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1 PROCEEDINGS IN CAMERA:

2
09:38:59 3 COMMISSIONER: Yes, Mr Winneke.

4
09:39:11 5 <STUART BATESON, recalled:

6
09:39:02 7 MR WINNEKE: Thanks, Commissioner. I said that I'd
09:39:03 8 finished last time but there are just a couple of matters I
09:39:05 9 want to deal with. One of the things you gave evidence
09:39:09 10 about previously was Solicitor 2 and the fact that, as far
09:39:16 11 as you were concerned, she had refused an offer of [REDACTED]
09:39:22 12 [REDACTED] Do you recall you said that?---I understand
09:39:24 13 that, yes.

14
09:39:27 15 Can I suggest to you that the reality is in fact that
09:39:29 16 wasn't the case, she didn't refuse [REDACTED]
09:39:34 17 she'd sought [REDACTED] but it was refused on the
09:39:38 18 basis of a report which had been made or prepared by
09:39:43 19 Purana, by Mr Ryan, which in effect suggested that she
09:39:47 20 wasn't at risk such that she didn't need to go into [REDACTED]
09:39:52 21 [REDACTED] Do you accept that proposition?---No, I don't.
09:39:56 22 My memory of it was quite clear that she'd refused it
09:40:01 23 ultimately in the end.

24
09:40:02 25 All right. So you've got that clear recollection?---I do.

26
09:40:06 27 Okay. The first thing I want to - before I go there, can I
09:40:10 28 just ask you this. At about the start of the trial of
09:40:18 29 Williams for the murder of Marshall, at about that time the
09:40:22 30 trial of [REDACTED] - I don't know if you know who [REDACTED] is -
09:40:27 31 and [REDACTED] for killing [REDACTED] was about to start as
09:40:33 32 well, do you recall that?---Yes. Yes, I think I know who
09:40:36 33 [REDACTED] is.

34
09:40:37 35 You know - - - ?---His co-offender.

36
09:40:42 37 His co-offender was [REDACTED] and the allegation was that
09:40:46 38 they had killed [REDACTED]?---Yes.

39
09:40:50 40 Who was obviously the partner - well, I don't think I need
09:40:51 41 to go into great depth - or the partner of [REDACTED]
09:40:55 42 [REDACTED]--Correct.

43
09:40:56 44 She had provided information on the understanding that she
09:40:59 45 wouldn't be called as a witness, that's the basis upon
09:41:02 46 which she provided the information, that's your
09:41:04 47 understanding, isn't it?---I wasn't involved in that case,

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09:41:07 1 so I can't comment. That certainly doesn't, is not
09:41:13 2 consistent with what ultimately happened.
3
09:41:15 4 Again, we'll come to that. This is around the same time
09:41:21 5 that Gobbo is giving you information as an informer about
09:41:26 6 [REDACTED]?---Is it?
7
09:41:30 8 We're talking about the period between May through to about
09:41:36 9 November of 2005, Gobbo is contacting you, you're getting
09:41:42 10 information from her and as a consequence of that we know
09:41:47 11 that the ACC was involved in speaking to people. Do you
09:41:52 12 understand that? Because of that information. We went
09:41:57 13 through it previously?---Yeah, May 2005.
14
09:42:01 15 Yes?---But I don't think the trial started till [REDACTED],
09:42:04 16 did it?
17
09:42:06 18 Correct, that's right. But you're getting information from
09:42:09 19 Gobbo about those matters in that period of time from May
09:42:13 20 through to about October, September/October of 2005?---I'll
09:42:19 21 just see the last date.
22
09:42:26 23 All right?---I think the last date was 23 August that - oh
09:42:30 24 no, sorry, 1 September I got a call from her. And then on
09:42:37 25 14 September she said she was meeting with the MDID. I
09:42:41 26 don't recall getting any further information from then.
27
09:42:45 28 She says is it okay that she tells the SDU that she's been
09:42:51 29 speaking to you, do you recall that?---No, not the SDU.
30
09:42:54 31 I'm sorry, whoever it is that she's speaking to and you
09:42:57 32 assumed it was probably Mansell?---Steve Mansell.
33
09:42:58 34 And you had the idea that what was happening there is that
09:43:01 35 she was being taken on board as an official
09:43:04 36 informer?---Ultimately I came to know that. Exactly when
09:43:08 37 that happened I'm not sure.
38
09:43:09 39 Okay?---But yes.
40
09:43:11 41 In any event, it's, according to your notes, I think on 26
09:43:16 42 September 2005 you became aware that [REDACTED] had been
09:43:23 43 subpoenaed to give evidence in that trial, that is the
09:43:30 44 [REDACTED] trial; is that correct?---Is that in my notes,
09:43:33 45 is it?
46
09:43:37 47 It may not be. I think there's reference to it in the

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09:43:41 1 transcript of the trial concerning Marshall because
09:43:46 2 Mr Heliotis was, effectively stood to lose [REDACTED]
09:43:51 3 [REDACTED] because she was being called to give evidence
09:43:53 4 elsewhere, do you recall that?---Not clearly.
5
09:44:00 6 All right. In any event she was in fact called to give
09:44:03 7 evidence on [REDACTED] of 2005. Your diary, if you have a
09:44:13 8 look at your diary on [REDACTED] 2005, you'll see that your
09:44:17 9 trial was adjourned and you remained at the Supreme Court
09:44:22 10 re calling of [REDACTED] in the trial of
09:44:27 11 [REDACTED] Do you see that?---[REDACTED]?
12
09:44:33 13 [REDACTED] 2005?---Sorry. Yes, that's true.
14
09:44:41 15 The Commission has evidence that Ms Gobbo appeared for
09:44:45 16 [REDACTED] on [REDACTED] in the Supreme Court when she was
09:44:51 17 called to give evidence, right?---Yeah, I - - -
18
09:44:55 19 And you would have been there?---I don't have a note of it
09:44:58 20 but I was definitely there.
21
09:45:00 22 You were definitely there?---Yeah.
23
09:45:02 24 And you may not have a note of it, but if you were there it
09:45:05 25 would have been apparent to you that Ms Gobbo had turned up
09:45:08 26 and was representing [REDACTED] on the occasion that she
09:45:13 27 was called to give evidence and didn't give evidence,
09:45:17 28 refused to give evidence, and was therefore put up for
09:45:19 29 contempt of court, do you accept that proposition?---I
09:45:22 30 accept the proposition. I'm just not quite sure, reading
09:45:26 31 this note, that I was in court, but nevertheless I was at
09:45:29 32 the Supreme Court and - re calling of [REDACTED], re trial
09:45:36 33 of [REDACTED]. Sorry, I can [REDACTED], can I?
34
09:45:37 35 You can say [REDACTED], you can't say the other name. His
09:45:41 36 name is [REDACTED]---Refused to give evidence, charged with
09:45:45 37 contempt of court.
38
09:45:46 39 Represented by the very person who was providing
09:45:48 40 information to you about her. What I'm suggesting to you
09:45:52 41 is that you were aware of that, all of those factors at
09:45:56 42 that time on that day?---I could have been. I don't have a
09:46:01 43 note of it but I could have been
44
09:46:02 45 You may not have a note of it. But accepting all of those
09:46:06 46 factors it would have to be the case that you would have
09:46:09 47 been aware of it, not you could have been, you would have

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09:46:11 1 been aware of it?---I don't think we can draw that
09:46:13 2 conclusion from the note.
3
09:46:15 4 Right?---But yeah, I accept that I could have been.
5
09:46:19 6 Assuming you were there and you have a note that she's
09:46:23 7 refused to give evidence, you were there witnessing it, and
09:46:26 8 assuming the evidence is that Ms Gobbo was representing
09:46:29 9 her, you would have seen that matter, we accept that
09:46:32 10 proposition?---No, I think we can't accept all those
09:46:34 11 assumptions.
12
09:46:35 13 We can't?---What we can say is I was at the Supreme Court.
09:46:37 14 Whether I was in the court or not, I don't know.
15
09:46:40 16 All right. In any event - - - ?---But I certainly take a
09:46:45 17 note that that's what happens, that she refuses to give
09:46:48 18 evidence and is charged.
19
09:46:52 20 There's no suggestion that you were told that that
09:46:55 21 occurred. I mean if it's in your notes that you refused to
09:46:57 22 give evidence, your trial's adjourned, you would have gone
09:47:01 23 across, there's no reason why you couldn't be in court and
09:47:04 24 I suggest that's what you observed?---That could be
09:47:10 25 possible but I'm not sure that that's a certainty.
26
09:47:12 27 I understand, you're not prepared to make the concession
09:47:15 28 unless it's there in writing, that's the point, isn't
09:47:16 29 it?---Well look, you know you think it's now 14 years ago,
09:47:19 30 you're assisted by your notes more so than your memory
09:47:22 31 after that period of time.
32
09:47:26 33 I understand. Can I suggest to you, assuming that the
09:47:27 34 Commission is able to conclude that you in fact knew what
09:47:32 35 was going on and knew that Ms Gobbo was appearing, wouldn't
09:47:37 36 it have struck you as being odd that a person who is an
09:47:40 37 informer about ██████████ is in fact appearing for her?
09:47:47 38 Would that have struck you as being somewhat concerning and
09:47:51 39 unusual?---Look, I'm not sure. Look, thinking back now if
09:47:58 40 I was aware of that, and that's an if, you know, she wasn't
09:48:04 41 there representing her about money laundering, and if she
09:48:08 42 was - because that's what she was providing information
09:48:14 43 about - I perhaps would have been more concerned.
44
09:48:16 45 But nonetheless it would have been a circumstance which you
09:48:20 46 had never seen before, assuming that you were aware of
09:48:24 47 those factors, it would have been an unheard of experience

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09:48:29 1 as far as you were concerned?---What's that, which part?
2
09:48:33 3 That is a barrister appearing for someone in relation to
09:48:35 4 whom they're providing information against as an
09:48:39 5 informer?---Well I don't think I've ever had that situation
09:48:42 6 before or since.
7
09:48:43 8 Of course you haven't?---No.
9
09:48:44 10 Of course you haven't, and I doubt very much whether anyone
09:48:46 11 else has. It's an extraordinary circumstance I suggest to
09:48:50 12 you?---It didn't feel extraordinary in those times. I mean
09:48:54 13 it was such an extraordinary time I guess.
14
09:48:56 15 Yes?---That there was lots of firsts, lots of things going
09:49:01 16 on. So, you know, I don't know that when I look back at it
09:49:04 17 any of that felt extraordinary at the time.
18
09:49:07 19 Okay. When [REDACTED] was sentenced, she was sentenced by
09:49:16 20 Justice [REDACTED]. Do you understand that, that Justice
09:49:19 21 [REDACTED] dealt with her for contempt?---Yes.
22
09:49:22 23 And you were there when she was sentenced, weren't you?---I
09:49:24 24 was actually.
25
09:49:25 26 In the expectation that she might get a significant
09:49:28 27 penalty?---I don't think I had that expectation ever.
28
09:49:32 29 Were you disappointed that she didn't get a penalty?---I
09:49:35 30 was disappointed. I thought that to be found guilty and no
09:49:40 31 penalty was disappointing.
32
09:49:44 33 Yeah. His Honour in sentencing her said, "I accept that
09:49:50 34 your general refusal, although lacking objective
09:49:53 35 justification, was based on a fear of retribution. The
09:49:56 36 accused were charged with the murder of [REDACTED]. You
09:49:59 37 suspected that they were guilty. You had done your duty by
09:50:02 38 informing the police of the basis of your suspicion. As
09:50:06 39 the police acknowledge, some of the information you gave
09:50:08 40 them was given in confidence. You thought that knowledge
09:50:11 41 of this had come to the accused. You knew that each had
09:50:14 42 prior convictions for serious crimes involving violence.
09:50:16 43 You also had evidence of threats made by one of them
09:50:20 44 against you. You had received unsettling telephone calls
09:50:24 45 from [REDACTED] Prison". That's what His Honour said, right,
09:50:30 46 do you accept that?---Look, I accept you're reading from
09:50:34 47 what I assume to be the transcript.

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1
09:50:36 2 Yes, I am. Well I'm reading from the decision. "The most
09:50:41 3 troubling threat, however, was the one upon which your fear
09:50:44 4 is largely based, and didn't come directly from either
09:50:47 5 accused man". These people, [REDACTED] had beaten murder on
09:50:52 6 [REDACTED] occasions previously, hadn't he? I think he had [REDACTED]
09:50:56 7 manslaughter, didn't he, at that stage?---I can't remember
09:50:58 8 his priors but there's no doubt he was a - - -
9
09:51:01 10 A very dangerous man?---A dangerous man, no doubt, yes.
11
09:51:05 12 Not prepared to accept that he was a very dangerous
09:51:09 13 man?---Very dangerous, yes. Very dangerous.
14
09:51:12 15 And subsequently accepted that he was guilty of [REDACTED] more
09:51:15 16 murders?---Yes.
17
09:51:19 18 And his co-accused [REDACTED] also had significant priors?---I
09:51:25 19 can't remember his priors either but just the same, he was
09:51:28 20 a dangerous man.
21
09:51:30 22 And also a multiple murderer?---Yes.
23
09:51:33 24 Yes, all right. She was concerned that if she gave
09:51:39 25 evidence against these people she would be killed?---I
09:51:50 26 don't remember thinking that at the time. I remember
09:51:52 27 thinking that she was, she was playing games really.
28
09:51:58 29 He goes on, His Honour, "It seemed to you that these
09:52:02 30 threats placed you in real danger. As a result you applied
09:52:07 31 for [REDACTED] the [REDACTED] By
09:52:11 32 doing so you committed yourself not only to giving evidence
33 if the application were granted, but also to drastic
09:52:13 34 changes in the normal course of your life. These changes
09:52:16 35 would have demanded sacrifices which the vast majority of
09:52:25 36 us would be most reluctant to make. Genuine fear was, I
37 accept, the motive for you application. I also accept that
09:52:26 38 the application demonstrated willingness to give evidence
09:52:28 39 provided your safety was, as far as possible, guaranteed".
09:52:31 40 Do you accept that that's what His Honour found?---If
09:52:34 41 you're reading the transcript I have to, don't I?
42
09:52:38 43 Yes. Do you accept that that's what he found?---He must
09:52:40 44 have believed that to be true. I thought she actually, and
09:52:44 45 I have a clear memory of it now, didn't want [REDACTED] the
09:52:47 46 [REDACTED]
47

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09:52:48 1 No one would want [REDACTED] the [REDACTED]
09:52:50 2 would they, Mr Bateson?---I've had people that have been
09:52:54 3 desperate to get in, Mr Winneke.
4
09:52:56 5 "Consideration of [REDACTED] into the
09:52:58 6 [REDACTED] normally takes [REDACTED] or [REDACTED].
09:53:01 7 Your [REDACTED] was made on 6 October 2005, ten days after
09:53:05 8 you were first served with the subpoena to give evidence at
09:53:07 9 the trial and some 17 days after you first learnt that such
09:53:11 10 attendance might be required. Nevertheless, because the
09:53:14 11 date of your attendance at court had been fixed for 7
09:53:17 12 October, [REDACTED] was processed with great speed."
09:53:20 13 And she was informed when in court on 7 October that the
09:53:24 14 [REDACTED] had not been successful. Do you accept that
09:53:26 15 that what was found by the trial judge?---I do.
16
09:53:30 17 And Ms Gobbo represented her, I suggest, on that day?---I
09:53:35 18 don't have a memory of that.
19
09:53:37 20 No, all right. I take it that the [REDACTED] was [REDACTED]
09:53:41 21 because those responsible for the assessment, that is
09:53:43 22 Purana, correct?---No, it's the [REDACTED] that
09:53:46 23 does the assessments.
24
09:53:47 25 But based on a report, if we go to the other - the
09:53:50 26 transcript of the trial, the reasons for conviction, the
09:53:55 27 evidence will suggest it was Mr Ryan who prepared a report,
09:54:00 28 do you accept that or not?---Look, if you have that with
09:54:04 29 you, but I have no memory of that.
30
09:54:10 31 "I take it the [REDACTED] because those
09:54:12 32 responsible for the assessment came to the conclusion that
09:54:14 33 you were not in such danger as to warrant [REDACTED].
09:54:18 34 The speed with which the assessment was necessarily
09:54:22 35 undertaken, however, I think is a proper basis for
09:54:24 36 according its outcome less weight than it would otherwise
09:54:29 37 have". We understand from Mr Purton's diary the
09:54:32 38 [REDACTED] in ten minutes, do you accept
09:54:34 39 that?---No, I don't accept that.
40
09:54:37 41 You don't know?---Well I just know that you don't make
09:54:40 42 decisions in ten minutes. There would have been - it may
09:54:46 43 well have been in Mr Purton's diary that the final decision
09:54:50 44 was made in ten minutes, but he certainly wouldn't have
09:54:53 45 done that off the fly. It would have been based on good
09:54:58 46 information. Because as I say, I have a memory [REDACTED] not
09:55:01 47 wanting to be a part of it.

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1
09:55:03 2 Right. Well that's what you said. All right, you said in
09:55:04 3 evidence at 9660, "She was going to use it, that is the
09:55:10 4 police refusal, to give her [REDACTED] She was
09:55:15 5 going to say, 'I can't do it, I'm going to be killed', so I
09:55:18 6 think at the end from memory we offered her, 'All right, if
09:55:21 7 you want [REDACTED] you can have it', which of
09:55:23 8 course [REDACTED]. She was found guilty of contempt".
09:55:26 9 That evidence that you gave I suggest to you was quite
09:55:29 10 incorrect?--Well reading the transcript you've got there,
09:55:32 11 but as I say I've got a clear memory of her being offered
09:55:35 12 it and saying no.

13
09:55:40 14 That's not what the court found, okay. You say you've got
09:55:42 15 a clear recollection of that but you don't have a note of
09:55:44 16 it in front of you; is that right?--No, I don't.

17
09:55:47 18 You're prepared to offer your views about matters such as
09:55:51 19 that without a note and a clear recollection in the face of
09:55:54 20 the decision of the Supreme Court?--Yes, but some things
09:55:59 21 you remember, some things you don't. And I certainly have
09:56:02 22 a clear memory of that. So the only thing that I conclude
09:56:05 23 as I sit here after hearing you read that transcript, is
09:56:08 24 ultimately that offer wasn't made officially, but I have a
09:56:15 25 clear memory of it being spoken to her about it.

26
09:56:18 27 What I suggest to you, Mr Bateson, is that your evidence
09:56:20 28 about that is cavalier and given without proper
09:56:23 29 consideration?--Look, I can only work on my memory, so,
09:56:29 30 you know, it certainly wasn't cavalier. That's what I
09:56:32 31 remembered it to be. Even reading what my evidence - - -

32
09:56:39 33 I'm going to have to correct what I put to you. In fact it
09:56:42 34 was one hour and ten minutes before it was refused. I
09:56:45 35 withdraw that ten minutes and I'll add the hour to it, one
09:56:47 36 hour and ten minutes, all right. Okay, I'll leave that.
09:56:51 37 Can I just move quickly to the following year. Around 7
09:56:57 38 August 2006, we're moving towards the trial of Carl
09:57:04 39 Williams for the murder of Moran and Barbaro, he having
09:57:09 40 been convicted the previous year for the murder of
09:57:12 41 Marshall, do you accept that?--Yes.

42
09:57:17 43 You recall that there were hearings earlier on in the year
09:57:23 44 about, including what has been described as the conflict
09:57:26 45 hearing I think on 21 April, in which it was suggested by
09:57:32 46 Justice King that Ms Gobbo was not counsel, could not be
09:57:35 47 counsel in the Moran/Barbaro proceeding, do you accept

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09:57:38 1 that?---Oh yeah, in a contested trial I think is what - I
09:57:46 2 was left with that.
3
09:57:47 4 It doesn't say contested trial, but in any event you're
09:57:49 5 prepared to accept what's in the transcript I take
09:57:52 6 it?---Yes.
7
09:57:53 8 Subsequently I think Mr Faris was engaged to appear for
09:57:58 9 Mr Williams. You're aware of that?---Yes, he was there for
09:58:04 10 a short period of time, including [REDACTED].
11
09:58:10 12 On [REDACTED] there was a hearing in camera in which you and
09:58:18 13 a number of other police officers went before Justice King.
09:58:22 14 I think Mr Parsons appeared on your behalf; is that
09:58:27 15 right?---I don't have a note of that in my chronology.
16
09:58:30 17 What we might do is put up on the screen a transcript just
09:58:34 18 to refresh your recollection. You see that this is a
09:58:37 19 transcript of a hearing [REDACTED] 2006, application in
09:58:43 20 camera, and Mr Parsons appeared, and he's the only counsel
09:58:48 21 because this is an in camera proceeding where a number of
09:58:51 22 police officers say certain things to the judge, do you see
09:58:56 23 that?---Yes, I do.
24
09:58:59 25 What appears to have been the case is, if you go down to
09:59:04 26 the bottom of p.1, in fact about midway down, Her Honour
09:59:11 27 says, "Right, I've looked at some of the material. There
09:59:14 28 was an indication that the parts highlighted would be the
09:59:16 29 parts not passed over. Does that mean that you've passed
09:59:20 30 over all of the other material that's not highlighted?"
09:59:24 31 Then Mr Parsons talks about not having read anything in the
09:59:27 32 volume but she says, "Certainly there are seven" -
09:59:30 33 paragraph 43, so there's an affidavit she's looking at -
09:59:34 34 "There are seven audio recordings, some of which were made
09:59:37 35 covertly and some made overtly". Do you see that?---I'm
09:59:46 36 not sure what they're referring to.
37
09:59:47 38 What we can do, if we follow it through, if you go over the
09:59:49 39 page, firstly, Mr Coghlan steps up, do you see that on p.2?
09:59:53 40 Mr Parsons says, "And Your Honour can see that Detective
09:59:58 41 Sergeant Jim Coghlan is going to give evidence with respect
10:00:01 42 to two audio recordings", do you see that? They're talking
10:00:06 43 about two of the recordings subject to a total claim for
10:00:11 44 PII. "Let me just see, SB 9 and 10". So there are two of
10:00:13 45 them which Mr Coghlan is dealing with, do you see
10:00:16 46 that?---Yes, I do.
47

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10:00:17 1 He talks about the reasons why, albeit it doesn't seem he's
10:00:22 2 sworn in, but there seems to be a discussion about the
10:00:25 3 claim that's being made. Do you follow that?---Yes, I just
10:00:33 4 have to read a bit more of it.
5

10:00:36 6 And he talks about, if you go down to the bottom of the
10:00:38 7 page, he's talking about methodologies, et cetera, so
10:00:41 8 that's the basis for the claim, it seems, for public
10:00:44 9 interest immunity. I don't want to go into any detail
10:00:46 10 about that because it's of no real concern?---Okay.
11

10:00:54 12 If we go over to p.3, at the bottom of p.3 then Her Honour
10:00:59 13 says, having dealt with Mr Coghlan, "But there are others",
10:01:05 14 referring to conversations about [REDACTED] about Ms Gobbo,
10:01:08 15 about Mr Valos, "And you can just take out the name Jim or
10:01:12 16 whatever, I would have not much doubt who they're talking
10:01:15 17 about, what's the point of that?" Can I suggest to you,
10:01:20 18 and it will become apparent as we go on, but effectively
10:01:23 19 what she's now dealing with are the five transcripts of
10:01:26 20 conversations that you and Mr O'Brien have with [REDACTED]
10:01:31 21 that is the three in - or 22 February, then 15 and 22 or 23
10:01:38 22 March, and 16 and 22 June, would that be fair to say?---I
10:01:45 23 don't know, I'd have to read through to get that sense.
24

10:01:48 25 Let me put this to you: when she goes on and says, "I'll
10:01:54 26 give you an example, where is it, talking about getting
10:01:56 27 Michelle Kerley to talk to [REDACTED]. His [REDACTED]
10:01:58 28 Michelle Kerley. 'Right, no worries. Once I speak to [REDACTED]
10:02:00 29 I can talk to her Saturday, and Jim, Jim, I'll get him out
10:02:04 30 here before the weekend'". That's a reference to what's in
10:02:09 31 the 15 March 2006 transcript, do you follow that? I'm
10:02:14 32 putting that to you and if I'm wrong about that, and I
10:02:17 33 suggest I'm not, there'll be an objection. What I'm
10:02:20 34 suggesting to you is that Her Honour on [REDACTED] 2006 has
10:02:27 35 in front of her those five transcripts of your discussions,
10:02:33 36 right, do you accept that?---I really don't know. This is
10:02:41 37 the first time I've seen that.
38

10:02:43 39 All right. I don't think you'll be too upset about what
10:02:46 40 I'm putting to you, Mr Bateson. Effectively what I'm
10:02:49 41 suggesting to you is that those transcripts were in front
10:02:52 42 of Justice King?---They could have been. I know that does
10:02:59 43 appear like an extract
44

10:03:04 45 Yes, yes?---But having not read through this transcript
10:03:08 46 before I'm not sure I can accept that all five were there.
10:03:11 47 They may have been. I just haven't had a chance to read

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10:03:15 1 this at all.
2
10:03:15 3 I understand that. If you go down the page, effectively
10:03:18 4 she's saying, "Well look, what's the reason for all of
10:03:20 5 this?" You say - again, I'm not too sure the way in which
10:03:26 6 it occurred, but it seems to be that there are a number of
10:03:29 7 police officers there, including you and Mr Coghlan and I
10:03:33 8 think Mr Buick comes in and says something, and then
10:03:36 9 there's Mr Clanchy, so various police officers in effect
10:03:40 10 step up to the Bar table and explain why the aspects of the
10:03:44 11 material over which they're making a claim ought be the
10:03:47 12 subject of PII. Is that your recollection about how it
10:03:50 13 went?--I doubt very much we stepped up to the Bar table.
10:03:55 14 I haven't - I think I'd remember that.
15
10:03:58 16 You were in the body of the court anyway?---I feel like I'd
10:04:05 17 be in the witness stand.
18
10:04:06 19 It doesn't seem to be the case. In any event, one assumes,
10:04:10 20 whether or not you're in the witness box, you'd be telling
10:04:13 21 the court the truth, you'd hope?---Yes.
22
10:04:16 23 What you say is, "The reason why that was excluded is
10:04:20 24 twofold. One being that we don't want them to know the
10:04:24 25 depth of his concern for ██████████ and ██████████. And
10:04:27 26 secondly, in relation to his barristers and solicitors,
10:04:29 27 there has been or we have become aware that there has been
10:04:35 28 some threats made towards a barrister in this case", do you
10:04:37 29 see that?---Yes.
30
10:04:38 31 Was that a reference to Ms Gobbo?---I would assume so but I
10:04:42 32 don't know. As I said, I haven't had the benefit of
10:04:45 33 reading this transcript in whole, but it seems that that's
10:04:49 34 probably - I'm just trying to read ahead to see whether
10:04:52 35 that gives some clarity.
36
10:04:55 37 Effectively, if you go on, "Well some of it, when he goes
10:04:58 38 into it he goes into particular advice that he's been given
10:05:01 39 by each of those legal counsel and some of which is the
10:05:03 40 source of the threats. The threats are that Mr Williams
10:05:08 41 believes that Ms Gobbo has influenced ██████████ to make
10:05:11 42 these statements and we are worried about what advice has
10:05:14 43 been given to him by various solicitors may cause those
10:05:17 44 solicitors and barristers some concern". And over the
10:05:24 45 page, "There was some, I'm just finding the particular
10:05:26 46 ones, where there was just the name Jim highlighted and it
10:05:30 47 couldn't have been anyone else because the conversation

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10:05:34 1 around it made it quite clear it was referring to Valos".
10:05:39 2 You say, "I hear what Your Honour says and I'm happy, it's
10:05:41 3 only an objection we make on their behalf and if you would
10:05:44 4 like that to be altered we're certainly willing to do
10:05:49 5 that". What are you suggesting there, that "We're making
10:05:53 6 this objection on their behalf because they had asked us to
10:06:01 7 cross out their names or redact their names"; is that
10:06:06 8 right?---I guess that could be one reading of it. I mean
10:06:08 9 the other part is that, and we're concerned about their
10:06:14 10 safety, so we're making it on behalf of them because of the
10:06:19 11 threat to their safety.
12
10:06:21 13 Did you have instructions from Mr Valos to make this
10:06:24 14 application?---I don't recall as I sit here now. I assume
10:06:28 15 so.
16
10:06:28 17 Insofar as Ms Gobbo is concerned, we have, I suppose, the
10:06:34 18 indication that you got from her on about 18 November the
10:06:37 19 previous year that she had concerns about her safety. Do
10:06:41 20 you recall that, out at the ██████████ County Court. June. I
10:06:45 21 said May, in June. Do you recall the day that ██████████
10:06:49 22 pleaded before Judge ██████████?---Yes, I do.
23
10:06:53 24 And she expressed concern at that stage about her
10:06:56 25 safety?---Yes.
26
10:06:58 27 Would you say that that was in effect the application that
10:07:01 28 was made by, or the instructions you got from Ms Gobbo to
10:07:07 29 in effect protect her?---Oh, I'm not sure that I'm willing
10:07:12 30 to accept that's the only reason why I made that claim of
10:07:17 31 PII.
32
10:07:18 33 Yes?---Certainly, you know, we spoke about her concerns,
10:07:23 34 but I shared those concerns.
35
10:07:25 36 Yes?---And I think I've detailed this before, I believe
10:07:30 37 that if her involvement became known Williams and Mokbel et
10:07:39 38 al. would be upset because they considered her to be part
10:07:42 39 of their team, for want of a better word.
40
10:07:45 41 I follow, I understand that. If we go down the page Her
10:07:51 42 Honour makes the point that she hasn't read it all and
10:07:57 43 there's reference to the Radev investigation and concerns
10:08:02 44 about threats and you say, "More specifically what advice
10:08:04 45 he's received from what legal counsel", so that's an issue
10:08:09 46 that you asked the judge to redact?---Hang on, I can't see
10:08:17 47 it here.

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1
10:08:18 2 About three quarters of the way down?---I'd have to look
10:08:40 3 and marry that up. I can't really interpret that.
4
10:08:43 5 All right. At the bottom of the page you say, "Well" - Her
10:08:48 6 Honour says, "What are the threats that are currently going
10:08:51 7 on or the allegations?" You say, "Well, it is only
10:08:55 8 something that we have received thirddhand but it is that
10:08:58 9 Mr Williams is extremely upset that Ms Gobbo has been
10:09:02 10 involved in the process of ██████████ making these
10:09:04 11 statements and that he plans to seek revenge for her doing
10:09:07 12 so", do you see that?---Yes, I do.
13
10:09:09 14 Did you have evidence, was there material available to you
10:09:13 15 that Williams, one, knew about Ms Gobbo's involvement in
10:09:17 16 the process of ██████████ making the statements, and two,
10:09:20 17 that he planned to seek revenge for her doing so? Did you
10:09:24 18 have any evidence of that sort?---I believe we did. I'd
10:09:26 19 have to go through my notes to dig it out.
20
10:09:29 21 We'd find it in your notes in any event, would we?---Notes
10:09:34 22 or it may have been in IRs that we knew, conversations I'd
10:09:38 23 had with my colleagues, I'm not sure.
24
10:09:40 25 How do you understand that Mr Williams had found out that
10:09:43 26 Ms Gobbo had been involved in the process of making
10:09:45 27 statements?---I don't know. I mean it's 14 years later. I
10:09:53 28 believe, thinking back now, that he started to really speak
10:10:01 29 about this when ██████████ was ██████████ from his, ██████████
10:10:09 30 ██████████ to make the statements and I think that's when those
10:10:12 31 concerns started to be aired.
32
10:10:14 33 Yeah, all right. This, I suggest to you, was an
10:10:23 34 opportunity for you to lay your cards out with the trial
10:10:26 35 judge and tell her what information you had, to give her a
10:10:30 36 complete appraisal of the matters that concerned you and
10:10:36 37 that were relevant to her decision as to whether or not to
10:10:39 38 redact this material out, would that be fair to say?---I
10:10:49 39 think that's what I'm doing, isn't it?
40
10:10:52 41 You could have, could you not, have said, "Look, you know
10:10:55 42 the notes that you've given you, we also gave those notes
10:10:58 43 to Ms Gobbo via her handlers, not to keep, but to read
10:11:07 44 them, to then go and speak to ██████████ to in effect
10:11:11 45 convince him that it would be in his interests to plead
10:11:17 46 guilty and assist", that could have been mentioned to the
10:11:20 47 judge, couldn't it?---Well I don't think I ever considered

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10:11:23 1 that to be significant. I was just providing what he'd
10:11:26 2 said to his legal representatives. So I'm not sure that
10:11:30 3 would have even occurred to me.
4
10:11:32 5 But it could also have been said, I suggest, that it was
10:11:35 6 done without the knowledge of her instructing solicitor
10:11:37 7 Mr Valos, correct, that could have been said, because that
10:11:41 8 was true, I suggest to you?---Oh well, we gave it to her.
10:11:46 9 Whether he knew or not I don't know.
10
10:11:48 11 You didn't give it to her, you gave it to the handlers so
10:11:51 12 it could be shown to her?---No, I gave - - -
13
10:11:54 14 That's what occurred?---I gave it to Jim O'Brien and I
10:11:56 15 think Jim O'Brien provided it to the people that would be
10:12:01 16 seeing her.
17
10:12:02 18 You knew what was going on because you were there present
10:12:05 19 with Mr O'Brien and Mr Ryan when it was discussed on 19
10:12:09 20 April of that year that you would no longer approach him
10:12:13 21 but 3838 would do it. That's what occurred, isn't
10:12:18 22 it?---Yeah, there was a decision made to provide those
10:12:21 23 transcripts to his legal rep..
24
10:12:24 25 They were made to provide - look, you knew who the
10:12:27 26 solicitor on the record was. On [REDACTED] Mr Valos had
10:12:31 27 turned up at court to represent [REDACTED]?---Yeah, but
10:12:35 28 I - - -
29
10:12:36 30 He stood there in court and represented him. You gave
10:12:39 31 evidence on that day. You knew who his legal
10:12:42 32 representative was, his solicitor on the record was, I
10:12:45 33 suggest to you, Mr Bateson?---I also knew Ms Gobbo was his
10:12:48 34 legal representative as well.
35
10:12:50 36 You also knew Ms Gobbo was wrapped around your little
10:12:53 37 finger, I suggest to you?---Not mine.
38
10:12:58 39 Yeah?---Not mine.
40
10:12:59 41 You thought it would be a good opportunity for Ms Gobbo,
10:13:02 42 who you knew would be on your side, to convince him to
10:13:07 43 roll, that's what I'm suggesting to you?---I think I've
10:13:09 44 given evidence about this previously. I believed that she
10:13:12 45 would provide him with advice that was in his best
10:13:15 46 interests. It was clear to me that he had little choice,
10:13:22 47 either he cooperate and make statements and receive a

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10:13:26 1 discount or he would get a lengthy gaol sentence.
2
10:13:30 3 Look, if this was aboveboard can I suggest to you that you
10:13:33 4 would have contacted Mr Valos and said, "Look, we've spoken
10:13:37 5 to [REDACTED]. We know what he can say, we've got
10:13:41 6 transcripts of conversations. Here you are, have a look at
10:13:44 7 them. You can't keep them. You're the solicitor, you go
10:13:47 8 and have a chat to him". Instead what you do is you
10:13:51 9 provide these transcripts to the handlers, who then in turn
10:13:54 10 provide them to Ms Gobbo so it does not come out, I suggest
10:13:58 11 to you?---I believe we did exactly what you suggested
10:14:02 12 except we gave those to his barrister or his other legal
10:14:07 13 representative.
14
10:14:08 15 Why not give it to Mr Valos?---Because at that point
10:14:14 16 Ms Gobbo was a legal representative, she was the one who
10:14:17 17 was doing most of the communication. She was the obvious
10:14:21 18 one that, as I understand it, was a decent legal
10:14:26 19 representative to him.
20
10:14:27 21 When you were in front of Justice King on [REDACTED] did you
10:14:35 22 also provide her with your notes of the meeting that you
10:14:41 23 have where you're talking about her as 3838 where you're
10:14:45 24 talking about supplying her with edited copies of the very
10:14:49 25 notes that had been provided to the judge? Did you provide
10:14:54 26 her with those notes?---I don't know, there was lots of
10:14:57 27 subpoenas and different things provided.
28
10:14:57 29 Mr Bateson, you know very well you never provided those
10:15:00 30 notes to Justice King?---I don't know that at all.
31
10:15:03 32 Do you say that you provided those notes to Justice
10:15:05 33 King?---No, I say I don't know.
34
10:15:07 35 You never told her, for example, that she was an
10:15:09 36 informer?---I definitely didn't tell her she was an
10:15:12 37 informer.
38
10:15:13 39 Did you ever tell Mr Parsons that she was an informer?---I
10:15:17 40 don't even actually remember Mr Parsons.
41
10:15:19 42 Did you tell any barrister who represented you on occasions
10:15:21 43 when you argued public interest immunity that Ms Gobbo was
10:15:25 44 an informer?---I would doubt I would say that.
45
10:15:28 46 You wouldn't have, would you have?---No, I doubt it very
10:15:32 47 much.

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1
10:15:37 2 Then if we go to the transcript of the following day, ■
10:15:42 3 ■ I'll tender that transcript of ■
10:15:48 4 Commissioner
10:15:49 5
10:15:50 6 #EXHIBIT RC812A - (Confidential) In camera transcript
10:15:55 7 before Justice King on ■.
10:16:06 8
10:16:06 9 #EXHIBIT RC812B - (Redacted version.)
10:16:08 10
10:16:09 11 So it's an in camera hearing, Commissioner, so obviously it
10:16:12 12 can't go into the public domain. And it's provided to the
10:16:15 13 Commission on the basis that it can't be published.
14
10:16:17 15 COMMISSIONER: All right then.
16
10:16:19 17 MR WINNEKE: Then what occurs the following day, on ■
10:16:21 18 ■ 2006, is there's a further mention and this is an
10:16:26 19 open court hearing. If we can have a look at this
10:16:29 20 transcript.
21
10:16:29 22 COMMISSIONER: The date of that transcript is ■.
23
24 MR WINNEKE: ■.
25
10:16:32 26 COMMISSIONER: I said the wrong date.
27
10:16:34 28 MR WINNEKE: ■ The following day after her Her
10:16:37 29 Honour has had the opportunity to read all the material, if
10:16:40 30 we go to this transcript, we go over the page. We see that
10:16:44 31 Mr Horgan and Mr Tinney are appearing on this occasion.
10:16:48 32 Mr Faris is for Mr Williams and Mr Parsons is again there
10:16:51 33 on this occasion with Mr Dennis, do you see that?---Yes, I
10:16:55 34 do.
35
10:16:57 36 Then Her Honour says, "Now I went through all of these last
10:17:03 37 night and I have marked some passages where I disagree with
10:17:07 38 material not being handed over. They're small in number.
10:17:10 39 They're particular parts. And there are others where I
10:17:12 40 believe on the basis of the argument that's being put",
10:17:15 41 which has obviously been set out on the previous day,
10:17:18 42 "other material should in fact come out. They're all
10:17:22 43 marked and I will hand them down to you". In effect the
10:17:25 44 documents were then handed back it seems to the police, is
10:17:33 45 that right? Is that your recollection or not?---I doubt
10:17:39 46 very much that anything was handed back to us.
47

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10:17:42 1 I think it says, if you have a look at your diary entry for
10:17:47 2 [REDACTED] - your day book rather, [REDACTED]. It's in your
10:17:52 3 chronology, Mr Bateson, the material is handed back. I
10:17:55 4 don't think we need to spend any time on it?---I have
10:17:59 5 marked where Justice King returned them to us, yes. Sorry,
10:18:03 6 I accept that.
7

10:18:06 8 She says, "The overall principle though" - about halfway
10:18:07 9 down is, "In relation to the PII claim of ongoing
10:18:11 10 investigations I certainly do uphold it. They are serious
10:18:14 11 enough to warrant the matters being investigated. Now
10:18:17 12 that's the consequence that flow from that. I must say I
10:18:18 13 didn't see anything about informers that concerned me in
10:18:21 14 relation to it. That probably deals with your issues,
10:18:24 15 Mr Parsons". That's really the extent of it in relation to
10:18:31 16 the materials that included those transcripts which I
10:18:36 17 suggest had been provided to Her Honour, do you accept
10:18:40 18 that?---Yes, I think most of the argument was around the
10:18:42 19 statements and just, you know, ongoing investigations, so
10:18:48 20 it was the statements made by [REDACTED] and [REDACTED] that
10:18:54 21 was the focus.
22

10:18:55 23 I follow that. Ultimately, as I think you've conceded
10:19:01 24 previously, Mr Williams did get those transcripts, he got
10:19:04 25 them redacted so there wasn't any reference to Ms Gobbo, so
10:19:09 26 ultimately that's what Her Honour did, she did redact the
10:19:12 27 transcripts out, and there was, I think you've said
10:19:14 28 previously, there was some criticism of the redacting
10:19:17 29 because there was a gender word there which made it clear
30 there was a female lawyer and Ms Gobbo was concerned about
10:19:29 31 that?---I think that comes through later conversations she
10:19:31 32 had with the handlers.
33

10:19:33 34 What I'm suggesting to you is that if you had been
10:19:35 35 completely open with Her Honour, told her all the
10:19:38 36 information that you had, then it may well be that if
10:19:41 37 Justice King knew that Ms Gobbo at that stage was a police
10:19:45 38 informer, that she had been providing information to you,
10:19:52 39 and that she had been provided with the very same
10:19:57 40 transcripts through her handlers, Justice King would have
10:20:01 41 been of a very different mind-set I suggest to you?---I
10:20:08 42 don't know if I can agree with that but what I do know is
10:20:12 43 that it certainly wasn't my decision to make that I told
10:20:19 44 the judge of her status as a registered informer.
45

10:20:21 46 Did you have a discussion with any people, any senior
10:20:25 47 officers about what could or should be said about Ms Gobbo

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10:20:30 1 as a registered informer?---I don't recall any but I
10:20:36 2 certainly know that the protection of informers was not
10:20:41 3 something that we would volunteer their identity.
4
10:20:45 5 Yeah, all right. Just excuse me. Can I just ask you about
10:20:52 6 one final matter. If we have a look at VPL.6031.0004.1843.
10:21:13 7 If we go back to the start of this email chain you see that
10:21:17 8 Mr Hupfeld Has sent a note to Boris Buick, "Boris, attached
10:21:27 9 are Gobbo's specific requests in the Orman subpoena. Can
10:21:31 10 you confirm for me that VicPol does not possess this
10:21:34 11 material. 1(f) IRs/intel products relating to meetings
10:21:39 12 and/or discussions between Nicola Gobbo and [REDACTED]
10:21:43 13 between 1 April 2002 and 31 March 2009. IRs/intel products
10:21:51 14 relating to disclosure by Gobbo to [REDACTED] between 1 May
10:21:57 15 2002 and 2 May 2008 of information concerning the murders
10:22:01 16 of Dibra, Kallipolitis and Peirce, and [REDACTED]
10:22:06 17 [REDACTED]", et cetera, do you see
10:22:09 18 that?---Yes.
19
10:22:10 20 Can I suggest to you that there was material of that sort
10:22:13 21 which could well have responded to that subpoena, do you
10:22:16 22 accept that?---Are we talking about the IRs and intel
10:22:18 23 products?
24
10:22:22 25 Yeah, we're talking about IRs, intel products of meetings
10:22:26 26 and/or discussions and the note is, "Boris, can you confirm
10:22:31 27 for me that VicPol does not possess this material". Do you
10:22:35 28 see that?---Yes, I don't believe there's any, and I
10:22:37 29 answered his email with my belief that there's no IRs or
10:22:41 30 intel products meeting that description.
31
10:22:45 32 What about ICRs?---I don't know anything about ICRs.
33
10:22:51 34 You knew that there would be material in the nature of ICRs
10:22:54 35 because you knew Gobbo was an informer and that she had had
10:22:58 36 numerous communications with her handlers?---Well I don't
10:23:02 37 know that. I have no idea what she's doing with her
10:23:05 38 handlers and quite frankly - - -
39
10:23:08 40 But you do know that she's dealing with police on a regular
10:23:10 41 basis, don't you, as an informer?---I don't actually.
42
10:23:15 43 You don't know that?---I don't. All I know is she's
10:23:25 44 registered. I don't know what she's doing and what
10:23:25 45 information she's giving. I assume that it's in relation
10:23:27 46 to Operation Posse but only because I know of Jim O'Brien's
10:23:32 47 involvement.

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1
10:23:32 2 It turns out that there is a wealth of material held by
10:23:35 3 Victoria Police concerning these sorts of matters,
10:23:38 4 discussions between Gobbo and [REDACTED] between those
10:23:43 5 times, you know that, don't you?---They're asking for
10:23:45 6 something quite direct here.
7
10:23:48 8 Intel products?---IRs or intel products and I don't believe
10:23:51 9 there's any such thing.
10
10:23:52 11 How would you describe intel product?---An intel product is
10:23:56 12 an intelligence assessment, sometimes it's an intelligence
10:23:59 13 brief. They're an information report. They're
10:24:05 14 intelligence products. So an intelligence product for me
10:24:11 15 would mean not just reporting, but there's some value add
10:24:14 16 in terms of an analysis of what's contained.
17
10:24:17 18 Righto. Then Mr Buick sends a note to you, "Tony Hupfeld's
10:24:27 19 been issued with a fishing expedition subpoena re his
10:24:32 20 upcoming Orman murder trial for Kallipolitis. Tony has
21 replicated below the sections relevant to my request to
22 you. At first glance I would guess that VicPol possesses
10:24:39 23 no material relating to discussions between Gobbo and [REDACTED]
10:24:39 24 because they would be privileged, and certainly none
10:24:42 25 relating to disclosures by Gobbo to [REDACTED]", do you see
10:24:46 26 that?---Yes.
27
10:24:47 28 You were quite happy, I suggest, to confirm that, weren't
10:24:50 29 you?---No - - -
10:24:52 30
10:24:53 31 Without any real thought or any proper consideration as to
10:24:56 32 what material there would be available in Victoria Police
10:25:00 33 resources and holdings?---What I looked at, and you'll see
10:25:05 34 in my reply above, is that there was no such intel, IRs or
10:25:09 35 intel reports created by my crew I think.
36
10:25:13 37 His question was, "VicPol possesses no material", so that's
10:25:19 38 broader than that?---What I answer, and you'll see in my
10:25:25 39 answer above, is not to Boris directly, but what's in the
10:25:28 40 subpoena because I confirm that I, nor any of my team,
10:25:33 41 generated an IR or intel product as described. I found at
10:25:39 42 those times it was very important to be specific and answer
10:25:42 43 the request of the subpoena and I thought I was doing that
10:25:45 44 quite clearly.
45
10:25:47 46 Yes?---Rather than engaging in conversation with Boris
10:25:51 47 directly.

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1
10:25:53 2 What about if there was material which you knew or
10:25:56 3 considered that VicPol would probably hold which may well
10:25:59 4 answer the definition of being material that should be
10:26:03 5 handed over to the defence because it may be relevant to a
10:26:06 6 defence, was your view at the time that that material
10:26:09 7 should be handed over?---I don't know what my view at the
10:26:14 8 time is. All I can say from that email is that I asked, I
10:26:18 9 answered the question that was asked in the subpoena.
10
10:26:21 11 No, no, perhaps I should make it clear. Putting aside
10:26:25 12 subpoenas, et cetera?---Oh.
13
10:26:26 14 If you take the view at that time that VicPol holds
10:26:30 15 material which may well give an accused person the
10:26:38 16 opportunity to pursue a defence that they don't know about,
10:26:40 17 but you knew that VicPol has it, do you or did you regard
10:26:44 18 that as being material that should be handed over?---Yes.
19
10:26:49 20 You did?---I think - I mean I don't remember thinking about
10:26:53 21 that at the time but it's clear to me that that's proper.
22
10:26:57 23 Did you ever say to anyone, "Look, I'm not too sure what
10:27:01 24 material is held that specifically answers that subpoena
10:27:07 25 but I'm concerned that there might be material along those
10:27:10 26 lines that VicPol might need to hand over because I know
10:27:14 27 Gobbo's an informer and I know she's got a relationship
10:27:17 28 with [REDACTED] I think we should have a bit of a look at
10:27:22 29 the holdings that we've got to see whether we do have
10:27:26 30 something to hand over"?---By 2012 I was no longer involved
10:27:29 31 in any of this and certainly Boris knew, as I did, what's
10:27:33 32 involved. So I don't need to be telling him those things.
33
10:27:37 34 Yes?---But certainly by 2012 I was well gone from these.
10:27:42 35 I'm not quite sure what was produced or to whom and when.
36
10:27:48 37 Thanks very much Mr Bateson.
38
10:27:50 39 COMMISSIONER: I think the idea then is we'll have
10:27:52 40 cross-examination and re-examination on the evidence so far
10:27:55 41 before we go into a short closed hearing, is that the
10:28:00 42 position?
43
10:28:01 44 MR WINNEKE: That's correct, Commissioner.
45
10:28:02 46 COMMISSIONER: All right then. Yes Mr Nathwani.
10:28:04 47

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1 <CROSS-EXAMINED BY MR NATHWANI:
2

10:28:07 3 Mr Bateson, can we start with the following. You were
10:28:10 4 asked I think last week by Mr Winneke as to whether or not
10:28:14 5 Ms Gobbo was involved in getting [REDACTED] across the line or did
10:28:18 6 she give him a push to assist and I just want to go through
10:28:21 7 the material available, because you answered it in parts at
10:28:23 8 times. But as a headline your position is no, that's not
10:28:27 9 right?---My belief is she provided him with - I mean I
10:28:32 10 don't know what she said to him, let's be clear on that,
10:28:35 11 but I believe she provided him with decent advice and that
10:28:38 12 was there was an overwhelming case and "if you're looking
10:28:42 13 for a reduced sentence then you need to cooperate".
14

10:28:46 15 Let's go through the headline points. On arrest [REDACTED]
10:28:51 16 [REDACTED] table?---Yes.
17

10:28:53 18 Then we have chronologically and as quickly as possible,
10:28:57 19 then there's the 464B where there are admissions
10:29:01 20 made?---Yes.
21

10:29:03 22 That tape is served on him?---Yes.
23

10:29:05 24 Thereafter there's also a recording [REDACTED]
10:29:08 25 [REDACTED] I think the 464B where he also makes
10:29:12 26 certain admissions?---Yes.
27

10:29:14 28 We see in your supplementary statement, I'm not going to
10:29:17 29 take you to it, paragraph 4, whilst he's in custody he
10:29:21 30 rings Purana saying, "I want to not just plead guilty but I
10:29:28 31 want to assist"?---Yes.
32

10:29:29 33 If we could have up, please, ICR 336. You wouldn't have
10:29:35 34 seen these I don't think. These are the court book entries
10:29:38 35 for Ms Gobbo when she attends on relevant people. Could we
10:29:41 36 go to p.3. We see at the top 10 November 2003, [REDACTED].
10:29:48 37 You see the fourth one down, he says, certainly the
10:29:56 38 notebook reads, "Will wear it for [REDACTED] if he walks", and then
10:30:01 39 "query whether Carl Williams is okay with it or not?" You
10:30:04 40 see that?---I see it, yes.
41

10:30:06 42 Then go through the sequence. Then if we go to p.5. This
10:30:08 43 is a longer conference, [REDACTED] 2003. At the bottom we
10:30:18 44 get a set out of what's happened. In fact we see at the
10:30:22 45 top after the 464B Homicide turned up. It says "backed",
10:30:28 46 but that should be Pat we assume, I think from Purana. So
10:30:31 47 he's saying there, second bullet point, "Offered me a deal

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10:30:32 1 to give up others", do you see that?---Yes.
2
10:30:35 3 And that wouldn't surprise you to see that one of your
10:30:39 4 colleagues was also discussing with [REDACTED] providing
10:30:43 5 assistance?---That's correct.
6
10:30:45 7 I just want to go to the last two bullet points. It
10:30:50 8 appears to be advice from Ms Gobbo which says, "Becoming a
10:30:55 9 Crown witness involves admitting the offence". Then
10:30:58 10 there's an offer of another solicitor or barrister to
10:31:01 11 negotiate "because we act for [REDACTED] bit worried about
10:31:05 12 things", it says, "wouldn't give evidence against him". So
10:31:09 13 obviously a discussion in relation to conflict and we'll
10:31:11 14 come back to that later?---Yes.
15
10:31:13 16 When we then go through to - if we can now go to the next
10:31:22 17 page, I think if we go through you'll see further contact
10:31:26 18 where [REDACTED] is reporting, you see there, appears to
10:31:33 19 have a conversation or sees Ms Gobbo. Mr Swindells, a
10:31:36 20 colleague of yours, do you see that?---Yes, I do.
21
10:31:38 22 [REDACTED] seems to be reporting what I would say is pressure or
10:31:41 23 persuasion by the police on [REDACTED] to in fact get on
10:31:46 24 board?---Yes.
25
10:31:47 26 If we go through I think there's more when it comes to your
10:31:50 27 involvement. We see there, you see he makes a phone call
10:31:58 28 on [REDACTED] 04 we know, [REDACTED] When we cross-reference
10:32:02 29 it, there's no need to, you've spoken to him. He seems to
10:32:07 30 be reporting on the left-hand side that police have seen
10:32:09 31 him again and wants full disclosure. Gobbo rings you. You
10:32:13 32 were telling her quite clearly, "Need details otherwise
10:32:17 33 you're not prepared to have him on board as a witness".
10:32:20 34 Needs to become a valuable witness. Spoke to bosses who
10:32:23 35 spoke to Coghlan, Queen's Counsel, and Coghlan obviously at
10:32:27 36 the time was the Director of Public
10:32:29 37 Prosecutions?---Correct.
38
10:32:29 39 And just pausing there because it's something I want to
10:32:33 40 come on to with the next topic. Because of the nature of
10:32:35 41 what was happening at the time the prosecutions of Williams
10:32:37 42 and all others involved, involved the Director being
10:32:41 43 involved as well as Geoff Horgan, senior counsel for the
10:32:49 44 Crown?---Yes.
45
10:32:49 46 Looking at there, what you're saying to Ms Gobbo is you've
10:32:53 47 spoken to the bosses, as you have. Reverse caution, so you

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10:32:56 1 were discussing having in effect a can-say statement, in
10:33:00 2 other words he spills the beans on everything and it won't
10:33:02 3 be used against him?---Yes.
4
10:33:03 5 And you say, "I want full disclosure re the murders of
10:33:07 6 Marshall and Jason Moran"?---Correct.
7
10:33:09 8 Then you were at the bottom saying the new solicitor
10:33:18 9 instructed [REDACTED] from [REDACTED], you're
10:33:20 10 saying, "Don't mess me around" in effect and "meet me at
10:33:20 11 the office 3 o'clock", yes?---Sorry, the last bit - - -
12
10:33:26 13 [REDACTED] we know is a solicitor who - he appears - [REDACTED]
10:33:29 14 changes solicitors, we can see through the notes, after
10:33:32 15 Gobbo says, "We act for [REDACTED]", it appears there's a change of
10:33:38 16 solicitor and [REDACTED] comes on board.
17
10:33:41 18 MS O'GORMAN: Sorry, Commissioner, can I request this be
10:33:42 19 put up on this back screen?
20
10:33:46 21 COMMISSIONER: Is there any difficulty with that? We're in
10:33:49 22 closed hearing, it should be all right, shouldn't it?
23
10:33:54 24 MR NATHWANI: It's been redacted actually as well. If we
10:33:57 25 can just follow the process through then and go to your day
10:34:01 26 book on [REDACTED] 2004, which I believe is - the actual page
10:34:12 27 I think is 0058.0002.0208. It's [REDACTED] There's a
10:34:38 28 hearing, as we can see, at the Magistrates' Court where you
10:34:41 29 speak to Ms Gobbo, barrister for [REDACTED] and what she says,
10:34:45 30 we'll just go through the detail of this, is that
10:34:47 31 discussion of a can-say statement?---Yes.
32
10:34:54 33 So that something firm can be put to the OPP?---Correct.
34
10:34:58 35 And Ms Gobbo responds she would put this to [REDACTED] and advise
10:35:02 36 you of the response and appeared to agree this was the
10:35:05 37 appropriate response. If we keep going through, look to
10:35:09 38 the [REDACTED] a few pages. You see there at 11.35 you go to
10:35:21 39 visit [REDACTED]?---Yes.
40
10:35:23 41 Then there appears to be an hour and a half. If we then go
10:35:33 42 please to the [REDACTED] 10 am meeting, OPP with Geoff Horgan,
10:35:42 43 who was obviously prosecuting all these matters, Vaile
10:35:46 44 Anscombe who was the solicitor with conduct at that stage
10:35:51 45 at the OPP?---Yes.
46
10:35:54 47 Boris Buick, Gavan Ryan and obviously Mr Allen. Discussed

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10:36:02 1 lines of inquiry, okay. Then if we go down to 137 you
10:36:05 2 leave a message for Ms Anscombe?---Yes.
3
10:36:07 4 Then at 2.30, "Spoke to same. Advised re update of [REDACTED]".
10:36:16 5 You're then given the green light by the lawyer for the
10:36:19 6 OPP?---Yes.
7
10:36:20 8 Who was at the meeting earlier in the morning, for update.
10:36:23 9 "As I discussed, the can-say statement with her on Monday",
10:36:28 10 so effectively you're given the green light to go back to
10:36:30 11 Gobbo and say, "Right, can we begin do the can-say
10:36:35 12 statement process", do a reverse caution process as you put
10:36:39 13 it?---Yes.
14
10:36:40 15 It appears on the face of it that was what was
10:36:42 16 discussed?---Yes.
17
10:36:43 18 At the meeting that morning?---Yes.
19
10:36:44 20 So to be clear, because it's the next topic, [REDACTED] was making
10:36:49 21 moves of his own nature to assist?---Yes, he was.
22
10:36:53 23 The police were putting some pressure or setting out
10:36:56 24 exactly the evidence against him and his options?---Yes.
25
10:37:00 26 And Ms Gobbo no doubt was involved to a degree but the
10:37:04 27 suggestion she pushed him over the line, having looked at
10:37:07 28 all that, you stand by what you've said?---I think the only
10:37:09 29 part that's missing from that is that we had the murder
10:37:13 30 [REDACTED].
31
10:37:15 32 Sorry, I forgot that?---We found the gun in [REDACTED]. We,
10:37:19 33 you know, got the clothes from the house. There was
10:37:22 34 overwhelming evidence against [REDACTED] and for me that was
10:37:28 35 the overwhelming driver of him coming on board as a
10:37:34 36 witness. The case against him was undeniable.
37
10:37:41 38 Let's just - then there was some to-ing and fro-ing. I'm
10:37:45 39 not going to take you through all the entries. We've seen
10:37:48 40 your diary there. He signs a document and then gets upset
10:37:49 41 about signing it, a memorandum of understanding. I won't
10:37:53 42 take you to that. Does that jog a memory?---There was some
10:37:57 43 toing and froing around that MOU, as I understand it.
44
10:38:05 45 Then if we go to an entry in this day book, I don't have
10:38:06 46 the page number I'm afraid, but if we go to 22 November
10:38:07 47 2004. It's quite a way down this document. In fact I

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1 don't need to take you to documents, I can, I'm sure there
2 won't be much contest for whoever wants to challenge it, on
10:39:24 3 22 November 2004 your daybook indicates you receive a phone
4 call from [REDACTED] and [REDACTED] in effect says - I'm
10:39:24 5 going to read it out. This is at 2.10 on 22 November. You
10:39:24 6 say this, "Notified by Senior Detective Hatt. [REDACTED] has spoken
10:39:24 7 to [REDACTED]. That [REDACTED] states [REDACTED] is willing to see us
10:39:24 8 but only in the presence of [REDACTED]"?---Correct

10:39:27 9
10:39:27 10 Which is [REDACTED]?---Yes.

10:39:29 11
10:39:29 12 And then the next day, taking up that offer, you go to see
10:39:38 13 [REDACTED] with Mr [REDACTED]?---Yes, I do.

10:39:41 14
10:39:41 15 And it's at that time in effect, he signs up in effect, as
10:39:48 16 he stops prevaricating and saying actually, "I'll sign the
10:39:54 17 statements and the like"?---Yes.

10:39:55 18
10:39:56 19 What I'm getting at is his [REDACTED] is also involved in
10:40:00 20 contact with you?---Yes.

10:40:01 21
10:40:02 22 With a view to him assisting?---Correct.

10:40:04 23
10:40:07 24 Let's go on to the next topic. We'll use the proceedings
10:40:12 25 of [REDACTED]. Were you aware in 2003 when [REDACTED] is arrested Ms Gobbo
10:40:17 26 was four years (indistinct), so she'd been at the Bar a
10:40:23 27 relatively short period of time?---I don't know if I was
10:40:26 28 aware of that.

10:40:27 29
10:40:27 30 At that time she was often led by Barrister 1?---Yes.

10:40:33 31
10:40:34 32 And now I just want to consider this, about who knew she
10:40:37 33 was acting in conflict or who also acted in conflict in
10:40:42 34 2003 and 2004 in the environment in which Ms Gobbo was
10:40:46 35 working. We know from last week that there's one example
10:40:49 36 at the very least that Barrister 1 acted in
10:40:53 37 conflict?---Yes.

10:40:53 38
10:40:54 39 I'll jog your memory. It was at [REDACTED], there was a note
10:41:00 40 shown to you, which we don't need to bring up, but it's
10:41:01 41 VPL.0100.0010.1787, where at [REDACTED] he had
10:41:11 42 represented I think Williams and appeared to represent
10:41:14 43 Mokbel and [REDACTED] said, "No, that's a conflict"?---I do
10:41:18 44 recall that. As I've said previously there was a very
10:41:22 45 small cadre of criminal lawyers, barristers and solicitors
10:41:26 46 who seem to be representing the vast majority of the
10:41:30 47 people.

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10:41:30 1
10:41:30 2 Next one then. Sean Grant, now a judge in New South
10:41:36 3 Wales?---I didn't know that, yes.
10:41:37 4
10:41:37 5 On the papers we can see initially represented, I might get
10:41:40 6 this the wrong way round, but initially represented [REDACTED]
10:41:45 7 [REDACTED]?---Yes.
10:41:45 8
10:41:46 9 And then jumped ship after [REDACTED] had pleaded guilty and
10:41:50 10 was assisting and was junior to Carl Williams for a period.
10:41:56 11 You can refer to your statement, I might have got it the
10:41:58 12 wrong way round?---I feel like he was junior at the trial
10:42:01 13 and [REDACTED] hadn't - maybe he pleaded guilty by that
10:42:04 14 stage. I'm sorry, I just don't have the chronology
10:42:07 15 straight in my head at the moment.
10:42:09 16
10:42:09 17 Other people certainly knew she was appearing in conflict,
10:42:13 18 Geoff Horgan?---Yes.
10:42:14 19
10:42:14 20 We're going to go through some of the things - in fact we
10:42:17 21 had evidence last week where he did in fact make
10:42:20 22 submissions to stop some people acting in conflict,
10:42:24 23 Solicitor 2, for example?---Yes.
10:42:27 24
10:42:28 25 But not Nicola Gobbo?---No, I don't recall him making any
10:42:33 26 application about her.
10:42:35 27
10:42:35 28 His junior throughout all those proceedings was obviously
10:42:41 29 Andrew Tinney, now - - -?---Justice Tinney, yes.
10:42:44 30
10:42:44 31 We know at the VGS0, let's cast our mind back to the first
10:42:50 32 committal hearing, where you gave evidence before
10:42:53 33 Magistrate Grey?---Yes.
10:42:54 34
10:42:54 35 And we know that Ms Gobbo appeared on the first day
10:42:57 36 certainly for [REDACTED]?---Yes.
10:42:59 37
10:43:00 38 By that time the court had received some of the notes that
10:43:08 39 had Ms Gobbo's name redacted?---Yes.
10:43:11 40
10:43:11 41 And the unredacted?---Yes.
10:43:13 42
10:43:14 43 I know there's dispute as to all of them but there's
10:43:17 44 certainly some. Gavin Silbert would have known, because he
10:43:24 45 appeared to represent VGS0's interests?---I believe he
10:43:28 46 would have.
10:43:28 47

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10:43:29 1 Magistrate Grey obviously must have been shocked to see
10:43:32 2 Ms Gobbo appear in front of him making submissions for [REDACTED]
10:43:36 3 when in fact he had seen some notes redacted and unredacted
10:43:43 4 with her name on?---I don't remember his reaction.

10:43:46 5
10:43:46 6 No one at that committal hearing, I ask you for your
10:43:50 7 memory, did anyone jump up and question why she was
10:43:54 8 appearing at that magistrates' hearing?---Not in my
10:43:58 9 presence, I don't know if something occurred when I wasn't
10:44:01 10 there, but not in my presence.

10:44:04 11
10:44:04 12 Certainly your statement reads as though the Director at
10:44:08 13 the time may have known she was appearing for [REDACTED] [REDACTED] at
10:44:12 14 different times?---I'm not sure about the representation of
10:44:14 15 [REDACTED] whether he would have been aware of that because that's
10:44:17 16 quite early in the piece, but definitely [REDACTED]

10:44:20 17
10:44:21 18 And obviously as we see, Justice King becomes aware?---Yes.

10:44:27 19
10:44:28 20 This was all prior to Ms Gobbo becoming a source in
10:44:33 21 September 2005, a registered source?---I'm not sure that
10:44:41 22 everyone that you describe there, I'm not sure that Justice
10:44:46 23 King would be aware prior to that.

10:44:48 24
10:44:48 25 I understand that?---But certainly the others.

10:44:52 26
10:44:53 27 Can we then move on to what the prosecutors knew. There's
10:45:00 28 a focus here on the OPP and on Mr Horgan and his junior at
10:45:07 29 the time. We've seen, I won't go back to it, that on 25
10:45:14 30 March 2004 there was that meeting in the morning, Vaile
10:45:19 31 Anscombe, you ring, she rings you back and says, "Call
10:45:21 32 Ms Gobbo to start the can-say statement for [REDACTED]"?---Yes.

10:45:25 33
10:45:27 34 If we can then go to, bring back up RC336, please. And if
10:45:41 35 we can go back to p.7, just to go through the chronology.
10:45:50 36 So we can see obviously the discussion where you say you've
10:45:55 37 spoken to the bosses who spoke to Mr Coghlan, the Director.
10:46:00 38 If we go to the next page, there's a column with [REDACTED],
10:46:03 39 Ms Gobbo's notes of it. Then we go to the next page. And
10:46:14 40 you see there there is discussion about the can-say so
10:46:21 41 there's a conference at court which we've heard a little
10:46:24 42 bit about where Ms Gobbo had a meeting with Gavan Ryan and
10:46:29 43 Andrew Allen and her instructing solicitor and there's
10:46:32 44 further discussion about [REDACTED] and there's a discussion re
10:46:35 45 Horgan, senior counsel, do you see that?---Yes.

10:46:37 46
10:46:38 47 The discussion is also about a can-say statement. I have

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10:46:41 1 no idea what a PT form is. Any - - - ?---I'm sorry, I
10:46:50 2 can't help you there.
10:46:51 3
10:46:52 4 Anyway, there's certainly discussion there regarding
10:46:58 5 Mr Horgan and what follows is, if we go then please - a
10:47:02 6 point form I'm being told. It was exactly what it says, a
10:47:08 7 bullet point form statement. If we can go then to p.10.
10:47:15 8 And you see 24 April, about [REDACTED] it appears she has a
10:47:22 9 discussion, it says confidential with Mr Horgan who is
10:47:25 10 prosecuting these matters?---Yes.
10:47:26 11
10:47:26 12 He appears to be asking, "Who do I act for and do I have a
10:47:29 13 conflict", do you see that?---Yes.
10:47:31 14
10:47:31 15 It's a matter that obviously on the face of the note he
10:47:35 16 appears to have turned his mind to. And there's a
10:47:39 17 discussion that's obviously in relation to [REDACTED] providing a
10:47:42 18 statement and the terms of the deal in effect. Do you see
10:47:45 19 that?---Yes.
10:47:54 20
10:47:55 21 Would he have known at that stage that Ms Gobbo had seen
10:48:00 22 [REDACTED]?---I don't know. As I said I don't know that I
10:48:03 23 was aware of it at that point.
10:48:07 24
10:48:07 25 If we can then go to p.12 of this document, so two pages
10:48:12 26 down. And we see, we don't need to go to the previous
10:48:21 27 page, but there's a discussion where Swindells is talking
10:48:24 28 to Gobbo it appears with a view to getting [REDACTED] to cooperate
10:48:27 29 and then we have this. So there's a discussion with
10:48:32 30 Swindells. But then the entry at the bottom?---Yes.
10:48:37 31
10:48:42 32 "Discussion with Horgan re my difficult position "?---Yes.
10:48:45 33
10:48:45 34 Just to be clear at the time, it was known, in fact the
10:48:47 35 bullet point above, the last bullet point of Swindells'
10:48:53 36 entry, "No issue re conflict [REDACTED], [REDACTED], [REDACTED]", do you
10:48:59 37 see that?---Yes, I see the note, yes.
10:49:00 38
10:49:00 39 Then we have obviously the discussion with Mr Horgan about
10:49:04 40 her difficult position?---Yes.
10:49:05 41
10:49:05 42 And her circumstances of the difficult position at that
10:49:08 43 time as far as you were concerned was she'd expressed to
10:49:11 44 you that she wouldn't tell Carl Williams anything about [REDACTED]
10:49:15 45 assisting?---Yes.
10:49:16 46
10:49:17 47 And she represented [REDACTED]?---I assume that might be what she's

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10:49:21 1 referring to, yes.
10:49:22 2
10:49:22 3 If we go down to p.13 of this document. It's highlighted.
10:49:30 4 It's another conference with [REDACTED] okay. But the bit
10:49:35 5 that's in the circle, the circle in red at the bottom, can
10:49:41 6 you help us with, "Community (Horgan v Purana enforcement)"
10:49:48 7 and what that might relate to?---No, I don't think I can.
10:49:51 8 I'm just trying to read the note before.
10:49:54 9
10:49:54 10 If we see at the top, the second bullet point says,
10:50:00 11 "Meeting last week, position re Marshall murder" in effect,
10:50:07 12 "Purana want to know what you want to do" and on the
10:50:08 13 left-hand side we have the note, "Filling him in re
10:50:10 14 Horgan", do you see that?---Yes.
10:50:13 15
10:50:13 16 So it appears that Mr Horgan, whatever he is saying to
10:50:16 17 Ms Gobbo, is something she's relaying to [REDACTED]?---Yes.
10:50:19 18
10:50:20 19 I would say involved in the process as to him rolling and
10:50:22 20 the offers being made?---Yes.
10:50:23 21
10:50:23 22 If we then move on, please, to - just going through the
10:50:32 23 chronology, I don't take you there, but in your first
10:50:34 24 statement you detail on 17 May Mr Horgan and you meet re
10:50:41 25 [REDACTED] If we go to your day book on 26 May 2004, which
10:50:45 26 I hope is the same document we were looking at, it's in the
10:51:30 27 same bundle that started with the 0058.0208. I'll
10:51:49 28 summarise it. Have you got your day book with you?---Yes.
10:51:53 29
10:51:53 30 If you go to [REDACTED] 2004?---Yes, I have it here.
10:52:24 31
10:52:24 32 I'm trying to find mine. There's an entry where you're
10:52:29 33 speaking to [REDACTED] is that right?---Yes.
10:52:30 34
10:52:31 35 And he asks you to explain his bottom line or position to a
10:52:37 36 particular person?---Yeah, he wanted to know his bottom
10:52:42 37 sentence.
10:52:42 38
10:52:42 39 And who was he asking?---Me.
10:52:44 40
10:52:45 41 But who did he want you to tell? Horgan?---Yeah, sorry,
10:52:51 42 "Wants estimate from Horgan", it says that down here a bit
10:52:55 43 further.
10:52:56 44
10:52:57 45 And then as we go through - - - ?---And he goes on to say
10:53:05 46 he wanted it to be known by Horgan that a long sentence
10:53:09 47 will damage him mentally.

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10:53:10 1
10:53:11 2 As far as [REDACTED] was concerned Horgan was implicitly involved in
10:53:16 3 the process?---Yes.
10:53:17 4
10:53:17 5 7 July 04, if you go to your note, there's a Sergeants'
10:53:23 6 meeting?---Yes.
10:53:31 7
10:53:33 8 Reference made to Mr Horgan, one of the names written
10:53:42 9 down?---Yes. G Horgan is there as a bullet point, I don't
10:53:50 10 recall what that was about though.
10:53:51 11
10:53:51 12 If we look underneath there's reference to coercive
10:53:55 13 hearings?---There is.
10:53:56 14
10:53:56 15 And the hope that [REDACTED] would be the person on [REDACTED]
10:54:00 16 [REDACTED], is that right?---Yes.
10:54:01 17
10:54:01 18 It appears from the note, one way of reading the note is,
10:54:05 19 "Discussion re these coercive hearings, [REDACTED] and
10:54:08 20 Mr Horgan"?---Look, I'm not sure that I can draw that from
10:54:16 21 that note.
10:54:16 22
10:54:17 23 Mr Horgan was the person who asked the questions at the
10:54:21 24 coercive hearing to [REDACTED]?---Yes.
10:54:23 25
10:54:23 26 On both dates?---Yes, I believe so, that's in my
10:54:26 27 supplementary statement.
10:54:27 28
10:54:28 29 Just as an aside who appeared to represent [REDACTED] in
10:54:31 30 both of those hearings?---Ms Gobbo.
10:54:33 31
10:54:33 32 This was obviously after [REDACTED] had been involved and Mr Horgan
10:54:38 33 knew that [REDACTED] had been involved - sorry, Ms Gobbo had been
10:54:41 34 involved with [REDACTED]?---Yes.
10:54:42 35
10:54:44 36 Did he raise any objections with you at those coercive
10:54:49 37 hearings about Ms Gobbo representing [REDACTED]?---No, he did not.
10:54:51 38
10:54:57 39 There's an entry of interest on 30 June. Just to put this
10:55:04 40 in context, so 30 June 2004?---In my notes or - - -
10:55:10 41
10:55:11 42 Yes, your notes. At this time we know, and this is going
10:55:18 43 through your notes, on the 21st, 25th and 29th of June
10:55:22 44 [REDACTED] had been providing statements?---Yes.
10:55:25 45
10:55:26 46 On 30 June - you've got it up, thank you Mr Skim. He's
10:55:34 47 still in the process and there's an entry at 08:55, "Spoke

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10:55:39 1 to Geoff Horgan. Agreed paragraph", it says statement but
10:55:44 2 there's a line through it, "Paragraph not required in [REDACTED]
10:55:47 3 statement"?---Yes.
10:55:48 4
10:55:51 5 Looking back now, that appears to read as though Mr Horgan
10:55:55 6 is saying either something shouldn't be included or
10:55:59 7 something should be taken out of [REDACTED] statement, do you
10:56:02 8 agree?---Yes, I think it was just providing advice on what
10:56:07 9 I would have referred to as an [REDACTED] paragraph.
10:56:11 10
10:56:12 11 You think that's in relation to that?---I think so, yes.
10:56:14 12
10:56:14 13 There's no note, obviously you've been criticised when
10:56:19 14 including, for example, minor changes made or the like, but
10:56:23 15 it appears on the face of it Mr Horgan is involved in the
10:56:26 16 statement taking process?---He provided advice and I think
10:56:29 17 that advice was just around what I'd say is an introductory
10:56:36 18 "this can't be used against you" paragraph.
10:56:38 19
10:56:38 20 Then we see what follows. We don't need for you to go
10:56:42 21 back, we see straight afterwards you then go and see [REDACTED] and
10:56:47 22 carry on the process, you see that at 10.30?---Yes.
10:56:50 23
10:56:50 24 As far as thereafter, he was, and I'm focusing on Mr Horgan
10:56:56 25 because we've got your notes in relation to [REDACTED]. What then
10:57:00 26 follows is involvement in meetings which include meeting
10:57:07 27 [REDACTED]?---Yes, he did.
10:57:10 28
10:57:10 29 If we can go to VPL.0005.0058.0001. I've got it by page
10:57:29 30 numbers in the left corner. If you pull up the first page,
10:57:34 31 I'll go to it. I was supplied a non-paginated back to
10:57:40 32 forward bundle of Mr Bateson's diaries. Can we try
10:57:58 33 0058.0233. If we can go to p.49 in the top left or right
10:58:44 34 corner. Yes, perfect. You see at 12 o'clock there's an
10:58:48 35 OPP meeting with Mr Horgan?---Yes.
10:58:50 36
10:58:54 37 It's 1 September. And then if we go to the next page,
10:59:02 38 obviously at the top are Ms Gobbo's concerns about
10:59:06 39 Solicitor 1 making comments about unedited notes?---Yes.
10:59:10 40
10:59:10 41 Then if we go to the 12.45 entry - further down - and we
10:59:20 42 see that Mr Horgan and Vaile Anscombe from the OPP are
10:59:26 43 meeting [REDACTED]?---Yes.
10:59:28 44
10:59:28 45 And it's a discussion about the use of [REDACTED] or
10:59:32 46 disclosure of his medical records, do you see that?---Yes.
10:59:35 47

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10:59:42 1 And then Mr Horgan obviously explains the procedures, video
10:59:46 2 link application, demeanour whilst giving evidence, do you
10:59:50 3 see that?---Yes.
10:59:50 4
10:59:52 5 There's a discussion about how he should present when he
10:59:56 6 gives his evidence?---Yes.
10:59:56 7
10:59:57 8 Scrolling down then just a bit further to 51. At
11:00:07 9 3 o'clock, again, involved in the decision-making process.
11:00:12 10 Do you see that?---Yes, I do.
11:00:14 11
11:00:15 12 If we can now jump to p.61?---Your Honour, I'm just a
11:00:23 13 little concerned of those notes being shown of where we
11:00:25 14 went, I don't know if that's a problem.
11:00:29 15
11:00:30 16 I jumped through it quite quickly?---Yes, you did.
11:00:34 17
11:00:34 18 Mr Bateson is concerned, I know we're in private hearing,
11:00:38 19 about the location particular people were when visited.
11:00:48 20
11:00:49 21 MS ENBOM: It's a matter that perhaps should be removed
11:00:50 22 from the back screen.
11:00:53 23
11:00:54 24 COMMISSIONER: Perhaps for the time being we'll remove it
11:00:57 25 from the large screen.
11:01:00 26
11:01:00 27 MS O'GORMAN: Commissioner, can I ask then to sit at the
11:01:03 28 front Bar table?
11:01:03 29
11:01:03 30 COMMISSIONER: Yes, please. Could you make room so
11:01:06 31 Ms O'Gorman can sit at the front Bar table and she can see
11:01:11 32 the screen.
11:01:16 33
11:01:16 34 MR NATHWANI: I'm interested in the 2.45 entry on [REDACTED]
11:01:21 35 2005. If we can just blow that up please. 2.45, just
11:01:30 36 where the arrow at the bottom is. "Spoke to [REDACTED] by telephone
11:01:36 37 at request of GH", that's Mr Horgan, do you agree with
11:01:40 38 that?---Yes.
11:01:40 39
11:01:41 40 "Confirm that he is aware that", it appears to say [REDACTED] "That
11:01:46 41 [REDACTED] and [REDACTED] served time in gaol together. Not
11:01:50 42 aware all present during direct conversations about priors"
11:01:54 43 and then after that you ring Mr Horgan back?---Correct.
44
11:02:01 45 It appears you're getting a request from the prosecutor
11:02:04 46 about information, you speak to the witness and you get
11:02:07 47 that information and relay it?---Yes.

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11:02:09 1
11:02:11 2 He's also involved in the subpoena process and guides you
11:02:17 3 and asks you about evidence in relation to that. If we go
11:02:20 4 to p.138, please. At the bottom there's a reference to
11:02:55 5 being at the OPP and serving statements?---Yes.
11:02:59 6
11:02:59 7 Including [REDACTED] and you refer to which of the [REDACTED]
11:03:04 8 statements and also [REDACTED]?---Yes.
11:03:06 9
11:03:07 10 And then there's a conference with Mr Horgan. The reason
11:03:10 11 I've taken you there is this: there's much made of
11:03:14 12 Ms Gobbo looking at [REDACTED] statement and the can-say process.
11:03:21 13 Do you agree that as far as all of these witnesses were
11:03:24 14 concerned a statement was often served on Mr Horgan or
11:03:28 15 someone at the OPP to consider the statement before the
11:03:31 16 witness signed it?---I'd have to have a look at the time
11:03:37 17 line to confirm that but I would see no reason why I
11:03:43 18 wouldn't give Mr Horgan - I actually don't remember that
11:03:48 19 being true. What date is this again, the [REDACTED] of - - -
11:03:53 20
11:03:53 21 [REDACTED] 2006. So these are the [REDACTED] and [REDACTED] statements?---So
11:04:01 22 they're signed by then, aren't they?
11:04:03 23
11:04:03 24 Yes. I'll come to them, there are a couple of references
11:04:06 25 where you provide statements to Mr Horgan and the OPP prior
11:04:10 26 to a plea and prior to witness statements being signed and
11:04:14 27 we'll come to it. Just to follow just the general process
11:04:19 28 of knowledge and involvement. If we go to p.142, and we
11:04:29 29 see 1 o'clock and 2 o'clock?---Yes.
11:04:32 30
11:04:34 31 You obviously collect Mr Horgan and you go to a location.
11:04:37 32 You there meet with [REDACTED] and the purpose is for
11:04:41 33 Mr Horgan to explain the trial process. The reason you go
11:04:45 34 is obviously, "Met [REDACTED] who is involved in the plea of
11:04:49 35 [REDACTED]"?---Yes.
11:04:49 36
11:04:50 37 Both for the [REDACTED] where Ms Gobbo represented [REDACTED]
11:04:55 38 yes?---Yes.
11:04:55 39
11:04:56 40 And then for the plea for the murder where Mr Horgan was
11:05:00 41 led by Mr Coghlan?---I believe so, yes.
11:05:06 42
11:05:06 43 And then here we are not too long afterwards, obviously
11:05:11 44 you're aware by this time he would have been aware that
11:05:15 45 [REDACTED] had Ms Gobbo represent him both at the coercive
11:05:21 46 hearings, at the committal?---Yes, he would have been aware
11:05:25 47 of that, yes.

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11:05:25 1
11:05:29 2 The position was, and there are other references which we
11:05:34 3 need not go to but in the ICRs there's reference to
11:05:38 4 Mr Horgan asking Ms Gobbo if [REDACTED] was going to plead
11:05:42 5 guilty?---Yes.
11:05:43 6
11:05:46 7 You also have in your statement at paragraph 10B where you
11:05:52 8 discuss Mr Grant and his conflicts?---Yes.
11:05:56 9
11:05:56 10 By the time these people were being dealt with it was
11:06:00 11 well-known to the OPP and to the prosecutors Ms Gobbo had
11:06:06 12 acted in conflict?---Well, I think it's well-known that she
11:06:14 13 acted for different people. I think my memory of it
11:06:19 14 there's a real unclear patch of what's conflict and what's
11:06:24 15 not and what prohibits people from acting, but there's no
11:06:28 16 doubt, as I've said in my statement, that, you know, the
11:06:33 17 OPP, the Director and others were well aware of who she had
11:06:40 18 acted for and when.
11:06:41 19
11:06:45 20 We've obviously, and you were taken to it last week, but
11:06:48 21 there were occasions, I think Mr Brand was one example and
11:06:51 22 Solicitor 2 another, where Mr Horgan in fact objected or
11:06:55 23 made submissions about people acting in conflict in these
11:06:58 24 cases?---You'd have to take me to it again.
11:07:06 25
11:07:06 26 You were shown last week a transcript of a hearing where
11:07:12 27 Mr Horgan made submissions about Solicitor 2 acting in
11:07:16 28 conflict?---Yes, I believe I was. I just don't have a
11:07:21 29 clear memory of it as I sit here now.
11:07:26 30
11:07:27 31 I'm told there's also a reference to Mr Brand acting. I'm
11:07:37 32 helpfully reminded that Gavan Ryan had a note in his diary
11:07:41 33 where Mr Brand was prohibited for acting for one of the
11:07:45 34 parties because of a conflict position?---Okay.
11:07:48 35
11:07:48 36 It appears there's somewhere objections are made to acting
11:07:52 37 but not Ms Gobbo?---I don't remember any application by the
11:07:54 38 OPP in that regard, apart from what I mentioned in my
11:08:01 39 supplementary statements where obviously there's some
11:08:05 40 discussion while he was present.
11:08:08 41
11:08:08 42 Is this also right, I've only heard in passing, I haven't
11:08:09 43 seen the transcript, but that during his closing Mr Horgan
11:08:12 44 in fact relied on the fact that Carl Williams had used
11:08:16 45 Ms Gobbo as one, in effect had teed up all the solicitors
11:08:20 46 and the barristers representing certain
11:08:22 47 people?---Mr Winneke put that to me and I accept that.

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11:08:26 1
11:08:27 2 So we had a prosecutor who knew this was going on and used
11:08:31 3 it in a closing in that way?---I don't remember the closing
11:08:34 4 per se but I remember it being an issue at trial and I
11:08:38 5 accept what Mr Winneke put to me about that.
11:08:41 6
11:08:41 7 Just looking at your notes in relation to the issue of
11:08:43 8 solicitors being involved in the statement process prior to
11:08:48 9 someone signing, if we go to p.87. Perhaps I can do it -
11:09:17 10 yes, perfect. At the top we see [REDACTED] had a private conference
11:09:27 11 with his solicitor [REDACTED] for two hours?---Yes.
11:09:31 12
11:09:31 13 And there's OPP and there's preliminary discussion between,
11:09:34 14 involving the Director as well as Mr Horgan and that's in
11:09:37 15 relation to [REDACTED] providing assistance?---Yes.
11:09:39 16
11:09:39 17 To put this in context, we are February 2006?---Yes.
11:09:43 18
11:09:44 19 Not long before Mr Williams pleads guilty. And just
11:09:49 20 following that through, we then see again there's another
11:09:51 21 entry on the [REDACTED] "Further info given re a particular
11:09:57 22 investigation before [REDACTED] is transported to a secure location.
11:10:00 23 Was then allowed another private conference", do you see
11:10:03 24 that?---Yes.
11:10:03 25
11:10:04 26 And you obviously must have been in contact with [REDACTED]
11:10:07 27 to arrange this?---One of my team I would imagine.
11:10:10 28
11:10:11 29 And then we see at 5.25 [REDACTED] agrees in principle to the
11:10:16 30 induced statements, yes?---Yes.
11:10:20 31
11:10:21 32 Don't need to go through all the notes as far as [REDACTED] is
11:10:24 33 concerned, but again as with [REDACTED] prior to signing his
11:10:27 34 statements he wanted [REDACTED] to look through those
11:10:31 35 documents?---Yes, he did.
11:10:32 36
11:10:32 37 And [REDACTED] did look through those documents?---Yes, he
11:10:35 38 did.
11:10:35 39
11:10:35 40 It's only after he then has a conference with [REDACTED]
11:10:38 41 that he then signs those documents?---Correct.
11:10:41 42
11:10:41 43 Again, if we go then please to p.93. In fact there we have
11:10:55 44 an example. Friday the 3rd at the bottom. "Delivered
11:11:02 45 statements to [REDACTED] Thereafter delivered them to the OPP
11:11:06 46 and Mr Horgan"?---Yes.
11:11:07 47

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11:11:08 1 And we look at the dates this is [REDACTED] this is before he
11:11:11 2 signs them, and there's involvement by both the prosecution
11:11:14 3 and defence looking at those statements before they're
11:11:19 4 signed?---And they're signed on what date, I'm sorry? I
11:11:24 5 just don't remember that off the top of my head.

11:11:27 6
11:11:28 7 Let's look through, we can follow it through. So if we go
11:11:29 8 to the next page, 11.35, we see there's a private
11:11:34 9 discussion after [REDACTED] seen that document between
11:11:38 10 [REDACTED] and [REDACTED] do you see that?---Yes.

11:11:41 11
11:11:41 12 Then go to p.95. At the top, sorry?---There was just one
11:11:48 13 mention of [REDACTED] just before.

11:11:50 14
11:11:50 15 Just slightly higher up?---Yes.

11:11:53 16
11:11:54 17 There's [REDACTED] there. "Further discussion and
11:11:57 18 instructions re the plea." Then we go to Friday the [REDACTED]
11:12:00 19 If we go down just a little bit further on p.95. At the
11:12:07 20 County Court. Justice King, [REDACTED] Mr Horgan, Tinney,
11:12:12 21 Inspector Ryan and you give evidence and that's when he
11:12:16 22 jumps into the witness box and swears up and says he will
11:12:21 23 give evidence in line with those statements?---He does.

11:12:23 24
11:12:23 25 All of that - - - ?---I believe he was in the box anyway.

11:12:26 26
11:12:27 27 And that occurs after both Mr Horgan's had time to consider
11:12:31 28 the statements a week earlier and his defence team, which
11:12:36 29 we've gone to, which was the entry on page - - - ?---Yes, I
11:12:40 30 accept what you say, I just will quickly look when he
11:12:44 31 actually signed the statements. The [REDACTED] he signs
11:13:09 32 the statements.

11:13:11 33
11:13:11 34 Yes. So after?---Yes.

11:13:13 35
11:13:14 36 After both the prosecution and defence have had a look at
11:13:17 37 the statements?---Yes.

11:13:17 38
11:13:18 39 The purpose, I think it's pretty obvious, to see if there's
11:13:22 40 anything either party disagrees with, so in other words
11:13:24 41 Mr Horgan's looking at it to say, "I don't necessarily
11:13:28 42 agree with that, that's not correct" and vice versa, would
11:13:31 43 you agree with that?---I don't remember that being the
11:13:33 44 objective. I think Mr Horgan, like everyone, was
11:13:39 45 interested to see the contents. I don't believe the
11:13:43 46 purpose was for him to provide feedback. Certainly in
11:13:47 47 terms of [REDACTED] they were provided to him so he could

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11:13:53 1 provide his client with advice.
11:13:56 2
11:13:57 3 I just want to take you to one other page. It's on a
11:14:00 4 slightly different topic, but I think you gave evidence the
11:14:05 5 first time round that part of the tactic was to get one
11:14:09 6 person to roll, ie [REDACTED] and afterwards you formed the view
11:14:13 7 they'd all start rolling once convictions starting coming
11:14:18 8 in. I think it was either you or Gavan Ryan who said that.
11:14:21 9 Just an example of that, if you look at it at p.97?---97?
11:14:26 10
11:14:26 11 If we look at it there, on [REDACTED] you visit [REDACTED]
11:14:34 12 and he's telling you he wants to get on board in effect.
11:14:40 13 Do you see that?---Yes.
11:14:40 14
11:14:41 15 And then the next entry at 12 o'clock or 11.55, you've got
11:14:46 16 another person, [REDACTED] You speak to him at his
11:14:50 17 request, is also wanting to get on board?---Yes, and around
11:14:55 18 this time Carl Williams is saying the same thing.
11:14:57 19
11:14:58 20 We'll just deal with Carl Williams. I don't need to take
11:15:02 21 you to all the pages for him, but he obviously pleads
11:15:05 22 guilty 28 February 2006, these people are starting to call
11:15:10 23 you after that period of time?---Yes.
11:15:13 24
11:15:14 25 And again, the page references, we don't need to go through
11:15:19 26 all, but he was represented by Marita Altman, Lethbridge's
11:15:25 27 solicitors?---Yes.
11:15:25 28
11:15:25 29 We see that on p.192 he gives a statement at 198, he
11:15:32 30 refuses to sign it unless his counsel has seen it, p.200
11:15:37 31 Ms Altman is shown it, p.201 she meets with Mr Williams,
11:15:42 32 they have a discussion, and on p.209 Mr Williams signs it
11:15:47 33 after his barrister, Ms Cure, sees it. Does that jog your
11:15:54 34 memories about the process?---Yes, no, and as I said
11:15:58 35 previously during my evidence it's pretty common procedure
11:16:01 36 for criminal Crown witnesses to want to do that.
11:16:07 37
11:16:08 38 Just the final topic really, I won't be very long, is this:
11:16:14 39 We can obviously see in 2003, 2004, perhaps the product of
11:16:19 40 environment, Ms Gobbo had acted in conflict situations
11:16:22 41 potentially without any real sanction?---Potentially, yes.
11:16:29 42
11:16:29 43 And then what follows through is through the process you
11:16:35 44 then, as you accepted, eventually become akin to a handler
11:16:38 45 for her?---Look, I'm not sure that I accept those words but
11:16:44 46 I did receive information from her on a number of
11:16:47 47 occasions, so I don't think it's a huge leap to - I just

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11:16:52 1 never thought of myself as a handler, I just thought I was
11:16:55 2 meeting with someone who wanted to pass me some
11:16:58 3 information.
11:16:58 4
11:16:58 5 On each occasion you spoke to her, you would then report
11:17:01 6 back to either Gavan Ryan or Jim O'Brien?---Correct.
11:17:04 7
11:17:04 8 So fully aware of everything that was occurring?---Yes.
11:17:07 9
11:17:07 10 Do you agree on occasion you also tasked her?---On the last
11:17:11 11 occasion that I met her I tasked her with getting some, or
11:17:15 12 I asked her, not task, I asked her to see if she could find
11:17:22 13 anything more about the car and the loan.
11:17:23 14
11:17:23 15 If we go to p.47 there's the reference to you ask her if
11:17:27 16 she can find out, as you remember. That was a
11:17:31 17 tasking?---Yes.
11:17:31 18
11:17:34 19 Were you aware that when Mr Williams entered a guilty plea,
11:17:41 20 Gavan Ryan wanted to thank Ms Gobbo? If we bring up the
11:17:50 21 ICRs at p.663 and 664. As we see, you would have been
11:18:16 22 taken to the entry there, "Call 3838 back in response to
11:18:21 23 above contact", this is at 17:54. "Advise she was met at
11:18:22 24 motel and Mr Bateson thanked her for her efforts". If you
11:18:26 25 go to the next page please. We see there at 7.45 there's
11:18:32 26 an attempt to call Ms Gobbo because Mr Ryan had contacted
11:18:35 27 the handler, which I think was Anderson at the time, and
11:18:38 28 wanted to include her in the success of the Williams
11:18:44 29 result?---I see that written there, yes.
11:18:45 30
11:18:45 31 Obviously as we've just seen, when you were receiving
11:18:48 32 information from Ms Gobbo in 2004 and into 2005 you
11:18:52 33 reported back to Gavan Ryan and Jim O'Brien?---I think it
11:18:55 34 was only 2005 that I received information but certainly I
11:18:59 35 reported that back to, to Gavan or Jim.
11:19:04 36
11:19:04 37 And by that time do you accept Ms Gobbo was seen certainly
11:19:08 38 by Purana as involved in the process?---Involved in what
11:19:13 39 process?
11:19:13 40
11:19:14 41 That resulted in Carl Williams entering a guilty plea? In
11:19:20 42 other words [REDACTED] Horgan knowing about the
11:19:24 43 conflict?---Yeah, I guess as I said previously when
11:19:27 44 Mr Winneke asked me about that, you know, she could have
11:19:29 45 acted in a different way. She could have, you know, acted
11:19:35 46 on the best interests of Williams and Mokbel and talked
11:19:41 47 these people into refusing, but in my view she acted in

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11:19:46 1 their best interest.
11:19:48 2
11:19:49 3 The last - - - ?---I'm not sure what Gavan would be, but I
11:19:54 4 would imagine Gavan Ryan would have thought along similar
11:19:57 5 lines so I'd imagine that's what his interpretation of it
11:20:01 6 would be too.
11:20:01 7
11:20:02 8 The entry I want to ask you about is 1 September 2005 on
11:20:08 9 the diary we had up, please. So p.49 to 50. At the bottom
11:20:44 10 we see there, p.49, you receive a call from Ms Gobbo. If
11:20:47 11 we go on to the next page. To put this in context as to
11:20:51 12 the dates, we jumped around a bit, this is the day after
11:20:56 13 she represents ██████████, which is 31 August. ██████████, is
11:21:00 14 that a name you may not be aware of?---That's a pseudonym.
11:21:04 15 I'm not sure that I'm aware of that name.
11:21:10 16
11:21:10 17 COMMISSIONER: Yes, my associate will provide that.
11:21:13 18
11:21:13 19 MR NATHWANI: You may or may not know.
11:21:15 20
11:21:15 21 COMMISSIONER: He's been given it?---No, I don't know I was
11:21:18 22 aware.
11:21:18 23
11:21:19 24 MR NATHWANI: It's relevant to another point, your note
11:21:21 25 ties in with it, it reads as follows, she states she was
11:21:26 26 concerned about Solicitor 1's comments?---Yes.
11:21:29 27
11:21:29 28 Not sure that would be resisted.
11:21:32 29
11:21:32 30 COMMISSIONER: Solicitor 2, I think.
11:21:33 31
11:21:34 32 MR NATHWANI: Yes. Then spoke of the run in with the Drug
11:21:37 33 Squad. Paul Rowe was at the Drug Squad at the time?---I
11:21:41 34 believe he was.
11:21:42 35
11:21:42 36 She says this, "Which ended in her crying. Obviously
11:21:46 37 wanted to push that she is not and would not involve
11:21:49 38 herself in any criminal activity". Now, does she report to
11:21:55 39 you she had been crying or was she tearful on the phone to
11:22:01 40 you? Do you have any memory?---I think she tells me that,
11:22:09 41 reading that note. I don't have a direct - - -
11:22:11 42
11:22:11 43 We've heard evidence about something that happened on 31
11:22:15 44 August, I don't need to trouble you, certainly the day
11:22:18 45 after she's telling you she had a run in with the Drug
11:22:22 46 Squad that ended up with her crying?---Yes.
47

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BATESON XXN - IN CAMERA

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11:22:24 1 Then you said, "Obviously wanted to push that she's not and
11:22:26 2 would not involve herself in any criminal activity", is
11:22:31 3 that something she said to you?---I would say so. That's a
11:22:34 4 note I made after the conversation, so yeah, obviously
11:22:36 5 wanted to push - that's just me recording part of that
11:22:39 6 conversation was that she would never do that.
11:22:42 7
11:22:43 8 All right, thank you Mr Bateson.
11:22:46 9
11:22:46 10 COMMISSIONER: Thank you.
11:22:47 11
11:22:47 12 MR CHETTLE: No questions.
11:22:48 13
11:22:48 14 COMMISSIONER: No questions. Ms O'Gorman?
11:22:50 15
11:22:51 16 MS O'GORMAN: No questions, thank you.
11:22:52 17
11:22:53 18 COMMISSIONER: Yes.
11:22:53 19
11:22:54 20 MS ENBOM: Thank you Commissioner.
11:22:56 21
22 <RE-EXAMINED BY MS ENBOM:
23
11:23:05 24 Commissioner, may I ask are we finishing at 11.30 or 11.40?
11:23:10 25
11:23:10 26 COMMISSIONER: 11.30. We might be able to sit a little bit
11:23:14 27 longer if you want to finish something off.
11:23:17 28
11:23:17 29 MS ENBOM: I don't think I'll finish by 11.30, or 11.40,
11:23:22 30 we'll be back on Monday for the private hearing in any
11:23:25 31 event.
11:23:26 32
11:23:26 33 COMMISSIONER: Yes, that's right, exactly.
11:23:28 34
11:23:28 35 MS ENBOM: Mr Bateson, the first topic I want to ask you
11:23:30 36 about is conflicts of interest but before I get there I
11:23:35 37 want to ask you some questions about the focus of your work
11:23:40 38 and the work that you did at Purana. Having read your CV,
11:23:46 39 is it the case that you've been a police officer for over
11:23:51 40 30 years?---Yes.
11:23:51 41
11:23:55 42 Does that mean that you moved into the Police Force from
11:23:58 43 school?---No, I had a year in between.
11:24:02 44
11:24:05 45 Have you been a police officer your entire working
11:24:08 46 life?---I had quite a few jobs in that year but basically
11:24:13 47 yes.

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BATESON RE-XN - IN CAMERA

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11:24:13 1
11:24:14 2 And you've moved through the ranks over the last 30-odd
11:24:20 3 years to reach your current rank of Commander?---Yes.
11:24:23 4
11:24:23 5 Have you worked in different areas from general duties as a
11:24:27 6 Constable to the Drug Squad and to having spent ten years,
11:24:33 7 over ten years in the Homicide Squad?---Yes.
11:24:35 8
11:24:37 9 Has the core part of your job over the last 30 years been
11:24:43 10 attending crime scenes, investigating crimes, compiling
11:24:48 11 evidence, identifying suspects, and arresting, interviewing
11:24:54 12 and charging people with criminal offences?---I would agree
11:24:57 13 with that up to about mid-2010 when I moved to the Security
11:25:02 14 and Organised Crime Intelligence Unit and that was in a
11:25:06 15 role as an Inspector, so from that point onwards and on to
11:25:12 16 a Superintendent. So I'd agree with that whole-heartedly
11:25:17 17 up until sort of mid-2010.
11:25:19 18
11:25:20 19 Thank you. Up until 2010 were you dealing with a whole
11:25:24 20 range of offences from murder to domestic homicides,
11:25:30 21 manslaughter, rape, child sex offences, robberies,
11:25:31 22 burglaries, assaults?---Yes.
11:25:35 23
11:25:35 24 You moved to the Purana Task Force in 2003?---Yes.
11:25:39 25
11:25:40 26 Did you stay there until 2007?---Yes. I think it might
11:25:45 27 have been late 2006 but I was, I think I was still, I think
11:25:52 28 I did a secondment in late 2006 but promoted in 2007.
11:25:57 29
11:25:57 30 Thank you. There were a lot of murders and shootings to
11:26:03 31 investigate when you were at Purana, is that
11:26:06 32 right?---Correct.
11:26:06 33
11:26:07 34 And those murders started, did they not, after Carl
11:26:13 35 Williams was shot by the Moran brothers?---Well I always
11:26:18 36 talk about my time in Purana saying that's the catalyst,
11:26:22 37 but others would say there's, there's other murders that
11:26:25 38 would, would be involved in the tally, like the murder of
11:26:30 39 Alphonse Gangitano and Gregory Workman, but certainly from
11:26:35 40 my point of view I think the murders that I was most
11:26:40 41 focused on started with Carl Williams being shot.
11:26:42 42
11:26:43 43 After Carl Williams was shot was Mr Richard Mladenich shot
11:26:52 44 in the head whilst sitting in a motel with
11:26:55 45 associates?---Yes.
11:26:56 46
11:26:56 47 And after his murder was Mark Moran executed outside his

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BATESON RE-XN - IN CAMERA

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11:27:03 1 home?---Yes.
11:27:04 2
11:27:04 3 You remember that?---Yes.
11:27:06 4
11:27:06 5 Was Dino Dibra next?---I think Dino Dibra was next, yes.
11:27:13 6
11:27:14 7 And was he shot dead in the street?---He was shot dead in
11:27:18 8 the street, yes.
11:27:18 9
11:27:19 10 A few months later was Mark Smith shot?---Yes.
11:27:22 11
11:27:24 12 And then came the murder of Nik Radev?---Nik Radev, yes.
11:27:29 13
11:27:29 14 Is that right? And after Radev - - - ?---You had a couple
11:27:34 15 of others that I didn't include in my statement, George
11:27:40 16 Germanos on 22 March and Victor Peirce on 1 May 2002. So,
11:27:46 17 you know, there was a lot of murders in those days and I
11:27:49 18 didn't include some of those in my initial statement but,
11:27:53 19 yes, certainly Victor Peirce was another one prior to the
11:27:58 20 murder of Paul Kallipolitis in October and Mark Smith was
11:28:07 21 shot in the December.
11:28:08 22
11:28:08 23 They were prior to the Radev murder?---Yes.
11:28:11 24
11:28:11 25 Then after Radev we had the murder of Mark Moran's brother
11:28:15 26 Jason and Pasquale Barbaro at the kid's football
11:28:21 27 clinic?---Yes, we also had the murder of, I'm not quite
11:28:24 28 sure of his name but it was referred to as the vampire
11:28:28 29 killing in June of that year as well.
11:28:30 30
11:28:31 31 The Moran/Barbaro murder, that was a particularly brutal
11:28:35 32 one, wasn't it?---Well I think I've often spoken about this
11:28:41 33 as being a bit of a line in the sand. They were murdered
11:28:46 34 at an Auskick clinic. They were shot to death while ten
11:28:51 35 kids were sitting in the back of the van. A shotgun was
11:28:56 36 fired into the driver's seat, two barrels from that shotgun
11:29:00 37 and then five shots from a revolver. It was a shocking
11:29:04 38 crime at the time, for so many kids to experience that, and
11:29:08 39 certainly years later the trauma for those kids is still
11:29:13 40 present and from my point of view I think, and I've heard
11:29:19 41 Chief Commissioner Nixon say that, that's when some
11:29:22 42 additional resources were allocated to the investigations
11:29:26 43 of these murders.
11:29:28 44
11:29:28 45 We can see from [REDACTED] statement that quite a bit of
11:29:33 46 planning went into those murders. We can see that
11:29:38 47 Mr Williams was desperate to murder Jason on the

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BATESON RE-XN - IN CAMERA

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11:29:43 1 anniversary of his brother Mark's murder, is that
11:29:48 2 right?---Yes.
11:29:48 3
11:29:49 4 And on the anniversary of Mark's murder, [REDACTED] and [REDACTED]
11:29:55 5 drove around Melbourne looking for Jason to try and execute
11:29:59 6 him on the anniversary?---I think they even got close to
11:30:05 7 the cemetery from recollection.
11:30:06 8
11:30:06 9 They went to the cemetery, they went to the football, they
11:30:09 10 went to Judy Moran's house?---Yes.
11:30:11 11
11:30:12 12 When they got to Judy Moran's house they saw there was a
11:30:17 13 function for Mark Moran and [REDACTED] contemplated jumping
11:30:20 14 out of the car and running into Judy's house and shooting
11:30:20 15 everyone, according to [REDACTED] statement?---Yes.
11:30:24 16
11:30:24 17 In the end they couldn't locate Jason on Mark's
11:30:29 18 anniversary?---Yes.
11:30:29 19
11:30:29 20 And so they killed him the following week at the football
11:30:33 21 clinic?---Correct.
11:30:34 22
11:30:34 23 And they sat off the football ground with binoculars and
11:30:39 24 they saw Jason enter the football ground and start kicking
11:30:44 25 the ball with some kids?---Yes.
11:30:45 26
11:30:46 27 At that point [REDACTED] thought he might just jump out of the car
11:30:53 28 and run on to the over and start shooting?---Yes.
11:30:58 29
11:30:58 30 So that was the Moran/Barbaro murder. Then did Willie
11:31:00 31 Thompson follow?---Yes, on the 21st, so one month later.
11:31:04 32
11:31:04 33 Was he murdered sitting in his car sitting outside his
11:31:08 34 house?
11:31:08 35
11:31:08 36 MR WINNEKE: I'm not too sure of the relevance of all this.
11:31:11 37 I know the reason for it. Is it of any great assistance?
11:31:15 38
11:31:15 39 COMMISSIONER: It's not controversial, we know these facts.
11:31:19 40
11:31:19 41 MS ENBOM: Mr Winneke has put a number of times that the
11:31:22 42 gangland war was over, the deaths stopped when Purana
11:31:28 43 started, so I'm exploring that topic and I'm almost
11:31:32 44 finished. I'm almost finished.
11:31:36 45
11:31:37 46 COMMISSIONER: Sometimes it's quicker to let it go, all
11:31:39 47 right.

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BATESON RE-XN - IN CAMERA

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11:31:39 1
11:31:40 2 MS ENBOM: Mark Mallia was next?---Yes, in August, so
11:31:44 3 another month later, or less than a month, another murder.
11:31:48 4
11:31:48 5 And then Michael Marshall?---Michael Marshall follows, yes.
11:31:52 6
11:31:52 7 And Marshall was shot by [REDACTED] as he was standing in
11:32:00 8 the street with his young boy?---His five year old son was
11:32:06 9 actually standing on the other side of the street and I
11:32:08 10 remember that well because he wasn't allowed to cross the
11:32:13 11 street without holding his dad's hand so he couldn't go
11:32:16 12 over and assist, assist his father.
11:32:18 13
11:32:18 14 And he was shot in the head by [REDACTED]?---Five times as I
11:32:23 15 recall.
11:32:23 16
11:32:24 17 Then after Jason and Mark had been murdered, their father
11:32:30 18 Lewis Moran was then murdered?---Yes. I think the next one
11:32:38 19 was Graham Kinniburgh, was it? In December of that year he
11:32:45 20 was shot outside his home, on 13 December.
11:32:50 21
11:32:51 22 And was it after his murder that Lewis Moran was then
11:32:55 23 murdered?---Yes.
11:32:56 24
11:32:56 25 He was murdered in 2004?---Yes.
11:32:58 26
11:32:59 27 So after the Purana Task Force had been established?---Yes.
11:33:02 28
11:33:03 29 And then after Lewis [REDACTED] then
11:33:12 30 murdered?---Lewis Caine, yes. We also had Terrence Blewitt
11:33:16 31 murdered in April and then a week after Lewis Caine was
11:33:23 32 murdered was obviously the Hodsons murders.
11:33:26 33
11:33:26 34 When the Purana Task Force was established the murders
11:33:29 35 continued?---Yes, they did.
11:33:31 36
11:33:35 37 Given the number of murders that I have just asked you
11:33:38 38 about, I expect it was a very busy time at the Purana Task
11:33:45 39 Force, you had a lot of work to do?---Yes, very busy, long
11:33:49 40 hours, not many days off.
11:33:51 41
11:33:51 42 What were the hours like?---You know, days of 16 hours were
11:33:57 43 pretty common and certainly by the end of it we were all
11:34:03 44 owed a lot of time off. Yeah, they were long days and if
11:34:07 45 you weren't actually at work you were often thinking about
11:34:11 46 it. It was the most intense period of my time and
11:34:16 47 certainly I think a significant part of Melbourne's

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BATESON RE-XN - IN CAMERA

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11:34:20 1 history. Yes, we've had other gangland wars, the market
11:34:26 2 gardeners and the painters and dockers, but nothing as
11:34:29 3 significant as what occurred during this period of time in
11:34:32 4 Melbourne.

11:34:32 5
11:34:32 6 And the 16 hour days you were doing, were other members
11:34:37 7 also - - - ?---Everyone did those days, yep.

11:34:39 8
11:34:41 9 Just moving forward. I want to move through some
11:34:46 10 procedural matters.

11:34:47 11
11:34:47 12 COMMISSIONER: I'm wondering if we might not adjourn now.

11:34:51 13
11:34:52 14 MS ENBOM: Yes.

11:34:52 15
11:34:52 16 COMMISSIONER: We'll resume at 9.30 on Monday.

11:35:20 17
11:35:21 18 <(THE WITNESS WITHDREW)

11:35:22 19
11:35:22 20 ADJOURNED UNTIL MONDAY 2 DECEMBER 2019

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