

ROYAL COMMISSION INTO THE MANAGEMENT  
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Wednesday, 4 December 2019

Led by Commissioner:           The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Mr S. Holt QC Ms K. Argiropoulos
Counsel for State of Victoria	Mr T. Goodwin
Counsel for Nicola Gobbo	Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDPP	Mr D. Holding Ms A. Haban-Beer
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for John Higgs	Ms C. Dwyer
Counsel for AFP	Ms I. Minnett
Counsel for Chief Commissioner of Police	Mr A. Coleman SC
Counsel for Mr Cooper	Mr M. Thomas

09:37:56 1 COMMISSIONER: Yes, I think the appearances are largely as  
09:37:59 2 they were yesterday save we have Mr Holt for Victoria  
09:38:04 3 Police today. We've got Mr Goodwin for the State and  
09:38:09 4 Ms Astrid Haban-Beer for the CDPP and Mr Thomas for  
09:38:14 5 Mr Cooper.  
09:38:16 6  
09:38:19 7 MR WOODS: Yes, Commissioner, there are three matters for  
09:38:21 8 submission and perhaps determination this morning prior to  
09:38:24 9 the witness being called. They each relate to Ms Gobbo.  
09:38:30 10 The first is an application as to whether or not Ms Gobbo's  
09:38:34 11 demonstrated that she has a reasonable excuse for not  
09:38:37 12 complying with the Notice to Attend. The second is whether  
09:38:43 13 a particular witness who gave evidence relevant to Ms Gobbo  
09:38:46 14 should be recalled and the third is whether transcripts of  
09:38:52 15 the Commission's phone conversations and a draft statement  
09:38:55 16 should be tendered to the Commission. Representatives of  
09:39:04 17 the witness are in court today in relation to the  
09:39:09 18 application to recall. It might be most efficient that  
09:39:13 19 that's dealt with first.  
09:39:15 20  
09:39:15 21 COMMISSIONER: It would be, yes.  
09:39:16 22  
09:39:17 23 MR WOODS: That being the case, it's Ms Gobbo's  
09:39:20 24 application. There are matters that would probably need to  
09:39:23 25 be dealt with in closed hearing so that we can be frank  
09:39:26 26 with you. I think we might be able to deal with some of  
09:39:29 27 them, given that the Commissioner heard the evidence, we  
09:39:32 28 can probably deal with them at high level, but we're in  
09:39:36 29 your hands about that. Mr Nathwani might have a view about  
09:39:39 30 whether it should be a closed hearing.  
09:39:41 31  
09:39:41 32 COMMISSIONER: Mr Nathwani, Mr Thomas is probably more  
09:39:43 33 likely.  
09:39:44 34  
09:39:44 35 MR THOMAS: Yes, we definitely seek the proceedings be in a  
09:39:48 36 closed hearing.  
09:39:49 37  
09:39:49 38 COMMISSIONER: All right. I don't expect this will take  
09:39:52 39 very long.  
09:39:52 40  
09:39:53 41 MR WOODS: No.  
09:39:53 42  
09:39:53 43 COMMISSIONER: It's probably better to do it in closed  
09:39:56 44 hearing. Pursuant to s.26 *Inquiries Act*, access to the  
09:40:00 45 inquiry during the application of Mr Cooper, a pseudonym,  
09:40:01 46 is limited to legal representatives and staff assisting the  
09:40:05 47 Royal Commission, the following parties with leave to

09:40:07 1 appear in the private hearing and their legal  
09:40:10 2 representatives, namely the State of Victoria, Victoria  
09:40:13 3 Police including media unit representatives, Graham Ashton,  
09:40:15 4 Director of Public Prosecutions and Office of Public  
09:40:17 5 Prosecutions, Commonwealth DPP, Ms Nicola Gobbo, the SDU  
09:40:22 6 handlers, Australian Federal Police, Australian Criminal  
09:40:26 7 Intelligence Commission, Mr Cooper. Media representatives  
09:40:29 8 accredited by the Royal Commission are allowed to be  
9 present in the hearing room. The hearing is to be recorded  
09:40:32 10 but not streamed or broadcast. Subject to any further  
09:40:36 11 order there is to be no publication of any material,  
09:40:37 12 statements, information or evidence given, made or referred  
09:40:39 13 to before the Commission which could identify or tend to  
09:40:41 14 identify the person referred to as Mr Cooper or his  
09:40:45 15 whereabouts. A copy of this order is to be posted on the  
09:40:48 16 hearing room door.  
09:40:55 17  
09:40:55 18 MR WOODS: We'll just wait for those individuals who need  
09:40:58 19 to leave to do so.  
09:41:03 20  
09:41:03 21 COMMISSIONER: It's more a question of people coming in  
09:41:06 22 than leaving.  
09:41:07 23  
09:41:07 24 MR WOODS: It would seem that way. We'll just wait a  
09:41:11 25 moment.  
09:41:11 26  
09:41:12 27 (IN CAMERA PROCEEDINGS FOLLOW)  
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10:09:10 1 UPON RESUMING IN OPEN HEARING:

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10:09:42 3 COMMISSIONER: Yes Mr Nathwani.

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10:09:44 5 MR NATHWANI: Can I from the outset, I've seen the  
10:09:47 6 submissions this morning of counsel assisting and they will  
10:09:50 7 help to degree but by virtue of their contents, and I'm  
10:09:56 8 sure you're aware the position of counsel for the  
10:10:01 9 Commission is that they don't accept the medical evidence  
10:10:04 10 we have provided amounts to a reasonable excuse on the  
10:10:05 11 statute. By necessity to make this application it may take  
10:10:07 12 me a little bit longer than I'd first envisaged, and I  
10:10:12 13 don't really make any apologies for that but just set them  
14 out.

10:10:14 15  
10:10:14 16 Mr Woods and I discussed the relevant law and it's  
10:10:18 17 helpfully surmised in the case of Debono [2013] VSC 408, I  
10:10:25 18 have a copy for you.

10:10:26 19  
10:10:27 20 COMMISSIONER: Thank you.

10:10:30 21  
10:10:30 22 MR NATHWANI: If I could ask you please to turn up p.9,  
10:10:34 23 paragraph 31, it just details the meaning and scope of  
10:10:39 24 "without reasonable excuse" which of course is found in  
10:10:42 25 numerous bits of legislation. I ask you to consider  
10:10:47 26 paragraph 31, Taikato v The Queen where the High Court  
10:10:52 27 decided what is reasonable excuse depends not only on the  
10:10:56 28 circumstances of the individual case but also on the  
29 purpose of the provision, to which defence of reasonable  
10:11:00 30 excuse is an exception. And so, just pausing, when one  
10:11:05 31 reads it later on and considers all the relevant  
10:11:08 32 principles, this case itself, Debono, deals with coercive  
10:11:13 33 hearings, where the purpose is for secret hearings forcing  
10:11:18 34 people to give evidence and therefore it has a more narrow  
10:11:21 35 construction. Obviously in the wider ambit in a criminal  
10:11:27 36 trial it has the widest construction. If we, as an  
10:11:31 37 example, turn to paragraph 35 there's reference to Ganin v  
10:11:35 38 New South Wales Crime Commission and the citation there.  
10:11:40 39 Towards the bottom of that paragraph, Kirby, with whom  
10:11:47 40 Meagher and O'Keefe agreed, stated the words: "Without  
10:11:49 41 reasonable excuse are very wide and should be given their  
10:11:51 42 ordinary construction rather than being read down. All  
10:11:54 43 that is required is that the resisting witness should have  
10:11:56 44 a reasonable excuse". And then it goes on further, this is  
10:12:05 45 the part I highlight for these purpose, paragraph 37: "The  
10:12:09 46 test of reasonable excuse applied in Ganin where the  
47 particular risk is so remote and negligible that it can be

10:12:16 1 ignored so that it is not capable of being regarded as  
10:12:18 2 being a reasonable excuse within the provision of that  
10:12:20 3 particular Act. In judging whether reasonable excuse  
10:12:24 4 exists it is appropriate to disregard imaginary and  
5 insubstantial fears or those which in the practical world  
10:12:31 6 are so remote as to be safely ignored or (indistinct) as  
10:12:37 7 unreasonable". Despite my searches, my limited ability at  
10:12:41 8 searching, there is no as far as I can see authority  
10:12:45 9 relating to interpretation of the *Inquiries Act*, which of  
10:12:48 10 course this application falls under.

10:12:51 11  
10:12:51 12 COMMISSIONER: That's a little different, isn't it?  
10:12:53 13 Because this is in respect of a criminal charge which has  
10:12:56 14 to be proved beyond reasonable doubt, whereas what is  
10:13:01 15 necessary here is for me to be satisfied, which is I would  
10:13:05 16 have thought different.

10:13:06 17  
10:13:06 18 MR NATHWANI: It is, but can I just say this, Ganin in fact  
10:13:09 19 was in relation to the Crime Commission, so a coercive  
10:13:12 20 hearing, so slightly different. I accept Taikato was a  
10:13:16 21 criminal proceeding, so you have a wide spectrum. My  
10:13:21 22 submission is this falls somewhere in between the two.  
10:13:23 23 It's not a criminal trial, as you've just said. I accept  
10:13:25 24 that, but it's certainly not a coercive hearing. So when  
10:13:31 25 one reads through this judgment, for example Debono, which  
10:13:34 26 related to a coercive hearing, the judge found ultimately  
10:13:37 27 that fear of being attacked by virtue of attending a  
10:13:40 28 coercive hearing could amount to reasonable excuse but  
10:13:42 29 because it was in a private setting not published, it was  
10:13:45 30 unrealistic and therefore didn't amount to reasonable  
10:13:48 31 excuse.

10:13:48 32  
10:13:49 33 COMMISSIONER: My prima facie view would be that I would  
10:13:52 34 need to be satisfied on the balance of probabilities that  
10:13:55 35 you had established a reasonable excuse in the  
10:13:59 36 circumstance.

10:13:59 37  
10:14:00 38 MR NATHWANI: And I don't make any submission to the  
10:14:03 39 contrary having read the law. The reason for putting that  
10:14:06 40 before you is the ambit of the meaning of the term  
10:14:10 41 reasonable excuse, because in various statutes it's got  
10:14:11 42 different meanings. I'm not producing any documents in  
10:14:14 43 front of you as precedents or authorities you need to  
10:14:18 44 follow. On the reading of the law in a coercive setting  
10:14:27 45 the Crime Commission said it should be given a wide  
10:14:28 46 meaning, its natural meaning. Can I say just in passing  
10:14:29 47 other authorities, I don't put them before you as I

10:14:31 1 repeated, reasonable excuse can be, for example, not having  
10:14:35 2 sufficient time on the notice. So, for example, if there  
10:14:38 3 was a notice to attend and it only gave a week to respond  
10:14:42 4 or to attend, you could say you had a reasonable excuse if,  
10:14:45 5 for example, that was insufficient preparation time and  
10:14:48 6 that is relevant to this application on behalf of Ms Gobbo,  
10:14:51 7 that any preparation time would need to be significant,  
10:14:55 8 even if you didn't accept the medical evidence.

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10:14:58 10 Coming to the substantive application then, with the  
10:15:02 11 principles in mind if I may. The submission is as follows:  
10:15:09 12 that Ms Gobbo's circumstances - and I can say at this stage  
10:15:14 13 I think when I come to respond to the submissions of our  
10:15:18 14 counsel it may be necessary in part to go into closed  
10:15:22 15 hearing. Ms Gobbo's circumstances, and there's a number  
10:15:26 16 taken cumulatively, that amount to reasonable excuse in my  
10:15:30 17 submission. The first is her physical condition, as  
10:15:33 18 evidenced by pain specialists. The second is her mental  
10:15:36 19 condition, as evidenced by psychologists and psychiatrists.  
10:15:41 20 The third, which I've previously categorised as  
10:15:45 21 situational, which I can't deal with openly and frankly in  
10:15:50 22 this current setting. Obviously threat to life is one, but  
10:15:57 23 then more, and it's the last one, the last factor, is her  
10:16:01 24 ability to prepare given all of those factors. Because of  
10:16:07 25 course s.12 of the *Inquiries Act* makes it clear even Royal  
10:16:14 26 Commissions should allow procedural fairness.

27  
10:16:16 28 I don't propose to take you through every single  
10:16:19 29 medical statement because you've made observations in  
10:16:23 30 relation to them on the record and I know you've read them.  
10:16:26 31 What I do propose to do is go through the relevant  
10:16:30 32 chronology, providing documentation.

33  
10:16:32 34 Could I start in that regard with handing up two  
10:16:36 35 letters. The first is a letter dated 15 March 2019 which  
10:16:47 36 will ultimately have to be redacted. It was the response  
10:16:49 37 to the Notice to Attend dated 8 March. You can see there  
10:16:55 38 those instructing me set out to this Commission six  
10:17:05 39 factors. The first sets out generally that she was unable  
10:17:09 40 to attend. The second sets out some matters relevant. She  
10:17:14 41 is in poor physical and mental health, suffering  
10:17:17 42 considerable pain for which she is being medicated,  
10:17:21 43 obviously I don't read out all of it for fairly obvious  
10:17:25 44 reasons. Paragraph 6, attached are particular reports  
10:17:30 45 received from particular people. So they're not included  
10:17:36 46 before you but that was material sent to you on 15 March  
10:17:41 47 setting out a reasonable excuse. Pausing there.

10:17:45 1  
10:17:45 2 COMMISSIONER: Perhaps I'll make that Exhibit 1 in this  
10:17:48 3 application.  
10:17:48 4  
10:17:49 5 #EXHIBIT RC1 - Letter dated 15/3/19.  
10:17:52 6  
10:17:52 7 MR NATHWANI: Thank you. So that sets out in effect  
10:17:56 8 grounds for why she has a reasonable excuse not to provide  
10:18:00 9 evidence as requested at that time and as an aside, given  
10:18:04 10 what is set out at paragraph 2, it was inevitable that the  
10:18:13 11 only way she was going to be able to give evidence, had she  
10:18:17 12 attended, would be by telephone and that's relevant to your  
10:18:21 13 counsel submissions which I'll deal with in due course.  
10:18:27 14 From the outset, in any realistic light the only way she  
10:18:31 15 was ever going to give evidence was by telephone.  
16  
10:18:35 17 The response we get back, I'll read it, the first  
10:18:38 18 paragraph, 18 March 2019, "The Royal Commission notes the  
10:18:44 19 matters set out in your letter with respect to your client  
10:18:47 20 Ms Gobbo's present circumstances. The Commission accepts  
10:18:51 21 that on account of these matters Ms Gobbo currently has a  
10:18:55 22 reasonable excuse for failing to comply with the Notice to  
10:18:59 23 Attend", that should read I think 9 March 2019, although it  
10:19:03 24 may have been changed. Just taking a step back.  
10:19:08 25 Commissioner, you found, based on that information, and  
10:19:12 26 those limited reports, that she had a reasonable excuse  
10:19:17 27 back in March of this year.  
10:19:18 28  
10:19:19 29 COMMISSIONER: At that time, yes. Currently.  
10:19:21 30  
10:19:22 31 MR NATHWANI: Yes, at that time.  
10:19:23 32  
10:19:23 33 COMMISSIONER: I'll make that email Exhibit 2.  
10:19:26 34  
10:19:26 35 #EXHIBIT RC2 - Email  
10:19:31 36  
10:19:32 37 MR NATHWANI: Thank you. Of course at that time and it was  
10:19:34 38 always in the hope that her mental condition would improve.  
10:19:37 39 And in fact you have since ten medical reports that say her  
10:19:43 40 pain levels are the same as they were at the time you found  
10:19:47 41 her unfit. Her psychological and psychiatric state in fact  
10:19:57 42 worse. One only need compare the reports you were provided  
10:20:02 43 with which you accepted amounted to reasonable excuse, to  
10:20:05 44 all the reports we provided since. So when I ask the  
10:20:14 45 rhetorical question of what's changed, in fact quite a lot.  
10:20:19 46 Her psychological, psychiatric state has declined. Her  
10:20:23 47 circumstantial factors, and again I'll go into private

10:20:28 1 later to deal with them in more detail, have clearly from  
10:20:31 2 the material you have worsened.  
10:20:32 3  
10:20:33 4 COMMISSIONER: You can just refer to the reports if you  
10:20:35 5 want to, paragraphs of the report.  
10:20:38 6  
10:20:38 7 MR NATHWANI: I can go through them of course. But you  
10:20:49 8 have - I'll consider how to deal with that, yes. But the  
10:20:53 9 position quite frankly is that having found her unfit at  
10:20:55 10 that time, the basic submission is her position is that  
10:21:01 11 she's deteriorated. Or on any view, at least the same.  
10:21:07 12 And if she's been found unfit then my question is how there  
10:21:13 13 can be a differing view several months later.  
14  
10:21:20 15 More recently, and I'll just read - you were obviously  
10:21:24 16 provided with a number of reports on the 20 September  
10:21:27 17 hearing and asked for updates to address particular  
10:21:30 18 questions. And going to pain specialist 1, 25 September  
10:21:36 19 2019.  
20  
10:21:43 21 COMMISSIONER: Sorry, what date was that?  
10:21:44 22  
10:21:45 23 MR NATHWANI: The person we've labelled pain specialist 1,  
10:21:49 24 25 September 2019.  
10:21:50 25  
10:21:51 26 COMMISSIONER: Yes.  
10:21:51 27  
10:21:51 28 MR NATHWANI: I'm not focusing on the initial reports you  
10:21:54 29 had because you asked for updates and particularly  
10:21:56 30 questions directed at whether she was fit to give evidence  
10:22:00 31 and then question 2, whether she was malingering or  
10:22:04 32 feigning. I only read part of this. That that person  
10:22:08 33 says, "I do not believe that Ms Gobbo will be fit to  
10:22:10 34 undertake any", and I place emphasis on any because it's  
10:22:16 35 relevant to your counsel's submissions, "Any form of  
10:22:20 36 interrogation within the Commission setting. The  
10:22:23 37 likelihood is that there will be a deterioration in her  
10:22:27 38 pain and subsequent to the worsening concentration and  
10:22:29 39 tension, lowered frustration tolerance and this would lead  
10:22:30 40 to significant decline in performance inhibiting her role  
10:22:34 41 as a satisfactory witness. This unfortunately for Ms Gobbo  
10:22:37 42 will be for the long-term". And of course pausing there,  
10:22:41 43 the reason we provided pain specialist reports,  
10:22:45 44 psychological reports and psychiatric reports is that we  
10:22:48 45 don't ask you to look at any of the reports in isolation.  
10:22:51 46 All of the material should be considered cumulatively and  
10:22:57 47 in the position, not in a vacuum, but in the position many

10:23:00 1 of these medical practitioners have been treating her for  
10:23:04 2 in excess of ten years, and so as a global picture. I  
10:23:09 3 can't remember which medical professional says it, but says  
10:23:13 4 there is a multi-disciplinary approach to her health. That  
10:23:17 5 also then is complicated by her circumstantial position.  
10:23:23 6 And in relation to the issue of malingering the expert  
10:23:27 7 says, "At no stage was I of the opinion that her symptoms  
10:23:31 8 and signs were not real. Her pain clearly interferes with  
10:23:36 9 her whole life, I do not believe she is feigning these  
10:23:39 10 symptoms. Obviously it is symptomatic of the stroke she  
10:23:44 11 had". They had treated her for 11 and a half years.

12  
10:23:49 13           Psychologist 1 provided a report on 16 September 2019  
10:23:55 14 and I focus on psychologist 1 because that is the person  
10:24:00 15 who has provided several reports for your assistance. You  
10:24:04 16 recall psychologist 1 gave evidence before Ginnane in the  
10:24:08 17 High Court proceedings and there is a lengthy transcript in  
10:24:11 18 relation to the evidence of psychologist 1 and in fact pain  
10:24:15 19 specialist 1, again accepted by that court. At paragraph 3  
10:24:27 20 of that first report, 16 September, was asked, "How did  
10:24:31 21 Ms Gobbo present when that expert first met her?" Talks  
10:24:35 22 about the stress and her (indistinct) pain syndrome and  
10:24:42 23 severe facial pain, was taking relatively high levels of  
10:24:45 24 pain medication. She had indicated she had suffered  
10:24:48 25 suicidal ideation without intent. She was suffering from  
10:24:52 26 major depressive disorder and pain disorder.

10:24:54 27  
10:24:55 28 COMMISSIONER: Can I just make sure I've got the right one,  
10:24:56 29 this is 16 September, psychologist 1?

10:25:00 30  
10:25:00 31 MR NATHWANI: Yes.

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10:25:01 33 COMMISSIONER: Right. And you're reading from?

10:25:03 34  
10:25:03 35 MR NATHWANI: Sorry, the second page, question 3, question  
10:25:06 36 4.

10:25:08 37  
10:25:09 38 COMMISSIONER: All right. Yes.

10:25:11 39  
10:25:12 40 MR NATHWANI: She was suffering from - this is paragraph 4,  
10:25:14 41 I read paragraph 3 in part. She was suffering from major  
10:25:19 42 depressive disorder and pain disorder. She has low  
10:25:22 43 motivation, poor sleep and difficulties with concentration  
10:25:25 44 and memory related to somnolence from medications. That of  
10:25:30 45 course will be relevant to her ability to prepare to give  
10:25:33 46 evidence as well, not just her a current ability but her  
10:25:37 47 ability to prepare.

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Psychologist 1 then provided an update, as you requested, 29 September 2019. And of course that expert again had treated Ms Gobbo for an extensive period. If I could ask you to turn up the 29 September report.

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COMMISSIONER: Yes.

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MR NATHWANI: The second paragraph, I don't read it, but it goes towards her circumstantial issues that you're well aware of. The last sentence is relevant to capacity to properly prepare and engage from a practical sense, as opposed to the mental and physical health sense. The second paragraph, sorry, third paragraph reads as follows, or relevant parts, "In terms of her mental state she reports low mood, helplessness and hopelessness and poor concentration and memory problems. She reports that she wakes to the experience of overwhelming facial pain and symptoms of her neuralgia and teeth clenching. Her pain increases as the day goes on. She has been prescribed medications for depression, anxiety and pain by particular experts". And then the last sentence about how she cries most days and feels her brain cannot function normally.

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Then the final questions are asked on the second page, the opinion is, "Is he capable of giving evidence before the Commission? And will she be capable of giving evidence in the future?" It's predicated on her circumstances and there's no suggestion that those circumstances will change during the life of this Commission and I think that's something you accepted at a hearing when I made the same submission to you on 20 September. The record suggests that you appeared to accept that her current circumstances are not likely to change during the currency of this Commission, whether we finish on 20 December or in fact go on to next year.

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The response from the expert is that, "Ms Gobbo is not capable of giving evidence before the Commission and her incapacity to do so is indefinite. Her pain syndrome and mental state appear to be at the same or worse state than when I first met her in 2010. Her energy and motivation are poor". It sets out there what her focus and her daily energy is dedicated towards. Then says, "She reports cognitive slowing, memory difficulties and concentration problems. She is not reading to any great degree, stating she can't hold the material in her mind and coping

10:29:00 1 difficulties. She would not be able to cope with giving  
10:29:04 2 evidence remembering events from 13 plus years ago or  
10:29:05 3 reading the volume of documents that would be required to  
10:29:07 4 give evidence". Pausing there from a practical point of  
10:29:10 5 view, we have an undertaking where we are not allowed to  
10:29:13 6 provide any material or discuss particular material with  
10:29:16 7 Ms Gobbo. She has not seen one page of those ICRs. She  
10:29:19 8 has not read one page of any of the transcripts.  
10:29:24 9  
10:29:24 10 COMMISSIONER: Did you say you have an undertaking?  
10:29:27 11  
10:29:27 12 MR NATHWANI: We do. The undertaking we have is not to  
10:29:30 13 provide any material to our client. I have to seek leave  
10:29:32 14 to obtain instructions in relation to, for example, the  
10:29:37 15 ICRs, in relation to some of the covert recordings, all the  
10:29:41 16 recordings undertaken of her. As such for her to be  
10:29:45 17 properly and fairly prepared - - -  
10:29:46 18  
10:29:47 19 COMMISSIONER: You gave that undertaking to the Commission,  
10:29:48 20 did you?  
10:29:49 21  
10:29:49 22 MR NATHWANI: We did, when we were provided the ICRs it was  
10:29:52 23 on the undertaking that she not be provided any of that  
10:29:54 24 material. Ditto the recordings of her meetings with  
10:29:59 25 handlers and there's other material as well, some  
10:30:03 26 statements were provided on the same basis. Not that she's  
10:30:06 27 in a position to be able to read, as I've made submissions  
10:30:09 28 to you before. She has about two hours a week where she  
10:30:12 29 would have free time and obviously we say she's not fit to.  
10:30:18 30 But the more pressing issue if you were to rule against us  
10:30:21 31 she would then be given the opportunity under the  
10:30:23 32 legislation to have a reasonable time to comply with any  
10:30:26 33 notice. So from a practical point of view it would have to  
10:30:29 34 be months and months. But anyway, the expert goes on and  
10:30:35 35 gives an opinion as to whether or not in answer to your  
10:30:39 36 question the expert's of the view that Ms Gobbo is  
10:30:44 37 malingering or feigning symptoms based on a record in the  
10:30:49 38 2006 ICR.  
10:30:52 39  
10:30:52 40 COMMISSIONER: I thought she had, she now had four hours a  
10:30:56 41 day, Monday to Friday, when she was available to work. I  
10:31:01 42 thought I read that on in the reports.  
10:31:03 43  
10:31:04 44 MR NATHWANI: I can address you more in private if we have  
10:31:07 45 to. It's limited to two hours a day and it would be  
10:31:14 46 unrealistic that each and every of those days could be  
10:31:20 47 dedicated to this. From a practical point of view, from a

10:31:26 1 mental health point of view, from the view of the  
10:31:28 2 psychologist, from the psychiatrist, from the view of the  
10:31:32 3 stress in relation to pain, in view of her medication. But  
10:31:38 4 you see there, paragraph 2, or the question 2 response,  
10:31:42 5 second paragraph, "In terms of feigning illness I have  
10:31:44 6 treated Ms Gobbo for a lengthy period. Her medical  
10:31:49 7 conditions have been consistently treated as bona fide  
10:31:53 8 medical problems by", it says there particular types of  
10:31:57 9 doctors, "Who she saw regularly and by those who saw her  
10:32:04 10 regularly over some years. I have received letters from  
10:32:08 11 many of these doctors regularly updating me as to her  
10:32:08 12 physical difficulties. None of them mention feigning  
10:32:12 13 illness as a problem". So there are a body of medical  
10:32:15 14 professionals, expert medical professionals, some of them  
10:32:19 15 as you know from their qualifications at the top of their  
10:32:21 16 field in their particular fields. "I was in regular  
10:32:25 17 contact with her particular physician. We both agreed that  
10:32:28 18 her presentation was consistent with major depressive  
10:32:31 19 disorder, pain disorder, and post-traumatic stress  
10:32:37 20 disorder. I saw no evidence of her feigning illness in  
10:32:42 21 eight years of psychological treatment". I repeat, this  
10:32:44 22 expert gave evidence before the Court of Appeal or the High  
10:32:46 23 Court.

24  
10:32:49 25 An update report was provided by that expert, 24  
10:32:52 26 November 2019, where she again had the opportunity of  
10:32:57 27 assessing Ms Gobbo. Again she says she confirmed her  
10:33:03 28 mental state is clinically concerning and she has daily  
10:33:08 29 suicidal thoughts without intent and says why there is no  
10:33:13 30 intent. Again, I've made submissions to you before about  
10:33:16 31 the protective features in Ms Gobbo's life and they are  
10:33:19 32 referred to there. "She experiences low mood, chronic  
10:33:23 33 exhaustion and chronic pain, rage and fear of Victoria  
10:33:29 34 Police due to their behaviour towards her over many years.  
10:33:34 35 She is despondent and has no identity or self-esteem".  
36 It sets out her pain related to a previous stroke and  
10:33:41 37 exacerbated, and this is what they all say, the pain that  
10:33:44 38 she has been treated for with heavy medication by experts  
10:33:46 39 in the field all say it's exacerbated by chronic stress,  
10:33:48 40 all of the experts say by inference or directly that any  
10:33:52 41 attempt to give evidence would exacerbate that chronic  
10:33:56 42 stress. And she only continues to function by virtue of  
10:34:00 43 one factor. She confirmed that she has limited  
10:34:03 44 concentration due to this. It then sets out some of the  
10:34:14 45 circumstantial issues in the next paragraph which are  
10:34:17 46 relevant. And then they are asked, "Have any of your  
10:34:23 47 opinions which you expressed in previous reports changed

10:34:26 1 and if so can you please explain how and why your opinion  
10:34:30 2 has changed?" And the expert confirms the previous opinion  
10:34:34 3 I've already read out to you. "In addition, I would add  
10:34:39 4 that Ms Gobbo has been diagnosed by myself, two particular  
10:34:44 5 specialists."  
10:34:45 6  
10:34:45 7 COMMISSIONER: Sorry, where are you reading from now?  
10:34:47 8  
10:34:48 9 MR NATHWANI: This is the second page of the 24 November  
10:34:50 10 report.  
10:34:50 11  
10:34:51 12 COMMISSIONER: Yes.  
10:34:51 13  
10:34:53 14 MR NATHWANI: So the expert there confirms the previous  
10:34:55 15 opinion I've already read to you but then adds in addition,  
10:34:59 16 "I would add Ms Gobbo's been diagnosed by myself, two  
10:35:03 17 specialists, other current mental health professionals, two  
10:35:11 18 psychiatrists, another psychologist, as suffering from  
10:35:16 19 major depressive disorder, issues in relation to pain and  
10:35:20 20 the disorder there and PTSD".  
21  
10:35:31 22 The only other one I want to just highlight their  
10:35:37 23 findings is psychiatrist 1 who provided a report dated 1  
10:35:43 24 September 2019. That psychiatrist has been treating  
10:35:57 25 Ms Gobbo since March 2019. "(iv) She finds herself  
10:36:15 26 deteriorating progressively, vegetating, in her  
10:36:18 27 intellectual and psychological functioning because she  
10:36:22 28 couldn't engage in any meaningful activity or access any  
10:36:26 29 emotional support". Turning over the page, the second  
10:36:33 30 page, "I've seen her at intervals over the past six months  
10:36:37 31 to monitor her response to treatment and to change her  
10:36:40 32 medication regime but there has been no improvement at  
10:36:44 33 all". This was drafted or written at the beginning of  
10:36:48 34 September. On most recent review of her condition on 29  
10:36:53 35 August 2019 indicated, "She's not responding to medical  
10:36:58 36 intervention. And the legitimate concern is though she is  
10:37:04 37 not actively suicidal the impasse in the status quo could  
10:37:07 38 decompensate and cause a psychotic breakdown". That's a  
10:37:09 39 consultant psychiatrist currently treating her. That's in  
10:37:16 40 relation to her present state and they've provided a second  
10:37:20 41 statement which I haven't got the date of but it says,  
10:37:30 42 "Thank you for your mail of 16 September 2019, please refer  
10:37:34 43 to my medical report dated 1 September". It sets out how  
10:37:40 44 often seeing Ms Gobbo. "5. The psychiatric disorder has  
10:37:48 45 been associated with crippling physiological symptoms of  
10:37:51 46 loss of energy, disruptive sleep, irritability, loss of  
10:37:57 47 appetite, concentration problems and fatigue".

10:38:00 1  
10:38:00 2 COMMISSIONER: I'll just make sure I've got that one.  
10:38:02 3  
10:38:03 4 MR NATHWANI: I'm certain you have, you referred on the  
10:38:06 5 last occasion to the conclusion, which is a therapeutic  
10:38:15 6 nihilism. It's from psychiatrist 1. It's 18 September  
10:38:23 7 2019, mine is cut off. Thank you.  
10:38:44 8  
10:38:45 9 COMMISSIONER: Psychiatrist 1, okay, I think I've got it  
10:38:48 10 now.  
10:38:48 11  
10:38:49 12 MR NATHWANI: On the first page, if yours is set out as  
10:38:54 13 mine, is it sets out the history and contact and then at  
10:38:59 14 number 5.  
10:39:01 15  
10:39:01 16 COMMISSIONER: It's difficult because I haven't got the  
10:39:02 17 names of these people, so it's tricky. So that starts,  
10:39:07 18 "Thank you for your mail of 16 September 2019".  
10:39:10 19  
10:39:11 20 MR NATHWANI: Absolutely.  
10:39:11 21  
10:39:12 22 COMMISSIONER: Good, I've got the right one.  
10:39:17 23  
10:39:18 24 MR NATHWANI: That's the right one. It sets out medication  
10:39:22 25 and previous diagnoses on the first page. At the bottom,  
10:39:27 26 "I came into the picture only on 12 April 2019 as there was  
10:39:31 27 concern that her depression was deteriorating despite the  
10:39:34 28 increased dosage". So there's evidence there of a  
10:39:42 29 deterioration from March when you found her unfit. And  
10:39:51 30 then it sets out the major depressive disorder based on  
10:39:55 31 testing. Again, I repeat from a consultant psychiatrist.  
32  
10:40:01 33 "5. Her psychiatric disorder has been associated with  
10:40:04 34 crippling physiological symptoms, a loss of energy,  
10:40:08 35 disruptive sleep, irritability, loss of appetite,  
10:40:11 36 concentration problem and fatigue, in addition to anhedonia  
10:40:16 37 and loss of self worth". That's not taking into account  
10:40:19 38 her issues with pain, where you have the evidence that  
10:40:24 39 chronic stress and the like would aggravate the pain that  
10:40:28 40 she suffers from, for which she's on significant medication  
10:40:33 41 and has been for about ten years. Six, last sentence,  
10:40:37 42 because the first sentence details her circumstantial  
10:40:40 43 issues that I referred to. "Environmental stress serves  
10:40:45 44 only to worsen her physical and mental health." The  
10:40:49 45 Commission is well aware, and I'll inevitably in closed,  
10:40:54 46 maybe only for a short period, set out in bullet point form  
10:40:57 47 those environmental stresses upon her. And it's undoubted

10:41:02 1 and inevitable that her circumstances would worsen her  
10:41:06 2 physical and mental health. "8. Since my first consult  
10:41:11 3 with her I have not seen any physical improvement". "9.  
10:41:17 4 The precariousness of her social situation and  
10:41:21 5 circumstances could only aggravate her mental state".  
10:41:27 6 "Conclusion. Given the narrative above and the endeavour  
10:41:32 7 to help her, I conclude that we are at a stage of  
10:41:32 8 therapeutic nihilism", in other words, there will be no  
10:41:36 9 improvement. And this is evidence, as I repeat, after  
10:41:44 10 you've already found her unfit back in March based on less  
10:41:49 11 compelling evidence.  
12

10:41:54 13 So you have before you, after that decision that you  
10:41:57 14 made, ten reports, two from experts who have treated her  
10:42:03 15 over an extensive period. Others from experts treating her  
10:42:09 16 at this precise moment in time. And submissions in  
10:42:14 17 relation to them, I would ask you to consider the  
10:42:21 18 submissions I made in private to you on 20 September in  
10:42:23 19 relation to those experts, but I will certainly add to them  
10:42:27 20 this morning.

21  
10:42:32 22 So taken together, all of those factors, it's our  
10:42:38 23 submission that it quite obviously amounts to a reasonable  
10:42:41 24 excuse and certainly far more compelling than the position  
10:42:46 25 in the material before you back in March of this year when  
10:42:49 26 you accepted that she had a reasonable excuse. So when I  
10:42:52 27 asked the rhetorical question of what's changed, the  
10:42:55 28 material before you is quite a lot and quite a lot,  
10:42:59 29 unfortunately, adverse to her health.

30  
10:43:03 31 I'm in your hands, Commissioner, whether you wish to  
10:43:07 32 hear Mr Woods' submissions to the contrary or whether you  
10:43:11 33 wish me to deal with them now whilst I'm on my feet?

10:43:15 34  
10:43:15 35 COMMISSIONER: I think he probably should make a reply  
10:43:18 36 because he might say something that's not in his written  
10:43:22 37 submissions.

10:43:23 38  
10:43:23 39 MR NATHWANI: Of course.

10:43:24 40  
10:43:25 41 COMMISSIONER: Can I just be clear, you accept that you  
10:43:29 42 have the onus on the balance of probabilities to establish  
10:43:33 43 reasonable excuse?

10:43:34 44  
10:43:34 45 MR NATHWANI: We do. Can I say this, I'm grateful you  
10:43:38 46 point that out, certainly my reading of the law concurs  
10:43:42 47 with that. You said the following in relation to the

10:43:47 1 conditions when you made your ruling on 4 October. You set  
10:43:52 2 out all the medical evidence and you said, "On the material  
10:43:59 3 present before me I am inclined to accept that Ms Gobbo is  
4 probably suffering from those conditions". Then you go on  
10:44:00 5 to say, "But I'm not presently persuaded she has  
10:44:04 6 demonstrated a reasonable excuse for failing to attend on  
10:44:06 7 the basis, in effect, that we'll have more time this year"  
10:44:09 8 and you asked for updated reports. What's relevant there  
10:44:12 9 is that on the acceptance that she probably had, is  
10:44:15 10 suffering from those illnesses, when I made the submission  
10:44:19 11 I did, the headline submission I did, that she's been found  
10:44:22 12 unfit in March, her condition has worsened and the evidence  
10:44:28 13 demonstrates it's worsened, it's such that on the previous  
10:44:32 14 finding she's certainly suffering from those conditions,  
10:44:36 15 but that coupled with her circumstantial circumstances as  
10:44:38 16 well as an inability to be able to properly prepare in any  
10:44:44 17 meaningful time in the life of this Commission, all taken  
10:44:47 18 together amount to a reasonable excuse. Just as an aside  
10:44:50 19 can I just say this, perhaps it will assist with what  
10:44:54 20 follows. I note, as do those instructing me, there is not  
10:44:57 21 one piece of medical evidence obtained by this Commission  
10:45:01 22 contrary to all the ten medical bits of evidence you have,  
10:45:06 23 as well as the evidence given by the experts before Ginnane  
10:45:11 24 and also, as far as the medical evidence provided with the  
10:45:16 25 letter of 15 March which I referred to which was provided,  
10:45:20 26 you were given some psychological reports on Ms Gobbo not  
10:45:23 27 from Ms Gobbo's legal team, it came from another source.  
10:45:27 28 All of them all in favour and all agree. So there's an  
10:45:32 29 expert not instructed by us, instructed by another party,  
10:45:35 30 and as you will see from that letter, on which she found  
10:45:39 31 that she was unfit.

10:45:39 32  
10:45:40 33 COMMISSIONER: Sorry, what is the one you're talking about?

10:45:42 34  
10:45:42 35 MR NATHWANI: Can I ask you to turn up the letter of 15  
10:45:45 36 March from Minter Ellison to the Commission, there are six  
10:45:48 37 paragraphs set out. And at paragraph 6, "Attached  
10:45:57 38 psychologist's report we received from a particular party",  
10:46:01 39 the reason I can't mention that I hope is fairly obvious.  
10:46:06 40 So you have medical reports - - -

10:46:07 41  
10:46:07 42 COMMISSIONER: I don't have that immediately before me.

10:46:09 43  
10:46:10 44 MR NATHWANI: They were provided.

10:46:11 45  
10:46:11 46 COMMISSIONER: I'm sure they have been provided to the  
10:46:13 47 Commission but I just don't have them. You handed up the

10:46:15 1 letter but not the attached report so perhaps I should have  
10:46:18 2 a look at those if you're relying on them.  
10:46:22 3  
10:46:22 4 MR NATHWANI: Of course it must be based on evidence, we've  
10:46:25 5 provided evidence, as have other parties, in relation to  
10:46:27 6 her health, all of which amount to there is no evidence to  
10:46:32 7 the contrary and I'll await the submissions of counsel  
10:46:35 8 before responding.  
10:46:39 9  
10:46:39 10 COMMISSIONER: Thank you. Yes Mr Woods.  
10:46:40 11  
10:46:41 12 MR WOODS: Thank you Commissioner. As explained earlier,  
10:46:46 13 it's counsel assisting's submission that whilst Ms Gobbo is  
10:46:50 14 clearly mentally and physically unwell, those ailments  
10:46:55 15 don't rise to providing a reasonable excuse. I think we  
10:47:00 16 agree with Mr Nathwani on the law, essentially that  
10:47:06 17 depends, each application depends on the circumstances of  
10:47:10 18 the individual case and against that you have to consider  
10:47:13 19 the purposes of the particular provision. There's no  
10:47:17 20 authority on the provision in this Act, it being quite a  
10:47:22 21 new Act of 2014. Now, there's some, I should point out,  
10:47:29 22 before I just address a couple of things about the medical  
10:47:32 23 reports and I won't go through all of them, it's said in  
10:47:36 24 the submission, the written submission that has been  
10:47:38 25 provided to you, "In assessing Ms Gobbo's application it's  
10:47:40 26 relevant that the Commission would not require Ms Gobbo's  
10:47:44 27 physical attendance, rather it would accommodate her  
10:47:47 28 attendance remotely. The Commission would also accommodate  
10:47:49 29 Ms Gobbo's evidence being received in four to five hour  
10:47:53 30 blocks, and given the significant written and audio records  
10:47:57 31 available to the Commission, expects that her evidence  
10:47:59 32 could be kept relatively brief". Now, I ask the  
10:48:04 33 Commissioner to bear that in mind in relation to the things  
10:48:08 34 I'm about to say.  
10:48:10 35 I don't, as I say, propose to go through all the  
10:48:12 36 reports, the reason that's the case is, I'm only going to  
10:48:16 37 deal with the reports that actually say that there is a  
10:48:19 38 lack of capacity to give evidence to the Commission. The  
10:48:23 39 first of those reports has been referred to by my learned  
10:48:28 40 friend, psychiatrist 1 report of 29 September 2019. This  
10:48:34 41 is at paragraph 14 of the written submission, that  
10:48:36 42 paragraph is set out there. And the words that I want to  
10:48:41 43 point out to the Commissioner are that at that stage, being  
10:48:47 44 29 September 2019, the specialist says that, "Her pain  
10:48:50 45 syndrome and mental state appear to be the same or worse  
10:48:55 46 state than when I first met her in 2010". Now, there is an  
10:49:03 47 opinion above that that she is currently incapable of

10:49:05 1 giving evidence and that is, seems to be the primary reason  
10:49:09 2 why, because she is the same as or worse than when that  
10:49:15 3 person first met her. Now, one can imagine if Ms Gobbo was  
10:49:21 4 in significantly worse condition than when that pain  
10:49:25 5 specialist, sorry, that psychiatrist first met her in 2010,  
10:49:28 6 the specialist would say so. So whether or not she's in  
10:49:33 7 the same condition or slightly worse, it's within, within  
10:49:38 8 that area we're addressing, that we're focusing. Now, the  
10:49:43 9 Commission has received transcripts from Ms Gobbo's  
10:49:46 10 conversations with police members in 2010 and beyond and  
10:49:51 11 some of the recent witnesses have been taken through those.  
10:49:55 12 They don't indicate that she was in any condition at that  
10:49:59 13 stage that would have prevented her from giving evidence in  
10:50:02 14 a setting like this. The transcripts that a witness was  
10:50:07 15 taken through in open hearing a couple of days ago indicate  
10:50:10 16 her willingness in 2012 to give evidence against Mr Dale in  
10:50:15 17 his Commonwealth charges. They also demonstrate her desire  
10:50:20 18 to complete a statement that she commenced giving to  
10:50:23 19 Mr Iddles in relation to Operation Briars. The Commission  
10:50:28 20 has before it the transcripts of Ms Gobbo's evidence in  
10:50:31 21 early 2017 that were, where Ms Gobbo gave evidence before  
10:50:38 22 His Honour Justice Ginnane in the AB, EF and CD  
10:50:42 23 proceedings. Again, those transcripts don't indicate a  
10:50:45 24 mental or physical condition at that stage that would have  
10:50:48 25 prevented that evidence from being given. There are other  
10:50:52 26 issues that are identified by that expert but in my  
10:50:56 27 submission each of those can be dealt with in the manner in  
10:50:58 28 which I've indicated, being remote evidence, by telephone  
10:51:02 29 and in short bursts, and overall evidence being kept as  
10:51:07 30 brief as possible. So in my submission despite that  
10:51:11 31 conclusion of psychiatrist 1, that Ms Gobbo is not capable,  
10:51:17 32 given those elements, it doesn't rise to the required  
10:51:21 33 standard.

34  
10:51:22 35 The second report is that of a person called pain  
10:51:27 36 specialist 1, it's of 25 September 2019. Again, the reason  
10:51:31 37 I focus on this is because there is a conclusion which I'll  
10:51:35 38 read out, "I do not believe that Ms Gobbo will be fit to  
10:51:39 39 undertake any form of interrogation within the Commission  
10:51:42 40 setting" and it then goes on to talk about the possibility,  
10:51:45 41 sorry, the likelihood that there be a deterioration,  
10:51:49 42 there's a redaction claim there, and subsequent worsening  
10:51:53 43 of concentration and attention. This phrase "within the  
10:52:01 44 Commission setting" I'd like to focus on. It appears to be  
10:52:04 45 dealing with physical attendance before the Commission.  
10:52:07 46 But even if it's taken more broadly than that, given the  
10:52:11 47 circumstances in which Ms Gobbo would be giving evidence,

10:52:14 1 remotely, in short bursts and kept as brief as possible,  
10:52:20 2 each of those concerns can be ameliorated in that way.  
3  
10:52:26 4 It's important to point out just one other of the  
10:52:29 5 reports and this is from psychologist 2 and it's 14  
10:52:33 6 September 2019. The parts of it I want to refer to are,  
10:52:39 7 "Firstly, given her current circumstances and her  
10:52:42 8 situation, and there's a redaction claim there, providing  
10:52:45 9 evidence from this environment is not the most conducive as  
10:52:49 10 she feels extremely vulnerable" and there's another word  
10:52:53 11 there as well. Next, "Providing evidence from this  
10:52:55 12 environment is not the most conducive", sorry, that's  
10:52:59 13 restating something I did above.  
10:53:00 14  
10:53:01 15 COMMISSIONER: Sorry, can I just check I've got the right  
10:53:05 16 one. Psychologist 2, is this 14 September?  
10:53:08 17  
10:53:08 18 MR WOODS: 14 September 2019.  
10:53:10 19  
10:53:11 20 COMMISSIONER: Which paragraph? It has numbered  
10:53:13 21 paragraphs.  
10:53:15 22  
10:53:15 23 MR WOODS: I'll just find it in my note. Yes, so it's  
10:53:37 24 paragraph 11.  
10:53:38 25  
10:53:38 26 COMMISSIONER: 11, yes.  
10:53:39 27  
10:53:39 28 MR WOODS: Of that second page. Next it says, "It is  
10:53:45 29 essential when she provides evidence, as the experience may  
10:53:49 30 be emotionally overwhelming and exacerbate her depressive  
10:53:54 31 symptoms", and that's moving on from something said  
10:53:56 32 beforehand, finally it says, "Given her circumstances it  
10:53:59 33 would be beneficial for her to have a platform to have her  
10:54:02 34 voice heard as soon as possible". So that report, like a  
10:54:07 35 number of others, does not conclude a lack of capacity but  
10:54:10 36 indeed it might be read to indicate quite the opposite.  
37  
10:54:18 38 Now, it's also relevant to the assessments that are  
10:54:24 39 contained in each of these reports, and this is something  
10:54:28 40 that the Commissioner has pointed out previously and was  
10:54:32 41 asked to be brought to the attention of those who were  
10:54:34 42 reporting, that there's evidence before the Commission that  
10:54:38 43 Ms Gobbo discussed with Victoria Police the possibility of  
10:54:42 44 bringing about an adjournment of one of her client's pleas  
10:54:46 45 by falsely claiming that she was unwell. The specialists  
10:54:51 46 were asked to review essentially their position that they'd  
10:54:57 47 stated previously based on that bit of information. Now,

10:55:03 1 that goes to the fact that each of the symptoms that  
10:55:07 2 Ms Gobbo identifies to her specialists and that those  
10:55:12 3 specialists then report on are things that she has reported  
10:55:15 4 to those specialists. They're not necessarily objectively  
10:55:19 5 observable. Now, that might effect the weight the  
10:55:24 6 Commissioner attaches to those reports, but it might not.

7  
10:55:29 8 So in those circumstances that's all I wanted to say  
10:55:32 9 about the reports. Now, just to deal with that March  
10:55:39 10 correspondence that my learned friend referred to. Now  
10:55:44 11 there are a number of reports that were attached to the  
10:55:47 12 letter from Minter Ellison and I've handed those up to you,  
10:55:52 13 Commissioner. What you can see, I'll be cautious about the  
10:55:56 14 detail I go into, however at paragraph 2 of Minter  
10:56:01 15 Ellison's 15 March 2019 letter what can be seen is that the  
10:56:07 16 circumstances in which Ms Gobbo found herself at the time  
10:56:12 17 were unfamiliar circumstances and there was undoubtedly a  
10:56:19 18 need to get used to those circumstances, and whether or not  
10:56:22 19 that has happened, there's been a significant amount of  
10:56:26 20 time that's passed since then. The other thing about it  
10:56:31 21 you'll see from the response that's provided by the  
10:56:35 22 solicitors assisting, and I think some of this wording was  
10:56:38 23 pointed out by the Commissioner a moment ago, that the 18  
10:56:44 24 March 2019 response to Ms Gobbo's solicitors says that on  
10:56:50 25 account of those matters in that letter, Ms Gobbo currently  
10:56:54 26 at that time had a reasonable excuse for failing to comply.  
10:57:00 27 Now, there's a number of things that have happened since  
10:57:03 28 that time. Most importantly, Ms Gobbo has had three  
10:57:08 29 lengthy conversations with the Commissioner that hadn't  
10:57:11 30 occurred prior to that date. Importantly those  
10:57:16 31 conversations happened over the same medium that is offered  
10:57:19 32 to Ms Gobbo should she fail in this application, being over  
10:57:24 33 the telephone. The Commissioner has herself had an  
10:57:28 34 opportunity to observe Ms Gobbo's demeanour, albeit over  
10:57:32 35 the phone, and her responsiveness, and it's submitted that  
10:57:39 36 there's no evidence of significant deterioration since  
10:57:43 37 those conversations which were simply earlier this year.

38  
10:57:48 39 They're the submissions, Commissioner, unless I can  
10:57:51 40 assist on anything else. I'll let Mr Nathwani respond.

10:57:55 41  
10:57:55 42 COMMISSIONER: Yes, Mr Nathwani.

10:57:56 43  
10:57:58 44 MR NATHWANI: I think it's inevitable I have to go into  
10:58:01 45 closed in due course. Can I just say what I need to in  
10:58:04 46 open. On that last point, of course, you have, it's the  
10:58:08 47 next argument we will deal with, but the purpose of

10:58:11 1 Ms Gobbo engaging in those three conversations was akin to  
10:58:15 2 providing instructions to counsel for the Commission. And  
10:58:20 3 we provided all the chronology and correspondence to  
10:58:24 4 support that. But quite clearly, in fact you weren't meant  
10:58:30 5 to be involved in that and only became involved the day  
10:58:34 6 before. I point that all out for this purpose: she was  
10:58:38 7 deemed unfit to provide evidence by the Commission days  
10:58:43 8 earlier and then assisted. The second point is the last  
10:58:46 9 time you heard from her, and I note that in passing there  
10:58:49 10 are times when she took medication whilst on that  
10:58:52 11 telephone, you also would have been aware of the  
10:58:55 12 circumstantial issues during those phone calls. The last  
10:58:57 13 time you heard from her was almost six months ago and since  
10:59:01 14 that time there has been a deterioration and it comes from  
10:59:05 15 a consultant psychiatrist telling you so, a pain specialist  
10:59:10 16 telling you so, two psychologists telling you so.  
10:59:14 17  
10:59:14 18 COMMISSIONER: Could I just interrupt for a minute.  
10:59:16 19 Mr Woods, it's not really possible in her circumstances for  
10:59:21 20 the Commission to obtain independent medical opinion, is  
10:59:25 21 it?  
10:59:25 22  
10:59:25 23 MR WOODS: No, it's not, no.  
10:59:27 24  
10:59:27 25 COMMISSIONER: Would you agree, Mr Nathwani?  
10:59:30 26  
10:59:35 27 MR NATHWANI: I think it's possible but it would have to be  
10:59:39 28 - it must be possible but not straightforward. But part of  
10:59:50 29 the reason we provided - and I don't want to repeat - we  
10:59:55 30 provided you with a number of experts and some who have  
10:59:58 31 been treating her since, for over 11 years, so way before  
11:00:04 32 there would have been any suggestion of a Royal Commission  
11:00:06 33 into her behaviour. So that goes to her credit. The issue  
11:00:10 34 that's raised is, well, Ms Gobbo is self-reporting.  
11:00:17 35 Pausing there, doesn't every single person who sees a  
11:00:21 36 psychologist or psychiatrist self report? You actually  
11:00:24 37 have some actual medical evidence by virtue of the  
11:00:27 38 medication she has been provided. You know she had a  
11:00:30 39 stroke, there's no dispute of that, and there's a specific  
11:00:33 40 specialist detailing how as a consequence of what happened  
11:00:36 41 to her by virtue of that stroke. That can't be malingering  
11:00:41 42 and there is medical evidence that shows that that  
11:00:43 43 condition of pain is exacerbated by stress. I think, I  
11:00:48 44 hope you can take judicial notice that providing evidence  
11:00:51 45 in any form, in particular given her circumstances, would  
11:00:55 46 exacerbate that. It's correct, she has given evidence  
11:01:00 47 before Ginnane. But there was an important change in her

11:01:04 1 circumstances after that. A significant change. The High  
11:01:11 2 Court revealed she was Lawyer X. And as such, and this is  
11:01:16 3 why I will have to eventually go into closed, there has  
11:01:20 4 been a dramatic change in her personal circumstances as  
11:01:23 5 well as her physical and mental health. So the fact she  
11:01:26 6 gave evidence before Ginnane is obviously supplanted by the  
11:01:30 7 High Court decision we have heard so much about, where they  
11:01:33 8 expressly set out in terms the threat to her life and the  
11:01:38 9 impact upon her over the revelation that she was Lawyer X,  
11:01:42 10 but of course disclosed it for the public good.

11 11  
11:01:48 12 It's pointed out in the submissions to you that she  
11:01:50 13 offered to give evidence in relation to the Paul Dale  
11:01:54 14 prosecution. She didn't. As an aside, when she was asked  
11:01:59 15 to give evidence against Paul Dale in relation to the  
11:02:03 16 murder allegation, ultimately medical evidence was provided  
11:02:09 17 that forced Victoria Police not to use her and ultimately  
11:02:14 18 settled a claim which we have heard lots about for in  
11:02:19 19 effect trying to use her as a witness when she was mentally  
11:02:22 20 unwell. Even back then there was evidence as to her health  
11:02:25 21 that was accepted by other agencies. Ditto in relation to  
11:02:32 22 the statement re Briars. She never, ever provided a final  
11:02:39 23 signed statement and so that goes to the weight of that  
11:02:41 24 submission.

25 25  
11:02:45 26 The other matters I seek to address you on  
11:02:49 27 unfortunately have to be in closed court. They won't be  
11:02:53 28 very long.

11:02:53 29  
11:02:54 30 COMMISSIONER: All right, thank you.

11:02:55 31  
11:02:56 32 MR NATHWANI: And on this occasion I'm delighted to say to  
11:03:00 33 Mr Holt that he can be excused as well.

11:03:03 34  
11:03:03 35 COMMISSIONER: Under s.24 of the *Inquiries Act*, access to  
11:03:05 36 the inquiry during the application of Ms Gobbo is limited  
11:03:09 37 to legal representatives and staff assisting the Royal  
11:03:12 38 Commission and the legal representatives of Ms Gobbo. The  
11:03:14 39 hearing is to be recorded but not streamed or broadcast.  
11:03:17 40 Subject to any further order there is to be no publication  
11:03:19 41 of any material, statements, information or evidence given  
11:03:23 42 during the closed portion of this application. A copy of  
11:03:26 43 the order is to be posted on the door of the hearing room.  
11:03:38 44 The media are not present for this.

11:03:41 45  
11:03:41 46 (IN CAMERA PROCEEDINGS FOLLOW)  
47

11:08:44 1 UPON RESUMING IN OPEN HEARING:  
2  
11:45:45 3 COMMISSIONER: Yes.  
11:45:46 4  
11:45:47 5 MR NATHWANI: Just a couple of closing submissions. Going  
11:45:49 6 back to where we started, which is the law in relation to  
11:45:54 7 reasonable excuse. I read some of the definitions. In my  
11:46:00 8 submission it should be considered widely and given its  
11:46:05 9 usual meaning and we prey in aid the judgment or  
11:46:09 10 observations in Ganin, and ultimately, given that Ms Gobbo  
11:46:12 11 does have a reasonable excuse when considering the medical  
11:46:15 12 evidence you have before you, of course I repeat, there's  
11:46:18 13 no medical evidence to the contrary from experts over, it  
11:46:23 14 would appear up to 11 years, that detail her physical  
11:46:26 15 pains, the impact on her mentally as a result, including  
11:46:31 16 psychological and psychiatric reports from experienced  
11:46:34 17 professionals where, as I say, there's no evidence contrary  
11:46:39 18 to that, coupled with the circumstantial factors that I've  
11:46:43 19 outlined to you are such that an ordinary person would  
11:46:46 20 conclude she has a reasonable excuse. And certainly her  
11:46:51 21 situation has deteriorated beyond how it was on 18 March,  
11:46:57 22 or when the Commission accepted she did have a reasonable  
11:47:00 23 excuse, and as such, in line with that decision, the only  
11:47:05 24 proper finding is that she should be deemed to have that  
11:47:10 25 reasonable excuse.  
11:47:10 26  
11:47:11 27 And just one other factor. I know in the written  
11:47:14 28 submissions it's suggested it would be a short period that  
11:47:18 29 she would be cross-examined, because this goes to her  
11:47:22 30 mental health. I'm afraid I don't have much optimism in  
11:47:28 31 that submission given, for example, it was suggested Sandy  
11:47:32 32 White would take three days. He took 17. Mr Bateson, two  
11:47:36 33 to three days, he took eight days. Ms Gobbo, if she gave  
11:47:40 34 evidence, let's be frank, would be far more than a small  
11:47:44 35 block. Previously it was suggested by the Commission that  
11:47:47 36 she could give evidence two hours a day for three days.  
11:47:52 37 Given where we are, and the extension to this Commission,  
11:47:55 38 and the fact we're already running out of time for 20  
11:47:59 39 December, we do not have confidence that that's accurate.  
11:48:03 40 But those are the submissions we make on her behalf and, of  
11:48:06 41 course, you have in mind that if you don't accede to that,  
11:48:11 42 that we submit that if she were to be provided a Notice to  
11:48:15 43 Attend it would require a lengthy, lengthy period to allow  
11:48:20 44 her to prepare because she - - -  
45  
11:48:22 46 COMMISSIONER: She has already been provided with a Notice  
11:48:25 47 to Attend, Mr Nathwani.

11:48:26 1  
11:48:26 2 MR NATHWANI: And just looking at the law, the Notice to  
11:48:31 3 Attend, you then wrote to us and said she was unfit. It  
11:48:34 4 appears on my reading of the legislation, s.17, is that a  
11:48:39 5 new notice should be provided. No such notice has - the  
11:48:42 6 only notice in existence was to attend on that date. You  
11:48:45 7 found her to have an excuse actually. If we're being  
11:48:49 8 technical, I'm not sure there is in existence one for her  
11:48:51 9 to attend on any particular day.  
10  
11:48:53 11 COMMISSIONER: I thought there was a fresh Notice to  
11:48:55 12 Attend. Anyway, that's by the by. Mr Woods.  
11:48:59 13  
11:48:59 14 MR WOODS: Sorry, I just wanted to say one thing, sorry,  
11:49:02 15 Commissioner. Just on that last point about the length of  
11:49:05 16 time taken with Sandy White and Mr Bateson's evidence.  
11:49:09 17 Just briefly, it's the situation that neither of those  
11:49:13 18 individuals were suffering from mental or physical  
11:49:19 19 ailments, as I've said Ms Gobbo clearly is. The reason  
11:49:22 20 that the arrangements are suggested to be made in this  
11:49:24 21 regard is because of those ailments that she suffers. The  
11:49:28 22 reason why it's suggested that her evidence could be kept  
11:49:31 23 relatively brief is that the Commission has - it knows  
11:49:35 24 precisely which individuals she was acting for at precisely  
11:49:39 25 which times, it knows every time she spoke to the police on  
11:49:43 26 the phone, what she said to them. It knows every time she  
11:49:48 27 spoke to them face-to-face it has audio recordings of what  
11:49:51 28 she said to them. There is a very good record of the  
11:49:56 29 communications between Ms Gobbo and the police in  
11:50:00 30 circumstances where you consider what the - the first and  
11:50:05 31 second Terms of Reference are for the Commission, it's in a  
11:50:10 32 good position to report on those. The things that she  
11:50:12 33 would be asked, it's anticipated, wouldn't be wide ranging  
11:50:16 34 things about the ICRs and those communications, it would  
11:50:18 35 simply be clarifying some things that aren't immediately  
11:50:21 36 clear on the evidence before the Commission. And that's  
11:50:23 37 why it's suggested her evidence could be kept relatively  
11:50:26 38 brief. Thank you, Commissioner.  
39  
11:50:27 40 COMMISSIONER: Thank you.  
41  
11:50:31 42 Mr Nathwani, on behalf of Ms Gobbo, has submitted that  
11:50:34 43 she has provided reasonable excuse for her not attending to  
11:50:37 44 give evidence before this Royal Commission. Giving  
11:50:40 45 evidence is always stressful for anyone, especially where  
11:50:45 46 that person's conduct is central to a highly publicised  
11:50:50 47 Royal Commission. I accept from the medical reports

11:50:53 1 tendered on behalf of Ms Gobbo that she is in poor physical  
11:50:57 2 and mental health and is presently prescribed extensive  
11:51:04 3 medication for these various conditions.  
11:51:09 4

11:51:09 5 I also note that earlier this year the Commission was  
11:51:12 6 prepared to accept that Ms Gobbo had at that time  
11:51:15 7 demonstrated a reasonable excuse for not appearing before  
11:51:18 8 the Commission.  
11:51:21 9

11:51:21 10 Since then, however, she has had ample time to adjust  
11:51:27 11 to her changed circumstances and provide more certainty  
11:51:31 12 around her personal life. The opinion of her treating  
11:51:40 13 medical practitioners, whose expertise I accept for the  
11:51:46 14 purposes of today's application, suggests at times that she  
11:51:57 15 may be so unwell that she cannot give evidence before the  
11:52:01 16 Commission. But largely, for the reasons set out in the  
11:52:07 17 written and oral submissions of counsel assisting, I  
11:52:15 18 consider those opinions do not sufficiently take into  
11:52:18 19 account the fact that the Commission is willing to take her  
11:52:29 20 evidence over short periods by telephone to accommodate her  
11:52:41 21 medical conditions. The Commission is also able to control  
11:52:47 22 and limit any cross-examination.  
11:52:53 23

11:52:53 24 It is true the medical evidence relied upon by  
11:52:55 25 Mr Nathwani on behalf of Ms Gobbo is unchallenged, but the  
11:53:05 26 Commission has no power to order a medical examination of  
11:53:09 27 Ms Gobbo and, in any case, it would be difficult to do  
11:53:14 28 because of security concerns and the circumstances in which  
11:53:22 29 Ms Gobbo now finds herself.  
11:53:29 30

11:53:29 31 Further, the accuracy of those opinions are based upon  
11:53:35 32 the accuracy of what Ms Gobbo tells her medical  
11:53:40 33 practitioners as to her various symptoms. And whilst I  
11:53:44 34 accept that she is very unwell, I am also cognisant of the  
11:53:51 35 fact that in evidence before this Commission she told her  
11:53:57 36 handlers of her preparedness to falsely use her medical  
11:54:04 37 conditions to mislead the court to improperly obtain an  
11:54:07 38 adjournment of a case to suit her own needs.  
11:54:10 39

11:54:24 40 The medical reports are not all one way. Some suggest  
11:54:30 41 that her medical problems may be able to be managed and  
11:54:36 42 several speak of her resilience. After conversing with  
11:54:45 43 her, together with her lawyers and the Commission lawyers  
11:54:49 44 over many hours on several days earlier this year, despite  
11:55:06 45 the medical reports tendered on her behalf and the  
11:55:11 46 submissions of her counsel, and given the Commission's  
11:55:15 47 preparedness to accommodate her health and personal

11:55:22 1 circumstances by sitting short hours, taking her evidence  
11:55:26 2 by telephone, and at times reasonably convenient to her, I  
11:55:32 3 am not presently persuaded on the balance of probabilities  
11:55:36 4 that she has established a reasonable excuse for failing to  
11:55:41 5 comply with the Notice to Attend.  
11:55:45 6  
11:55:45 7 What I intend to do is to vary the Notice to Attend to  
11:55:52 8 provide that Ms Gobbo will give evidence by telephone  
11:55:56 9 commencing on Wednesday, 29 January 2020 and that will be  
11:56:06 10 varied and served by the Commission lawyers shortly.  
11:56:11 11  
11:56:11 12 Mr Nathwani, if you have further evidence at that  
11:56:17 13 point that her circumstances have changed or deteriorated,  
11:56:21 14 you can, of course, provide that material and renew your  
11:56:25 15 application. Any material and related submissions are to  
11:56:29 16 be filed by 5 pm on 20 January 2020.  
11:56:37 17  
11:56:37 18 The other matter that you raised was you mentioned  
11:56:41 19 that at some point early on in the proceedings you gave an  
11:56:45 20 undertaking to not discuss the ICRs with your client. It  
11:56:53 21 would seem to me appropriate that you should be released  
11:56:55 22 from that undertaking but I'll hear Mr Holt on that.  
11:57:00 23 Obviously Mr Nathwani will need to discuss the ICRs with  
11:57:03 24 his client.  
11:57:04 25  
11:57:04 26 MR HOLT: I accept that as a matter of basic proposition.  
27  
11:57:07 28 COMMISSIONER: I just can't understand why the variation  
11:57:09 29 wasn't sought much earlier than this.  
11:57:12 30  
11:57:13 31 MR HOLT: No. Might I have the opportunity to speak to  
11:57:15 32 Mr Nathwani about what approach he might intend to take to  
11:57:19 33 that? It's simply that there are matters in the ICRs which  
11:57:21 34 deal with issues that may cause problems, and I'm sure that  
11:57:23 35 he won't go to those, but I'm certain that we can come to  
11:57:30 36 some arrangement, but I don't have instructions on that at  
11:57:33 37 the moment.  
38  
39 COMMISSIONER: All right. Well I'd like that done by the  
40 end of the day as to variations as to the undertaking.  
41  
42 MR HOLT: No, I'll speak to Mr Nathwani at the lunch break  
43 and see what he might, how he might approach it and see if  
11:57:35 44 we can deal with that.  
11:57:35 45  
11:57:40 46 COMMISSIONER: All right then. The next matter, is it -  
11:57:43 47 Mr Woods you leading on that?

11:57:46 1  
11:57:46 2 MR WOODS: Just the final matter was the application, well  
11:57:51 3 whether or not the Commission would receive the transcripts  
11:57:53 4 of those three phone conversations and the draft statement  
11:57:56 5 and just, before I sit down, I'll say in my submission the  
11:58:02 6 transcripts should be received into evidence but given the  
11:58:05 7 circumstances of the draft statement, how it was prepared,  
11:58:10 8 and simply counsel, according to a submission that's been  
11:58:14 9 provided, going through material and putting a draft  
11:58:17 10 together, it's of very little to no weight.  
11 11  
11:58:19 12 COMMISSIONER: It has no weight, except that it's a useful  
11:58:22 13 pré cis perhaps of some of the material in the transcripts.  
11:58:26 14  
11:58:26 15 MR WOODS: Having said that, you've got your counsel  
11:58:29 16 assisting working on submissions to you, and no doubt all  
11:58:33 17 of the other parties as well.  
18 18  
11:58:34 19 COMMISSIONER: All right then.  
11:58:35 20  
11:58:36 21 MR WOODS: But the transcripts, I say, should be received  
11:58:38 22 into evidence.  
23 23  
11:58:39 24 COMMISSIONER: The transcripts - what are the dates of  
11:58:41 25 those? There are three, aren't there?  
11:58:43 26  
11:58:44 27 MR WOODS: There are. 20 March, 11 April, 13 June.  
28 28  
11:59:04 29 COMMISSIONER: Okay.  
11:59:06 30  
11:59:08 31 MR WOODS: It's Mr Nathwani's application I believe.  
11:59:11 32  
11:59:11 33 MR NATHWANI: It is.  
34 34  
11:59:12 35 COMMISSIONER: Yes. I don't need to hear from you about  
11:59:16 36 the draft statement.  
11:59:17 37  
11:59:17 38 MR NATHWANI: I'm grateful. I spoke to Mr Woods. As  
11:59:24 39 you're aware, it was drafted in fact by me and Ms Gobbo  
11:59:26 40 hasn't had sight of it.  
41 41  
11:59:28 42 Can I ask you to adjourn this until the position in  
11:59:30 43 relation to Ms Gobbo - because you have now directed she  
11:59:34 44 doesn't have a reasonable excuse and asked her to attend on  
11:59:37 45 a particular date, one of the concerns which you outlined  
11:59:41 46 throughout the telephone calls, that it wasn't on oath and  
11:59:45 47 wasn't adopted, and the Commission has been keen over

11:59:48 1 various correspondence for Ms Gobbo to in effect swear up  
11:59:50 2 to the truth of the contents or otherwise or consider the  
11:59:57 3 accuracy. Given you have determined that she at present is  
12:00:00 4 to give evidence, all the criticisms and submissions made  
12:00:03 5 in writing to you about using these documents may fall away  
12:00:07 6 to some degree if she ends up swearing them up. I know you  
12:00:12 7 adjourned this decision a week or so ago, to a degree, on  
12:00:16 8 that basis.  
9  
12:00:17 10 COMMISSIONER: Well because you requested it, that's why,  
12:00:19 11 Mr Nathwani.  
12:00:20 12  
12:00:20 13 MR NATHWANI: I did. And I hope the logic behind it is  
12:00:23 14 evident.  
15  
12:00:24 16 COMMISSIONER: Well - - -  
17  
12:00:26 18 MR NATHWANI: They are unsworn comments by a woman who had  
12:00:30 19 been found unfit by you, sorry, had a reasonable excuse in  
12:00:34 20 part based on her physical and mental health at the time,  
12:00:38 21 at a time when it was asked that she assist Commission  
12:00:43 22 counsel with the preparation for upcoming witnesses.  
12:00:48 23 Obviously I say it's akin to providing instructions because  
12:00:51 24 it was assisting the Commission counsel then being able to  
12:00:56 25 cross-examine witnesses to come. But then to reveal, in  
12:01:01 26 effect breach her confidence, which is ironic given the  
12:01:05 27 subject matter of these proceedings, and as such she's not  
12:01:10 28 afforded the requisite protections under the Act, which you  
12:01:14 29 were keen to afford her by her swearing up those documents,  
12:01:18 30 and that could only happen given you've now determined that  
12:01:22 31 she has to attend, unless there's more medical evidence,  
12:01:25 32 which I pause to say inevitably there will be. That  
12:01:29 33 ultimately the decision as to whether they should be  
12:01:32 34 produced or not and taken into account should only be made  
12:01:36 35 once a final decision is made, or once the position has  
12:01:40 36 come that she either gives evidence or doesn't.  
37  
12:01:44 38 COMMISSIONER: Yes, thank you. Mr Woods.  
12:01:45 39  
12:01:46 40 MR WOODS: Commissioner, I press for the ruling to be made  
12:01:49 41 today and for those transcripts to be tendered. The  
12:01:54 42 situation prior to the three phone calls taking place is  
12:01:58 43 that Ms Gobbo was excused from attendance due to the  
12:02:02 44 circumstances that persisted at the time and we've gone  
12:02:05 45 through that material. On the basis of that acceptance at  
12:02:10 46 that time, the phone calls then took place so that the  
12:02:13 47 Commissioner could ask questions, both yourself and through

12:02:17 1 counsel assisting. Commissioner, you were in a very good  
12:02:20 2 position to make an assessment of Ms Gobbo's capacity on  
12:02:24 3 those three occasions, being an active participant in the  
12:02:28 4 phone calls. It's not accepted that there was any issue in  
12:02:35 5 Ms Gobbo's capability of participating in that or  
12:02:40 6 understanding of what was happening at the time. This is  
12:02:42 7 an Inquiry. It's able to obtain and adduce evidence in a  
12:02:48 8 number of different ways. One way is via people getting  
12:02:51 9 into the witness box. There are complications with that  
12:02:57 10 happening at this stage and it would be of particular  
12:03:00 11 interest for those, particular assistance for the  
12:03:06 12 Commission to have those transcripts officially before it.  
13  
12:03:08 14 It's certainly not accepted that the conversations  
12:03:10 15 were by way of simply preparation. They were far more  
12:03:18 16 important and intended to be used far more broadly than  
12:03:22 17 that. That's the answering submission. We simply say they  
12:03:28 18 should be tendered absolutely with whatever PII redactions  
12:03:31 19 are appropriate.  
20  
12:03:34 21 COMMISSIONER: Thank you. Anything in response,  
12:03:37 22 Mr Nathwani?  
12:03:38 23  
12:03:38 24 MR NATHWANI: I feel I'm obliged to highlight some of the  
12:03:42 25 correspondence to deal with the submission of the nature of  
12:03:45 26 what was occurring. Does the Commissioner have a copy of  
12:03:50 27 the submissions in writing that we made?  
28  
12:03:56 29 COMMISSIONER: Unfortunately I don't.  
12:03:57 30  
12:03:59 31 MR WOODS: I'm sorry, I don't have a - just dealing with  
12:04:01 32 the chronology then please. 15 March, we've discussed that  
12:04:04 33 in detail. We sent a letter setting out why she has a  
12:04:07 34 reasonable excuse. 18 March, a letter we've discussed. As  
12:04:10 35 part of that it says that the Commission remain keen to  
12:04:14 36 speak to Ms Gobbo and so a telephone hearing is scheduled.  
12:04:20 37 At that stage only counsel for the Commission were due to  
12:04:22 38 be present, along with some of those instructing them. It  
12:04:26 39 was indicated the conversation be recorded and transcribed  
12:04:29 40 for use by the Commission. The letter then concluded that  
12:04:35 41 the Commission was looking forward to making different  
12:04:38 42 arrangements in the future for when Ms Gobbo could give  
12:04:41 43 evidence, and of course there's a difference, material  
12:04:44 44 difference between giving evidence and this phone  
12:04:46 45 conference. 18 March, your lead solicitor, Mr Rapke, sent  
12:04:50 46 an email to us indicating that, "Commissioner McMurdo  
12:04:56 47 would like to be involved in the phone conference. She

12:04:58 1 would welcome the opportunity to speak to your client,  
2 explain some of the matters she is required to investigate  
12:05:02 3 under her Terms of Reference. Is there any objection from  
12:05:05 4 your client to the commissioner being involved?" So even  
12:05:09 5 then, not confirmed that you were to be involved. "We wish  
12:05:12 6 to make clear that Wednesday's phone conference is not on  
12:05:16 7 oath". That's your, the solicitor writing to you. "As  
12:05:18 8 mentioned in our letter of earlier today, it is our  
12:05:20 9 intention to record the conversation". A response from  
12:05:24 10 Mr Rapke further the next day. He details the conference  
12:05:27 11 call. "Commissioner McMurdo will be in the room with us.  
12 12 She would like to speak to your client. We also advise  
13 13 that we will be taking transcript of the phone call as that  
12:05:35 14 will assist". The telephone conference occurs. The next  
12:05:35 15 day a letter from Mr Rapke, or your solicitors to mine, or  
12:05:41 16 those instructing me: "Thank you for coordinating  
12:05:44 17 yesterday's telephone conference for evidence. The  
12:05:48 18 Commission found it to be beneficial as part of its  
12:05:55 19 inquiries". It then sets out a process to obtain answers,  
12:05:58 20 comments to certain questions or issues, and that was in  
12:05:59 21 relation to upcoming witnesses. 7 April, Mr Rapke sends  
12:06:06 22 another email. Confirms availability of the Commissioner  
12:06:09 23 for a further telephone conference. "It will assist the  
12:06:13 24 Commission will future hearings commencing next Monday, 15  
12:06:16 25 April". In other words, there were a number of witnesses  
12:06:18 26 that were to be called. And when one looks at the content  
12:06:20 27 of the conference, all the questions are geared towards  
12:06:23 28 those witnesses and in fact, if you then look at the  
12:06:26 29 questions asked by some of the counsel for the Commission,  
12:06:29 30 they adopt some of what is asked or certainly asked those  
12:06:32 31 questions.  
32

12:06:34 33 There's a discussion from those instructing me that  
12:06:38 34 due to psychological appointments that date proposed was  
12:06:44 35 effective. Mr Rapke responded, "The arrangements will  
12:06:49 36 'mirror' the last occasion we spoke", in other words,  
12:06:52 37 conference, not on oath. And in due course there'd be  
12:06:56 38 arrangements for evidence.  
39

12:06:57 40 There was then the conference call on 11 April.  
41

12:07:00 42 12 June Mr Rapke again outlines a telephone  
12:07:03 43 conference. Answers will be incorporated into a statement  
12:07:06 44 and eventually sworn as being correct. Of course that  
12:07:12 45 still is yet to occur, and may in fact occur, which is  
12:07:16 46 obviously my submission. Conference call 13 June.  
47

12:07:19 1 14 June, exactly the same, Mr Rapke emails transcripts  
12:07:24 2 of calls attached. Request to swear up to it in due course  
12:07:27 3 and to provide a statement answering it. A further 51  
12:07:31 4 questions posed by the Commission.  
12:07:37 5

12:07:37 6 Turning then to paragraph 9 of the submissions  
12:07:42 7 onwards, it relates to Ms Gobbo's perceived purpose of the  
12:07:46 8 conference calls based on that chain and it sets out quite  
12:07:49 9 clearly, and when following through the written  
12:07:52 10 correspondence issued by the lead solicitor for this  
12:07:54 11 Commission, that the process appeared to, on any view, be  
12:07:59 12 providing instructions or providing assistance to  
12:08:01 13 Commission counsel.  
12:08:05 14

12:08:05 15 Then at paragraph 16 we set out the informal  
12:08:12 16 non-evidential nature of the hearings is best evidenced by  
12:08:16 17 particular circumstances that were present I think on two  
12:08:18 18 of the three phone calls. Ms Gobbo was taking medication  
12:08:23 19 during those phone calls. In I think two of them, or  
12:08:29 20 certainly more, it was pointed out on one occasion by me,  
12:08:34 21 on another occasion by those instructing me, that it would  
12:08:37 22 not be fair for Ms Gobbo to give evidence - for those  
12:08:40 23 answers to be given on oath because she had not had any  
12:08:44 24 opportunity to consider the material and was doing so,  
12:08:48 25 again in a position where it had been accepted she had a  
12:08:52 26 reasonable excuse, and more so, that she hadn't had access  
12:08:56 27 to any of the material. That's spelt out I think on  
12:08:59 28 several occasions and you accepted that during those phone  
12:09:01 29 calls. So to now use that and publish it is contrary to  
12:09:05 30 the observations you made and contrary to procedural  
12:09:10 31 fairness. I'm sorry I've had to read out some of it but  
12:09:13 32 given the submission was it was not accepted what the  
12:09:15 33 purpose of those phone calls were, I thought it necessary  
12:09:18 34 that the letters written by your solicitors assisting this  
12:09:23 35 Commission, the lead solicitor, is relevant to our view as  
12:09:25 36 to the purpose of those calls.  
37

12:09:27 38 Those are the submissions unless I can be of further  
12:09:30 39 assistance.  
40

12:09:30 41 COMMISSIONER: No, thank you. Mr Woods, did you want to  
12:09:34 42 have anything further to say?  
12:09:35 43

12:09:35 44 MR WOODS: No, I just rely on the submissions I made a  
12:09:38 45 moment ago, Commissioner.  
46

12:09:39 47 COMMISSIONER: Yes.

12:09:40 1  
12:09:41 2 I have no confidence that ultimately Nicola Gobbo will  
12:09:44 3 give evidence before this Commission, whether or not she  
12:09:50 4 eventually provides a reasonable excuse for not doing so.  
12:09:54 5 Under s.14 of the Inquiries Act the Commission is not bound  
12:09:59 6 by the rules of evidence or any practices or procedures  
12:10:02 7 applicable to courts of record and may inform itself on any  
12:10:06 8 matter as it sees fit.

12:10:07 9  
12:10:08 10 At this stage the transcripts, which Mr Nathwani urges  
12:10:13 11 the Commission not to tender as evidence, are the only  
12:10:17 12 material directly coming from Nicola Gobbo in recent times  
12:10:24 13 concerning matters relevant to the Royal Commission. It is  
12:10:27 14 true they are unsworn and that, and the other matters  
12:10:32 15 raised by Mr Nathwani as to why they should not be  
12:10:36 16 tendered, certainly go to the weight that can be given to  
12:10:39 17 them. But a failure to tender them and receive them and  
12:10:48 18 act on them, bearing in mind the matters raised by  
12:10:52 19 Mr Nathwani, and particularly the fact that they are not on  
12:10:56 20 oath, is something which would go to the weight of them.  
12:11:01 21 The tendering of the transcript means that at least some  
12:11:05 22 material will be before the Royal Commission from Ms Gobbo  
12:11:13 23 in a contemporary sense.

12:11:16 24  
12:11:17 25 I therefore will tender the documents. The first  
12:11:26 26 transcript, which was - - -

12:11:32 27  
12:11:33 28 MR WOODS: The date was 20 March 2019.  
12:11:38 29  
30 #EXHIBIT RC787A - (Confidential) Transcript of proceedings  
12:11:40 31 with Nicola Gobbo 20/03/19.

12:11:40 32  
12:11:42 33 #EXHIBIT RC787B - (Redacted version.)

12:11:43 34  
12:11:43 35 MR WOODS: 11 April 2019.

12:11:47 36  
12:11:48 37 #EXHIBIT RC788A - (Confidential) Transcript of proceedings  
12:11:48 38 with Nicola Gobbo 11/04/19.

12:11:48 39  
12:11:49 40 #EXHIBIT RC788B - (Redacted version.)

12:11:50 41  
12:11:51 42 MR WOODS: 13 June 2019, Commissioner.

12:11:53 43  
12:11:54 44 #EXHIBIT RC789A - (Confidential) Transcript of proceedings  
12:11:55 45 with Nicola Gobbo 13/06/19.

12:11:55 46  
12:11:56 47 #EXHIBIT RC789B - (Redacted version.)

12:11:56 1  
12:11:57 2 COMMISSIONER: Unfortunately the PII process is still  
12:12:00 3 ongoing, but that should be completed fairly quickly. I  
12:12:04 4 think some things will have to go back to, may have to go  
12:12:06 5 back to Victoria Police for consideration about public  
12:12:09 6 interest immunity but they may not. But they should be  
12:12:12 7 available publicly before too long.  
12:12:17 8  
12:12:17 9 MR WOODS: Thank you, Commissioner. They're the  
12:12:19 10 preliminary matters. I think we're now - - -  
11  
12:12:25 12 COMMISSIONER: Ready to return to - I think the witness is  
12:12:28 13 Mr Wilson.  
12:12:32 14  
12:12:32 15 MR WOODS: There's just - just while this is happening  
12:12:35 16 there was a document I was being reminded that I didn't  
12:12:38 17 tender through Mr Blayney yesterday, that I'll seek to do  
12:12:43 18 now if it's convenient, which is 28 March 2003, informer  
12:12:48 19 reward application. It's number is VPL.2000.0002.0892.  
12:12:58 20  
12:12:59 21 #EXHIBIT RC824A - (Confidential) Reward application  
12:13:00 22 28/3/03.  
12:13:04 23  
12:13:05 24 #EXHIBIT RC824B - (Redacted version.)  
12:13:07 25  
12:13:07 26 MR WOODS: Thank you, Commissioner.  
12:14:35 27  
12:14:36 28 MS ARGIROPOULOS: Commissioner, I appear on behalf of the  
12:14:37 29 next witness.  
30  
12:14:39 31 COMMISSIONER: Thanks Ms Argiropoulos. I notice  
12:14:40 32 Ms Tittensor is appearing for the Commission. Oath or  
12:14:46 33 affirmation?---Oath, thank you.  
34  
12:14:47 35 Thanks Mr Wilson.  
12:14:58 36  
12:14:58 37 <RODNEY GRAEME WILSON, sworn and examined:  
12:15:09 38  
12:15:11 39 MS ARGIROPOULOS: Mr Wilson, could you repeat your full  
12:15:13 40 name, please?---Rodney Graeme Wilson.  
41  
12:15:20 42 Your current occupation is retirement?---Yes.  
43  
12:15:24 44 You were, until recently, a member of Victoria Police and  
12:15:30 45 you held the rank of Superintendent?---That's correct.  
46  
12:15:34 47 Could I ask you to have a look at a statement which is just

12:15:39 1 on its way to you?---Yes.  
2  
12:15:47 3 Do you recognise that to be a 15 page statement that you've  
12:15:51 4 made to this Royal Commission? It's dated 19 November  
12:15:55 5 2019?---Yes, it is.  
6  
12:15:58 7 Are there two amendments that you'd like to make to that  
12:16:01 8 statement?---Yes, there are.  
9  
12:16:03 10 All right. If I can take you to the first one. At  
12:16:05 11 paragraph 10?---Yes.  
12  
12:16:09 13 The last line currently says, "Supplied by Senior Sergeant  
12:16:14 14 Shields"?---Yes.  
15  
12:16:16 16 Should that in fact read, "Supplied by Ms Gobbo"?---Yes.  
17  
12:16:20 18 Do you have a pen there to actually make that  
12:16:29 19 amendment?---Yes.  
20  
12:16:29 21 And secondly, if I can take you to paragraph 29 of your  
12:16:35 22 statement?---Yes.  
23  
12:16:38 24 Does the last line currently read, "If that did occur I  
12:16:42 25 would expect to be told", but it should in fact read, "I  
12:16:46 26 would not expect to be told"?---Correct, yes.  
27  
12:16:49 28 Yes, if you could just add the word "not" to that  
12:16:53 29 paragraph?---Yep.  
30  
12:16:54 31 Subject to those two amendments is the statement, to the  
12:16:59 32 best of your recollection, true and correct?---It is.  
33  
12:17:01 34 Commissioner, I tender the statement. It's available in an  
12:17:04 35 unredacted and a redacted form.  
36  
12:17:07 37 COMMISSIONER: Right. Before we do that tendering,  
12:17:09 38 Mr Nathwani, you've got us all a bit confused with the  
12:17:13 39 exhibit numbering. In fact those transcripts were tendered  
12:17:16 40 on the last occasion but they were tendered as confidential  
12:17:20 41 exhibits at that point.  
12:17:22 42  
12:17:22 43 MR NATHWANI: I don't think I said that they should be  
12:17:24 44 tendered in this. I think Mr Woods is guilty.  
12:17:26 45  
12:17:27 46 MR WOODS: Yes, I think I confused.  
47

12:17:29 1 COMMISSIONER: All right then. Someone confused me anyway,  
12:17:31 2 which isn't very hard to do I might say. So they are  
12:17:34 3 actually Exhibits 787, 788 and 789 and they were tendered  
12:17:42 4 as confidential exhibits, but the confidential exhibits  
12:17:45 5 will be 787A, 788A and 789A and in the public form will be  
12:17:53 6 B for each of those.  
12:17:57 7  
12:17:57 8 MR NATHWANI: Yes.  
9  
12:17:58 10 COMMISSIONER: So that means the reward application which  
12:18:00 11 was 827 will actually be 824, and it means that Mr Wilson's  
12:18:05 12 statement will be 825A and B.  
12:18:08 13  
12:18:08 14 MR NATHWANI: I'm sorry, I forgot to mention earlier,  
12:18:11 15 previously we also tendered the submissions that were  
12:18:15 16 confidential as 791 I think, from my note here, that  
12:18:20 17 subject to redaction we may seek to have published as well.  
18  
12:18:27 19 COMMISSIONER: We'll have a look at the PII issues in  
12:18:28 20 respect of those as well, yes. Thank you.  
12:18:34 21  
12:18:34 22 #EXHIBIT RC825A - (Confidential) Mr Wilson's statement  
12:18:39 23 19/11/19.  
12:18:39 24  
12:18:40 25 #EXHIBIT RC825B - (Redacted version.)  
12:18:42 26  
12:18:42 27 COMMISSIONER: Yes Ms Woods. Sorry, Ms Tittensor.  
12:18:46 28  
12:18:47 29 MS TITTENSOR: Life might have been easier with that name,  
12:18:50 30 Commissioner.  
31  
12:18:51 32 COMMISSIONER: No publicity is bad publicity, Ms Tittensor.  
12:18:58 33  
34 <CROSS-EXAMINED BY MS TITTENSOR:  
35  
12:18:58 36 Mr Wilson, I'll just take you through a couple of your  
12:19:03 37 relevant postings for the purposes of the Commission. You  
12:19:06 38 were Acting Commander of Intelligence Covert Support, is it  
12:19:11 39 Division or Department?---Command.  
40  
12:19:12 41 Of Command back in 2004 and 2005; is that right?---Yes.  
42  
12:19:16 43 Mr Moloney had been appointed to that position formally in  
12:19:21 44 around about 2003?---I think so, yes.  
45  
12:19:25 46 But had to remain at Ceja for some time before he could  
12:19:28 47 formally take up the appointment?---I believe so.

1  
12:19:31 2 In his statement to the Commission I think he's indicated  
12:19:34 3 that both you and Superintendent Ian Thomas acted at  
12:19:38 4 various times?---That's right.  
5  
12:19:39 6 In that position until he took it up?---After, yeah, after  
12:19:43 7 that.  
8  
12:19:47 9 Did you act in that position following his taking it up  
12:19:51 10 whenever he went on leave or anything of the like?---I just  
12:19:55 11 did that about an eight month stint while he was at Ceja I  
12:20:00 12 believe.  
13  
12:20:00 14 Right?---And Mr Thomas was unavailable.  
15  
12:20:02 16 Yes?---And I was doing it when Mr Thomas wasn't there.  
17  
12:20:05 18 Okay. You then took up a post as a Superintendent at  
12:20:13 19 ESD?---Yes.  
20  
12:20:15 21 And the Commander, who was the Commander there?---They  
12:20:19 22 didn't have a Commander there. There was, the Assistant  
12:20:22 23 Commissioner was initially Kieran Walsh when I first  
12:20:26 24 arrived and then he was promoted and then Assistant  
12:20:30 25 Commissioner Cornelius replaced him.  
26  
12:20:36 27 The Superintendent reporting line went straight - - -  
12:20:39 28 ?---Directly to the Assistant Commissioner.  
29  
12:20:40 30 Now then in July of 2008 you were as a Superintendent, a  
12:20:45 31 chief of staff to Chief Commissioner Nixon and then later  
12:20:54 32 Chief Commissioner Overland?---Correct .  
33  
12:20:56 34 You completed that posting in 2009?---Yes.  
35  
12:21:04 36 I want to ask you some questions broadly about two topics  
12:21:07 37 and they're going to be Operation Khadi and Operation  
12:21:10 38 Briars?---Yes.  
39  
12:21:11 40 Very broadly, so you know what the questions are going to  
12:21:15 41 be about. First of all, Operation Khadi related to  
12:21:19 42 allegations against some members of the Brighton police  
12:21:24 43 station?---That's right.  
44  
12:21:25 45 One of those was someone by the name of Richard  
12:21:31 46 Shields?---Yes.  
47

12:21:32 1 You refer in your statement at paragraph 8 to serving a  
12:21:36 2 s.68 notice upon him?---Yes.  
3  
12:21:38 4 That's a suspension notice, is it?---It's a loss of  
12:21:41 5 confidence.  
6  
12:21:45 7 The effect of that is suspension?---I call suspension being  
12:21:52 8 suspended from work. It's more of a sacking.  
9  
12:21:54 10 Right, okay. It went straight from - okay?---He did  
12:21:59 11 appeal.  
12  
12:21:59 13 Yes?---After that sort of initial service of the document,  
12:22:04 14 but essentially the document is the Chief Commissioner's  
12:22:07 15 lost confidence in him and he's being dismissed from the  
12:22:11 16 Force.  
17  
12:22:12 18 The reasons for the loss of confidence would be listed in  
12:22:14 19 the notice?---There were many.  
20  
12:22:16 21 In his case they included quite a number?---Yes.  
22  
12:22:19 23 One of the allegations against him related to his having an  
12:22:22 24 inappropriate relationship with Ms Gobbo?---Yes.  
25  
12:22:26 26 And another was, related to Ms Gobbo having arranged free  
12:22:32 27 tickets for him to the races?---M'hmm.  
12:22:34 28  
12:22:34 29 Is that right?---Yes.  
30  
12:22:35 31 And another, yet another was that she was giving him  
12:22:38 32 lessons in a law course?---I mean I think, you know, in the  
12:22:45 33 totality of the reasons why he was dismissed from the  
12:22:49 34 organisation, they were very minor, relatively minor  
12:22:51 35 indiscretions. His reasons for being sacked are far more  
12:22:57 36 around predatory behaviour.  
37  
12:23:01 38 There were a number that dealt with his relationship with  
12:23:05 39 Ms Gobbo?---Yes, there was.  
40  
12:23:09 41 If we can go to the ICR at p.207. You've been shown a  
12:23:15 42 number of ICRs, I take it, that relate to Ms Gobbo,  
12:23:20 43 especially as she might have referred to you in the  
12:23:23 44 ICRs?---What's the ICR, sorry?  
45  
12:23:25 46 Informer Contact Report?---Right.  
47

12:23:28 1 In the making of your statement - - - ?---Yep.  
2  
12:23:32 3 - - - you've referred to a number of instances where you're  
12:23:34 4 aware of what Ms Gobbo has told her handlers; is that  
12:23:39 5 right?---Yes.  
6  
12:23:40 7 I'm just going to the original source of that  
12:23:42 8 information?---All right.  
9  
12:23:43 10 You'll see there on 24 March 2006, this is a record of  
12:23:50 11 communication between Ms Gobbo and her handler at the  
12:23:55 12 Source Development Unit?---Okay.  
13  
12:23:56 14 All right?---Yes.  
15  
12:23:57 16 She reports essentially on that day, and I'll summarise it  
12:24:01 17 so I don't have to take you all the way through it, but  
12:24:05 18 having seen Mr Shields, who works at Brighton, and she  
12:24:10 19 explains a bit about the matter, she refers to there being  
12:24:13 20 a member who's made complaints against him, that he'd  
12:24:17 21 called her that morning, she refers to it having been  
12:24:21 22 suspended with pay in relation to discipline offences, and  
12:24:25 23 he's telling her that she might get a phone call from the  
12:24:28 24 ESD?---Yep.  
25  
12:24:31 26 She reported that it was her belief that it all went back  
12:24:34 27 to Shields having a problem with a member at Brighton and  
12:24:39 28 we won't - I think we've given that member a pseudonym by  
12:24:43 29 the name of Brown, John Brown?---Yes.  
30  
12:24:46 31 John Brown. That was a member who had in fact arrested one  
12:24:53 32 of Ms Gobbo's clients Adam Ahmed at some point in  
12:24:58 33 time?---Yes.  
34  
12:25:00 35 Ms Gobbo herself had some animosity towards that member,  
12:25:05 36 you're aware of that?---Brown?  
37  
12:25:08 38 Yes, about Brown?---Yes.  
39  
12:25:11 40 And referred to his having put her home address in the  
12:25:17 41 hand-up brief of Ahmed as one of the things that concerned  
12:25:20 42 her?---Right.  
43  
12:25:21 44 Do you understand that that related to the fact that during  
12:25:26 45 the search of Ahmed's car there was a water bill found that  
12:25:29 46 had Ms Gobbo's name and address details on it?---Yep.  
47

12:25:33 1 At the time that he was arrested?---Yes.  
2  
12:25:38 3 Ms Gobbo told her handler in this conversation that Ahmed,  
12:25:43 4 her client, had alleged a theft by Mr Brown but Mr Ahmed  
12:25:49 5 had chosen never to report the theft?---Yes, that's my  
12:25:52 6 understanding.  
7  
12:25:56 8 Not long after this you were at an AFL match?---Yes.  
9  
12:26:02 10 Is that right? In The Age's corporate box?---I don't  
12:26:09 11 recall whose box it was but I was there, yes.  
12  
12:26:11 13 It was a corporate box?---It was a journalist who had  
12:26:15 14 invited me to the football.  
15  
12:26:16 16 Was that Mr Sylvester?---Yes.  
17  
12:26:21 18 As it turned out Ms Gobbo attended the same corporate box  
12:26:25 19 during the match?---She came in I think, from memory, after  
12:26:31 20 half-time.  
21  
12:26:35 22 You indicate in your statement she was with two police  
12:26:39 23 members?---Yes.  
24  
12:26:40 25 Do you know who they were?---No.  
26  
12:26:41 27 Did you find out who they were?---I didn't find out who  
12:26:45 28 they were, all I knew they were from the Major Drug  
12:26:49 29 Investigation Division but I didn't know them personally.  
30  
12:26:51 31 Were they current serving members?---I would have thought  
12:26:54 32 so.  
33  
12:26:55 34 How did you know that they were police members?---I think I  
12:26:58 35 asked someone who they were .  
36  
12:26:59 37 So you found out their name at the time?---No, no, not  
12:27:02 38 their names. Look, I could have found out their names at  
12:27:06 39 the time to be totally honest but I don't recall. I didn't  
12:27:08 40 know them. They looked quite junior to me in age, you  
12:27:16 41 know.  
42  
12:27:16 43 They were detectives at the MDID?---I believe so, yes.  
44  
12:27:23 45 You're aware that Ms Gobbo in an Informer Contact Report  
12:27:28 46 later on referred to this meeting with you?---Yes.  
47

12:27:32 1 And you were asked about that in the course of making your  
12:27:35 2 statement?---Yes.  
3  
12:27:36 4 Because she said at some later stage that you in fact had  
12:27:41 5 discussed the Shields matter with her in the presence of  
12:27:44 6 Mr Sylvester?---I did not.  
7  
12:27:47 8 You're aware that that's what she said?---I'm aware of that  
12:27:51 9 what's she said, yes, yes. I've not seen that but I was  
12:27:55 10 informed of that, yes.  
11  
12:27:59 12 Your account of that is a bit different?---I didn't know  
12:28:03 13 her, and I assume she didn't know me, but she must have  
12:28:08 14 inquired as to who I was and then she came up to me in a  
12:28:13 15 rather agitated state I would say, she was angry, and she  
12:28:22 16 was starting to say to me things like, "So what if I was  
12:28:26 17 giving him instruction in the law", or words to that  
12:28:30 18 effect, "I was helping him with his studies", and I knew  
12:28:33 19 who she was talking about then. And all I said to her was  
12:28:36 20 that it wasn't an appropriate time to have any  
12:28:38 21 conversations around that.  
22  
12:28:40 23 You knew at the time who she was, I take it, as soon as she  
12:28:44 24 walked in?---I think so, yes. I had not met her before but  
12:28:49 25 I think I knew who she was.  
26  
12:28:51 27 She had a reasonable profile at that stage?---I knew who  
12:28:54 28 she was, yeah, I think.  
29  
12:28:56 30 This was not very long after Tony Mokbel had absconded the  
12:29:02 31 jurisdiction and was making significant news around that  
12:29:09 32 time, do you recall that?---Yes.  
33  
12:29:10 34 Prior to the end of his trial?---I think so, yes.  
35  
12:29:13 36 I think that happened on around 20 March and this was 31  
12:29:16 37 March?---Okay.  
38  
12:29:17 39 You would have been aware that Ms Gobbo represented some  
12:29:19 40 significant - - - ?---Yes.  
41  
12:29:22 42 - - - gangland players, including Mr Mokbel?---Yep.  
43  
12:29:31 44 Do you know who invited Ms Gobbo to the corporate  
12:29:34 45 box?---No.  
46  
12:29:38 47 In relation to Operation Khadi, you, with Inspector

12:29:44 1 Attrill, sought the OPI's assistance in relation to the  
12:29:48 2 investigation; is that right?---That's correct.  
3  
12:29:50 4 And the reason you did that is you wanted to use their  
12:29:53 5 compulsory questioning powers?---Yes.  
6  
12:29:56 7 You wanted to compulsorily question a number of witnesses,  
12:30:02 8 including Ms Gobbo?---That was part of the strategies, yes.  
9  
12:30:08 10 Do you know who information you had as to Ms Gobbo's  
12:30:12 11 involvement at that stage in your inquiries or how you came  
12:30:15 12 to understand that she was relevant to your inquiries?---I  
12:30:17 13 think one of the main things we had a report that she had  
12:30:22 14 discussed the alleged theft of money from her client with  
12:30:26 15 an OPP prosecutor who obviously made that information  
12:30:32 16 available to us. So I was aware that she had made an  
12:30:36 17 allegation to Mr Vandersteen that Mr Brown had stolen money  
12:30:41 18 from her client, or had stolen money.  
19  
12:30:44 20 Are you aware of whether you got that information by virtue  
12:30:47 21 of Ms Gobbo having told her handlers that that's what  
12:30:55 22 happened and that that information filtered through to the  
12:30:57 23 ESD? Do you know how that came about?---No, I'm not sure.  
12:31:00 24 I assume that Mr Vandersteen had made a complaint in  
12:31:05 25 relation to that allegation, not a complaint but had  
12:31:09 26 reported that allegation, and it filtered its way through.  
12:31:12 27 I'm pretty confident it didn't come via her handlers.  
28  
12:31:21 29 There was a joint agency agreement signed with the OPI on 5  
12:31:27 30 June 2006?---Yes, that's correct.  
31  
12:31:30 32 And if we were to look at your diary on that date, if we  
12:31:36 33 can bring up, RCMPPI.0008.0001.0001. At 11.30 you see the  
12:31:47 34 brief goes to the Assistant Commissioner for sign  
12:31:51 35 off?---Yes.  
36  
12:31:53 37 And then to Inspector Attrill?---Yes.  
38  
12:31:55 39 Later, is it 15:15, can't really tell but some time around  
12:32:01 40 there?---Yes.  
41  
12:32:02 42 The agency agreement is signed off?---Yes.  
43  
12:32:05 44 Does the OPI get the same brief from you as the Assistant  
12:32:10 45 Commissioner?---I would have thought we would have shared  
12:32:13 46 all the information with the OPI in relation to this  
12:32:16 47 matter.

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So that brief might have been constructed with information that the ESD already had and information that the OPI already had?---I would think that's reasonable to assume that.

Right. Now the Assistant Commissioner that you're referring to there is the Assistant Commissioner for ESD and that was Luke Cornelius?---Yes.

Now the following day, at paragraph 12 of your statement, you refer to a meeting with Mr Overland?---Yes.

It's at that meeting that you're told by Mr Overland that Ms Gobbo was a human source?---That's correct.

If we can go down that page we'll see your recording of that meeting there?---Yes.

It indicates there, "Meeting with AC", so that's Luke Cornelius?---Yes.

Simon Overland. Phil Masters. Can you tell us Phil Masters' role?---Phil Masters was the Superintendent at Ethical Standards Department in charge of all our technical areas like telephone intercepts, surveillance, and the like.

You're having a meeting with those three men?---Yes.

In relation to Operation Khadi?---Yes.

A coercive hearing is discussed involving Nicola Gobbo, so you're talking there about wanting to coercively examine her at the OPI?---Yes.

You're then briefed by Mr Overland in relation to Ms Gobbo and her involvement with Victoria Police as a human source?---He told me that she was a human source, yes.

And a human source for Victoria Police?---Yes.

He told you that you needed to speak to Sandy White?---That's right.

To coordinate issues?---Yes. If we were to proceed with her in the coercive hearing I had to make those

12:34:12 1 arrangements with him.  
2  
12:34:14 3 All three - you were there at that meeting when Mr Overland  
12:34:19 4 spoke about those matters with Mr Cornelius and Mr Masters  
12:34:23 5 as well?---The only thing I've said to clarify that is my -  
12:34:28 6 certainly that's what my diary indicates, but my  
12:34:32 7 recollection is that Simon told me that Ms Gobbo was a  
12:34:35 8 human source, only I was present when he said that.  
9  
12:34:39 10 That's certainly not what your diary indicates at  
12:34:42 11 all?---No, I'm only doing my best to recollect what  
12:34:46 12 happened on that occasion.  
12:34:47 13  
12:34:47 14 I might take you to some further document that might shine  
12:34:51 15 some light on that as well. If we can go to Mr Cornelius's  
12:34:58 16 diary please, VPL.0005.0173.0001 at p.7. This is the same  
12:35:06 17 date you'll see there?---Yes.  
18  
12:35:09 19 It indicates Phil Masters at the top?---Yes.  
20  
12:35:16 21 I'm not sure if that's a 1 and an 11 or 1 and 2, or it  
12:35:22 22 might be the room number that they were meeting in?---No, I  
12:35:24 23 think Luke had a one-on-one with all his Superintendents  
12:35:28 24 scheduled and I'd say that's a reference to a one-on-one  
12:35:31 25 with Phil.  
26  
12:35:32 27 Yes, all right. That makes sense. Then following that he  
12:35:36 28 records a meeting?---Yes.  
29  
12:35:38 30 With Mr Masters, yourself and Mr Overland in relation to  
12:35:43 31 Operation Khadi?---Yes.  
32  
12:35:48 33 He says in his statement that you and Mr Overland had  
12:35:53 34 attended at what was his regular meeting with  
12:35:56 35 Superintendent Masters?---Okay.  
36  
12:36:01 37 There was a discussion there, I take it, about the  
12:36:05 38 intention to conduct a coercive hearing with  
12:36:09 39 Ms Gobbo?---Yes.  
40  
12:36:13 41 Do you say that discussion was with all four of you?---Yes.  
42  
12:36:20 43 You're briefed by Mr Overland about Ms Gobbo being a human  
12:36:24 44 source?---That's correct.  
45  
12:36:26 46 Do you have any recollection of those other two men leaving  
12:36:29 47 the room?---I don't have a recollection of them leaving the

12:36:34 1 room. All I'm saying is my recollection is that when I was  
12:36:38 2 briefed by Simon in relation to her it was one-on-one, and  
12:36:44 3 I accept that my diary doesn't record it that way, it's  
12:36:47 4 just my recollection is that he told me separately. He may  
12:36:53 5 not have wanted to divulge that information, for example,  
12:36:56 6 to Masters so - I mean - - -  
7  
12:37:01 8 Might your recollection be wrong about that?---It could be.  
9  
12:37:03 10 Right. I might just take you to some further documents.  
12:37:09 11 Do you know the reason that Mr Overland came to disclose to  
12:37:13 12 you Ms Gobbo's status? Do you know how that came  
12:37:16 13 about?---No.  
14  
12:37:18 15 If I can bring up Mr Biggin's diary summary of 5 June 2006,  
12:37:26 16 VPL.0005.0154.0001. Do you see down the bottom?---Yes.  
17  
12:37:42 18 And just for your information he's typed out some entries,  
12:37:46 19 relevant entries in his diary?---Yes.  
20  
12:37:49 21 It indicates that Inspector Wilson of the SPU had been  
12:37:53 22 contacted by Superintendent Masters in relation to human  
12:37:58 23 source 3838?---Yes.  
24  
12:37:59 25 That's Ms Gobbo?---Yes.  
26  
12:38:01 27 And Masters had been told that contact should be made with  
12:38:06 28 the AC of Crime, who's Mr Overland, or the Commander of  
12:38:13 29 Intelligence and Covert Support. Commander Moloney had  
12:38:19 30 that position but I understand at around this time  
12:38:22 31 Mr Biggin might have been acting in that position?---Yes.  
32  
12:38:25 33 If we can then go to the 6 June SMLs, please. It seems as  
12:38:39 34 though from that the day before you have this meeting with  
12:38:42 35 Mr Overland, Mr Masters, who is, you say, in charge of  
12:38:48 36 making technical arrangements for surveillance; is that  
12:38:52 37 right?---Yes.  
38  
12:38:53 39 He's contacted, made some contact in relation to those  
12:38:56 40 kinds of matters and been told there's something going on  
12:38:59 41 here, you need to contact Mr Overland or Mr Moloney or  
12:39:02 42 Mr Biggin, right?---Yes.  
43  
12:39:06 44 The following day, 6 June, this is the day you have your  
12:39:10 45 meeting, or after you have your meeting?---Yes.  
46  
12:39:14 47 Do you understand what a source management log is?---I do

12:39:17 1 now, yes.  
2  
12:39:20 3 Mr Sandy White has indicated in the source management log  
12:39:24 4 that he's been advised by you that you're aware of the  
12:39:31 5 source ID, and this is Ms Gobbo's source management  
12:39:34 6 log?---Yes.  
7  
12:39:34 8 That you'd been informed by Assistant Commissioner Overland  
12:39:38 9 after being referred by Mr Biggin when an inquiry was made  
12:39:42 10 about putting a telephone intercept on Ms Gobbo's phone, so  
12:39:46 11 that makes sense that Mr Masters might have been making an  
12:39:49 12 inquiry about getting a telephone intercept on Ms Gobbo's  
12:39:52 13 phone?---Yep.  
14  
12:39:54 15 It indicates that the ESD were working with the OPI in  
12:39:56 16 relation to the investigation of Mr Shields and John Brown  
12:40:02 17 of the Brighton police?---Yes.  
18  
12:40:04 19 It was intended to subpoena Ms Gobbo to OPI hearings and to  
12:40:08 20 compel her to answer questions and then see what happened  
12:40:13 21 on her telephones?---Yes.  
22  
12:40:15 23 You'd been advised by Overland to contact the SDU and that  
12:40:18 24 was consistent with your note?---Yes.  
25  
12:40:24 26 Mr White indicates that he advised you that he would  
12:40:28 27 consider the appropriate course of action and would meet  
12:40:32 28 with you?---Yes.  
29  
12:40:33 30 And he records that you told him that Mr Cornelius and  
12:40:37 31 Mr Masters were also aware of Ms Gobbo's identity  
12:40:42 32 now?---Yep.  
33  
12:40:42 34 Does that indicate to you - - - ?---It probably  
12:40:44 35 indicates - - -  
36  
12:40:45 37 - - - consistent with your note that they were present  
12:40:47 38 when Mr Overland - - - ?---It does, on the basis of that  
12:40:49 39 information.  
40  
12:40:49 41 Yes. If I can just take you to Sandy White's diary, it's  
12:41:06 42 Exhibit 392 at p.142. This is his diary note of that  
12:41:20 43 conversation, consistent with much of the information I've  
12:41:23 44 taken you to in the source management log, but I just want  
12:41:27 45 to take you to one little extra bit down the bottom. Do  
12:41:30 46 you recall you also appear to have told - sorry, I'll just  
12:41:36 47 read out that last paragraph. It indicates that you had

12:41:48 1 spoken to Assistant Commissioner Overland, you'd met with  
12:41:53 2 the same today, Mr Cornelius and Mr Masters were present.  
12:41:59 3 "Assistant Commissioner stated that 3838 was registered as  
12:42:01 4 a human source and he also stated that the DSU were working  
12:42:06 5 on an exit strategy." Do you recall that that was part of  
12:42:10 6 what Mr Overland had told you?---No, I can't recall that.  
7  
12:42:13 8 Would you accept that that is likely what he told you if  
12:42:17 9 that's what Mr White has referred to in his diary?---I have  
12:42:20 10 no reason to dispute it.  
11  
12:42:26 12 You indicate at paragraph 14 of your statement that you  
12:42:34 13 were very surprised to learn that Ms Gobbo was a human  
12:42:36 14 source?---Yes.  
15  
12:42:38 16 You say that because you knew, you acknowledge that you  
12:42:42 17 knew then that she had connections to very significant  
12:42:46 18 criminal figures?---Yes.  
19  
12:42:47 20 Including Tony Mokbel?---Yes.  
21  
12:42:48 22 You didn't think that she'd be the type of person that  
12:42:52 23 would be cooperating with the police?---That's correct.  
24  
12:43:00 25 You say you weren't told about the type of information she  
12:43:03 26 was providing as a human source or who it related  
12:43:07 27 to?---Correct.  
28  
12:43:08 29 Is that right? Were you aware of - you're aware there was  
12:43:23 30 a Purana Task Force?---Yes.  
31  
12:43:24 32 Who were investigating people such as Tony Mokbel?---Yes.  
33  
12:43:30 34 Would you have been aware at that time that they'd made  
12:43:33 35 some significant arrests in the recent past in relation to  
12:43:38 36 - - - ?---I assume I was.  
37  
12:43:40 38 - - - those associated with Ms Gobbo?---Well, I don't know  
12:43:44 39 if they were associated with Ms Gobbo but I'm aware they  
12:43:48 40 were making arrests in relation to the gangland shootings.  
41  
12:43:51 42 And some major drug arrests as well?---Yes.  
43  
12:43:56 44 Is that the type of thing you would have been aware of at  
12:44:00 45 the time? For example, back in April Milad Mokbel had been  
12:44:04 46 arrested in relation to significant drug offences?---I  
12:44:08 47 really don't remember.

1  
12:44:09 2 All right. As I'd indicated, you say in your statement you  
12:44:15 3 weren't aware of the type of information that she was  
12:44:17 4 providing but you were certainly aware that she was dealing  
12:44:20 5 with the SDU?---Yes - when was that, sorry? At the time  
12:44:27 6 of - - -  
7  
12:44:27 8 At the time you find out she's a human source?---Oh, of  
12:44:30 9 course.  
10  
12:44:31 11 You're not told she's a human source and this is who she's  
12:44:34 12 informing on?---Correct.  
13  
12:44:36 14 You but know she's dealing with the SDU?---Yes.  
15  
12:44:39 16 And you know what type of informers the SDU deals  
12:44:42 17 with?---Yes.  
18  
12:44:42 19 Very significant - the Victoria Police's most significant  
12:44:46 20 informers?---Yes, that's correct.  
21  
12:44:48 22 Very highly value information?---Yes.  
23  
12:44:50 24 Very high risk?---Yes.  
25  
12:44:55 26 You would expect that her assistance to Victoria Police may  
12:44:57 27 well have been connected with her associations to  
12:45:00 28 significant criminal figures?---I didn't know for a fact  
12:45:03 29 but I would assume that to be the case.  
30  
12:45:05 31 And the type of people that she was representing?---Yes.  
32  
12:45:14 33 You say at paragraph 14 you didn't ask for that information  
12:45:18 34 because there was no need for you to know it as part of  
12:45:22 35 your ESD investigations?---That's correct.  
36  
12:45:26 37 In the course of your investigations as an ESD officer, if  
12:45:29 38 you become aware of other matters which might indicate that  
12:45:33 39 there might be some police perhaps engaging in  
12:45:38 40 inappropriate behaviour or behaviour that might be beyond  
12:45:41 41 the bounds, do you take that up?---Yes.  
42  
12:45:45 43 Okay. Did it occur to you in this situation that we've got  
12:45:49 44 a lawyer informing on people that she may well be  
12:45:55 45 representing?---I didn't know who she was informing on or  
12:46:00 46 what she was informing about.  
47

12:46:02 1 Did it occur to you that that may well be a risk that that  
12:46:07 2 was going on, given you knew that she was representing  
12:46:11 3 significant criminal figures, you knew that she was  
12:46:14 4 informing and being handled by the SDU?---M'mm.  
5  
12:46:20 6 Did you it occur to you that that was a possibility, that  
12:46:22 7 there might be some concern in this area?---It didn't occur  
12:46:25 8 to me that she might be informing on her clients. All I  
12:46:30 9 could assume is that she's informing at a high level but I  
12:46:34 10 didn't know the nature or about whom she was informing on.  
12:46:41 11 So I couldn't make a judgment in relation to that without  
12:46:44 12 having that further information.  
13  
12:46:52 14 Was there any concern to just check that that wasn't the  
12:46:55 15 situation, that the bounds had been clearly set in terms of  
12:46:59 16 what Victoria Police is doing having a criminal lawyer who  
12:47:05 17 investigates - sorry, who represents very significant  
12:47:08 18 criminal figures?---Yes.  
19  
12:47:09 20 Being handled by a unit that deals with people informing on  
12:47:14 21 very significant criminal figures, did it occur to you that  
12:47:18 22 there might need to be some look into whether there are  
12:47:22 23 clear boundaries going on?---I understand your question but  
12:47:25 24 I think for me to make a proper judgment about whether or  
12:47:29 25 not that was appropriate or not appropriate would mean that  
12:47:31 26 I'd have to be fully briefed (a) about what information she  
12:47:36 27 was providing, who it was from, were they her clients, were  
12:47:39 28 they not her clients, et cetera, et cetera, and I don't  
12:47:42 29 believe that I was in any position to drill into all those  
12:47:48 30 details as you've just described simply because I didn't  
12:47:51 31 need to know, and to be fully briefed on that it puts the  
12:47:55 32 organisation, to some degree, at risk because they're  
12:47:58 33 trying to keep this information as tight as possible.  
34  
12:48:00 35 What about just asking some general questions along those  
12:48:03 36 lines though? I understand - as I've just said to you, "I  
12:48:11 37 know Ms Gobbo, I know she represents significant criminal  
12:48:14 38 figures, she's being handled by a Unit that deals with  
12:48:21 39 information about significant criminal figures, I just want  
12:48:23 40 to make sure that there are boundaries here", you could do  
12:48:27 41 it at a general level without seeking that full briefing,  
12:48:28 42 just to be assured at least that there were boundaries in  
12:48:31 43 place?---I don't agree. I think I'd have to know more than  
12:48:35 44 just generalised information. And the second part of that  
12:48:37 45 question is that at some stage you've got to have the trust  
12:48:42 46 and faith in the people that are responsible for her  
12:48:46 47 management and registering her have looked at all those

12:48:49 1 issues that you're talking about and made the appropriate  
12:48:53 2 calls and decisions in relation to that. I had faith that  
12:48:58 3 those matters would have been considered and should have  
12:49:00 4 been considered without having for me to query, you know,  
12:49:07 5 people like Simon about those issues. And secondly, I  
12:49:12 6 didn't need to know that level of detail.  
7  
12:49:15 8 Was it your understanding that Mr Overland knew very well  
12:49:20 9 the type of information that she was giving to the SDU?---I  
12:49:25 10 don't know.  
11  
12:49:31 12 You say you expressed, or you say you were very surprised  
12:49:36 13 to find out that she was informing?---Yes.  
14  
12:49:39 15 Did you discuss that with anyone?---No.  
16  
12:49:46 17 Did you express your surprise to Mr Overland or anyone else  
12:49:49 18 at the meeting?---No, I don't think I did.  
19  
12:50:14 20 If I can just take you to Mr Biggin's diary summary of 9  
12:50:27 21 June 2006 at p.10. You'll see there on 9 June the blanked  
12:50:34 22 out bit I think is Sandy White?---Yes.  
23  
12:50:39 24 Mr Biggin has a conversation with Sandy White in relation  
12:50:42 25 to the ESD/SSU issue, or in relation to an ESD and SSU  
12:50:53 26 issue that there's a possible compromise of Ms Gobbo if the  
12:50:58 27 OPI conduct a hearing with her?---Yes.  
28  
12:50:59 29 There's reference to having spoken, at the request of ESD,  
12:51:03 30 and to ring Superintendent Wilson with a proposal and  
12:51:06 31 identification of the same and he's discussing risk issues.  
12:51:09 32 So that's just following on from the conversation that  
12:51:11 33 Mr Wilson had with you - sorry, Mr White had with  
12:51:18 34 you?---Yes, yes.  
35  
12:51:21 36 Following that if we can go to Mr Biggin's diary of 13 June  
12:51:26 37 2006. That's at RCMP1.0075.0001.0001 at p.273. Just to  
12:51:55 38 fill you in, it appears as though there's a - this is 13  
12:52:02 39 June. You'll see there there's a meeting with a number of  
12:52:06 40 people where they're having discussions about the  
12:52:11 41 implications for Ms Gobbo. It refers to the ESD and TPA  
12:52:15 42 issue, do you see that, at 8.30?---Yep, yep.  
43  
12:52:22 44 Then following that there's a further meeting with some of  
12:52:25 45 the same people, including Mr Swindells?---Yes.  
46  
12:52:32 47 Again, referring to the - under the confidential banner,

12:52:37 1 there's an ESD issue and the implications for  
12:52:40 2 Ms Gobbo?---Yes.  
3  
12:52:41 4 If we can go to the White diary for the same time frame,  
12:52:49 5 please. VPL - Mr Skim knows the code I think. So there's  
12:53:23 6 an account of what's occurred at that meeting. They've  
12:53:28 7 discussed possible reaction re the ESD investigations.  
12:53:33 8 There's a reference there to Mr Biggin, et cetera, to meet  
12:53:36 9 with the ESD and Mr Swindells at 9.30 and it was agreed  
12:53:39 10 that Mr Swindells was not to be provided with the  
12:53:42 11 identification of the human source. Is that your  
12:53:49 12 understanding, that that was the arrangement, that  
12:53:53 13 Mr Swindells was going to get involved because he had some  
12:53:55 14 knowledge of Ms Gobbo but he wasn't to be told that she was  
12:53:59 15 an informer?---Mr Swindells was obviously at Purana prior  
12:54:04 16 to this and he was at ESD now.  
17  
12:54:08 18 Did you understand that he'd had some previous dealings  
12:54:11 19 with Ms Gobbo?---Yes, and he was going to try and talk to  
12:54:14 20 her about the Brighton issue.  
21  
12:54:19 22 On 15 June 2006 there was a meeting that took place with  
12:54:26 23 you and Sandy White and Inspector Attrill; is that  
12:54:30 24 right?---Yes.  
25  
12:54:31 26 If we can go to Mr White's diary, if we can scroll through  
12:54:37 27 there. You'll see here it talks of the meeting?---Yep.  
28  
12:54:52 29 There's a concern being expressed I think by Mr White there  
12:54:56 30 about Mr Attrill now being informed of the identification  
12:54:59 31 of Ms Gobbo?---Yep.  
32  
12:55:01 33 And there being too many people knowing about that?---Yes.  
34  
12:55:07 35 It says at that stage everyone was opposed to Mr Ashton at  
12:55:14 36 the OPI being told that Ms Gobbo was a human source, do you  
12:55:20 37 see that? The third dash down, "Opposed suggestion that  
12:55:23 38 Graham Ashton/OPI be informed, agreed"?---Yes, I do.  
39  
12:55:28 40 And then the next dash, "OPI not to be told human source is  
12:55:32 41 a source"?---Yes.  
42  
12:55:35 43 There's an update re intel that's - I suggest that that's  
12:55:45 44 put in to an information report the next day which I can  
12:55:51 45 take you to, but you're given some information, I'd  
12:55:55 46 suggest, at that meeting about what Ms Gobbo has told the  
12:55:58 47 SDU about her knowledge of the matters that you were

12:56:05 1 investigating?---Can I see - - -  
2  
12:56:08 3 Are you aware of that?---Is that written here?  
4  
12:56:10 5 Here we have an update re intel from human source?---Yes.  
6  
12:56:15 7 Primarily - it says, "Primarily corroborated in or re other  
12:56:22 8 material", do you see that?---Yes.  
9  
12:56:24 10 If we can switch quickly to VPL.0005.0014.0151?---So it's  
12:56:37 11 saying there that she may assist voluntarily but doesn't  
12:56:42 12 want to give evidence.  
13  
12:56:43 14 Yes. So, "Told Gobbo might assist voluntarily but does not  
12:56:47 15 want to give evidence". Perhaps I'll just continue this  
12:56:50 16 and if that other document can be downloaded if it's not  
12:56:53 17 already been. If we can scroll through to the next page.  
12:57:01 18 It's agreed that Ms Gobbo is to be spoken to as a witness  
12:57:05 19 and it seems "nil clandestine meetings"?---Yes.  
20  
12:57:12 21 That the SDU would smooth the way and that's smooth the way  
12:57:15 22 in terms of arranging meetings between ESD and  
12:57:19 23 Ms Gobbo?---Yes.  
24  
12:57:20 25 So they were to act as sort of a middle party?---Sure.  
26  
12:57:23 27 Is that consistent with your recollection?---Yes, yes.  
28  
12:57:25 29 And it says that Ms Gobbo may be able to assist with Adam,  
12:57:30 30 and that's referring to Adam Ahmed?---Okay.  
31  
12:57:36 32 If you read the next line - sorry, first of all, do you  
12:57:39 33 accept that, that you were told that Ms Gobbo might be able  
12:57:42 34 to assist you in relation to Adam Ahmed?---That was my  
12:57:48 35 general understanding, that she would be able to meet with  
12:57:52 36 Phil Swindells and Lindsey Attrill.  
37  
12:57:56 38 And may be able to provide an entré e into your potentially  
12:58:00 39 speaking with Adam Ahmed?---Yes.  
40  
12:58:03 41 Was it an understanding that she had some influence in  
12:58:04 42 relation to whether or not he might be prepared to speak  
12:58:08 43 with ESD investigators?---Sure.  
44  
12:58:09 45 It seems here you're advised further that Adam Ahmed has  
12:58:15 46 intelligence in relation to the theft of \$700,000 to  
12:58:23 47 "900,000 in relation to Operation Gallop?---I can't

12:58:25 1 remember that.  
2  
12:58:26 3 And advised there, "Adam Ahmed unwilling to talk at that  
12:58:31 4 point in time". Do you know what Operation Gallop  
12:58:34 5 was?---No.  
6  
12:58:35 7 Do you know that there was a theft involving an MDID member  
12:58:44 8 Miechel?---Yes.  
9  
12:58:45 10 With Terrence Hodson?---Yes.  
11  
12:58:46 12 At Dublin Street in Oakleigh at a time - - - ?---Where  
12:58:53 13 Miechel was arrested?  
14  
12:58:55 15 Yes?---Okay, yes, I remember that.  
16  
12:58:57 17 At that stage MDID were conducting Operation  
12:59:02 18 Gallop?---Okay.  
19  
12:59:03 20 At the time that that burglary took place, so that's what  
12:59:05 21 that's referring to, all right?---Okay, yep.  
22  
12:59:07 23 It seems as though you were given some information by the  
12:59:09 24 SDU during that meeting in relation to Mr Ahmed having  
12:59:13 25 intelligence about that, all right?---I accept that it's  
12:59:19 26 there but I don't recall being told that.  
27  
12:59:24 28 Do we have that other document? I might come back to that  
12:59:31 29 if we need to. In any case, you would expect that if  
12:59:40 30 you're given an update in relation to intelligence by the  
31 ESD during that meeting that anything you were told may  
12:59:46 32 well have gone into an information report by Inspector  
12:59:48 33 Attrill following that meeting?---Yes.  
34  
12:59:50 35 That wouldn't be unusual?---That would be standard, yes.  
36  
12:59:55 37 If we can go to your diary of 16 June 2006. This is  
13:00:03 38 something that I don't think you've addressed in your  
13:00:07 39 statement but I just want to understand what occurred.  
13:00:14 40 This is a number of days later on 16 June 2006. You're  
13:00:21 41 having a conversation there and the blanked out name is  
13:00:24 42 Sandy White?---Okay.  
43  
13:00:25 44 So you spoke to Sandy White in relation to OPI powers and  
13:00:29 45 professional legal privilege?---Yes.  
46  
13:00:33 47 About ten minutes later you then speak to someone by the

13:00:36 1 name of John?---Kapetanovski.  
2  
13:00:41 3 That person was from the OPI?---Yes.  
4  
13:00:44 5 An investigator or a lawyer?---An investigator.  
6  
13:00:46 7 In relation to what you'd just discussed with  
13:00:51 8 Mr White?---Yes.  
9  
13:00:53 10 Can you recall what that conversation was about in relation  
13:00:56 11 to OPI powers and professional legal privilege that you  
13:01:01 12 were having at that stage with Sandy White?---I can only  
13:01:15 13 assume that Ms Gobbo may have raised with Sandy White any  
13:01:20 14 information that she may give under coercion to the OPI  
13:01:26 15 could be subject to a claim of privilege. So we were  
13:01:27 16 obviously discussing those issues and then I've had a  
13:01:31 17 further conversation with OPI investigators about the same  
13:01:33 18 issue, I've raised the same issue with them.  
19  
13:01:35 20 It may not be the case that Ms Gobbo has been told about  
13:01:40 21 the OPI or ESD intention at this stage?---Okay.  
22  
13:01:46 23 Do you have any recollection of this discussion that you  
13:01:49 24 had with Mr White about legal professional  
13:01:53 25 privilege?---Look, I'm sorry, I don't. I've obviously made  
13:01:56 26 a note that I am discussing something with him about it but  
13:01:59 27 I don't remember exactly the detail. It's just too long  
13:02:03 28 ago.  
29  
13:02:04 30 There's clearly some concern at the time?---Yep .  
31  
13:02:06 32 That the information that Ms Gobbo is going to be asked  
13:02:10 33 about relates to information that she's gotten from clients  
13:02:15 34 or a client?---I think that was certainly a possibility  
13:02:19 35 because, as I said earlier, she had raised the alleged  
13:02:23 36 theft of money with Jack Vandersteen, so we were aware that  
13:02:29 37 there were allegations of police stealing money from  
13:02:34 38 Mr Ahmed. Now, how she came to that knowledge I'm not  
13:02:39 39 clear. She may - it may have come from him, it may have  
13:02:46 40 come from other sources. I'm just not 100 per cent sure.  
13:02:50 41 So obviously the purpose of putting it to a hearing would  
13:02:53 42 be to elicit what she knew about that alleged theft.  
13:02:56 43 However, if the matters were coming from a privileged  
13:02:59 44 conversation with her client, that would be of some concern  
13:03:02 45 and we were obviously discussing those issues.  
46  
13:03:07 47 Yes. Was there any legal advice taken about that?---We

13:03:10 1 didn't get to the stage of - well, in the matter of Khadi  
13:03:14 2 we didn't get to the stage of subpoenaing her to a hearing  
13:03:19 3 and I'm sure that if we'd kept pursuing the matter we would  
13:03:23 4 have at some stage spoken to the OPI coercive hearing  
13:03:28 5 lawyers about the potential of there being a privilege  
13:03:32 6 claim. But we didn't get to at that stage. Obviously we  
13:03:37 7 were just - these are the initial stages of whether or not  
13:03:40 8 we could put her before a coercive hearing.  
9  
13:03:44 10 All right?---On some of the issues that might arise from  
13:03:47 11 doing that.  
12  
13:03:48 13 It seems as though you've gotten some opinion or advice  
13:03:53 14 from the investigator at the OPI?---Yep.  
15  
13:03:59 16 Do you recall or can you interpret what you were told from  
13:04:02 17 your own, from your notes?---My interpretation of that  
13:04:06 18 meeting with John would be that he may have already  
13:04:12 19 discussed it with the OPI lawyers and is basically saying  
13:04:18 20 the claim of privilege can be made. So there's been some,  
13:04:26 21 as I said before, some discussion around the issue of  
13:04:30 22 privilege.  
23  
13:04:31 24 Where we see "none should be given but claim can be made",  
13:04:37 25 do you know what that "none should be given" means?---I  
13:04:41 26 don't really know, sorry.  
27  
13:04:42 28 Does it mean no evidence containing privileged  
13:04:45 29 communications or confidential communications should be  
13:04:47 30 given?---Not necessarily. Look, it's hard to interpret  
13:04:53 31 something that happened so long ago but I'm thinking it  
13:05:00 32 means no privilege should be given but the claim can be  
13:05:05 33 made. That's just my interpretation of those notes.  
34  
13:05:13 35 Just to fill you in on part of that story. Later that  
13:05:20 36 evening it seems that there's a face-to-face meeting  
13:05:22 37 involving Sandy White with Ms Gobbo. There is a discussion  
13:05:26 38 there about the Shields matter and there's further  
13:05:31 39 discussion, it seems, in relation to Mr Ahmed's  
13:05:34 40 instructions to her about the theft of the money from  
13:05:38 41 Dublin Street?---Yes.  
42  
13:05:39 43 The Operation Gallop money?---Right.  
44  
13:05:44 45 She also made an allegation of theft in relation to the  
13:05:47 46 Operation Khadi matter; is that right?---She - - -  
47

13:05:54 1 As against - - - ?---Against Brown.  
2

13:05:56 3 Brown, yes?---She made that complaint to Jack Vandersteen  
13:06:00 4 at the bail application.  
5

13:06:02 6 Yes. During that conversation later that evening Ms Gobbo  
13:06:08 7 indicated that Ahmed had never raised the Dublin Street  
13:06:13 8 theft matter anywhere apart from having told her about  
13:06:19 9 it?---Yep.  
10

13:06:20 11 So he didn't use it on his plea or anything like  
13:06:23 12 that?---Yes.  
13

13:06:24 14 She said she'd never raised it with the police because it  
13:06:27 15 was nothing to do with anyone. Mr White was disputing,  
13:06:36 16 saying that it was \$700,000, it should be raised  
13:06:40 17 essentially, and Ms Gobbo's response at that point in time  
13:06:45 18 was, "Hang on, I can't go and raise someone's privileged  
13:06:50 19 instructions. Unless they give me permission I can't do  
13:06:52 20 it"?---Yes.  
21

13:06:53 22 So she's making quite clear there to the police - - -  
13:06:55 23 ?---Yes, in relation to Gallop.  
24

13:06:57 25 In relation to at least the Gallop matter, "I can't do it,  
13:07:03 26 I don't have instructions, I shouldn't be talking about  
13:07:05 27 it"?---Yes.  
28

13:07:05 29 On 19 June you have a further conversation with Mr White  
13:07:09 30 and you refer to that at paragraph 17 of your  
13:07:12 31 statement?---Yes.  
32

13:07:15 33 Ms Gobbo's indicated that she's willing to speak to  
13:07:19 34 Swindells?---Yes.  
35

13:07:20 36 And there's an arrangement to meet; is that right?---That's  
13:07:22 37 right.  
38

13:07:24 39 Again, you make clear, and you've referred to that in your  
13:07:28 40 diary, that you don't tell Mr Swindells about her informer  
13:07:32 41 status?---That's correct.  
42

13:07:34 43 Right. The ICRs indicate that on 27 June she's reported to  
13:07:40 44 her handlers that she's had contact from  
13:07:45 45 Mr Swindells?---Yes.  
46

13:07:46 47 Who wants to interview her. Then on 28 June she reports

13:07:50 1 further contact from Mr Swindells and says she's been told  
13:07:55 2 by him that the inquiry related to Brown and that he wanted  
13:08:01 3 to bring along with him Mr Attrill---Yes.  
4  
13:08:06 5 Who she didn't know?---Yep, that's right.  
6  
13:08:10 7 On 11 July she has another discussion with her handler  
13:08:15 8 expressing some wariness about talking to  
13:08:20 9 Mr Swindells?---M'hmm.  
10  
13:08:21 11 And the handler at that stage says to her, "Well, you know,  
13:08:24 12 it's better than a compulsory hearing" and assured her that  
13:08:28 13 Mr Swindells didn't know that she was a source, all  
13:08:33 14 right?---Okay.  
15  
13:08:34 16 It seems as though at least by that stage they're  
13:08:35 17 discussing the possibility of a compulsory hearing?---Yes.  
18  
13:08:38 19 On 19 July there's a meeting arranged and she tells her  
13:08:44 20 handlers that she's going to see Mr Swindells the next day.  
13:08:51 21 And it seems as though she's had some discussion with her  
13:08:54 22 handlers about what assistance she might be with  
13:08:57 23 Mr Ahmed?---M'hmm.  
24  
13:08:58 25 And what she might be able to tell Mr Ahmed to get him to  
13:09:02 26 help assist and so forth. Then on the following day she  
13:09:07 27 tells the handlers that Mr Swindells has come to her  
13:09:11 28 office. He didn't take a note so she thought he might have  
13:09:16 29 been recording her?---Yes.  
30  
13:09:19 31 This isn't the major meeting with Mr Attrill, it seems as  
13:09:20 32 though Mr Swindells has gone twice to have a bit of a  
13:09:22 33 conversation with her. Do you know if he would have  
13:09:26 34 recorded her on both occasions?---I don't know.  
35  
13:09:29 36 Again, she comes to understand that at that stage the focus  
13:09:33 37 of the investigation is in relation to Mr Brown?---Correct.  
38  
13:09:43 39 On 21 July 2006 there's a meeting between the ESD and the  
13:09:49 40 OPI. You refer to this at paragraph 18 of your  
13:09:57 41 statement?---Yes.  
42  
13:10:02 43 You say in your statement that you describe - the meeting  
13:10:08 44 is described in an information report?---That's correct.  
45  
13:10:11 46 I might just take you to the information report. It's  
13:10:15 47 VPL.0005.0147.0119. This is an information report that was

13:10:27 1 filed a number of days later by Inspector Attrill; is that  
13:10:31 2 right?---Yes.  
3  
13:10:33 4 And you've seen the information report?---Yes.  
5  
13:10:36 6 Does it accurately record what went on at the meeting?---I  
13:10:39 7 believe so. Well I wasn't at the meeting but I accept that  
13:10:42 8 that's what it's - - -  
9  
13:10:44 10 It seems as though you were at the meeting according - - -  
13:10:48 11 ?---Sorry I beg your pardon. I thought you meant the  
13:10:52 12 meeting with Gobbo. No, I was at the meeting, yes.  
13  
13:10:52 14 This is reporting a meeting on 21 July?---Yes, my  
13:10:59 15 apologies.  
16  
13:11:00 17 The meeting ultimately with Ms Gobbo is 24 July?---Thank  
13:11:04 18 you.  
19  
13:11:04 20 At this meeting you and Mr Attrill met with a John  
13:11:11 21 Kapetanovski?---Yes.  
22  
13:11:13 23 Michael Davson and Stephen Parker from the OPI in relation  
13:11:17 24 to Operation Khadi?---Correct.  
25  
13:11:20 26 During the meeting the intention of the ESD to meet with  
13:11:24 27 Nicola Gobbo was discussed at length?---Yes.  
28  
13:11:30 29 "The circumstances surrounding this avenue of inquiry at  
13:11:33 30 this early stage in the investigation followed receipt of  
13:11:36 31 certain information which cannot be disclosed". I take it  
13:11:40 32 that's relating to the fact that the ESD had received  
13:11:45 33 information that Ms Gobbo was a source from Mr Overland and  
13:11:50 34 subsequently received information from the SDU that they  
13:11:55 35 couldn't share with the OPI?---Yes.  
36  
13:12:00 37 I take it that that's what that's referring to, is that  
13:12:05 38 right, obliquely?---It seems to make sense that it would be  
13:12:11 39 the case.  
40  
13:12:11 41 You're telling the OPI, "Look, we've got some information,  
13:12:14 42 we can't tell you what it's about, but that's leading us to  
13:12:18 43 want to meet with Ms Gobbo early on in the  
13:12:20 44 investigation"?---Yes.  
45  
13:12:26 46 Following from that the OPI, I take it, were not at all  
13:12:30 47 happy about that course of events?---About us meeting with

13:12:32 1 Ms Gobbo?  
2  
13:12:34 3 About your intention to meet with Ms Gobbo?---Yes.  
4  
13:12:38 5 And it reads there, "There was some frustration and  
13:12:41 6 disagreement expressed by the OPI concerning the proposed  
13:12:44 7 meeting with Ms Gobbo"?---Yes.  
13:12:46 8  
13:12:47 9 "The OPI had expressed their intention to serve a subpoena  
13:12:51 10 on Ms Gobbo, bring her before a coercive hearing. They  
13:12:57 11 believed that any prior meeting by ESD would jeopardise the  
13:13:00 12 element of surprise that would be put to her by the OPI in  
13:13:05 13 the hearing"?---Yes.  
14  
13:13:08 15 Certainly it had been the intention to have that element of  
13:13:10 16 surprise earlier?---Yes.  
17  
13:13:13 18 As between both agencies?---Yes.  
19  
13:13:15 20 And that was the reason for the earlier intention to put  
13:13:18 21 some telephone intercepts on that phone as well?---Yes.  
22  
13:13:24 23 So they were clearly quite unhappy about that course of  
13:13:27 24 events?---About us meeting her prior to, yes.  
25  
13:13:36 26 The information report goes on that a prepared list of  
13:13:40 27 questions to be put to Ms Gobbo at the meeting which was  
13:13:44 28 already intended for the following week was given to the  
13:13:46 29 OPI?---M'hmm.  
30  
13:13:47 31 For their information and for their input?---Yes.  
32  
13:13:50 33 Who was involved in the preparation of those  
13:13:58 34 questions?---Lindsey Attrill.  
35  
13:13:59 36 Yes?---And probably John Kapetanovski. I'm not 100 per  
13:14:09 37 cent sure if it was wider than that.  
38  
13:14:10 39 It seems as though the questions had been brought over from  
13:14:13 40 the ESD and then given to the - - - ?---Yes.  
41  
13:14:16 42 From the police arm of things?---Sure  
43  
13:14:18 44 You've gone over there already with some questions?---Yes.  
45  
13:14:21 46 Had there been any input into that by the SDU, by  
13:14:25 47 Mr Overland or anyone else at Victoria Police before you

13:14:29 1 got to the OPI?---Look, to be honest I wouldn't have  
13:14:32 2 thought so but I just can't remember.  
3  
13:14:36 4 The questions that were wanting to be asked centred around  
13:14:39 5 an allegation of attempt to pervert the course of justice  
13:14:44 6 involving various people?---Yes.  
13:14:45 7  
13:14:45 8 Is that right?---Yes.  
9  
13:14:46 10 That included at that stage no only Mr Brown and Mr Shields  
13:14:52 11 but also David Waters, Stephen Campbell, Peter Alexander  
13:15:00 12 and various others?---That's right.  
13  
13:15:03 14 You subsequently advised that the OPI don't want questions  
13:15:09 15 at that stage about David Waters or Stephen Campbell or  
13:15:12 16 their relationship with Mr Brown and Ms Gobbo raised at the  
13:15:18 17 meeting?---That's what they're saying, yes.  
18  
13:15:21 19 Do you know why that was?---I don't know why.  
20  
13:15:25 21 Were you - - - ?---I can assume they may have another  
13:15:27 22 investigation afoot and we're not being briefed about it,  
13:15:31 23 but I mean that's me speculating that.  
24  
13:15:36 25 Yes?---So I don't really know.  
26  
13:15:38 27 I was just going to ask you were aware of what other  
13:15:42 28 investigations they might have had running at that  
13:15:44 29 stage?---No.  
30  
13:15:47 31 I note the time, Commissioner.  
32  
13:15:48 33 COMMISSIONER: Yes, all right then. We'll adjourn until 2  
13:15:53 34 o'clock.  
13:16:27 35  
13:16:28 36 <(THE WITNESS WITHDREW)  
13:16:29 37  
38 LUNCHEON ADJOURNMENT  
39  
40  
41  
42  
43  
44  
45  
46  
47

13:56:22 1 UPON RESUMING AT 2.04 PM:  
14:04:06 2  
14:04:07 3 <RODNEY WILSON, recalled:  
14:04:09 4  
14:04:10 5 COMMISSIONER: Yes Ms Tittensor.  
14:04:11 6  
14:04:12 7 MS TITTENSOR: Thanks Commissioner. Mr Wilson, on 24 July  
14:04:19 8 2006 Ms Gobbo had her meeting with Mr Swindells and  
14:04:26 9 Mr Attrill?---Yes.  
14:04:27 10  
14:04:30 11 If we go to the ICR at p.366 you'll see there down the  
14:04:38 12 bottom of the page she's having a conversation with her  
14:04:41 13 handlers about that meeting. Now, just to put it all in  
14:04:47 14 brief compass, she reports the visit from Swindells and  
14:04:54 15 Attrill, she was very upset at details that Mr Attrill was  
14:04:59 16 aware of at the meeting, she believed that the SDU had  
14:05:01 17 spoken to him and that he was therefore aware she was a  
14:05:05 18 human source. She indicated, or she said it was indicated  
14:05:12 19 to her that Attrill and Swindells were going to go back to  
14:05:16 20 talk to you and you see there in bracket "who she  
14:05:22 21 knows"?---Yes.  
14:05:23 22  
14:05:23 23 Ideally they wanted a statement from her in relation to  
14:05:29 24 Mr Ahmed and they gave her no guarantees that she wouldn't  
14:05:32 25 be called before the OPI and she was expressing that she  
14:05:38 26 was adamant that she can't be cross-examined in that forum  
14:05:42 27 because of her role as a human source and she was told that  
14:05:49 28 the SDU were trying to head off any OPI hearing in relation  
14:05:52 29 to her. Do you see that?---Yep.  
14:05:55 30  
14:05:57 31 I think if we go over the page she indicates to the handler  
14:06:02 32 that she wanted the controller advised that upset was not  
14:06:06 33 the word, she was very upset about what had gone on at that  
14:06:10 34 meeting with Swindells and Attrill. Is that consistent  
14:06:14 35 with what was reported to you from that meeting?---It is  
14:06:21 36 but I wasn't so aware that she was so up set with Attrill.  
14:06:27 37 I believed she was upset because there were risks to her  
14:06:31 38 safety and I knew that she was upset about being called to  
14:06:36 39 a hearing or being asked to make a statement.  
14:06:38 40  
14:06:39 41 It might not be she was upset with Attrill per se, just the  
14:06:43 42 fact that Attrill, she seemed certain, knew about her  
14:06:47 43 role?---As a human source?  
14:06:48 44  
14:06:48 45 As a human source, yes?---Okay.  
14:06:50 46  
14:06:51 47 We've had some evidence through Mr Swindells in relation to

14:06:57 1 that meeting. You deal with it at paragraph 20 of your  
14:07:02 2 statement and you indicate that there was an information  
14:07:06 3 report I think submitted the following day in relation to  
14:07:10 4 various matters. We also had provided to the Commission a  
14:07:16 5 written summary, some of which appeared to be a semi  
14:07:20 6 transcript of what went on at that interview. That's  
14:07:24 7 Exhibit 253 for the purposes of our transcript. But that  
14:07:29 8 summary in essence indicates Ms Gobbo raising concerns,  
14:07:36 9 concerns about subpoenas being issued potentially down the  
14:07:39 10 track, concerns about being called to give evidence at the  
14:07:43 11 OPI. In the course of the summary document it's apparent  
14:07:49 12 that what was discussed related to, there were discussions  
14:07:55 13 related to Azzam Ahmed who clearly the OPI and ESD were  
14:08:07 14 interested in. In the course of that there was some  
14:08:09 15 discussion with the investigators about what approach might  
14:08:13 16 work to get some assistance from Mr Ahmed. Ms Gobbo refers  
14:08:17 17 to throwing privilege out the window in relation to  
14:08:20 18 conversations that she's had about Ahmed with them and  
14:08:25 19 presumably with her SDU handlers by inference. She refers  
14:08:29 20 to the fact that she shouldn't have spoken to them, being  
14:08:33 21 Mr Swindells and Mr Attrill, that day, because what she was  
14:08:36 22 telling them was privileged. There's an oblique reference  
14:08:41 23 as I indicated to the earlier discussion with the SDU and  
14:08:44 24 there's a quote within the summary of, "Actually I talked  
14:08:49 25 about privileged things with somebody else who I thought I  
14:08:52 26 wouldn't be telling anybody but clearly they have". It's  
14:08:55 27 an oblique reference to her having told the SDU, who has  
14:09:00 28 conveyed the information to ESD. And Mr Attrill responding  
14:09:05 29 that they were there because they were told that she would  
14:09:09 30 speak to them?---Yes, Swindells.  
14:09:12 31  
14:09:12 32 Yes. And Ms Gobbo asked, "Well who said, who said that?"  
14:09:18 33 And Mr Attrill said he'd have to go and speak to you.  
14:09:24 34 You'll see sort of a coincidence in relation to, in the  
14:09:30 35 ICR, her indicating that Attrill and Swindells were going  
14:09:34 36 to go back and speak to you?---Yep.  
14:09:36 37  
14:09:37 38 So it's clear that the ESD investigators are having a  
14:09:41 39 conversation with her at that stage where she's talking  
14:09:44 40 with them, indicating that by having that conversation  
14:09:48 41 she's crossed professional and ethical boundaries in  
14:09:52 42 relation to legal professional privilege, okay. Is that  
14:09:57 43 something that was reported to you?---Not that I can recall  
14:10:04 44 about the professional privilege. I thought her issues  
14:10:08 45 were about being exposed and being under threat and I think  
14:10:12 46 that's what I've said in my diary, that there were issues  
14:10:15 47 around her security and her safety. I don't recall

14:10:19 1 conversations specifically around breaching her privileged  
14:10:27 2 conversations with Mr Ahmed because she'd already breached  
14:10:31 3 them to Jack Vandersteen previously.  
14:10:34 4  
14:10:35 5 Potentially, it depends on whether Mr Ahmed authorised her  
6 - - - ?---Okay.  
7  
14:10:38 8 - - - to have a conversation with Mr Vandersteen?---True.  
14:10:41 9  
14:10:41 10 Or the extent of whatever conversation she had. But it  
14:10:45 11 seems as though she had a number of concerns?---Yes.  
14:10:47 12  
14:10:48 13 Some of those clearly related to her safety?---Yes.  
14:10:51 14  
14:10:51 15 But some of those also, whether it was a concern or not she  
14:10:56 16 was raising the fact that by having the conversation with  
14:10:59 17 them at that stage she was breaching legal professional  
14:11:02 18 privilege?---Okay.  
14:11:03 19  
14:11:07 20 With ESD investigators that should have raised some alarm  
14:11:11 21 bells, shouldn't it?---Are you saying that she told  
14:11:16 22 Swindells and Attrill that she was breaching her privilege?  
14:11:20 23  
14:11:20 24 Yes, she was breaching by having a conversation with  
14:11:23 25 them?---I would have expected that that ought to be brought  
14:11:27 26 to the attention of her handlers and the management of her  
14:11:29 27 as an informer.  
14:11:30 28  
14:11:30 29 This was a conversation that she was having with  
14:11:33 30 investigators who were receiving information that was  
14:11:35 31 privileged. It's not necessarily a matter for the  
14:11:38 32 handlers, is it?---I think it's a matter for all.  
14:11:45 33  
14:11:45 34 Yes. So ESD investigators are having a  
14:11:49 35 conversation?---Yep.  
14:11:50 36  
14:11:50 37 With a potential witness and they were receiving  
14:11:53 38 information and it's privileged?---Sure.  
14:11:54 39  
14:11:54 40 Or they're being told by a lawyer, "I'm telling you  
14:11:58 41 privileged things". It should have raised some alarm  
14:12:01 42 bells?---I would expect so, yes.  
14:12:03 43  
14:12:03 44 As I took you to that diary entry earlier of 16 June diary  
14:12:07 45 entry where those very issues were being discussed between  
14:12:10 46 you and Sandy White?---Yes.  
14:12:12 47

14:12:12 1 And then you and the OPI?---Yes.  
14:12:14 2  
14:12:15 3 And you said, "Well, we might not have gotten legal advice  
14:12:18 4 at that point because we hadn't gotten to the point of  
14:12:21 5 having hearings"?---Yes.  
14:12:22 6  
14:12:22 7 Things changed and you weren't going to have hearings but  
14:12:25 8 still you were going to receive information in a different  
14:12:28 9 way, that is by having the conversation with her?---Yep.  
14:12:31 10  
14:12:31 11 Was there any thought about getting legal advice at that  
14:12:34 12 stage?---Look, I don't think my diary records any issue  
14:12:38 13 around her, around Lindsay or indeed Phil Swindells  
14:12:44 14 concerns that she raised or in fact Sandy White raised in  
14:12:48 15 relation to that. My understanding was her concerns were  
14:12:52 16 around her safety and being forced to go to a hearing could  
14:12:58 17 compromise her safety. That's my understanding of why she  
14:13:01 18 was upset in relation to that meeting.  
14:13:04 19  
14:13:05 20 All right. I might just now take you to a diary entry of  
14:13:09 21 Mr White for the same day?---H'mm.  
14:13:12 22  
14:13:13 23 That's VPL.0100.0096.0321. She's had the meeting in the  
14:13:25 24 morning with Swindells and Attrill?---Yes.  
14:13:27 25  
14:13:27 26 She reports on the visit to her handler later in the  
14:13:30 27 morning and then at, if we were to scroll up we'd see at  
14:13:38 28 15:30 Mr White has returned to the office?---H'mm.  
14:13:42 29  
14:13:42 30 So some time after that he gets a briefing in relation to  
14:13:50 31 3838, Ms Gobbo, and the Brown/Attrill issue?---Yes.  
14:13:56 32  
14:13:58 33 He then calls Mr Biggin and updates him and raises the  
14:14:05 34 issue of ESD documenting the investigation file, perhaps  
14:14:14 35 that is, I'm not sure what that word is?---Where are you  
14:14:19 36 reading from?  
14:14:20 37  
14:14:20 38 Sorry, "Need to find out how ESD document files"?---Yes.  
14:14:24 39  
14:14:24 40 He then calls you at ESD and says he records, "Criticised  
14:14:33 41 re Attrill disclosing to human source that he knew she was  
14:14:37 42 assisting". There's a suggestion, it's suggested that  
14:14:42 43 Assistant Commissioner Overland now approach Graham Ashton  
14:14:45 44 at the OPI and brief and request, inform - - - ?---I'd say  
14:14:54 45 that says "no further action", NFO.  
14:14:58 46  
14:14:59 47 "Request no further action re 3838." There's a suggestion

14:15:02 1 by either yourself or Mr White that Overland go to Graham  
14:15:08 2 Ashton at the OPI, brief him about the situation and  
14:15:12 3 request no further action in relation to Ms Gobbo. Does  
14:15:15 4 that accord with your memory?---I don't know about those  
14:15:19 5 conversations that Sandy White had there but we took no  
14:15:22 6 further action because I met - - -  
14:15:25 7  
14:15:25 8 This appears to be a conversation he's recording with you.  
14:15:28 9 You see - - - ?---Okay.  
14:15:30 10  
14:15:30 11 If you move up he has a call to Tony Biggin, he updates  
14:15:33 12 him?---Yep.  
14:15:34 13  
14:15:34 14 And indicates that there's a need to find out how the ESD  
14:15:37 15 are documenting things and then there's a call to yourself,  
14:15:40 16 RW at ESD?---Yeah, no, I can see that but I don't know  
14:15:44 17 what's written in front of it, it has something and a line  
14:15:47 18 through it. But, you know - I don't dispute if he called  
14:15:52 19 me and noted that conversation, I just don't recall it.  
14:15:55 20  
14:15:56 21 I'll take you through some diary entries?---Yep.  
14:15:58 22  
14:15:58 23 At the bottom of that, after the suggestion about Overland  
14:16:02 24 briefing Ashton requesting no further action, then it's  
14:16:07 25 agreed, "We need to meet with Superintendent  
14:16:10 26 Biggin"?---Yes.  
14:16:10 27  
14:16:10 28 Then he calls Mr Biggin and updates him and there's a  
14:16:14 29 meeting arranged for the following day?---Yes.  
14:16:17 30  
14:16:19 31 If we can go to your diary for the following day. Do you  
14:16:25 32 see there at - - - ?---Yes.  
14:16:27 33  
14:16:28 34 - - - 12.30 you then brief Mr Cornelius in relation to the  
14:16:34 35 issue re Gobbo?---Yes.  
14:16:36 36  
14:16:38 37 It's apparent by this stage that Mr Cornelius knew of her  
14:16:42 38 status as a human source?---I would assume so.  
14:16:45 39  
14:16:46 40 And no doubt you would have filled him out on the issues  
14:16:50 41 that had occurred as had been raised with you by Mr White  
14:16:53 42 in that earlier conversation?---About her being - - -  
14:16:59 43  
14:16:59 44 About the concerns about - - - ?---Yep, exposing her to  
14:17:02 45 risk.  
14:17:02 46  
14:17:02 47 Exposing her and, "It's looking like we might want to get

14:17:07 1 Overland to go to Ashton and brief him and pull the  
14:17:10 2 investigation"?---Yep.  
14:17:11 3  
14:17:11 4 At least insofar as it involves Ms Gobbo?---Yes.  
14:17:16 5  
14:17:21 6 We then see later in the day there's a meeting, you're at  
14:17:27 7 the Crime Department for a meeting?---Yep.  
14:17:29 8  
14:17:29 9 With Mr Biggin, and those blanks there are White and Smith.  
14:17:34 10 Do you know who another SDU handler is who we know as  
14:17:40 11 Smith?---Not sure.  
14:17:41 12  
14:17:41 13 We'll just - - - ?---Yes.  
14:17:52 14  
14:17:54 15 So you're having a meeting, there's yourself,  
14:17:57 16 Superintendent Biggin, White and Smith?---Yep.  
14:17:59 17  
14:17:59 18 In relation to Ms Gobbo?---Yes.  
14:18:01 19  
14:18:02 20 It's indicated or you write, "ESD happy to withdraw her  
14:18:06 21 from investigation, need to brief Overland and deal with  
14:18:09 22 Ashton at the OPI on the issue"?---Yep.  
14:18:12 23  
14:18:16 24 You record that as you're happy to withdraw her from the  
14:18:21 25 investigation?---We've agreed to withdraw her.  
14:18:23 26  
14:18:24 27 Had you received those instructions from Mr Cornelius  
14:18:26 28 presumably, having spoken to him earlier that day?---I  
14:18:29 29 would assume that would, that we discussed it and we've  
14:18:33 30 come to a decision where we're not going to proceed with  
14:18:37 31 putting her to a hearing is my understanding of those  
14:18:40 32 entries.  
14:18:40 33  
14:18:41 34 Then if we go to Mr White's diary?---Yep.  
14:18:44 35  
14:18:45 36 VPL.0100.0096.0324. It appears to record the same meeting  
14:19:00 37 there with the same people, as you see up the top?---Yes.  
14:19:04 38  
14:19:05 39 It indicates that Luke Cornelius has been briefed?---Yep.  
14:19:09 40  
14:19:09 41 And agrees that Overland should speak to Graham Ashton at  
14:19:16 42 the OPI in relation to the issue and advise him not to  
14:19:20 43 pursue the matter?---Yep.  
14:19:22 44  
14:19:22 45 It indicates there that Tony Biggin would speak to Simon  
14:19:27 46 Overland in relation to the matter and gauge if the  
14:19:31 47 information relating to Ms Gobbo's identity could be

14:19:35 1 limited to only Mr Ashton at the OPI?---Yep.  
14:19:38 2  
14:19:45 3 There's a query about what staff might think if the  
14:19:50 4 investigation is limited to only Ms Gobbo's involvement or  
14:19:53 5 if it was stopped, and then it records agreement that the,  
14:20:03 6 "Will not pursue Ahmed investigation"?---Yes.  
14:20:07 7  
14:20:08 8 So, "As well as not pursuing Ms Gobbo, we're not going to  
14:20:11 9 pursue Mr Ahmed in the investigation as well because that  
14:20:15 10 might further highlight her assistance to the  
14:20:18 11 police"?---Yes.  
14:20:18 12  
14:20:21 13 And you agreed to supply the recording of the conversation  
14:20:26 14 between Ms Gobbo with Attrill and Swindells, as well as a  
14:20:31 15 summary of the notes?---Yep.  
14:20:32 16  
14:20:32 17 And do you know if that's what you did?---I don't know but  
14:20:35 18 I assume if I said I was going to do that I would have done  
14:20:38 19 it.  
14:20:39 20  
14:20:39 21 Would that have been a copy or you would have given them  
14:20:41 22 the originals?---Of notes?  
14:20:43 23  
14:20:43 24 Of notes and recordings?---I'm not sure if it was recorded,  
14:20:46 25 it may well have been. Either way, I would have given a  
14:20:50 26 copy. I don't think we would have given original notes, we  
14:20:55 27 would have kept the originals and provided them with copies  
14:20:57 28 for their logs.  
14:20:59 29  
14:21:00 30 It seems to be the case that there's clearly to be a  
14:21:05 31 disclosure made to Mr Ashton about Ms Gobbo's role as a  
14:21:10 32 human source in order to get the OPI to agree to back off  
14:21:14 33 her in the investigation?---Yep.  
14:21:16 34  
14:21:19 35 The only concern was is whether we can limit it just to  
14:21:24 36 Mr Ashton at the OPI or whether other people need to know  
14:21:27 37 as well?---Yep, that's what I'm reading there.  
14:21:29 38  
14:21:45 39 I don't need to take you to Mr Biggin's diary, I don't  
14:21:49 40 think it takes us much further. Perhaps I will on the next  
14:21:53 41 day, if you can go to Mr Biggin's diary of 26 July 2006,  
14:21:59 42 RCMPI.0075.0001.0001 at p.319. This is Mr Biggin's diary  
14:22:18 43 note of 26 July at 14:35. It indicates he's speaking with  
14:22:29 44 Deputy Commissioner Simon Overland in relation to 3838 and  
14:22:32 45 OPI hearings?---Yep.  
14:22:34 46  
14:22:40 47 And a brief as to his speaking or as to Mr Overland to

14:22:44 1 speak to Graham Ashton in relation to Ms Gobbo and it not  
14:22:48 2 being in the public interest for her to be placed before an  
14:22:52 3 OPI hearing?---Yep.  
14:22:53 4  
14:23:00 5 If we then go to back to Mr White's diary. You'll see  
14:23:11 6 there this is the same day, later on. It has a  
14:23:16 7 communication with Superintendent Biggin and he's told that  
14:23:24 8 Mr Overland is making a request to Ashton in relation to  
14:23:27 9 the issue the following morning?---Yep.  
14:23:29 10  
14:23:29 11 And that he will request no further action in relation to  
14:23:34 12 3838 and the investigation. It says, "VicPol primary - OPI  
14:23:45 13 not interested". I'm not sure exactly what that's meant to  
14:23:49 14 mean. I don't know if you can shed any light on  
14:23:58 15 that?---Insist?  
14:23:59 16  
14:23:59 17 Sorry?---Is that word insist? "And insist will request no  
14:24:03 18 further action re 3838 and" - - -  
14:24:08 19  
14:24:09 20 Insist or investigation, I'm not sure exactly what that  
14:24:14 21 means. Investigation?---Investigation, okay, that we will  
14:24:17 22 have the primary role.  
14:24:18 23  
14:24:18 24 VicPol will have the primary role and the OPI not  
14:24:22 25 interested?---I don't know whether they're not interested,  
14:24:25 26 but we're going to have the primary role, yes, that's what  
14:24:28 27 I think that means.  
14:24:29 28  
14:24:29 29 Perhaps some explanation as to what might be told to the  
14:24:33 30 OPI troops I suppose?---In relation to her?  
14:24:38 31  
14:24:38 32 In relation to - - - ?---Why we're not pursuing it?  
14:24:41 33  
14:24:41 34 Why we're not pursuing it?---Yeah. I mean I think if that  
14:24:46 35 conversation took place Mr Ashton would have to explain to  
14:24:50 36 the likes of Kapetanovski and others what the decision was.  
14:24:53 37  
14:24:54 38 Yes. All of a sudden we're having this joint  
14:24:57 39 investigation?---And now we're not.  
14:24:58 40  
14:24:59 41 And now we're not, and part of this joint investigation was  
14:25:03 42 clearly to put some Heath on Ms Gobbo to call her before  
14:25:07 43 this compulsory inquiry and then to look at her telephones  
14:25:11 44 to see what she does and now all of a sudden it's going  
14:25:16 45 away?---That's right.  
14:25:17 46  
14:25:19 47 If we can go to the following day and Mr Ashton's diary,

14:25:25 1 RCMPI.0097.0001.0001?---Who's diary is this?  
14:25:37 2  
14:25:37 3 This is Mr Ashton's diary. Do you see there he records at  
14:25:41 4 10 am that he has a meeting with both Mr Overland and  
14:25:45 5 Mr Cornelius and it says, "Perhaps re Operation Aim", I'm  
14:25:53 6 not exactly sure what that's about?---Never heard of it.  
14:25:57 7  
14:25:59 8 As had been indicated in those earlier entries there'd be  
14:26:06 9 that meeting the following morning?---Yes.  
14:26:08 10  
14:26:09 11 As you understand it the investigation in terms of dealing  
14:26:12 12 with Ms Gobbo did go away?---Yes, they did.  
14:26:15 13  
14:26:17 14 If we go back to your diary following that. 27 July 2006.  
14:26:29 15 You're briefed by the Assistant Commissioner, and I take it  
14:26:33 16 that's Mr Cornelius?---Yes.  
14:26:34 17  
14:26:35 18 He had been at that meeting in relation to the Gobbo issue  
14:26:40 19 and you're told there that the OPI want to coercively  
14:26:45 20 question Ms Gobbo in relation to the Dale/Hodson  
14:26:48 21 matter?---Yes.  
14:26:49 22  
14:26:49 23 As it turns out you're told, "Yes, well there is some  
14:26:54 24 parallel investigation going on"?---Yes.  
14:26:56 25  
14:26:56 26 And Mr Attrill gets a briefing about that as well?---True.  
14:26:59 27 On the basis that if we're not proceeding to coercive, now  
14:27:04 28 we are, it might be an opportunity to revisit, so that's  
14:27:08 29 why I briefed Attrill.  
14:27:10 30  
14:27:11 31 So we might be able to revisit this Brown/Shields matter in  
14:27:15 32 the, as a side issue?---Maybe.  
14:27:17 33  
14:27:17 34 If they later coercively examine her about these other  
14:27:25 35 matters?---Yes.  
14:27:27 36  
14:27:27 37 Likewise we see in, if we go to Mr Biggin's diary, we see  
14:27:36 38 he also, he is recording there meeting with Deputy  
14:27:44 39 Commissioner Overland and Mr White?---Yep.  
14:27:46 40  
14:27:47 41 In relation to Ms Gobbo and the OPI?---Yes.  
14:27:50 42  
14:27:51 43 And the OPI hearing and it says, "Re Operation Gallop  
14:27:55 44 issues"?---Yep.  
14:27:56 45  
14:27:57 46 They're the Dale/Hodson issues?---I understand that now.  
14:28:00 47

14:28:02 1 And then if we go to Mr White's diary. He's got a more  
14:28:17 2 fulsome entry as to what's explained at that meeting. The  
14:28:25 3 Assistant Commissioner has met with Graham Ashton at the  
14:28:28 4 OPI?---Yes.  
14:28:30 5  
14:28:30 6 The OPI are happy to drop off the Brown/Shields  
14:28:34 7 issue?---Yes.  
14:28:35 8  
14:28:35 9 There's no requirement to examine 3838 in relation to that  
14:28:38 10 matter?---Yes.  
14:28:39 11  
14:28:39 12 But there's a belief that the human source and Paul Dale  
14:28:44 13 had a relationship and they wanted to examine her in the  
14:28:49 14 future in relation to the IR 44 being leaked?---H'mm.  
14:28:54 15  
14:28:54 16 There's a belief that Ms Gobbo may have been the conduit  
14:28:58 17 between Mokbel and Williams and Dale in relation to the  
14:29:00 18 information report and that leading to the killing of the  
14:29:08 19 Hodsons?---Yes.  
14:29:09 20  
14:29:13 21 There's an indication there that the human source believes  
14:29:15 22 that Dale was involved in the burglary and do you see that  
14:29:21 23 at the bottom of that - - - ?---Yeah, I did but what do the  
14:29:26 24 last three letters mean?  
14:29:28 25  
14:29:28 26 I'm not sure if that's - it might be Oakleigh or it might  
14:29:32 27 be some sort of code for Oakleigh?---Okay. Yep, yep,  
14:29:36 28 understand. In the Oakleigh burglary, yep.  
14:29:41 29  
14:29:43 30 There's a belief that Tony Mokbel and Carl Williams ordered  
14:29:49 31 the killing and that Mr Fitzgerald is to conduct, or is  
14:29:58 32 conducting an inquiry and there's an agreement there as to  
14:30:02 33 what Ms Gobbo might be told. She can be told that there's  
14:30:05 34 going to be no OPI hearing in relation to the Brown  
14:30:08 35 matter?---Yep.  
14:30:08 36  
14:30:09 37 At a time in the future she can be pre-warned about an OPI  
14:30:12 38 hearing in relation to the Dale matter?---Yes.  
14:30:16 39  
14:30:24 40 It should be 27 July 06. So there's some indication there  
14:30:36 41 about pre-warning her even about an OPI hearing about the  
14:30:45 42 Dale/Hodson matter?---Yes.  
14:30:47 43  
14:30:48 44 And you understood that that's not simply about a burglary  
14:30:52 45 and her involvement or knowledge of a burglary matter but  
14:30:55 46 an involvement of a double killing?---From what I'm reading  
14:31:00 47 here, yes.

14:31:00 1  
14:31:01 2 And there's an indication there that she's going to be  
14:31:04 3 pre-warned about a hearing in that matter?---Yep.  
14:31:08 4  
14:31:10 5 Again, carrying with it or taking away that element of  
14:31:15 6 surprise that ordinarily the OPI seek to have?---Yep.  
14:31:20 7  
14:31:26 8 And they indicate seemingly a reason for that is that  
14:31:29 9 there's trust issues, so we'll let her know before the  
14:31:34 10 hearing?---Okay.  
14:31:36 11  
14:31:53 12 So in essence I won't take you through any more of those  
14:31:57 13 matters because I don't think that they necessarily relate  
14:32:00 14 to your knowledge?---Yep.  
14:32:00 15  
14:32:01 16 But to your knowledge in essence the Operation Khadi  
14:32:06 17 carried on, is that right, but without examining  
14:32:09 18 Ms Gobbo?---It carried on but not with, involving Ms Gobbo  
14:32:13 19 any further.  
14:32:14 20  
14:32:14 21 So there's a final report in relation to Operation Khadi on  
14:32:19 22 23 November 2006?---Yes.  
14:32:21 23  
14:32:21 24 And I'll bring that up, it's VPL.0005.0147.0001. Do you  
14:32:33 25 recognise this document?---Yes, I do.  
14:32:35 26  
14:32:37 27 Does it become just an ESD investigation and OPI have  
14:32:41 28 dropped off all together or is it - - - ?---This is like a  
14:32:44 29 normal final report of an ESD investigation.  
14:32:46 30  
14:32:46 31 If we go up and we see the logo at the top of the page.  
14:32:54 32 It's just an ESD document?---Final report.  
14:32:57 33  
14:32:57 34 It's not a joint OPI?---No.  
14:32:59 35  
14:33:00 36 So they dropped off all together, did they?---I believe so.  
14:33:03 37  
14:33:12 38 Despite Ms Gobbo not being interviewed, she certainly  
14:33:15 39 features as a character in that final report?---Yes.  
14:33:18 40  
14:33:24 41 If we were to look at allegation 1, if we scroll through  
14:33:28 42 that report - I might just, you might know this, or accept  
14:33:37 43 it from me as I take it from you?---Yep.  
14:33:40 44  
14:33:41 45 Allegation 1 involved an allegation that Mr Brown had  
14:33:43 46 stolen \$5000 belonging to Mr Mokbel when he arrested Azzam  
14:33:51 47 Ahmed on 16 August 2004, is that right?---That and varying

14:33:56 1 amounts, I think there were other times it was mentioned  
14:33:58 2 more than that. But there was an allegation he stole money  
14:34:01 3 at the point of arrest.  
14:34:02 4  
14:34:03 5 If we were to go to p.7. So you have the allegations  
14:34:07 6 listed but we then also get a bit of a narrative about what  
14:34:11 7 the evidence, as it was, showed that Ms Gobbo had made that  
14:34:16 8 allegation to the prosecutor as you indicated  
14:34:21 9 earlier?---Yes.  
14:34:21 10  
14:34:22 11 Mr Vandersteen outside court but had never raised it  
14:34:26 12 following that, inside court?---He never raised it or it  
14:34:30 13 was never raised?  
14:34:31 14  
14:34:32 15 It was never raised?---As far I as know it wasn't raised.  
14:34:36 16  
14:34:36 17 It's noted in fact in the report that there was never any  
14:34:38 18 complaint by Ahmed?---Correct.  
19  
14:34:40 20 About that matter despite numerous opportunities?---Yes.  
14:34:40 21  
14:34:43 22 And him having a substantial sentence hanging over his head  
14:34:47 23 and appeal coming up, he never raised it?---I think he's in  
14:34:50 24 a difficult situation to raise it though, isn't he?  
14:34:52 25  
14:34:52 26 Sorry?---He's in a difficult situation to raise it.  
14:34:55 27  
14:34:56 28 I'm just making the point. It's noted in this report that  
14:34:59 29 despite a number of matters?---Yes.  
14:35:01 30  
14:35:02 31 He has not raised the allegation?---He's not raised the  
14:35:06 32 allegation.  
14:35:07 33  
14:35:07 34 Ultimately there's a finding that that allegation is  
14:35:10 35 unfounded?---Yep.  
14:35:11 36  
14:35:15 37 It's also noted in the circumstances of that allegation  
14:35:21 38 that there was, part of that allegation was that Senior  
14:35:27 39 Constable Brown had been approached by Mr Waters and  
14:35:31 40 Mr Campbell at court?---Yes.  
14:35:33 41  
14:35:34 42 One day and advised that Ms Gobbo had essentially done  
14:35:37 43 Mr Brown a favour by not mentioning or raising the  
14:35:41 44 allegation in court?---Yes.  
14:35:42 45  
14:35:44 46 And that was unable to be determined as well, is that  
14:35:48 47 right?---That's correct.

14:35:49 1  
14:35:50 2 There was, the second allegation related to a particular  
14:35:55 3 female [REDACTED] who'd been approached at the Khyats  
14:36:03 4 Hotel in Brighton and advised to tell Mr Brown that he  
14:36:07 5 should not give evidence against Mr Ahmed and that the  
14:36:10 6 money that he stole belonged to Mr Mokbel?---Yes.  
14:36:12 7  
14:36:15 8 Now the circumstances that were alleged in relation to that  
14:36:18 9 involved a group of police, including this female [REDACTED]  
14:36:23 10 [REDACTED] and Mr Shields being present at the Khyats Hotel  
14:36:28 11 and Ms Gobbo walking in and acknowledging Mr Shields some  
14:36:35 12 point during the evening?---That's right.  
14:36:36 13  
14:36:37 14 And that finding was unable to be determined?---Yes.  
14:36:39 15  
14:36:39 16 There was also, there was an interview I think during the  
14:36:43 17 investigation of Mr Vandersteen, is that right?---Look I  
14:36:46 18 can't recall but I'm sure there was.  
14:36:48 19  
14:36:49 20 I think if we go to p.19 we'll see there a summary of that  
14:36:52 21 interview?---Yes.  
14:36:53 22  
14:36:54 23 He himself expressed some concerns about being at court for  
14:37:00 24 a bail hearing I think in relation to Mr Ahmed after he was  
14:37:04 25 arrested in August of 2004 and Ms Gobbo indicating or  
14:37:15 26 having some race tickets to give to Mr Shields?---Yes.  
14:37:21 27  
14:37:22 28 And that's one of the complaints, because there was some  
14:37:25 29 serious concern given the history of the matter and  
14:37:28 30 allegations of police corruption?---Yes.  
14:37:30 31  
14:37:31 32 And so forth, that that had the potential to undermine the  
14:37:35 33 prosecution?---Yes.  
14:37:36 34  
14:37:39 35 I tender that document, Commissioner.  
14:37:40 36  
14:37:53 37 MS ARGIROPOULOS: Sorry, Commissioner, just the  
14:37:54 38 description, I think the document to be tendered is the  
14:37:56 39 whole final report, rather than just that statement.  
14:37:59 40  
14:37:59 41 COMMISSIONER: Is it?  
14:38:00 42  
14:38:01 43 MS ARGIROPOULOS: Is that correct?  
14:38:02 44  
14:38:02 45 MS TITTENSOR: Yes, sorry Commissioner.  
14:38:04 46  
14:38:04 47 MS ARGIROPOULOS: It's the Operation Khadi final report

14:38:06 1 dated 23 November 2006.  
14:38:08 2  
14:38:09 3 COMMISSIONER: Final report of Operation Khadi 26 November  
14:38:13 4 2006 is 826A.  
14:38:15 5  
6 #EXHIBIT RC826A - (Confidential) Final report of Operation  
7 Khadi dated 26/11/06.  
8  
14:38:16 9 #EXHIBIT RC826B - (Redacted version.)  
14:38:19 10  
14:38:20 11 MS TITTENSOR: Now, a few months after that you became  
14:38:24 12 involved in Operation Briars?---Yes.  
14:38:26 13  
14:38:27 14 That commenced in around about February of 2007 to  
14:38:32 15 investigate potential police involvement in the murder of  
14:38:36 16 Shane Chartres-Abbott?---Yes.  
14:38:39 17  
14:38:39 18 That again was a joint investigation with the OPI?---Yes.  
14:38:42 19  
14:38:42 20 And the offices were to be or were located at the  
14:38:47 21 OPI?---Yes.  
14:38:47 22  
14:38:47 23 Does that mean police involved worked out of the OPI - -  
14:38:50 24 -?---Yes.  
14:38:51 25  
14:38:52 26 - - - or they just - - - ?---No, they worked out of another  
14:38:55 27 floor in the same building.  
14:38:57 28  
14:39:04 29 There's some information in relation to a document by  
14:39:12 30 Mr Cornelius that you received around about I think, on 13  
14:39:18 31 February, a briefing by Deputy Commissioner Overland in  
14:39:23 32 relation to the matter?---Yes.  
14:39:25 33  
14:39:27 34 And that following that there was discussion about Terms of  
14:39:33 35 Reference and resourcing and so forth in relation to that  
14:39:35 36 investigation, is that right?---That's right.  
14:39:38 37  
14:39:47 38 In the course of that there was also a need to consider  
14:39:52 39 legal assistance and you have a diary entry I might just  
14:39:57 40 take you to on 5 March 2007. RCMPI.0118.0001.0001 at p.78.  
14:40:13 41 See there, this is 5 March 2007, "Need to consider legal  
14:40:21 42 assistance re document management (PII)"?---Yes.  
14:40:26 43  
14:40:26 44 You have a note to yourself to, "See Murray Fraser re  
14:40:31 45 procedure PII"?---Yes.  
14:40:32 46  
14:40:33 47 Can you explain what that was about and what advice you

14:40:35 1 needed at the start of the investigation in relation to  
14:40:38 2 document management and PII?---Well Ceja was a major  
14:41:16 3 corruption investigation into the Drug Squad.  
14:41:18 4  
14:41:18 5 Yes?---I'm just at a loss to work out where Murray Fraser  
14:41:29 6 was at that time. He was a Superintendent I know, but I  
14:41:32 7 don't know where he was working from.  
14:41:35 8  
14:41:38 9 He may have been able to potentially assist you with how  
14:41:41 10 they managed - - - ?---Yes.  
14:41:43 11  
14:41:43 12 - - - that concern within Ceja presumably?---Yep.  
14:41:46 13  
14:41:48 14 I just wanted to understand what you needed to consider in  
14:41:52 15 relation to legal assistance and document management,  
14:41:56 16 PII?---I suppose in relation to one of the key witnesses  
14:41:59 17 that we had in Briars.  
14:42:13 18  
14:42:13 19 Was there a concern from the outset that, "We might have  
14:42:16 20 some material that we don't want to have to disclose  
14:42:19 21 ultimately when there are charges"?---And that would  
14:42:23 22 possibly involve a witness, I don't know if I'm allowed to  
14:42:29 23 name, but - - -  
14:42:31 24  
14:42:31 25 [REDACTED] I think is the witness that you're thinking of  
14:42:37 26 and I might just ask that the list be shown to you?---I  
14:42:42 27 know who that is.  
14:42:45 28  
14:42:48 29 That was a concern from the outset, that we might have  
14:42:51 30 material - - - ?---We might have public interest immunity  
14:42:54 31 issues arising from the management of some of the  
14:43:02 32 documentation in relation to this matter and I was probably  
14:43:04 33 seeking - because I think Murray worked on Ceja and how  
14:43:07 34 they managed it. That's the best I can recall.  
14:43:09 35  
14:43:10 36 Because we've got a witness involved and this was a,  
14:43:16 37 potentially a witness that was not just going to be a  
14:43:19 38 witness in this matter but in other matters?---Yes.  
14:43:21 39  
14:43:22 40 And there was concern from the outset to, was there, to  
14:43:29 41 shield some material from disclosure in the, through the  
14:43:35 42 court processes?---Shield within the confines of what's  
14:43:40 43 legal.  
14:43:40 44  
14:43:41 45 Well that's why you're getting legal - - - ?---That's  
14:43:43 46 right. What can we do if we need to in terms of public  
14:43:47 47 interest immunity if it becomes an issue.

14:43:48 1  
14:43:49 2 And that's something that is sensible at the start of any  
14:43:52 3 investigation where you've got informers and you know  
14:43:54 4 you're going to have informers and material that you want  
14:43:58 5 to shield through subsequent court processes for protection  
14:44:02 6 reasons or for whatever other legitimate reasons, you get  
14:44:05 7 legal advice upfront?---Yep.  
14:44:06 8  
14:44:07 9 To ensure that you're doing the right thing as we go along  
14:44:11 10 and we're not going to be at the end of - -  
14:44:14 11 -?---Potentially compromised at the end.  
14:44:16 12  
14:44:16 13 That's a sensible thing to do?---I would have thought so,  
14:44:20 14 yes.  
14:44:20 15  
14:44:26 16 Now I think following that on 28 March you speak to  
14:44:31 17 Mr Cornelius about getting that legal support?---Yes.  
14:44:35 18  
14:44:36 19 In the course of the sort of setting up stages of this you  
14:44:40 20 speak with Mr Cornelius then on 3 April about drafting  
14:44:45 21 conflict of interest declarations?---Yep.  
14:44:48 22  
14:44:48 23 That was because this is an investigation that's going to  
14:44:51 24 deal with investigating police?---Yep.  
14:44:55 25  
14:44:55 26 And former police?---Yep.  
14:44:56 27  
14:44:56 28 And we want to make - - - ?---We want to make sure our  
14:45:01 29 investigators don't have a conflict.  
14:45:02 30  
14:45:02 31 And are not compromised in any way?---Correct.  
14:45:05 32  
14:45:05 33 If they had had any prior relationship it was dealt with  
14:45:09 34 upfront?---I needed to know now, not down the track, yep.  
14:45:13 35  
14:45:16 36 Needed to know now?---Yep.  
14:45:18 37  
14:45:20 38 Then if we go to an update document on 15 May 2007, it's  
14:45:28 39 VPL.0100.0048.1547. I might be able to just ask you the  
14:46:22 40 question, you might have a memory of it anyway, Mr Wilson,  
14:46:26 41 but this is an update document prepared I think probably  
14:46:30 42 for the board of management which I'll come to in a  
14:46:33 43 minute?---Yep.  
14:46:34 44  
14:46:34 45 That indicates you'd briefed counsel by the name of Brian  
14:46:40 46 Dennis in relation to the legal assistance?---Okay.  
14:46:44 47

14:46:44 1 Is that something you recall?---Look, I don't remember that  
14:46:47 2 name but I'm sure that we briefed, we would have briefed  
14:46:52 3 accordingly, so I just don't remember him.  
14:46:55 4  
14:46:55 5 I think - here we go now. This is a document, or the  
14:47:03 6 document type that's familiar to you?---Yes.  
14:47:05 7  
14:47:05 8 Something that you created yourself?---Yes.  
14:47:07 9  
14:47:07 10 So we see there, and sorry, these are prepared for the  
14:47:12 11 purposes of briefing the board of management?---Yes.  
14:47:14 12  
14:47:14 13 And I'll come to that in a second. They're the current  
14:47:19 14 issues that you need to take the board of management  
14:47:21 15 through on that particular date?---Yep.  
14:47:23 16  
14:47:23 17 If we go down to legal, it says here, "Brian Dennis has  
14:47:29 18 been briefed" and then there's a declaration of interest  
14:47:34 19 document, that's that conflict matter that we discussed, is  
14:47:38 20 that right?---Yes.  
14:47:39 21  
14:47:39 22 I think in relation to the legal matter your diary notes  
14:47:42 23 indicate at some earlier stage you'd given some  
14:47:45 24 consideration to briefing counsel by the name of Winneke,  
14:47:52 25 but it appears you thought better of it by this  
14:47:55 26 stage?---Right.  
14:47:55 27  
14:48:00 28 I tender that document, Commissioner.  
14:48:03 29  
14:48:03 30 COMMISSIONER: What's the date on that, please?  
14:48:05 31  
14:48:07 32 MS TITTENSOR: 15 May 2007.  
14:48:10 33  
14:48:11 34 #EXHIBIT RC827A - (Confidential) Briars Task Force update  
14:48:13 35 15/5/07.  
14:48:16 36  
14:48:17 37 #EXHIBIT RC827B - (Redacted version.)  
14:48:27 38  
14:48:31 39 Now there's another update dated 2 July 2007 and as time  
14:48:37 40 went on there was consideration and ultimately you got the  
14:48:44 41 OPP and the DPP involved in the investigation in the early  
14:48:49 42 stages, is that right?---Yes.  
14:48:50 43  
14:48:51 44 And I think this update indicates that Mr Overland had  
14:48:56 45 briefed the DPP and had arranged a further meeting with  
14:49:00 46 Mr Horgan and Mr Tinney in relation to the matters?---Yes.  
14:49:03 47

14:49:07 1 Mr Overland was involved in those briefings or came to  
14:49:12 2 meetings with the DPP?---Some of them he was, yes.  
14:49:14 3  
14:49:15 4 Because he was over to the investigation to the extent that  
14:49:17 5 that allowed?---Yep.  
14:49:18 6  
14:49:20 7 The structure overseeing the investigation, the  
14:49:23 8 investigation itself was being overseen by you?---I was at  
14:49:29 9 the actual location in the OPI, certainly for the early  
14:49:33 10 stages, and Steve Waddell and Ron Iddles were the sort of  
14:49:37 11 primary hands-on investigators and I was reporting to the  
14:49:41 12 board of management on a weekly basis with updates,  
14:49:45 13 strategies, where we were at with the investigation and  
14:49:50 14 that board of management was Simon, Luke and Graham.  
14:49:53 15  
14:49:54 16 Mr Overland was the chair, if you like?---Yes.  
14:49:58 17  
14:49:59 18 And Mr Cornelius and Mr Ashton, who was at the OPI, were  
14:50:08 19 the core of the board of management?---That's right.  
14:50:10 20  
14:50:11 21 Were there other people from time to time that might  
14:50:13 22 attend?---Look, if someone was away it may have been  
14:50:16 23 someone filling in, but generally they were the three that  
14:50:20 24 I reported up to.  
14:50:22 25  
14:50:22 26 You would go through the kinds of issues that are in those  
14:50:26 27 board of management things?---Yes.  
14:50:27 28  
14:50:27 29 And obviously in more detail once you're there because  
14:50:30 30 you'd speak to them?---Yes.  
14:50:32 31  
14:50:33 32 You were aware that in April of 2007 a similar set up was  
14:50:38 33 occurring in relation to Petra Task Force?---Yep.  
14:50:41 34  
14:50:45 35 You've referred to a board of management, sometimes we hear  
14:50:48 36 about an investigation management committee, is that the  
14:50:56 37 same thing?---Yes, it is the same thing but it was called  
14:50:59 38 the board of management for me so I stuck with that title,  
14:51:02 39 but I mean I think it's the same thing.  
14:51:04 40  
14:51:04 41 Did you understand that it was the same structure in terms  
14:51:08 42 of the board of management effectively for Briars and  
14:51:13 43 Petra?---Yep, because we came on the same day. You know,  
14:51:17 44 I'd see whoever was reporting from Petra outside the same  
14:51:21 45 group, so I'd go in or they'd go in first or second, so I  
14:51:25 46 knew it had to be the same people.  
14:51:27 47

14:51:27 1 Mr Overland, Mr Cornelius and Mr Ashton?---As far as I  
14:51:31 2 knew, yes.  
14:51:32 3  
14:51:34 4 Were Petra being run out of the OPI as well or did they  
14:51:38 5 have offices?---I don't know where they were run from.  
14:51:42 6  
14:51:43 7 In relation to Petra, I think we see progress reports being  
14:51:50 8 received from those in charge of that Task Force and  
14:51:55 9 that's, I guess, a similar thing to what you were doing,  
14:51:57 10 you were providing progress reports?---I assume they were  
14:52:00 11 providing a similar piece of documentation.  
14:52:03 12  
14:52:04 13 There's reference in other materials or by others to people  
14:52:12 14 diarising the meeting but for security reasons not  
14:52:14 15 recording any details of what went on in the meeting in  
14:52:18 16 their diaries?---My understanding was that certainly on a  
14:52:27 17 number of occasions the meetings that I attended were  
14:52:29 18 minuted, were being minuted. I never saw the minutes but I  
14:52:33 19 assumed that they were being minuted.  
14:52:35 20  
14:52:35 21 In your own diaries?---Yep.  
14:52:38 22  
14:52:39 23 You note your attendance at the meetings?---Yes.  
14:52:45 24  
14:52:45 25 I think you do in a number of them indicate "as per  
14:52:48 26 minutes"?---Yes.  
14:52:49 27  
14:52:49 28 And there are no details in your diary at all in terms of -  
14:52:53 29 - - ?---The minutes.  
14:52:53 30  
14:52:54 31 - - - what went on in the meeting?---No.  
14:52:56 32  
14:52:56 33 Do you know who kept the minutes?---On some occasions it  
14:52:59 34 was [REDACTED]. That was just one name I remember.  
14:53:09 35 Maybe that was the only person I can recall that took  
14:53:12 36 minutes.  
14:53:12 37  
14:53:12 38 Was there a point in time when minutes stopped being  
14:53:18 39 kept?---I don't recall.  
14:53:20 40  
14:53:20 41 Have you seen any minutes in your preparation - - -?---Yes.  
14:53:23 42  
14:53:24 43 - - - for this?---Yes.  
14:53:25 44  
14:53:26 45 And they're minutes as opposed to the updates I've taken,  
14:53:30 46 or the update - - - ?---I assume the briefing document I  
14:53:35 47 would have sent through as an email.

14:53:36 1  
14:53:36 2 Yes?---Took, I used to take copies as well to hand to each  
14:53:41 3 of the management team, the board of management team, and  
14:53:45 4 they would make notes and we would discuss. Sometimes the  
14:53:50 5 meetings were very quick, it was just basically  
14:53:53 6 acknowledging what we were doing and moving on, and other  
14:53:56 7 times there would be some discussion.  
14:53:58 8  
14:53:59 9 And that's if there'd been some development in the  
14:54:01 10 investigation or there was a new tack being taken?---Yes,  
14:54:04 11 but generally it was recorded in the update anyway, you  
14:54:06 12 know, in a very general - sometimes, as I said, there was  
14:54:10 13 further conversation teasing out the issues.  
14:54:12 14  
14:54:13 15 Did you take away or did you keep your own - a record of  
14:54:17 16 your own updates or were they collected and - - - ?---I  
14:54:21 17 took my copy away and probably filed it back at the - look,  
14:54:34 18 I don't really remember what I did with my copy of those  
14:54:37 19 particular documents. Maybe if I was making a note of  
14:54:41 20 something that the board of management said or wanted I  
14:54:46 21 might have made a note on my copy.  
14:54:48 22  
14:54:48 23 Now in terms of the set-up of those meetings, were they  
14:54:51 24 electronic diary appointments, those kinds of  
14:54:55 25 things?---Yes, I think so, yes. They were certainly the  
14:54:58 26 same, pretty much the same day, unless there was an issue  
14:55:01 27 with there diaries we might have moved it occasionally, but  
14:55:04 28 generally it was a pretty set routine.  
14:55:06 29  
14:55:07 30 And as you recall there were electronic appointments in  
14:55:12 31 diaries?---Yes.  
14:55:12 32  
14:55:12 33 Confirming everyone's attendance?---Yes.  
14:55:14 34  
14:55:15 35 Were there emails between you and the others in terms of  
14:55:22 36 making those arrangements or matters to do with Operation  
14:55:26 37 Briars?---Not by me because I didn't have any - really have  
14:55:31 38 any administrative assistance. I think they would have  
14:55:34 39 made the - most of those gentleman would have had their own  
14:55:38 40 EA's to make those sort of diary records.  
14:55:46 41  
14:55:46 42 Do you know or can you recall any of their, the recording  
14:55:53 43 practices or document practices of any of those gentlemen?  
14:55:59 44 Did they keep extensive notes of what went on in those  
14:56:03 45 meetings, any of them?---From my recollection they may have  
14:56:06 46 jotted onto the - because I took a copy of the briefing  
14:56:09 47 note, the briefing document and handed one to each so that

14:56:13 1 we were working off exactly the same document.  
14:56:15 2  
14:56:15 3 Yes?---And they may have jotted onto those documents but I  
14:56:18 4 didn't, I don't recall them making diary entries from  
14:56:22 5 memory.  
14:56:23 6  
14:56:29 7 Now, I'll just take you to a document that's  
14:56:46 8 IBAC.0010.0001.0473. I think this is a chronology that had  
14:56:51 9 been prepared by Mr Cornelius for the OPI at some  
14:56:55 10 stage?---H'mm.  
14:56:56 11  
14:56:58 12 If we can go to 22 June 2007?---All my dates are in  
14:57:08 13 February.  
14:57:09 14  
14:57:09 15 Sorry. I'm just going to ask for Mr Skim to move up to -  
14:57:25 16 now do you recall at some stage there came to be some  
14:57:30 17 concern about leaking to the media?---Yes.  
14:57:32 18  
14:57:33 19 And does this ring a bell that on this particular day the  
14:57:40 20 Task Force board of management met to consider a briefing  
14:57:42 21 from you and at that meeting you briefed them about media  
14:57:48 22 interest from a journalist Nick McKenzie, and you were  
14:57:53 23 advised that McKenzie had met with Mr Iddles a few days  
14:57:58 24 before and that, and had indicated he's aware of Task Force  
14:58:05 25 Petra was working on the Hodson murders and Task Force  
14:58:10 26 Briars was working on the vampire?---Yes, I recall this.  
14:58:13 27  
14:58:13 28 And there was some concern about there being a leak to the  
14:58:17 29 media?---Yes.  
14:58:18 30  
14:58:18 31 It appears at some stage in, well in March of 2008,  
14:58:23 32 according to the SDU records, that Petra investigators were  
14:58:30 33 tasking Ms Gobbo to find out who Mr McKenzie's source was,  
14:58:35 34 were you aware of that?---No.  
14:58:36 35  
14:58:38 36 That's not something that was discussed with the Briars  
14:58:40 37 side of the investigation?---No, I'm totally unaware of  
14:58:48 38 that.  
14:58:49 39  
14:58:59 40 On 18 July 2007 you get a briefing from Mr Overland that  
14:59:08 41 the OPI's talking again about speaking with Ms Gobbo at a  
14:59:14 42 compulsory hearing?---Yes.  
14:59:15 43  
14:59:17 44 That corresponded with what you'd been told in relation to  
14:59:24 45 Operation Khadi the year before?---Yes.  
14:59:26 46  
14:59:26 47 At some stage they're going to want to speak to her about

14:59:29 1 the Dale/Hodson matter?---Yes.  
14:59:32 2  
14:59:32 3 You got that update then. And I think you updated, you  
14:59:36 4 amended your statement this morning to say you would have  
14:59:38 5 expected to be told, but - - - ?---I would not expect to  
14:59:44 6 have been told. Even to the extent that if I went to a  
14:59:47 7 meeting to the board of management, it would be crickets  
14:59:51 8 outside the meeting room, I wouldn't be even talking to  
14:59:55 9 people I knew well about whatever they were doing with  
14:59:57 10 Petra. It was completely kept separate and I didn't want  
15:00:02 11 to know and I certainly wouldn't disclose anything that I  
15:00:05 12 was doing to them as well.  
15:00:06 13  
15:00:06 14 What was the reason for him briefing you then that the OPI  
15:00:09 15 were thinking about compulsorily examining her?---Only if  
15:00:17 16 that was going to be back on the table again it may be that  
15:00:19 17 we could examine her in regard to our matters.  
15:00:27 18  
15:00:27 19 In relation to Briars' matters?---Yes.  
15:00:29 20  
15:00:29 21 And was there any discussion about that, at that  
15:00:36 22 stage?---Sorry, can you ask that again?  
15:00:38 23  
15:00:38 24 Was there any discussion with Mr Overland about what you  
15:00:41 25 might want to talk to Ms Gobbo about at that stage?---I'm  
15:00:45 26 sure there would have been, I can't actually recall what  
15:00:48 27 the conversation was but, you know, there may have been an  
15:00:51 28 opportunity for, if we were going to put her through an OPI  
15:00:57 29 hearing, there might be an opportunity to seek answers in  
15:01:03 30 relation to anything she may have in relation to Briars.  
15:01:07 31  
15:01:10 32 Your belief was that she wasn't examined, is that  
15:01:14 33 right?---I don't - actually, I don't know. I didn't think  
15:01:18 34 she was when I was asked about this in making a statement,  
15:01:21 35 I didn't think she was examined, but to be honest I don't  
15:01:24 36 know.  
15:01:24 37  
15:01:24 38 Would it have been relevant to your investigation to know  
15:01:28 39 that she was examined and the belief by the examiner was  
15:01:33 40 that she wasn't being truthful?---About?  
15:01:37 41  
15:01:38 42 About matters - - - ?---Anything?  
15:01:39 43  
15:01:39 44 - - - they were examining her about?---I could have been.  
15:01:46 45 I mean it would certainly impact on whether we thought she  
15:01:52 46 was going to be of value to us.  
15:01:53 47

15:01:53 1 Certainly down the track when you're considering whether or  
15:01:56 2 not you want her to be a witness, it would be something  
15:01:58 3 that you would be very interested in knowing?---Yep.  
15:02:00 4  
15:02:03 5 That an examiner has had doubts about her credit?---Her  
15:02:08 6 credibility, yep.  
15:02:09 7  
15:02:09 8 Her credibility or her reliability?---Sure.  
15:02:11 9  
15:02:20 10 In about August or September of 2007 there were a number of  
15:02:24 11 people being examined?---Yep.  
15:02:25 12  
15:02:26 13 For Operation Briars through the OPI, is that  
15:02:28 14 right?---That's right.  
15:02:28 15  
15:02:29 16 And that included David Waters and Peter Lalor?---Yes.  
15:02:41 17  
15:02:42 18 Ms Gobbo was reporting to her handlers various things in  
15:02:46 19 relation to contact, in particular with Mr Waters  
15:02:52 20 throughout that period of time. Were you aware of that at  
15:02:54 21 the time?---I think so, yes.  
15:02:55 22  
15:02:57 23 And you were aware of that because Mr Iddles was receiving  
15:03:00 24 disseminations?---Yep, that's right.  
15:03:02 25  
15:03:02 26 And you knew that those disseminations were coming through  
15:03:06 27 the SDU and originally from Ms Gobbo?---I actually assumed  
15:03:11 28 they were coming from Mr White.  
15:03:13 29  
15:03:14 30 Yes, and Mr White was getting his information from  
15:03:17 31 Ms Gobbo?---Correct.  
15:03:18 32  
15:03:19 33 So if we go to the ICR at p.1178. This is 31 August 2007.  
15:03:35 34 You see there on that date Ms Gobbo's indicating she's had  
15:03:39 35 a visit to her office?---Yes.  
15:03:41 36  
15:03:41 37 By Mr Waters?---Yes.  
15:03:43 38  
15:03:46 39 He'd asked if she'd been called to the OPI?---Yep.  
15:03:49 40  
15:03:51 41 And she'd indicated she couldn't say one way or the  
15:03:54 42 other?---Yes.  
15:03:55 43  
15:03:55 44 Or she'd been there representing anyone?---Yep.  
15:03:58 45  
15:03:58 46 And it indicates in the notes there, "As previously  
15:04:00 47 discussed", so it's apparent that she'd been given the line

15:04:06 1 to take if she gets asked these things by people that have  
15:04:10 2 come to her?---Sure, yep.

15:04:12 3  
15:04:13 4 In relation to the OPI. She is there providing - and then  
15:04:18 5 it goes on to indicate an account of what went on, as you  
15:04:24 6 see there?---Yep.

15:04:24 7  
15:04:25 8 Down the bottom you see that that information gets  
15:04:28 9 disseminated to Ron Iddles at Operation Briars?---Yep.

15:04:32 10  
15:04:33 11 It goes from Ms Gobbo essentially to the handler?---Yeah.

15:04:37 12  
15:04:37 13 Either from the handler to Mr Iddles or from the handler to  
15:04:40 14 Mr White to Mr Iddles?---Yes.

15:04:43 15  
15:04:43 16 But it's apparent to you that this is where the information  
15:04:46 17 is coming from, it's coming from Ms Gobbo?---Yes.

15:04:48 18  
15:04:55 19 If we can go to the source management log for 6 September  
15:05:02 20 2007. Do you see there there's an indication there of  
15:05:36 21 Mr White meeting with Mr Iddles in relation to Operation  
15:05:41 22 Briars?---Yes.

15:05:41 23  
15:05:42 24 There's a request there from Mr Iddles to use Ms Gobbo to  
15:05:47 25 pass on information to Mr Waters to generate  
15:05:52 26 conversation?---Yep.

15:05:53 27  
15:05:54 28 And that there's to be a script of what the information is  
15:05:59 29 that we want her to pass on. Is that something that was  
15:06:02 30 discussed or was that something that was come up by  
15:06:08 31 investigators or is that something that was discussed at  
15:06:12 32 board of management in terms of - - - ?---No, I think that  
15:06:14 33 would have come up from the investigating floor as, you  
15:06:18 34 know, how can we generate something over the electronic  
15:06:22 35 monitoring.

15:06:23 36  
15:06:26 37 All right. At paragraph 31 of your statement you indicate  
15:06:40 38 that you've seen a record from the Loricated database  
15:06:48 39 indicating that Ms Gobbo has met with, or contacted by  
15:06:55 40 Mr Waters and meets he and Mr Lalor in Richmond?---Yes.

15:07:00 41  
15:07:01 42 Do you recall that information being passed on to you by  
15:07:03 43 Iddles?---Yes.

15:07:04 44  
15:07:05 45 And no doubt aware that that's come from Ms Gobbo herself,  
15:07:09 46 is that right?---Yep.

15:07:10 47

15:07:10 1 And that it's the case that that type of information would  
15:07:15 2 be conveyed as well at the board of management  
15:07:19 3 meetings?---I would think so, yes, because it's  
15:07:24 4 significant.  
15:07:25 5  
15:07:25 6 It's significant and they're very interested in  
15:07:27 7 developments in terms of the police members' involvement in  
15:07:38 8 potentially the murder of someone?---Correct.  
15:07:40 9  
15:07:40 10 They are aware of Ms Gobbo being the source of the  
15:07:43 11 information?---Which information?  
15:07:45 12  
15:07:45 13 The board of management being - - - ?---What information?  
15:07:48 14  
15:07:48 15 Well the source of the information?---About this particular  
15:07:50 16 meeting?  
15:07:51 17  
15:07:52 18 For example, yes?---Yes, I would assume so.  
15:07:54 19  
15:07:54 20 So when you were discussing with Mr Overland, Mr Cornelius,  
15:07:59 21 Mr Ashton at those meetings, they're aware that Ms Gobbo is  
15:08:04 22 a source providing information?---I would assume so. I  
15:08:09 23 don't directly have that conversation with them but I would  
15:08:12 24 assume so, she's being handled by the Source Development  
15:08:17 25 Unit providing information, I assumed they knew. Obviously  
15:08:20 26 Simon knew. He'd previously briefed Mr Ashton in relation  
15:08:25 27 to withdrawing her from the Khadi matters. I would assume  
15:08:29 28 they knew. Did they - I didn't actually say anything  
15:08:32 29 directly to them. I'm making the assumption, you know,  
15:08:36 30 that in all practicalities they would have known.  
15:08:40 31  
15:08:44 32 If we go to the source management log for 8 September 2007.  
15:08:55 33 We see the SDU's getting, or there's an update there from  
15:09:02 34 one of the handlers in relation to some, the request from  
15:09:07 35 Mr Iddles to task Ms Gobbo?---Yep.  
15:09:11 36  
15:09:12 37 And there is the information that Mr Iddles has requested  
15:09:18 38 that Ms Gobbo be given to pass on to Mr Waters and that was  
15:09:23 39 that [REDACTED] was to be charged with a murder in the next  
15:09:31 40 two or three weeks?---Yes.  
15:09:34 41  
15:09:34 42 That [REDACTED] had made a statement implicating Mr Waters  
15:09:39 43 and Mr Lalor in the preparation of the murder and was  
15:09:41 44 prepared to give evidence, is that right?---Yes.  
45  
15:09:43 46 That the murder had something to do with a vampire, that  
15:09:46 47 [REDACTED] had mentioned something about an address which

15:09:49 1 Mr Waters and Mr Lalor got for him?---Yes.  
15:09:53 2  
15:09:54 3 And if the investigators find what computer database or  
15:09:57 4 where it came from then they are confident they might be  
15:10:00 5 able to charge Mr Lalor and Mr Waters, is that your  
15:10:06 6 recollection of the information that was - - - ?---That's  
15:10:08 7 correct.  
15:10:08 8  
15:10:17 9 On a couple of days later there's a Briars Task Force  
15:10:20 10 update. If I can take you to that, 10 September, it's  
15:10:24 11 VPL.0100.0048.1578. If I take you through there, there's  
15:10:38 12 an investigation strategy. If we can scroll up. Keep  
15:10:45 13 going. Do you see there there's an investigation strategy  
15:10:51 14 and one of the matters underneath that involves the tasking  
15:10:54 15 of 3838?---Yes.  
15:10:56 16  
15:11:01 17 And the strategy that we're talking about involved, if we  
15:11:06 18 go down, you note that the, there's a bit of writing,  
15:11:10 19 handwriting, do you see that?---Yes.  
15:11:13 20  
15:11:13 21 At the bottom of the page?---Yes.  
15:11:15 22  
15:11:15 23 You understand that that is the handwritten notes of  
15:11:20 24 Mr Cornelius?---Yes.  
15:11:21 25  
15:11:22 26 And it indicates there that they're being told about  
15:11:26 27 matters related to Mr Waters, Mr Lalor and it's got, on a  
15:11:31 28 number of occasions you see on the page it's got 3838  
15:11:34 29 written above or beside something that's been scrubbed  
15:11:38 30 out?---Yes.  
15:11:38 31  
15:11:39 32 Does that indicate to you that Ms Gobbo's name has been  
15:11:44 33 used in the course of that meeting and her name has then  
15:11:50 34 been scrubbed out and replaced with her informer  
15:11:56 35 number?---I don't know but could be.  
15:12:00 36  
15:12:00 37 It's a reasonable inference to be drawn from looking at  
15:12:04 38 that document would you say?---Yeah, it could be. I mean I  
15:12:09 39 don't know what he was crossing out. I didn't even see him  
15:12:13 40 write the note but it could be.  
15:12:15 41  
15:12:15 42 Is it the case that possibly Ms Gobbo was mentioned by name  
15:12:19 43 in some of these meetings?---Is it possible?  
15:12:29 44  
15:12:29 45 Yes?---It's possible.  
15:12:32 46  
15:12:35 47 Now, I think if you read through this it's indicating the

15:12:40 1 investigation strategy that was being planned. It involved  
15:12:48 2 running information about [REDACTED] rolling over through  
15:12:55 3 3838 and there's something scrubbed out near that?---Yep.  
15:12:59 4  
15:12:59 5 Via Sandy White?---Yes.  
15:13:02 6  
15:13:05 7 Now, is it the case that during this meeting there was also  
15:13:12 8 some discussion about possibly the arrest phase time frame  
15:13:19 9 around this period of time?---It may well. It was  
15:13:24 10 certainly discussed at times, yes.  
15:13:26 11  
15:13:32 12 And do you see down the bottom there, there's at least some  
15:13:36 13 reference there to Mr Perry, who is one of the people  
15:13:39 14 ultimately charged?---Yes.  
15:13:41 15  
15:13:41 16 And the warrant being issued and alerts issued. So there's  
15:13:46 17 some discussion potentially about, I assume about arresting  
15:13:50 18 around that period of time?---Mr Perry wasn't in Australia  
15:13:55 19 I don't think, so - - -  
15:13:56 20  
15:13:56 21 A warrant to arrest?---If he came back, yep.  
15:14:00 22  
15:14:00 23 And around this time there was some, you were moving  
15:14:04 24 towards at least getting some advice from the  
15:14:06 25 OPP?---Absolutely.  
15:14:07 26  
15:14:08 27 Whether there's enough in the investigation to arrest the  
15:14:11 28 police involved or others involved?---Certainly wanted to  
15:14:13 29 keep the OPP prosecutors abreast of where we're at, because  
15:14:17 30 I think it's always more difficult to come in at the end  
15:14:20 31 and say, "There it all is", so you're doing it as you go  
15:14:24 32 along so they're getting briefed as you go.  
15:14:27 33  
15:14:29 34 If we look at the ICR for 12 September, ICR p.1212. If we  
15:14:49 35 were to scroll through there - I won't necessarily take you  
15:14:54 36 right through it. It's around that period of time that the  
15:14:57 37 information is conveyed to Ms Gobbo to pass on to  
15:15:00 38 Mr Waters?---Yep.  
15:15:00 39  
15:15:01 40 And I think you say in your statement that you believe that  
15:15:04 41 occurred subsequent to the board of management discussions  
15:15:07 42 on the 10th?---Before?  
15:15:10 43  
15:15:10 44 Yes?---Yep, that was on a - yep.  
15:15:13 45  
15:15:14 46 That's something that might have required board approval,  
15:15:17 47 to use a - or you at least decided to discuss that strategy

15:15:23 1 with the board before moving forward?---It wasn't sort of  
15:15:27 2 like board approval but I assume - sorry, when we were  
15:15:30 3 presenting, if there was a particular piece of strategy  
15:15:34 4 they didn't want to go down they would say, "We're not  
15:15:37 5 doing that". It wasn't like they were ticking it off, it  
15:15:39 6 was more like they were saying, let's "Hold that, let's not  
15:15:44 7 do that", more than approving everything we did.  
15:15:46 8  
15:15:46 9 They might have strategic reasons?---They might have other  
15:15:50 10 reasons that I'm not aware of.  
15:15:52 11  
15:15:52 12 They may or may not tell you about?---They may or may not  
15:15:56 13 tell me about, correct.  
15:15:57 14  
15:15:58 15 We then see if we were to scroll through the ICRs at p.1215  
15:16:02 16 that Ms Gobbo reports having conveyed the information. In  
15:16:05 17 your, and I don't really need to take you through all of  
15:16:10 18 that, but she reports back that she's conveyed the  
15:16:13 19 information?---Okay. At that meeting?  
15:16:18 20  
15:16:19 21 Yes, she has a meeting, if you see there, 17:54 Mr Waters  
15:16:23 22 has just left her office?---Okay.  
15:16:25 23  
15:16:25 24 And so forth?---Yep.  
15:16:27 25  
15:16:27 26 He told her what had happened at the OPI the day before.  
15:16:31 27 She relayed the message, "As per my instructions  
15:16:34 28 earlier"?---Yep.  
15:16:35 29  
15:16:35 30 Told him virtually verbatim, and so forth, all  
15:16:39 31 right?---Okay.  
15:16:39 32  
15:16:41 33 At paragraph 34 of your statement you recall at some stage  
15:16:47 34 there's some discussion about Ms Gobbo [REDACTED]  
15:16:52 35 David Waters?---Yes.  
15:16:53 36  
15:16:53 37 Do you know if that was before this period of time or was  
15:16:56 38 it after this period of time, or the context in which you  
15:17:00 39 have that recollection?---My recollection is that she was  
15:17:10 40 confident, because of her relationship with Mr Waters, that  
15:17:14 41 she could get him to confess to her and record it. She was  
15:17:20 42 confident she could do that. I can't put that in the  
15:17:22 43 context of before that or after that, but it was around  
15:17:26 44 that time.  
15:17:26 45  
15:17:27 46 Obviously investigators would have been pretty keen if  
15:17:29 47 something like that could be achieved?---Could be achieved.

15:17:34 1  
15:17:34 2 Was that discussed at the board of management meetings?---I  
15:17:39 3 would say yes.  
15:17:40 4  
15:17:42 5 Is that something that you'd necessarily put on, in the  
15:17:45 6 update or is it something that would just naturally come  
15:17:49 7 up?---It's, I would have thought it was something that was  
15:17:52 8 very significant because if we could get Mr Waters to  
15:18:01 9 explain how he came, if he came by an address in relation  
15:18:07 10 to Chartres-Abbott, it would be crucial to our Crown case.  
15:18:12 11  
15:18:12 12 Do you have a recollection of having those  
15:18:14 13 discussions?---No.  
14  
15:18:15 15 And the possibility of actually having her tasked to do  
15:18:18 16 anything like that?---I don't believe we tasked her to do  
15:18:25 17 that, no. There was discussions around - my information  
15:18:28 18 was, because I've never actually spoken to her as you know  
15:18:31 19 in relation to any of this. This was coming back to me  
15:18:35 20 either via Ron or Steve, probably from Sandy White relaying  
15:18:40 21 that she was confident, she thought that she could get him  
15:18:44 22 to talk about the matter.  
15:18:45 23  
15:18:45 24 Do you know if there were any discussions with the SDU  
15:18:48 25 about whether or not that would occur or should  
15:18:52 26 occur?---There probably was, I just can't remember.  
15:18:54 27  
15:18:56 28 And do you say the same thing in relation to the board of  
15:18:59 29 management, there probably was those discussions but you  
15:19:02 30 don't have - - - ?---I think it's significant enough that,  
15:19:05 31 you know, I would have raised it that there's a potential  
15:19:08 32 to task the source to at least get that intelligence,  
15:19:15 33 because if she was able to determine, just from an  
15:19:21 34 information intelligence perspective, how the address was  
15:19:25 35 accessed we could then go another way around proving that  
15:19:30 36 without involving her.  
15:19:31 37  
15:19:32 38 Yes. And that was something that was of concern to protect  
15:19:35 39 that source?---Absolutely, because the last thing we would  
15:19:39 40 want was for her to be used as a witness, we would much  
15:19:44 41 rather she got that information for us, if she could, and  
15:19:46 42 if it came off assert a certain database then we could  
15:19:51 43 interrogate that database and establish that connection,  
15:19:53 44 which would have been, as I think Ron mentioned earlier,  
15:19:58 45 absolutely crucial to charging them.  
15:20:00 46  
15:20:00 47 Was there any discussion around this time of using her as a

15:20:04 1 witness?---No. Certainly tasking her as a human source  
15:20:12 2 yes, as I've just explained, but not necessarily as a  
15:20:15 3 witness, no.  
15:20:16 4  
15:20:16 5 Was there any other tasking of her aside from the one that  
15:20:20 6 I've just taken you through that Mr Iddles - - - ?---When  
15:20:24 7 she met in Richmond?  
15:20:26 8  
15:20:26 9 She's met in Richmond and provided that information, I  
15:20:29 10 don't know if that was necessarily - - - ?---A tasking.  
15:20:31 11  
15:20:32 12 Well, she was conveying information and technically I guess  
15:20:35 13 that is tasking?---Tasking, yeah. They're the only  
15:20:37 14 occasions I can recall where we would try and use her.  
15:20:41 15 Again, my belief was that, as it was expressed to me, that  
15:20:46 16 there was a confidence from her that she could get that  
15:20:51 17 information.  
15:20:55 18  
15:20:58 19 At paragraph 38 of your statement you refer to being shown  
15:21:05 20 some further Loricated documents from 19 September?---Yes.  
15:21:11 21  
15:21:11 22 Recording Ms Gobbo's discussions with the SDU?---Yes.  
15:21:14 23  
15:21:15 24 About a meeting with Mr Waters?---Yes.  
15:21:19 25  
15:21:27 26 If we were to go to - that's on 19 September and if we were  
15:21:32 27 to go to ICR 1233, it's apparent that on that day she  
15:21:37 28 reports to the SDU that she's spoken to Mr Waters and he'd  
15:21:43 29 told her that Mr Lalor had not gotten the address from a  
15:21:47 30 leaked database?---That's right.  
15:21:48 31  
15:21:48 32 And also that he wanted to know where in prison [REDACTED]  
15:21:54 33 was?---Yes.  
15:21:54 34  
15:21:54 35 And they arranged to have dinner the week later?---Yep.  
15:21:59 36  
15:22:00 37 Now that was something that was considered pretty  
15:22:02 38 significant again in the investigation, is that  
15:22:04 39 right?---Yes.  
15:22:04 40  
15:22:05 41 And why was that?---Because I think the crucial part about  
15:22:12 42 how witness - - -  
15:22:18 43  
15:22:19 44 [REDACTED]?---Sorry, the crucial part about how that person  
15:22:22 45 obtained the address where the murder was committed, how  
15:22:30 46 the police allegedly got that address was the crucial part  
15:22:33 47 of the investigation in relation to Lalor and Waters. So

15:22:38 1 the mere fact that Gobbo is getting an assurance from  
15:22:42 2 Waters that Lalor didn't get the address off LEAP, the law  
15:22:47 3 enforcement database, is crucial. It means that they got  
15:22:52 4 it from somewhere else, by inference, isn't it?  
15:22:55 5  
15:22:55 6 Yes. Well, if that's how the address was gotten through  
15:22:59 7 those, yes, that means that it was gotten in some other  
15:23:03 8 way?---Gotten in some other way, which goes back to if we  
15:23:07 9 could establish how that occurred, how the address was  
15:23:10 10 obtained, we could go to wherever that source was and  
15:23:15 11 unpick that.  
15:23:16 12  
15:23:16 13 All right. So then we have you being briefed I think  
15:23:21 14 according to your statement by Mr Iddles?---Yes.  
15:23:24 15  
15:23:25 16 You say at paragraph 37. In your diary, if we were to look  
15:23:29 17 at that, it indicates that you then briefed  
15:23:33 18 Mr Cornelius?---Yep.  
15:23:34 19  
15:23:35 20 And then at paragraph 38 I think you indicated that, or at  
15:23:42 21 some stage you're later told by Mr Cornelius that  
15:23:46 22 Mr Overland would speak to Ms Gobbo's handlers to see what  
15:23:50 23 could be done further for her to assist Briars?---Yep.  
15:23:53 24  
15:23:53 25 Do you know what that related to? Is that, was that a  
15:24:01 26 further tasking of Ms Gobbo? Did that relate potentially  
15:24:04 27 to her recording Mr Waters?---Look, I just can't remember,  
15:24:09 28 I'm sorry, exactly what that meant, but obviously whatever  
15:24:14 29 other assistance we could get to further that piece of  
15:24:17 30 information.  
15:24:19 31  
15:24:20 32 What you indicate though at paragraph 39 of your statement  
15:24:23 33 is that it seems as though Mr Overland was going to have  
15:24:27 34 some direct contact with the SDU in relation to what could  
15:24:30 35 be done or how Ms Gobbo could be used?---That's what Luke's  
15:24:36 36 telling me, yes.  
15:24:37 37  
15:24:40 38 Was that unusual, that Mr Overland might go directly to the  
15:24:44 39 Source Development Unit or is that - that didn't occur to  
15:24:48 40 you that that was unusual at all?---Not really, it didn't  
15:24:52 41 occur to me as unusual because it was such high stakes here  
15:24:56 42 and I think he was actively involved.  
15:24:58 43  
15:24:59 44 When you say actively involved, he was right across the  
15:25:03 45 fact of what was going on?---Across the issues. Not  
15:25:06 46 actively involved in an investigative sense but across the  
15:25:11 47 issues, yes.

15:25:12 1  
15:25:12 2 COMMISSIONER: We might take the afternoon break now.  
15:25:15 3  
15:25:16 4 MS TITTENSOR: Thanks Commissioner.  
15:25:37 5  
15:25:37 6 (Short adjournment.)  
7  
15:44:15 8 COMMISSIONER: Yes Ms Tittensor.  
15:44:16 9  
15:44:17 10 MS TITTENSOR: Thanks Commissioner. Before I resume asking  
15:44:20 11 questions there's a few matters I need to, or exhibits I  
15:44:23 12 need to tender, Commissioner. Mr Wilson's diaries I'll  
15:44:30 13 tender generally and there'll be some pinpoint references  
15:44:33 14 that the instructors are keeping a note of.  
15  
15:44:37 16 COMMISSIONER: Wonderful.  
15:44:38 17  
15:44:39 18 #EXHIBIT RC828A - (Confidential) Mr Wilson's diaries.  
15:44:46 19  
15:44:47 20 #EXHIBIT RC828B - (Redacted and published extracts.)  
15:44:54 21  
15:44:55 22 MS TITTENSOR: And Briars updates, one is 2 July 2007 and  
15:44:58 23 the other one I referred to was 10 September 2007.  
15:45:03 24  
15:45:03 25 #EXHIBIT RC829A - (Confidential) Briars update 2/7/07.  
15:45:12 26  
15:45:12 27 #EXHIBIT RC829B - (Redacted version.)  
15:45:15 28  
15:45:15 29 COMMISSIONER: The second?  
15:45:16 30  
15:45:17 31 MS TITTENSOR: 10 September 2007.  
15:45:18 32  
15:45:19 33 #EXHIBIT RC830A - (Confidential) Briars update 10/9/07.  
15:45:25 34  
15:45:25 35 #EXHIBIT RC830B - (Redacted version.)  
15:45:32 36  
15:45:32 37 MS TITTENSOR: Thanks Commissioner. Mr Wilson, if we go to  
15:45:39 38 your diary on 9 October 2007. If we can have that brought  
15:45:45 39 up on the screen. You'll see there you're having a  
15:45:48 40 conversation with Inspector Waddell in relation to Ms Gobbo  
15:45:54 41 and possibly calling her I think before a coercive  
15:46:00 42 hearing?---Yes.  
43  
15:46:00 44 And a coercive of a different nature than the OPI?---Yep.  
45  
15:46:04 46 Is there a particular reason why you might choose a  
15:46:06 47 different version or a different type of coercive hearing

15:46:11 1 over the OPI when you have the OPI involved?---I can't  
15:46:15 2 recall, sorry.  
3  
15:46:22 4 That option was, you indicate in that diary entry, to be  
15:46:28 5 discussed further with Simon?---Yes, Simon Overland.  
6  
15:46:30 7 You meant Simon Overland. Do you know if you had further  
15:46:33 8 discussion, or you expect you would have had further  
15:46:36 9 discussion with him about that?---I think I would have  
15:46:40 10 discussed that option.  
11  
15:46:41 12 Would that have been at the forum of a board of management  
15:46:44 13 meeting or would it have been at some other - in some other  
15:46:47 14 way?---It depends how pressing it was. If it needed to be  
15:46:51 15 resolved, like this is on a Tuesday, if it needed to be  
15:46:54 16 resolved in the next day or two I may have discussed it  
15:46:58 17 with him directly.  
18  
15:47:00 19 You don't recall exactly why that came up at that point in  
15:47:03 20 time?---No.  
21  
15:47:06 22 Is it because there might have been some issues that  
15:47:12 23 Ms Gobbo had with the OPI?---It could be.  
24  
15:47:16 25 Or trust issues with the OPI as compared to more prepared  
15:47:20 26 to accept, or there was some discussion that she might be  
15:47:24 27 more prepared to appear before the ACC or you don't  
15:47:28 28 know?---No, I just can't remember but, look, you know, that  
15:47:31 29 sounds reasonable what you're saying but I just don't  
15:47:33 30 recall.  
31  
15:47:36 32 If we move over to the next page of your diary. You're  
15:47:44 33 having a conversation there with Mr Cornelius, you're  
15:47:48 34 giving him an update in relation to Briars and the need to  
15:47:52 35 further discuss Ms Gobbo?---Yes. What date was that,  
15:47:58 36 sorry?  
37  
15:47:58 38 I think this is the same date?---Same day.  
39  
15:48:01 40 If we can move up in your diary we can show that. I think  
15:48:05 41 it's the 9th of - - - ?---Yes, okay.  
42  
15:48:09 43 - - - October 2007?---Yes.  
44  
15:48:12 45 So do you expect that that might have been again similar  
15:48:16 46 issues as you were discussing with or you were wanting to  
15:48:19 47 discuss with Mr Overland around that time?---I think I may

15:48:24 1 have said to Steve I need to discuss this with Simon but  
15:48:28 2 I'd always go through Luke first.  
3  
15:48:30 4 Right?---Because he's my direct superior, just to say that  
15:48:34 5 we're considering the ACC hearings, I would discuss that  
15:48:39 6 with Luke and then get - you know, before I went straight  
15:48:42 7 to Simon.  
8  
15:48:46 9 As you say, you can't recall exactly what that was and why  
15:48:50 10 it came up at that stage?---No.  
11  
15:48:53 12 It seems as though there's not much we can see happening  
15:49:01 13 over the next few months; is that right?---No.  
14  
15:49:05 15 In terms of - - - ?---In terms of this investigation.  
16  
15:49:08 17 - - - this investigation or Ms Gobbo's involvement in this  
15:49:10 18 investigation?---No, no.  
19  
15:49:11 20 The next thing that seems to occur of any note or that we  
15:49:17 21 know about is on 14 January 2008, Mr Waddell and Mr Iddles  
15:49:24 22 interview Ms Gobbo in her chambers?---Yes.  
23  
15:49:28 24 It seems as though the option of going down the compulsory  
15:49:31 25 hearing route in terms of talking or getting some  
15:49:37 26 information from Ms Gobbo has not eventuated and they've  
15:49:41 27 taken the option of going to her chambers to talk to  
15:49:44 28 her?---I would say so. I was on leave during that period  
15:49:47 29 but I've read the information report about that.  
30  
15:49:50 31 It's a similar mechanism to what occurred in relation to  
15:49:56 32 Operation Khadi?---Yes.  
33  
15:49:59 34 There's a lot of concern about putting her before any  
15:50:02 35 compulsory hearing "so we'll try and talk to her direct to  
15:50:07 36 avoid that option"?---Yep.  
37  
15:50:15 38 You were on leave at some stage during this period of time;  
15:50:18 39 is that right?---Yes, that's right.  
40  
15:50:30 41 Until - that's right - 22 December until 21 January  
15:50:38 42 2008?---That's right.  
43  
15:50:39 44 Do you expect that you would have been told about that when  
15:50:42 45 you came back from leave?---When I came back, yeah, I would  
15:50:44 46 assume that would be the case. The visit to her chambers?  
47

15:50:47 1 Yes?---Yes.  
2  
15:50:47 3 Do you recall being told about it?---I don't recall it but  
15:50:51 4 I'm suggesting that it's logical that I would have.  
5  
15:50:54 6 Yes. Have you seen the information report in relation to  
15:50:57 7 that meeting?---Yes.  
8  
15:50:59 9 And is that familiar to you, or the information within it  
15:51:04 10 is familiar to you?---Yes.  
11  
15:51:11 12 When you do return from leave you're actually Acting  
15:51:16 13 Assistant Commissioner?---Yes.  
14  
15:51:18 15 Of ESD?---Yes.  
16  
15:51:20 17 Is Mr Cornelius on leave or gone somewhere else  
15:51:24 18 himself?---I assume he's on leave.  
19  
15:51:26 20 Does that mean that you go and attend - - - ?---I didn't,  
15:51:29 21 no.  
22  
15:51:30 23 - - - in a different role the board of management or -  
15:51:32 24 no?---No, I didn't go.  
25  
15:51:35 26 Does he have a replacement on the board of management while  
15:51:38 27 he's away or you don't know?---I don't know. I didn't  
15:51:41 28 replace him on the board of management.  
29  
15:51:43 30 But you continued to attend?---Yes.  
31  
15:51:46 32 At some stage Mr Waddell starts writing the updates?---Yes.  
15:51:51 33  
15:51:51 34 Is that right?---Yep.  
35  
15:51:57 36 On a number of occasions through the period that we've just  
15:52:00 37 discussed, if we look at the informer contact reports or  
15:52:05 38 the ICRs, it appears as though when Mr Waters sees Ms Gobbo  
15:52:11 39 on a number of occasions he goes to see her in  
15:52:14 40 chambers?---Yes.  
41  
15:52:15 42 Do you know if there was ever any concern about whether he  
15:52:18 43 might be considering that he was being, seeking her out for  
15:52:23 44 legal advice? Was that - - - ?---No.  
45  
15:52:32 46 - - - considered a possibility?---Not really, no. But he  
15:52:38 47 wasn't charged with anything, unless he was just getting

15:52:41 1 general - it wasn't a consideration for me anyway.  
2  
15:52:45 3 All right. Are you aware that later on when Briars was  
15:52:55 4 considering using Ms Gobbo as a witness it did become a  
15:53:00 5 concern?---Just repeat that.  
6  
15:53:02 7 Are you aware that later on when there was consideration  
15:53:04 8 being given for Ms Gobbo to be a witness?---Yes.  
9  
15:53:06 10 It did become a concern that it might be that some of this  
15:53:13 11 evidence might be inadmissible or the evidence proposed to  
15:53:17 12 be taken from Ms Gobbo could be inadmissible?---Could be.  
13  
15:53:20 14 Because of legal professional privilege or the  
15:53:23 15 like?---Yeah, certainly, it could be.  
16  
15:53:25 17 Wouldn't that be something that you might have been  
15:53:27 18 considering at that point in time, that if you're - - -  
15:53:30 19 ?---With Waters?  
20  
15:53:31 21 - - - getting information from her, that it might be  
15:53:34 22 privileged if he's going to see her in chambers?---I didn't  
15:53:37 23 think that any of the feedback that I got from their visits  
15:53:42 24 as that he was seeking instructions from her, that I was  
15:53:46 25 aware of. So I didn't - I thought it was more just social  
15:53:48 26 visits and not him looking, going to see her as a client  
15:53:55 27 and getting legal advice from her.  
28  
15:53:58 29 It never occurred to you that that might be an issue? I  
15:54:01 30 mean he was seeing her in the context of being called  
15:54:04 31 before the OPI?---The OPI, yeah. I mean I think that we  
15:54:09 32 had enough surveillance and things in place - - -  
33  
15:54:17 34 I just ask you - - - ?---I don't believe - - -  
35  
15:54:19 36 It's something that occurred to you?---No.  
37  
15:54:22 38 Because it seems to have occurred down the track with  
15:54:25 39 Mr Waddell?---Okay.  
40  
15:54:26 41 That this information she's now going to put in her  
15:54:29 42 statement?---Okay.  
43  
15:54:30 44 Which is the same type of information that you're getting  
15:54:32 45 from her might be covered by LPP and "we better cover  
15:54:36 46 ourselves"?---It might be covered but my view was that she  
15:54:39 47 wasn't - sorry, he wasn't going to see her in the capacity

15:54:43 1 of a client/lawyer relationship.  
2  
15:54:51 3 Do you know if anyone asked her that or made any  
15:54:56 4 inquiries?---About Waters?  
5  
15:54:59 6 Yes?---No.  
7  
15:55:00 8 Were you aware that she had in fact acted for him  
15:55:05 9 previously?---No.  
10  
15:55:06 11 Back in, I think it was 2003, that she'd acted for him in a  
15:55:14 12 s.56 application when the Ceja Task Force wanted some  
15:55:19 13 evidence from him in relation to a Strawhorn  
15:55:24 14 investigation?---No, I was unaware of that.  
15  
15:55:32 16 If we can go to your diary of 17 July 2008. This is  
15:55:42 17 another occasion where you've had a discussion with  
15:55:44 18 Mr Overland about the potential use of Ms Gobbo?---Yes.  
19  
15:55:54 20 At that time you were in the position of the chief of staff  
15:55:58 21 to - is that right, by this stage? Chief of staff to - at  
15:56:09 22 paragraph 45 of your statement you indicate you'd  
15:56:12 23 transferred to the - - - ?---If you get to the start of  
15:56:14 24 that day, the 17th, it will have where I was - it's blocked  
15:56:20 25 out, is it?  
26  
15:56:21 27 We've got redacted diaries unfortunately. This is 17 July  
15:56:25 28 and you say in your statement that on 3 July you'd  
15:56:29 29 transferred to the role of chief to staff to Commissioner  
15:56:34 30 Nixon?---Yes, okay.  
31  
15:56:35 32 You're having a discussion - you still remain involved in  
15:56:38 33 the - - - ?---Yeah, I was - - -  
34  
15:56:42 35 - - - investigation?---I think I was still keeping my eye  
15:56:44 36 on it, you know, I was still overseeing it, because I think  
15:56:47 37 Simon was interested in, you know, where it was going, and  
15:56:49 38 others. So I was still actively talking to Steve and going  
15:56:53 39 to some meetings and just keeping my - keeping an awareness  
15:57:00 40 of where the investigation was at.  
41  
15:57:02 42 In that role as chief of staff to Chief Commissioner Nixon  
15:57:07 43 was she at all interested in these investigations or what  
15:57:10 44 sort of briefings would she get in terms of an  
15:57:13 45 investigation like Briars or Petra?---None from me  
15:57:17 46 directly. I was still keeping it in this loop.  
47

15:57:21 1 Yes. Did you never speak to her about such things?---I  
15:57:24 2 don't think so.  
3  
15:57:25 4 Do you know if she was getting - - - ?---Simon might have.  
5  
15:57:29 6 Do you know if Simon did?---No, I don't know.  
7  
15:57:32 8 Did you see - how did she keep her appointments?---Through  
15:57:37 9 her EA.  
10  
15:57:39 11 And was there an electronic calendar/diary?---Yes.  
12  
15:57:44 13 That was maintained by the EA?---Maintained by her EA.  
14  
15:57:48 15 Okay. Do you know if she kept a written diary at all?---I  
15:57:54 16 don't think so.  
17  
15:57:59 18 Do you know how often she would be briefed by Mr Overland  
15:58:03 19 or others?---No.  
20  
15:58:08 21 Would you be present for any of those briefings?---No.  
22  
15:58:18 23 At this stage in mid-2008 do you recall what it was that  
15:58:22 24 you were having a discussion about, about how Ms Gobbo  
15:58:25 25 might be used?---No, I'm sorry I don't.  
26  
15:58:31 27 Would this have been again about her potentially recording  
15:58:37 28 Mr Waters or you don't know?---I think we were beyond that.  
15:58:42 29 It may well have been, as eluded to before, about going to  
15:58:48 30 hearings. I think that Steve and the people in the Task  
15:58:53 31 Force were still keen to get a result in relation to the  
15:58:57 32 Briars investigation and were trying anything they could to  
15:59:02 33 get to the end.  
34  
15:59:05 35 Were you aware during this period of time of other concerns  
15:59:10 36 in relation to Ms Gobbo in her role as a human source, that  
15:59:14 37 she was receiving threats from Mokbels, or people  
15:59:19 38 associated with the Mokbels and so forth?---No, I wasn't.  
15:59:22 39 I was aware that there were just general obviously concerns  
15:59:27 40 for her safety, but I didn't know specifically what they  
15:59:30 41 were.  
42  
15:59:31 43 Were you aware of any concern in relation to her role  
15:59:33 44 potentially being exposed through court processes that were  
15:59:37 45 going on in relation to people that had been arrested as a  
15:59:40 46 result of her involvement?---Yes.  
47

15:59:42 1 What were you aware of in relation to those matters?---I  
15:59:44 2 heard that - this was like later on, that she was concerned  
15:59:48 3 that there was no monitoring by the Source Development  
15:59:53 4 Unit, indeed Victoria Police, if her name came up in any  
15:59:57 5 applications. There wasn't any understanding. It'd just  
16:00:02 6 be out there and then she'd, you know, be unhappy that  
16:00:06 7 there was a potential exposure or a risk.  
8  
16:00:09 9 When you say later on, what do you mean?---I'm talking  
16:00:12 10 about in 2009. If you refer later in my statement - - -  
11  
16:00:19 12 Okay?---Sorry. I don't know if - is that what you're  
16:00:23 13 referring to?  
14  
16:00:25 15 At this stage in 2008 were you aware - there were a number  
16:00:28 16 of court proceedings going on?---Yes.  
17  
16:00:30 18 In relation to people who had been arrested, Milad Mokbel  
16:00:33 19 and Horthy Mokbel and others?---Okay.  
20  
16:00:36 21 And there were seemingly concerns about disclosures that  
16:00:40 22 might be made which might reveal either the fact that she  
16:00:44 23 was a human source or that she had been involved in the  
16:00:48 24 representation of people that had become Crown  
16:00:51 25 witnesses?---No, I wasn't aware in 2008.  
26  
16:00:54 27 Right?---Of those issues. I was later when things were  
16:00:57 28 brought to my attention by her and her sister in relation  
16:01:00 29 to other matters where she'd been mentioned.  
30  
16:01:03 31 Right?---And there was a general complaint that we weren't  
16:01:08 32 monitoring sufficiently enough to sort of know when this  
16:01:13 33 was potentially going to expose her, you know what I mean?  
16:01:16 34 Like just - so if Victoria Police could in any way take any  
16:01:23 35 action through public interest immunity or any other lawful  
16:01:27 36 action to prevent or minimise her exposure in that way,  
16:01:31 37 that was a later complaint.  
38  
16:01:33 39 All right?---That she made.  
40  
16:01:35 41 Was that a complaint that generally related to her  
16:01:40 42 assistance to Victoria Police in relation to her  
16:01:44 43 representation of people like Mr - well we're referring to  
16:01:49 44 him as Mr Cooper, and others, but people that had become  
16:01:54 45 witnesses for the Purana Task Force?---Yeah - I'm just  
16:02:05 46 getting to the - during October 2009 I received an email  
16:02:15 47 from her, paragraph 69 of my statement, and her sister

16:02:20 1 about references to her in the Court of Appeal judgment and  
16:02:25 2 there was one other I think where it was bail application -  
16:02:29 3 it was something else that - just, in essence, she was  
16:02:35 4 saying that there was no actual monitoring of when things  
16:02:39 5 were happening in the courts that might potentially expose  
16:02:43 6 her to risk and she was saying we ought to be ahead of the  
16:02:47 7 game there.  
8  
16:02:50 9 Did you necessarily understand what the risk was that she  
16:02:53 10 was talking about?---No. No, I didn't.  
11  
16:03:03 12 By that stage were you yourself fully aware of her role and  
16:03:07 13 the role that she'd played as a human source?---Not to this  
16:03:13 14 day.  
15  
16:03:30 16 If I can just take you to an entry of - a diary entry of  
16:03:35 17 Mr Waddell of 4 September 2008. This is  
16:03:48 18 VPL.0005.0160.0001. This refers to a visit to the prison  
16:03:54 19 by Mr Waddell and Mr Trichias?---Yes.  
20  
16:03:59 21 To visit ██████████?---Yes.  
22  
16:04:06 23 ██████████ is someone that made a number of statements in  
16:04:10 24 relation to Operation Briars; is that right?---Yes.  
25  
16:04:14 26 About six or seven in total at the end?---Yep.  
27  
16:04:18 28 Some of that information he would hang on to and reveal  
16:04:24 29 slowly bit by bit?---Yes.  
30  
16:04:26 31 Sort of drip feed along the way; is that right?---I think  
16:04:30 32 so, yes.  
33  
16:04:32 34 On this day, and I won't take you to the specifics, but on  
16:04:37 35 this day there's some information that's conveyed to  
16:04:43 36 Mr Waddell and Mr Trichias by ██████████ which involves  
16:04:51 37 Mr Waters, is that right? If you see down there on the  
16:05:08 38 second-last line?---Okay, yes.  
39  
16:05:09 40 That may or may not relate to Operation Briars  
16:05:13 41 specifically, it might be a discussion of another matter or  
16:05:16 42 another related matter?---Yes.  
43  
16:05:20 44 I'm not entirely sure?---In that paragraph there I don't  
16:05:26 45 believe's talking about Chartres-Abbott though.  
46  
16:05:29 47 No, that's what I say. It might be a different matter but

16:05:32 1 certainly Mr Waddell and Mr Trichias have gone out to speak  
16:05:35 2 to [REDACTED]?---Yes.  
3  
16:05:36 4 And he's conveyed to them some information which related to  
16:05:39 5 Mr Waters?---Yes, correct.  
6  
16:05:46 7 If we go to paragraph 48 of your statement. So that was 4  
16:05:53 8 September that they've gone out there?---Yes.  
9  
16:05:56 10 You say at paragraph 48 of your statement that you received  
16:06:01 11 that day an email?---Yes.  
12  
16:06:03 13 From Mr Waddell, which also goes to Sandy White?---Yes.  
14  
16:06:08 15 And that attaches a number of letters to and from inmates  
16:06:11 16 at the prison, the same prison that they'd just been out  
16:06:14 17 to?---Yes.  
18  
16:06:15 19 Including a letter sent by Ms Gobbo to Mr Mannella?---Yes.  
20  
16:06:24 21 And one of those letters is from Carl Williams in which  
16:06:28 22 Mr Williams recounts allegations about Ms Gobbo giving  
16:06:33 23 [REDACTED] and another Purana gangland witness advice to  
16:06:39 24 assist police and that Ms Gobbo had a conflict in acting  
16:06:44 25 for Faruk Orman?---Yes.  
26  
16:06:51 27 I just want to - if I can take you to some of those  
16:06:56 28 documents. If we go to VPL.6025.0003.3581. That's simply  
16:07:08 29 the letter to yourself and Mr - sorry, the email to  
16:07:12 30 yourself and Mr White?---Yes.  
31  
16:07:14 32 That afternoon?---Yes.  
33  
16:07:17 34 Attaching four letters?---Yes.  
35  
16:07:21 36 And indicates "as discussed"?---Yes.  
37  
16:07:24 38 So that indicates, it seems, that it's not just that you've  
16:07:30 39 been sent that email blind, but there's been some  
16:07:33 40 discussion beforehand?---Yes.  
41  
16:07:44 42 As well as having had a discussion about that matter with  
16:07:48 43 Waddell presumably about this matter, no doubt he would  
16:07:51 44 have been - he would have conveyed the information to you  
16:07:55 45 as to his visit to [REDACTED] with Mr Trichias, would that  
16:08:00 46 be right?---I actually don't remember it but I wouldn't  
16:08:03 47 dispute it.

1  
16:08:07 2 If we just have a look at a couple of those letters. If we  
16:08:10 3 can have a look at VPL.6025.0003.3593. There's a letter  
16:08:19 4 from Ms Gobbo to Mr Mannella?---Yes.  
5  
16:08:24 6 Dated 16 August in which - you've read these recently?---I  
16:08:31 7 have.  
8  
16:08:32 9 In which she, in the first line indicates that she hopes  
16:08:38 10 he's well and time's passing quickly, but then it  
16:08:43 11 degenerates into a bit of criticism about some information  
16:08:47 12 that he seems - that seems to have insulted her; is that  
16:08:52 13 right?---Yes.  
14  
16:08:56 15 There seems to be - "I thought it was appropriate to write  
16:09:00 16 to you to indicate that I was most concerned about an  
16:09:04 17 offensive and insulting message that was delivered to me  
16:09:07 18 apparently at your request. You of all people ought to  
16:09:10 19 know where I stand and I hope that you did not actually ask  
16:09:14 20 an ill-informed idiot to convey a stupid message to me,  
16:09:18 21 apparently in response to something I'm meant to have said  
16:09:22 22 concerning you", and so on?---Yes.  
23  
16:09:25 24 I might tender these as one job lot, the email and the four  
16:09:28 25 letters, Commissioner, after I take the witness through  
16:09:31 26 them. If we can go to the next letter in time, it's  
16:09:37 27 VPL.6025.0003.3583. That is a letter from Carl Williams to  
16:09:46 28 Joe Mannella dated 28 August 2008?---Yes.  
29  
16:09:50 30 You see in this letter, and as in others, there's pen marks  
16:09:56 31 on the outside which seems to indicate the areas of concern  
16:10:00 32 in relation to those letters?---Yes.  
33  
16:10:03 34 Do you agree with that, having seen this and other letters  
16:10:07 35 lately?---Yes.  
36  
16:10:09 37 To indicate to the reader this is the bit of the letter  
16:10:11 38 that needs to be considered and read?---Yes.  
39  
16:10:18 40 In the letter to Mr Mannella he indicates that he didn't  
16:10:22 41 receive a particular letter that had been sent and he  
16:10:25 42 doesn't know why. It becomes clear that he's referring to  
16:10:31 43 Ms Gobbo in less than pleasant terms in the letter?---Yes.  
44  
16:10:37 45 Describing her as "an evil cunt" and that she's a "no good  
16:10:43 46 dog, plain and simple"?---Yes.  
47

16:10:46 1 He says he firmly believes that the police have something  
16:10:49 2 over her, that they send her in to people to get them to  
16:10:53 3 roll, do you see that?---Yes.  
4  
16:10:58 5 And it goes on?---Yes.  
6  
16:11:00 7 He indicates that he'd confronted her in relation to that  
16:11:05 8 in the past and he believes she virtually agreed with him  
16:11:09 9 when he confronted her?---Yes.  
10  
16:11:11 11 And he says he'd heard that Ms Gobbo was running  
16:11:14 12 Mr Mannella down and not to worry about it. If I can go to  
16:11:19 13 the next letter. It's VPL.6025.0003.3589. This is a  
16:11:30 14 letter to Danny Heaney dated 30 August 2008 and you see the  
16:11:38 15 pen - - - ?---Yes.  
16  
16:11:40 17 - - - mark further down. Again, referring to not getting  
16:11:44 18 the letter that he and Joey or Mr Mannella had sent?---Yes.  
19  
16:11:53 20 He also refers again to his belief that the police have  
16:11:57 21 something over Ms Gobbo?---Yes.  
22  
16:11:59 23 He refers to having caught her out with subpoenas?---Yes.  
24  
16:12:04 25 And having spoken to her to her face about it?---Yes.  
26  
16:12:09 27 Over the page he refers to having shown Milad the paperwork  
16:12:16 28 but Milad didn't seem to care and stayed in touch with her,  
16:12:21 29 thinking that she would help him out and that she would  
16:12:24 30 never do anything wrong by he or his family. He refers to  
16:12:28 31 Milad Mokbel having waived his right to committal, and that  
16:12:34 32 committal we know was in July of 2007, and then to Horty  
16:12:41 33 coming to gaol and having his committal, which we know was  
16:12:45 34 in November of 2007, and at that stage it coming out that  
16:12:51 35 Mr Cooper had assisted after talking to Ms Gobbo?---Yep.  
36  
16:12:57 37 Mr Williams said now they thought she was a dog and he told  
16:13:04 38 them that she was all right and she was only giving clients  
16:13:07 39 the best advice and it was up to them whether they take it,  
16:13:12 40 saying "ha ha" as a bit of a joke. He refers to her now  
16:13:18 41 being with the Don, seemingly a reference to Mr Gatto. Do  
16:13:27 42 you understand that or you don't know?---No.  
43  
16:13:31 44 He said that she'd told a particular witness to roll and  
16:13:35 45 that he'd made statements about Faruk and that that was why  
16:13:42 46 Faruk was charged with two murders and now she was acting  
16:13:49 47 for Faruk. He indicates, "So there's no conflict of

16:13:52 1 interest. The Law Institute say it's okay for her to act  
16:13:55 2 for Faruk. The law is and has been thrown out the window".  
16:14:00 3 Do you see that?---Yes.  
4  
16:14:01 5 Did you understand that Mr Williams himself had complained  
16:14:03 6 about Ms Gobbo acting in conflict - - - ?---No, I didn't.  
7  
16:14:08 8 - - - back in 2006?---No.  
9  
16:14:18 10 There was a fourth letter, which I don't think I need to  
16:14:21 11 take you to, but that was a letter from Matthew Johnson to  
16:14:25 12 Mr Mannella. You've seen that recently?---Yeah, I've seen  
16:14:29 13 that. I've seen the letters.  
14  
16:14:31 15 Saying generally disparaging things about Ms Gobbo?---Yes.  
16  
16:14:36 17 I tender the email and those letters, Commissioner.  
16:14:44 18  
16:14:44 19 #EXHIBIT RC831A - (Confidential) Email from Waddell to  
16:14:53 20 Wilson and Sandy White.  
16:14:56 21  
16:14:56 22 #EXHIBIT RC831B - (Redacted version.)  
16:14:57 23  
16:14:58 24 COMMISSIONER: You want them tendered as one exhibit, is  
16:15:00 25 that right?  
16:15:02 26  
16:15:02 27 #EXHIBIT RC831C - (Confidential) Letter from Nicola Gobbo  
16:15:17 28 to Joe Mannella dated 16/8/08.  
16:15:22 29  
16:15:24 30 #EXHIBIT RC831D - (Redacted version.)  
16:15:29 31  
16:15:30 32 #EXHIBIT RC831E - (Confidential) Letter from Carl Williams  
16:15:32 33 to Joe Mannella dated 28/08/08.  
16:15:32 34  
16:15:32 35 #EXHIBIT RC831F - (Redacted version.)  
16:15:39 36  
16:15:39 37 #EXHIBIT RC831G - (Confidential) Letter from Carl Williams  
16:15:40 38 to Danny Healey 30/08/09.  
16:15:40 39  
16:15:41 40 #EXHIBIT RC831H - (Redacted version.)  
16:15:44 41  
16:15:45 42 #EXHIBIT RC831I - (Confidential) Letter from Matthew  
16:15:48 43 Johnson to Joe Mannella dated 01/09/08.  
16:15:48 44  
16:15:48 45 #EXHIBIT RC831J - (Redacted version.)  
46  
16:16:03 47 MS TITTENSOR: It's to be assumed that you received those

16:16:05 1 letters for a reason at the time?---Yes.  
2

16:16:09 3 And that you would have read them at the time?---Look, I  
16:16:13 4 don't recall but I obviously would have read them at the  
16:16:14 5 time.  
6

16:16:16 7 And the relevant portions appear to have been marked to - -  
16:16:22 8 - ?---Yes.  
9

16:16:24 10 - - - identify the relevant sections. Would it have been a  
16:16:27 11 cause of concern to you to know that Ms Gobbo was a source  
16:16:31 12 who was acting in conflict in relation to her  
16:16:36 13 representation of clients?---It would have been a concern,  
16:16:40 14 yes. But - sorry, go on. But what was more concerning for  
16:16:49 15 me was obviously the fact that she was a source who was  
16:16:53 16 seen to be commonly known in certain circles, that she was,  
16:16:58 17 not a source but she that was assisting - - -  
18

16:17:00 19 Assisting police by advising people to - - - ?---Make  
16:17:04 20 statements in support of investigations.  
21

16:17:06 22 Yes, in support of investigations. That might be something  
16:17:11 23 that a regular lawyer would do in their course of advising  
16:17:17 24 a client if it's in that client's best interests?---Yes.  
25

16:17:20 26 But it might be a concern if a lawyer is a police agent  
16:17:24 27 advising people along those lines?---Yes.  
28

16:17:27 29 You would agree with that?---Yes.  
30

16:17:28 31 And it certainly would be even more of a concern if a  
16:17:33 32 lawyer that was a police agent had advised the client to  
16:17:35 33 roll and then was advising the next client that the first  
16:17:40 34 client had rolled on them?---Yes, certainly a conflict of  
16:17:44 35 interest, as Carl has pointed out.  
36

16:17:48 37 Do you know if you did anything about that at the  
16:17:53 38 time?---No, I didn't do anything about that at the time  
16:17:56 39 because I assumed that these letters were obviously in the  
16:17:59 40 possession of the relevant police, as in handlers like  
16:18:03 41 Sandy White. I actually thought the reason that Steve  
16:18:10 42 Waddell sent me those letters, because there'd been a  
16:18:13 43 reluctance to use, they'd been pushing to use Gobbo  
16:18:17 44 wherever they could in Briars and there'd been the push  
16:18:20 45 back around her health and safety, et cetera, which was  
16:18:24 46 reasonable. But it appears from the tenor of those letters  
16:18:29 47 that she was, it was certainly known within circles within

16:18:33 1 Barwon Prison that she was duplicitous and involved in - so  
16:18:39 2 I mean what I'm saying is sort of the cat was out of the  
16:18:42 3 bag a little bit here in those letters, you know.  
4  
16:18:44 5 Yes?---Maybe it's appropriate that we could revisit her use  
16:18:48 6 as a witness or a - well - - -  
7  
16:18:53 8 Yeah, and the cat's not necessarily out of the bag in terms  
16:18:56 9 of her being a police agent or a human source?---No.  
10  
16:18:59 11 The cat's out of the bag in terms of her being a lawyer  
16:19:03 12 that's willing to advise people to roll on people that she  
16:19:06 13 was previously seen to be aligned with?---Correct.  
14  
16:19:14 15 That was 4 September that you've had that conversation with  
16:19:18 16 Waddell and then you've had - - - ?---Got those letters.  
17  
16:19:21 18 Got the email and got those letters?---Yes.  
19  
16:19:24 20 If we can go to your diary of the next day, 5 September. I  
16:20:09 21 can probably read out the entry to you anyway, we're having  
16:20:12 22 a bit of trouble with that?---Okay.  
23  
16:20:15 24 The next afternoon your diary indicates, "Briefed Deputy  
16:20:20 25 Commissioner Overland re 3838 and interview with  
16:20:24 26 [REDACTED]"?---Yep.  
27  
16:20:24 28 It seems as though you've had a conversation the following  
16:20:27 29 day in relation to two aspects of the matters that  
16:20:32 30 Mr Waddell had raised, seemingly raised with you, and one  
16:20:37 31 was the fact that he'd been out and he'd received some  
16:20:41 32 information about Mr Waters from [REDACTED]?---Yes.  
33  
16:20:45 34 The other thing you spoke to Mr Overland about was  
16:20:48 35 Ms Gobbo?---Yes.  
36  
16:20:49 37 Given the day before the only information that we seem to  
16:20:52 38 know that you received about Ms Gobbo from the day before  
16:20:55 39 are these letters?---Yep.  
40  
16:20:57 41 It's to be assumed that that's what you spoke to him  
16:20:59 42 about?---It would make sense.  
43  
16:21:06 44 Would the likelihood be that you would have gone armed with  
16:21:09 45 those letters to show him?---Look, I can't remember if I  
16:21:14 46 did but I've said in my statement at paragraph 49 that it's  
16:21:23 47 possible that we wanted to re-examine the use of, or put

16:21:29 1 the proposition again that we could use Gobbo in the Briars  
16:21:34 2 investigations and the letters were sort of used to say, or  
16:21:39 3 the content of those letters to say, I don't think it's a  
16:21:44 4 big secret in the prison world that she might be acting,  
16:21:47 5 not as a police source, but certainly acting contrary  
16:21:57 6 to - - -  
7  
16:21:57 8 Sorry, we've just got the diary entry on the screen  
16:22:05 9 there?---Contrary to the interests of her clients.  
10  
16:22:09 11 Of people that she'd previously represented?---Yep.  
12  
16:22:09 13 Do you say for that reason that your likelihood of having  
16:22:11 14 discussed the contents - - - ?---I don't know if I showed  
16:22:12 15 him the letters, I can't remember to be honest.  
16  
16:22:15 17 It is likely you discussed the contents with him?---It  
16:22:18 18 makes sense because we're using that as a basis to have him  
16:22:22 19 reconsider using Gobbo for Briars.  
20  
16:22:25 21 Is it the case that Mr Overland would like to be armed with  
16:22:28 22 as much information as he could be?---Of course, yes.  
23  
16:22:31 24 And might that be to the extent that what they're saying in  
16:22:36 25 the prisons is that, well what Carl Williams is saying in  
16:22:42 26 particular, is that this conflict situation has gone on,  
16:22:47 27 she's represented [REDACTED], she's represented this other  
16:22:52 28 gangland witness and now she's representing  
16:22:58 29 Mr Orman?---That's certainly what he's saying in the  
16:23:01 30 statement, yes.  
16:23:02 31  
16:23:02 32 The likelihood is you would have discussed that material  
16:23:05 33 with Mr Overland?---Yes.  
34  
16:23:27 35 You go on to indicate in your statement at paragraph 50  
16:23:32 36 that things wind down a little bit?---Yes.  
37  
16:23:35 38 In relation to Briars investigations?---Yes.  
39  
16:23:39 40 In October 2008 you go and meet with the Director, the then  
16:23:46 41 Director Mr Rapke, along with Mr Horgan and Tinney?---Yes.  
42  
16:23:52 43 You're there with Mr Overland, Mr Waddell and Mr Iddles to  
16:23:57 44 discuss presumably the state of affairs in relation to the  
16:24:01 45 Briars Task Force and where the investigation is up  
16:24:03 46 to?---Yes.  
47

16:24:04 1 And seeking their views as to whether we've got enough  
16:24:07 2 evidence at this stage to charge anyone?---Sure, yes.  
3  
16:24:10 4 And did that - - - ?---Not anyone.  
5  
16:24:13 6 That's what I was just about to ask?---Certain people.  
7  
16:24:18 8 Did that relate to charging civilians, if you like, or was  
16:24:22 9 it just a discussion of charging current or serving police  
16:24:28 10 or former members of the police?---No, it would have been a  
16:24:30 11 discussion in relation to witness - - -  
12  
16:24:31 13 [REDACTED]?---Yes, [REDACTED]'s, sorry, evidence in relation  
16:24:38 14 to a whole range of accused in that matter, including  
16:24:42 15 serving and former police and others that were ultimately  
16:24:45 16 involved in the, ultimately arranging for the murder of  
16:24:48 17 Chartres-Abbott.  
18  
16:24:55 19 Then following that there was discussion about essentially  
16:25:02 20 disbanding the Task Force at that point in time?---Yes,  
16:25:06 21 that's correct.  
22  
16:25:16 23 Were you aware of anything that was going on in relation to  
16:25:20 24 Petra at around that period of time, given - - - ?---In  
16:25:24 25 2008?  
26  
16:25:26 27 In late 2008. Given your role then also as the chief of  
16:25:32 28 staff to the Chief Commissioner of Police?---Yes.  
29  
16:25:35 30 And around that period of time in late 2008 there was  
16:25:39 31 discussion about Ms Gobbo becoming a witness and then  
16:25:42 32 subsequently in December of 2008 she recorded a  
16:25:47 33 conversation with Paul Dale?---I wasn't privy to that at  
16:25:50 34 the time.  
35  
16:25:50 36 And then a month later made a statement?---No.  
37  
16:25:52 38 So those were not things that were shared with you?---No.  
39  
16:25:55 40 And you don't know one way or the other whether or not  
16:25:58 41 those things were shared with the Chief Commissioner?---No,  
16:26:00 42 I don't.  
43  
16:26:16 44 In around March of 2009, is it Mr Overland became the Chief  
16:26:23 45 Commissioner?---Yes.  
46  
16:26:24 47 And you remained chief of staff to the Chief Commissioner,

16:26:30 1 now for Mr Overland?---Yes.  
2  
16:26:32 3 You remained involved in Briars?---Yes.  
4  
16:26:37 5 Did Mr Overland remain involved in Briars?---Well he would  
16:26:46 6 have had an interest, of course. But - - -  
7  
16:26:49 8 Did the composition of the board of management change?---I  
16:26:53 9 don't think he was on the board of management any longer as  
16:26:56 10 the Chief. It probably fell to Danye Moloney or someone  
16:27:00 11 like that, who was AC Crime at that time, to replace him.  
12  
16:27:05 13 Although he might have gone off the board of management,  
16:27:13 14 did he become totally hands off or did he still remain  
16:27:17 15 informed?---I would said he would have remained informed.  
16  
16:27:21 17 He had a particular interest in matters that related to  
16:27:23 18 police corruption?---Yes.  
19  
16:27:25 20 As we understand the board of management then became  
16:27:28 21 Mr Cornelius, Mr Moloney and Mr Ashton?---Okay, yes, that  
16:27:32 22 would be right.  
23  
16:27:36 24 You again remain or you go back in terms of providing that  
16:27:40 25 oversight; is that right?---Yeah, I think once in March of  
16:27:45 26 09 when Steve came to me and said, you know, "I think we  
16:27:49 27 can kick this off again with some new strategies."  
28  
16:27:54 29 Yes?---I remained active. I think Steve liked to have the  
16:27:58 30 idea that there was someone he could get to like me to get  
16:28:04 31 things going if needed. Getting resources, et cetera.  
32  
16:28:09 33 At paragraph 56 of your statement you refer to there being  
16:28:14 34 a supplementary investigation plan?---Yes.  
35  
16:28:19 36 That plan involved getting a full statement from  
16:28:22 37 Ms Gobbo?---Yes.  
38  
16:28:26 39 Who at that period of time is referred to as [REDACTED],  
16:28:31 40 according to Briars?---Yes.  
41  
16:28:33 42 I don't think you're aware yet that she was being referred  
16:28:36 43 to as Witness F for Petra; is that right?---No, I don't  
16:28:39 44 know about that. But I did find out at some subsequent  
16:28:43 45 time that she had made a statement in relation to Dale at  
16:28:47 46 some stage further down the track in 2009.  
47

16:28:56 1 Perhaps if I can take you to this email?---Sorry.  
2  
16:28:59 3 That's all right. An email at VPL.6115.0057.2684?---Yes.  
4  
16:29:13 5 This is an email from Mr Waddell to you dated 25 March  
16:29:18 6 2009?---Yes.  
7  
16:29:21 8 Attaching a supplementary investigation plan?---Yes.  
9  
16:29:26 10 He asks what you think about it. If it's suitable and  
16:29:29 11 approved he'd attach it to the original Interpose  
16:29:33 12 plan?---Yes.  
13  
16:29:33 14 And asked if you wanted him to come to the board of  
16:29:37 15 management to talk to the plan?---Yes.  
16  
16:29:41 17 He goes on, "On another matter, I spoke to Sandy White  
16:29:47 18 today and he seems to think that the person we are  
16:29:49 19 interested in will make a statement. He also seems to  
16:29:52 20 think that she does not have any admissions, which is  
16:29:56 21 obviously different to all of our recollections. The SDU  
16:30:00 22 do not want any link back to the historical activities if  
16:30:03 23 that can be helped as it obviously opens up a whole can of  
16:30:07 24 worms. I discussed with him credit issues if we cannot  
16:30:10 25 rely on that material if in the event the witness does not  
16:30:14 26 possess independent notes. He is going to make inquiries  
16:30:17 27 to see if that witness does have diary entries. He is  
16:30:20 28 going to speak to Tony Biggin about our access to their  
16:30:25 29 case notes and debriefing tapes. He says that the subject  
16:30:27 30 person is getting pissed off with the Department as our  
16:30:31 31 legal eagles are taking too long to deal with matters". It  
16:30:38 32 appears as though those are matters that you subsequently  
16:30:43 33 become involved in in the middle of the year that are being  
16:30:46 34 spoken about then?---Yep.  
35  
16:30:53 36 Then if I can take you to the plan that's attached to that  
16:30:56 37 email. It talks about strategies and so forth and I think  
16:31:10 38 if we scroll through that we'll see at some point in time -  
16:31:18 39 we might have gone too past it - it says, "[REDACTED]  
16:31:22 40 obtained full statement", and there you're referring to  
16:31:26 41 Ms Gobbo?---Yes.  
42  
16:31:27 43 And back in terms of that email, the discussion with Sandy  
16:31:32 44 White about the female, that's a reference to Ms Gobbo  
16:31:35 45 being discussed?---Yes.  
46  
16:31:39 47 It refers to historical activities. Perhaps if that can be

16:31:46 1 taken down from the screens. There's a reference in that  
16:31:50 2 email to the SDU not wanting any link back to historical  
16:31:57 3 activities. Do you accept that that clearly is a reference  
16:32:00 4 to the SDU not wanting any link back to Ms Gobbo's history  
16:32:04 5 as a human source?---I assume so.  
6  
16:32:07 7 It's clearly a desire that if she is to become a witness  
16:32:10 8 for Operation Briars "that we don't want her status as a  
16:32:14 9 human source coming out"?---Correct.  
10  
16:32:15 11 So that if you're going to take a statement it needs to be  
16:32:21 12 without reference to SDU materials?---Yeah, well that was  
16:32:26 13 some of the dilemmas that were being raised in that email  
16:32:29 14 because she said initially that Waters said that Lalor  
16:32:37 15 assured him it didn't come from the LEAP database. She's  
16:32:40 16 now not quite saying the same thing again, so therefore you  
16:32:45 17 have to go back into the notes that were recorded by the  
16:32:48 18 SDU in the logs and then that opens up the potential - - -  
19  
16:32:52 20 For prior inconsistent statements and the potential for the  
16:32:55 21 need to disclose?---Disclose, that's right.  
22  
16:33:02 23 That's a point that's being raised upfront here?---M'mm .  
24  
16:33:06 25 "If she becomes a witness we, the SDU, don't want to have  
16:33:11 26 to disclose her link with us at all"?---Yeah. Yes, I'd  
16:33:21 27 agree with that.  
28  
16:33:22 29 Well the SDU do not want any link back to the historical  
16:33:25 30 activities?---Yes.  
31  
16:33:26 32 If that can be helped.  
33  
16:33:31 34 COMMISSIONER: Did you want to tender that?  
16:33:33 35  
16:33:34 36 MS TITTENSOR: Yes, sorry, I'll tender that email and the  
16:33:37 37 supplementary investigation plan.  
16:33:39 38  
16:33:40 39 #EXHIBIT RC832A - (Confidential) Email from Mr Waddell to  
16:29:16 40 Wilson dated 25/03/09.  
16:33:45 41  
16:33:47 42 #EXHIBIT RC832B - (Redacted version.)  
16:33:48 43  
16:33:49 44 #EXHIBIT RC832C - (Confidential) Supplementary  
16:33:51 45 investigation plan.  
16:33:51 46  
16:33:51 47 #EXHIBIT RC832D - (Redacted version.)

1  
16:34:00 2 COMMISSIONER: I note the time.  
16:34:02 3  
16:34:02 4 MS TITTENSOR: Yes, I've just noticed it's slipped by quite  
16:34:06 5 quickly this afternoon, Commissioner.  
6  
16:34:08 7 COMMISSIONER: Ms Argiropoulos, do you or Mr Holt have an  
16:34:11 8 update on the undertaking in respect of Mr Nathwani's - - -  
16:34:16 9  
16:34:17 10 MR HOLT: Yes, I've spoken with Mr Nathwani and there's no  
16:34:19 11 difficulty in that respect, Commissioner.  
12  
16:34:21 13 COMMISSIONER: Yes, all right. Are we releasing him from  
16:34:26 14 the undertaking now?  
15  
16:34:28 16 MR HOLT: Yes, on the basis that we trust Mr Nathwani  
16:34:28 17 entirely to do this, that he will only communicate with his  
16:34:30 18 client in respect to the matters that obviously concern her  
16:34:33 19 and not other matters.  
20  
21 COMMISSIONER: Yes.  
22  
16:34:36 23 MR HOLT: And he's undertaken - well, he will discuss those  
16:34:39 24 issues with me if complexities arise but there's nothing  
16:34:42 25 that should hold that process up from our perspective.  
26  
16:34:49 27 COMMISSIONER: You're happy with that, Mr Nathwani?  
16:34:53 28  
16:34:53 29 MR NATHWANI: Yes.  
30  
31 COMMISSIONER: We'll adjourn in a moment until 9.30  
16:34:55 32 tomorrow. Tomorrow afternoon we won't take the afternoon  
16:34:59 33 break but we'll adjourn at 4 o'clock tomorrow afternoon.  
16:35:01 34  
16:35:02 35 MR HOLT: Commissioner, we have Mr Sheridan available  
16:35:04 36 tomorrow morning. I don't expect that this witness will  
16:35:07 37 take too much longer. May I inquire as to whether there'd  
16:35:12 38 be a need for another witness beyond that? I think it  
39 unlikely on the estimates, I understand, but I'd rather not  
16:35:14 40 have people here every day unless they need to be here.  
16:35:16 41  
16:35:16 42 MR WOODS: Yes. I think I'll be a similar amount of time  
16:35:18 43 with him as Mr O'Connor, maybe two to three hours. It sort  
16:35:23 44 of depends on cross-examination.  
16:35:26 45  
16:35:27 46 MR HOLT: We'll keep another witness in reserve,  
16:35:28 47 Commissioner.

16:35:28 1  
16:35:29 2 COMMISSIONER: We'll have a better idea by lunchtime. So  
16:35:32 3 have one on reserve and they won't need to come in, of  
16:35:35 4 course, but just on the telephone, and by lunchtime we  
16:35:38 5 should be able to - - -  
16:35:40 6  
7 MR HOLT: We'll do that, Commissioner, thank you.  
8  
16:35:40 9 MR CHETTLE: I can indicate, Commissioner, I do have a lot  
16:35:42 10 of cross-examination of Mr Sheridan.  
11  
16:35:44 12 COMMISSIONER: All right then. It's probably perhaps not  
16:35:46 13 looking likely.  
14  
15 MR HOLT: We'll still keep someone in reserve,  
16 Commissioner, we don't want - - -  
17  
16:35:47 18 COMMISSIONER: Have one on reserve just in case and we'll  
16:35:51 19 review it at lunchtime tomorrow. All right then, 9.30.  
16:36:29 20  
16:36:30 21 <(THE WITNESS WITHDREW)  
16:36:32 22  
16:36:33 23 ADJOURNED UNTIL THURSDAY 5 DECEMBER 2019  
24  
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