the person in the [REDACTED]
16:11:45 40 versus the targets of Briars.
41
16:11:48 42 You can say [REDACTED]?---Am I allowed to now?
43
16:11:53 44 Yes, you're allowed, yes.
45
16:11:54 46 COMMISSIONER: We're in closed hearing, you see?---Thank
16:11:56 47 you. So [REDACTED] is different to the targets and the

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16:12:01 1 investigative strategy around Briars. I mean it's quite
16:12:06 2 obvious. I've made a diary entry, I think it was on ■■■
16:12:10 3 ■■■ 2006, when we get an approach from Briars by
16:12:16 4 Detective Inspector Waddell wanting to use her on their
16:12:21 5 targets. And I said no to that.
6
16:12:23 7 MR WINNEKE: And you said at that stage no, there should
16:12:27 8 not be - that should not occur because if that occurs there
16:12:30 9 will be a Royal Commission, didn't you?---Well, you can't -
16:12:37 10 they're targets. The targets that were explained to me at
16:12:43 11 the Blue Train Café on that day were allegedly corrupt
16:12:50 12 police members who had been involved in a murder that had,
16:12:58 13 it seemed to me that Briars wanted to exploit that
16:13:01 14 relationship so further their case. As motivated as I am
16:13:08 15 to solve homicides, we've got to act within the law and I
16:13:11 16 thought that was a step too far and I said we weren't going
16:13:14 17 to be able to assist them.
18
16:13:16 19 Can I just ask you about that entry. Earlier this year you
16:13:21 20 were given a Notice to Produce to produce documents,
16:13:25 21 weren't you?---Yes.
22
16:13:28 23 You produced to this Royal Commission some diary entries,
16:13:33 24 didn't you?---Yes.
25
16:13:38 26 Those diary entries included about 159 pages of extracts
16:13:43 27 from your diary, didn't they?---Yes, and all my electronic
16:13:50 28 diaries as well.
29
16:13:51 30 And you went through your diaries, correct?---Yes.
31
16:13:56 32 And you highlighted those entries which you thought were
16:14:00 33 relevant to this Royal Commission, didn't you?---Yes.
34
16:14:06 35 Did you do that?---Sorry, can I answer the question?
36
16:14:08 37 Yes?---Those diary entries were part of the IBAC process as
16:14:17 38 well.
39
16:14:17 40 So you also produced those diaries to IBAC, did
16:14:23 41 you?---Absolutely.
42
16:14:23 43 When you went through your diaries to produce them to IBAC
16:14:29 44 you looked through all of the relevant entries, didn't
16:14:33 45 you?---Of course.
46
16:14:33 47 And what you did do was exclude that page, you didn't

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16:14:38 1 include that page on 24 July 2006 where you predicted a
16:14:47 2 Royal Commission if Ms Gobbo continued to be used?---Sorry,
16:14:50 3 what date are we referring to?
4
16:14:53 5 24 July 2006?---24 July.
6
16:14:59 7 Let's have it put up?---Okay.
8
16:15:02 9 RCMP.I.0090.0001.0001 at p.144?---Yes, so in preparation of
16:15:15 10 this very hearing I went back and re-read all of my diaries
16:15:19 11 on Sunday.
12
16:15:22 13 Now do you see that page there?---Yes.
14
16:15:24 15 That's the page that you're talking about, there was an
16:15:27 16 office meeting on 24 July 2006, correct?---Yes.
17
16:15:33 18 All were there?---Yes.
19
16:15:36 20 There was a discussion about various things?---Correct.
21
16:15:43 22 At the bottom obviously there's a note to this effect,
16:15:46 23 "Future of 3838? Versus Royal Commission?"?---That's
16:15:55 24 right, they're my notes, correct.
25
16:15:57 26 That page was not produced to Mr Kellam, was it, at
16:16:02 27 IBAC?---No, I absolutely missed that page. There were ten
16:16:05 28 pages that I re-checked. I checked five diaries on Sunday
16:16:12 29 and I found ten pages which I've recopied and produced.
30
16:16:18 31 You didn't produce them to the Commission, Victoria Police
16:16:21 32 produced them?---Sorry, say that again?
33
16:16:26 34 When did you first discover this diary entry?---This one,
16:16:31 35 on Sunday.
36
16:16:32 37 What, this last Sunday?---When I was preparing for this
16:16:35 38 Commission appearance, yes.
39
16:16:37 40 That's not - - - I went back and re-read all my diaries.
41
16:16:44 42 We've had this for quite some time but you didn't produce
16:16:49 43 it. You produced - - - ?---Back in 2000 and, I think it
16:16:56 44 was 14, when I collected all the diaries, I assume they've
16:17:01 45 had this - they've had my unredacted diary for I don't know
16:17:11 46 how long. The ones marked in the red are the ones that I
16:17:14 47 went through in great detail over many, many weeks to the

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16:17:17 1 best of my ability collated them all in response to the
16:17:20 2 IBAC process.
3
16:17:21 4 Right. Can you tell the Commission what occurred during
16:17:37 5 the course of this meeting?---There was an office meeting
16:17:43 6 on Monday 24 July. It seems all was present and I've
16:17:51 7 jotted down my issues, things that I wanted to raise during
16:17:55 8 the meeting, things that were discussed. There'll be, I
16:18:00 9 anticipate there'll be minutes or I assume Sandy White was
16:18:05 10 probably running the meeting.
11
16:18:07 12 Yes?---It was just an office meeting, we went through
16:18:12 13 usual, as it were, business as usual, admin. and
16:18:15 14 operations.
15
16:18:17 16 What did you say - - - ?---The meeting went for, it looks
16:18:22 17 like three hours and 45 minutes. So I've only got a few
16:18:27 18 lines there. I assume there'll be extensive notes. If
16:18:31 19 it's not by the Inspector it'll be I assume by Sandy White.
20
16:18:36 21 What those notes reveal is that on this day at the office
16:18:41 22 you made, you raised issues, and you've set out those
16:18:45 23 issues, and you have apparently said, "Look, there's a
16:18:48 24 question mark with respect to Ms Gobbo and her future. We
16:18:56 25 can continue using her as a human source but if we do so
16:19:04 26 it's likely to end up with a Royal Commission into our use
16:19:08 27 of Ms Gobbo as a human source"?---Look, I don't know if I
16:19:14 28 actually verbalised the words Royal Commission but I
16:19:17 29 certainly said, "Listen, you know this will be subject of a
16:19:20 30 review", and so be it.
31
16:19:21 32 A Royal Commission is something - I mean around this time
16:19:24 33 there were suggestions that there could be or should be a
16:19:28 34 Royal Commission into the conduct of Victoria Police
16:19:29 35 because of various corruption issues, correct, do you
16:19:34 36 recall that?---Indeed.
37
16:19:35 38 And indeed, I think there was a police officer by the name
16:19:37 39 of Simon Illingworth who was suggesting around that time,
16:19:42 40 perhaps a few months later, that there should be a Royal
16:19:46 41 Commission into Victoria Police because of corruption
16:19:47 42 issues, do you agree with that?---Yes.
43
16:19:49 44 It's no small thing to suggest that Victoria Police, and
16:19:55 45 indeed you're suggesting the conduct of your very Unit may
16:19:59 46 well be exposed to the sort of inquiry which we're now
16:20:03 47 engaging in because of the use of Ms Gobbo as a human

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16:20:07 1 source, correct?---I think sooner or later, whether it was
16:20:12 2 with this particular individual or someone else, we were
16:20:15 3 inevitably going to be - you know, it wasn't the greatest
16:20:19 4 decade for Victoria Police there.
5
16:20:21 6 We're not talking about other aspects, we're talking about
16:20:23 7 the use of Ms Gobbo as a human source. That ultimately is
16:20:27 8 what has occurred. You have - - - ?---Yes, but - - -
9
16:20:31 10 You have back in 2006, more than 12 years ago, predicted,
16:20:35 11 because of your concerns about the use of Ms Gobbo, what
16:20:37 12 eventually occurred?---Well just to balance that entry,
16:20:45 13 these are my notes, my diary. I've written in there, I've
16:20:49 14 written the words "future 3838" and a question mark, versus
16:20:54 15 Royal Commission with a question mark. The my next point
16:20:57 16 under that is in relation to new premises and SOPs. I mean
16:21:00 17 it wasn't strictly about the - the very nature of what we
16:21:04 18 were doing, the very nature of how we started and why we
16:21:07 19 started and some of the individuals we were looking after
16:21:09 20 on behalf of Victoria Police, I mean we're not trying to
16:21:12 21 hide anything. Like these are - we're there to do a job,
16:21:16 22 we're there to do some more high level thinking and we're
16:21:19 23 there because we've got some experience in the court
16:21:23 24 system. You know, that was my point of view. That was my
16:21:26 25 note at the time.
26
16:21:26 27 Mr Black, can I suggest that that is exactly what occurred,
16:21:29 28 it was hidden for a very long time?---What was hidden?
29
16:21:35 30 The fact that Ms Gobbo was used as a human source and the
16:21:37 31 manner in which she was used as a human source?---The fact
16:21:40 32 she was hidden as a human source is exactly what took
16:21:43 33 place, and that was a decision by Victoria Police.
34
16:21:46 35 Who made the decision?---At the end of the day - sorry?
36
16:21:51 37 You said - - - ?---At the end of the day we were, you know,
16:21:56 38 we have a chain of command, we have a set of rules and
16:21:58 39 instructions and we'll do as we're told.
40
16:22:01 41 Effectively what you're saying is, "I was doing as I was
16:22:03 42 told"?---We were, yes. I mean that decision to allow 38 to
16:22:10 43 speak to [REDACTED] wasn't something that Sandy White just
16:22:14 44 decided to do on a whim. That was a considered, assessed,
16:22:20 45 discussed decision, not just by the SDU, absolutely by
16:22:25 46 Purana investigators and I assume their immediate command.
47

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16:22:31 1 What you say is that there was a considered decision to
16:22:34 2 have Ms Gobbo speak to [REDACTED] and assist the police in
16:22:40 3 getting him to roll and assist in giving evidence or -
16:22:47 4 assist? There was a considered decision to have her play a
16:22:53 5 part in that; is that right?---I understand the, Mr White
16:22:58 6 and investigator's position was that if she didn't go in it
16:23:02 7 would light her up and have her killed. That was part of
16:23:06 8 the decision making process to allow that engagement to
16:23:09 9 take place.
10
16:23:10 11 How do you know that?---Well that was one of the things we
16:23:14 12 discussed.
13
16:23:15 14 Who did you discuss it with?---Sandy White.
15
16:23:19 16 And so as far as you knew it was a deliberate decision to
16:23:23 17 have her go along and attend on the night?---No, that's not
16:23:28 18 what I said. I said it was a decision to allow her to go
16:23:32 19 and talk to [REDACTED] at the police station.
20
16:23:38 21 When was that decision made?---I'm not sure. You'd have to
16:23:42 22 ask Sandy White that.
23
16:23:43 24 But your understanding is that it was a decision of Sandy
16:23:48 25 White's made in conjunction with the
16:23:50 26 investigators?---That's my understanding, yes. The actual
16:23:52 27 forensic detail of all that, I'm sorry, but you'll have to
16:23:56 28 ask Mr White or Mr O'Brien or the investigators or Command
16:24:00 29 at that particular point of time.
30
16:24:01 31 Prior to it occurring, that was the plan, that she would go
16:24:05 32 and assist, is that right? She would turn up to the police
16:24:08 33 station?---I don't know about that.
34
16:24:21 35 Have you ever in any other circumstance recorded in your
16:24:24 36 notes that the use of any particular source may result in
16:24:31 37 the conduct of a Royal Commission?---These aren't normal
16:24:38 38 sources. These are high risk individuals.
39
16:24:40 40 Yes?---And with complicated matters and it's - you know,
16:24:51 41 I've been at the Unit for coming, I think it's about 18
16:24:54 42 months at this stage, that's as long as the Unit was going
16:24:57 43 for. They were high stakes, high risk, complicated issues
16:25:02 44 and that's my note in my diary.
45
16:25:06 46 What I asked you was have you, with respect to any other of
16:25:08 47 the other human sources you've used, written a note in your

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16:25:12 1 diary to the effect that their future use or continued use
16:25:18 2 may result in a Royal Commission?---No.
3
16:25:22 4 I take it your understanding of a Royal Commission, that
16:25:24 5 generally occurs when there is a need to examine improper
16:25:29 6 conduct on the part of an event, an organisation or
16:25:33 7 persons; is that right?---I hope it's a search for the
16:25:38 8 truth as well.
9
16:25:39 10 Let's hope it is. What you would have understood at the
16:25:45 11 time would be that a Royal Commission is generally set up
16:25:48 12 to establish whether or not there has been improper
16:25:56 13 conduct?---Yes, that's part of the reason why you would
16:25:59 14 establish a Royal Commission.
15
16:26:00 16 And that was one of the concerns that you had at the
16:26:02 17 time?---No, not at all.
18
16:26:20 19 When you raised the suggestion that there could be a Royal
16:26:27 20 Commission concerning the future conduct of
16:26:31 21 Ms Gobbo?---M'mm.
22
16:26:32 23 Was that discussed with all of the members at the SDU?---I
16:26:47 24 think that was a broad discussion as far as whether or not
16:26:51 25 it was a good decision to allow the source to visit
16:26:56 26 ██████████ You know, a consequence of that, you know, it
16:27:01 27 was a rather pretty big event that had taken place. It was
16:27:06 28 the commence of the downfall of ██████████. It was
16:27:15 29 a major objective achieved by the Crime Department of
16:27:18 30 Victoria Police and it was - you know, it had been
16:27:23 31 discussed around the office for, you know, a few days,
16:27:28 32 weeks, months.
33
16:27:29 34 Right. My question was, was it something that all of the
16:27:35 35 members at that Unit were aware of that you were raising,
16:27:39 36 that is the potential that there might be a Royal
16:27:42 37 Commission into the conduct of the SDU managing Ms Gobbo as
16:27:44 38 a human source?---I may have not used the specific words
16:27:50 39 Royal Commission. I mean, as I said, these are my notes in
16:27:53 40 a diary from a meeting that went for three and a half
16:27:56 41 hours. But I certainly would have - you know, we knew that
16:28:00 42 everything that we did would be subject to a review.
16:28:04 43 Allowing her to speak to ██████████ obviously would draw
16:28:10 44 great scrutiny and so be it.
45
16:28:13 46 You're not the sort of - you're not a retiring flower or
16:28:15 47 anything like that, you're a person who's going to put your

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16:28:18 1 position forward; aren't you?---Yes, correct.
2
16:28:21 3 And it was an environment in which that sort of robust
16:28:24 4 discussion was encouraged?---Absolutely, and that helped us
16:28:28 5 make, you know, try and make a better process and better
16:28:35 6 decisions.
7
16:28:36 8 And if you were concerned enough to record in your diary
16:28:39 9 the words Royal Commission, it's not something that you
16:28:41 10 would quietly think about yourself, it's something that you
16:28:44 11 would put forward into the debate and discuss, isn't it?
16:28:47 12 This is a significant issue?---Correct.
13
16:28:49 14 And if you were concerned about it enough to enter it into
16:28:54 15 your diary, it's something that you would have raised in
16:28:58 16 the meeting?---Look, the fact of the matter is I wasn't
16:29:00 17 there when this decision was made. I can carry on about it
16:29:03 18 all I want but at the end of the day the decision was made
16:29:06 19 for good reasons, so be it.
20
16:29:11 21 My question - - - ?---I can't carry on about something
16:29:13 22 that's already transpired. I'm just bringing the awareness
16:29:17 23 that, "Hey, listen, you know, we need to turn our mind to
16:29:22 24 that one day someone might review everything that we do".
16:29:26 25 I mean it's no - I mean we were recording and documenting
16:29:28 26 every single thing that we did. There was nothing to hide,
16:29:32 27 there's no secrets to be had. All we wanted to do was
16:29:35 28 avoid her being compromised and keep her alive.
29
16:29:46 30 What your diary says is all of the SDU members were there.
16:29:49 31 I take it that is as it reads as far as you were concerned,
16:29:54 32 all of the members of the SDU were at that meeting?---Yeah,
16:29:57 33 look, again, these are my brief notes in a diary. I don't
16:30:01 34 know what the minutes or what - as I said, I'm not even
16:30:05 35 sure who actually ran the meeting. I assume it was Sandy
16:30:10 36 White.
37
16:30:10 38 These views about the potential for there to be close
16:30:15 39 scrutiny, if not a Royal Commission, into the conduct of
16:30:18 40 the SDU and handling Ms Gobbo didn't disappear, they didn't
16:30:23 41 go away, these were views that you continued to hold
16:30:26 42 throughout the period that Ms Gobbo was a human source, do
16:30:33 43 you agree?---Well, yes. I thought that, you know - I'll
16:30:40 44 repeat the same answer. You know, I don't know if
16:30:43 45 permitting the source to visit ██████████ in the interview
16:30:48 46 room was our greatest decision. But so be it, it's been
16:30:52 47 made and we'll be held accountable for that one day. Here

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16:30:55 1 we are.
2
16:30:57 3 Did you ever think that it might be worthwhile to get some
16:31:00 4 legal advice about this?---A bit late.
5
16:31:10 6 What - - - ?---From the point of view of the events of the
16:31:13 7 arrest of [REDACTED], that's what you're referring to?
8
16:31:18 9 Do you say once it had occurred, once she had attended and
16:31:24 10 given advice and assisted the police for him to roll, that
16:31:28 11 was too late to get legal advice then, is that what you
16:31:31 12 say?---We're getting to a point where a lot of people knew
16:31:34 13 what we were doing with this individual. A lot of people
16:31:40 14 in Command knew about it. The registration was continued.
16:31:45 15 We were being audited. People of great higher ranks than
16:31:52 16 us, we had an Inspector in charge of us, most of the time
16:31:56 17 the Inspector came to these meetings. I think, what are we
16:32:01 18 saying now, Mr Biggin's present as well, who's no shrinking
16:32:04 19 violet. Nobody, as it were, blew the whistle and said,
16:32:11 20 "Time out, we need to get some legal advice". We thought
16:32:14 21 the processes that we had in place would demonstrate our
16:32:19 22 commitment of trying to achieve what we were tasked to do.
23
16:32:26 24 So you didn't - you personally didn't think of getting any
16:32:30 25 legal advice?---No.
26
16:32:34 27 I wonder if that's a convenient time, Commissioner?
16:32:36 28
16:32:36 29 COMMISSIONER: Yes, certainly. We'll adjourn now until
16:32:39 30 9.30 tomorrow.
16:32:40 31
16:32:41 32 <(THE WITNESS WITHDREW)
16:32:42 33
16:33:07 34 ADJOURNED UNTIL THURSDAY 24 OCTOBER 2019
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