

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

ROYAL COMMISSION INTO THE MANAGEMENT  
OF POLICE INFORMANTS

Held in Melbourne, Victoria  
On Friday, 13 December 2019

Led by Commissioner:           The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	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 P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Ms A. Martin
Counsel for CDP	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 Mr P. Silver
Counsel for Simon Overland	Ms G. Coleman
Counsel for Paul Mullett and Noel Ashby	Ms J. Condon SC

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09:32:49 1 COMMISSIONER: Appearances today are largely as they have  
09:40:19 2 been, Mr Woods and Ms Tittensor for the Commission today.  
09:40:26 3 Mr Holt and Ms Argiropoulos for Victoria Police. Ms Martin  
09:40:31 4 for the DPP, Ms Condon for Mr Mullet and Mr Ashby,  
09:40:38 5 Ms Coleman for Mr Overland, and otherwise the appearances  
09:40:43 6 were as yesterday.  
7

09:40:46 8 Before we get on to the next witness. Mr Holt, the  
09:40:50 9 last exhibit yesterday that was being discussed, the  
09:40:54 10 document of Mr Cornelius that had been scratched out and  
09:41:03 11 3838 put above it, I was told the original is available.

09:41:07 12  
09:41:07 13 MR HOLT: Yes.

09:41:08 14  
09:41:08 15 COMMISSIONER: So I'd like to tender the original.

09:41:10 16  
09:41:10 17 MR HOLT: Yes Commissioner. The original was the subject  
09:41:12 18 of document examination at the request of the Commission.  
09:41:15 19 So we'll just need to find out where in the chain of  
09:41:18 20 custody it is in that regard and we'll ensure that it's  
09:41:21 21 made available.

09:41:21 22  
09:41:22 23 COMMISSIONER: Excellent. I'll tender it as Exhibit C of  
09:41:25 24 the last exhibit, which was 901.

09:41:29 25  
09:41:30 26 #EXHIBIT RC 901C - (Confidential) Original of RC901A.

09:41:32 27  
09:41:32 28 MR HOLT: Thank you Commissioner. I was going to raise  
09:41:34 29 this in re-examination of Mr Cornelius, but we'd also seek  
09:41:37 30 the document examination report that was requested by the  
09:41:40 31 Commission also be tendered. I'm content to do that now or  
09:41:42 32 perhaps that can be done when Mr Cornelius returns, I'm in  
09:41:46 33 the Commissioner's hands.

09:41:49 34  
09:41:49 35 #EXHIBIT RC901D - Document examination report.

09:41:54 36  
09:41:55 37 COMMISSIONER: Now moving on to today's matters. We've got  
09:41:58 38 some applications for leave to appear in respect of this  
09:42:01 39 witness from Mr Mullet, Mr Ashby, Mr Overland and Mr Higgs.

09:42:06 40  
09:42:07 41 MR WOODS: They're not opposed.

09:42:08 42  
09:42:08 43 COMMISSIONER: And I take it no one else wants to oppose  
09:42:12 44 that. There's also an application from Mr Overland's  
09:42:16 45 clients to cross-examine the witness, I'm anticipating it  
09:42:20 46 will be confined and not more than one hour, on the basis  
09:42:24 47 that many topics will already have been the subject of

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09:42:28 1 cross-examination.  
09:42:28 2  
09:42:28 3 MR WOODS: Yes, Commissioner, you directed the parties the  
09:42:33 4 other day, if they sought leave to cross-examine, to  
09:42:35 5 firstly speak amongst themselves so there was no overlap,  
09:42:38 6 but secondly talk to counsel assisting. Two parties have,  
09:42:42 7 Mr Chettle's clients and Mr Overland, I've incorporated a  
09:42:47 8 number of areas to take the witness through, and otherwise  
09:42:51 9 we'll wait and see what eventuates I think.  
09:42:55 10  
09:42:55 11 COMMISSIONER: Yes, all right then. So we have Kenneth  
09:43:02 12 Jones. Kenneth Lloyd Jones ready to give evidence.  
09:43:05 13  
09:43:05 14 MR WOODS: Yes, he's in the hearing room and I call Sir Ken  
09:43:10 15 Jones.  
09:43:11 16  
09:43:11 17 COMMISSIONER: If you could come forward, sir. I  
09:43:13 18 understand you'll take the oath?---Yes, Commissioner.  
09:43:18 19  
09:43:18 20 <KENNETH LLOYD JONES, sworn and examined:  
09:43:31 21  
09:43:31 22 COMMISSIONER: Yes Mr Woods.  
09:43:32 23  
09:43:32 24 MR WOODS: Thank you. Mr Jones, you've provided a  
09:43:37 25 statement to the Commission. You provided an earlier  
09:43:41 26 version and then amended some minor aspects of it and that  
09:43:45 27 was a 7 December 2019 statement, is that correct?---That's  
09:43:49 28 correct.  
09:43:49 29  
09:43:50 30 Commissioner, I tender that statement and it's for the  
09:43:53 31 record COM.0088.0002.0001.  
09:44:00 32  
09:44:00 33 COMMISSIONER: Before that's tendered, I know there have  
09:44:03 34 been concerns about it raised by Victoria Police and also  
09:44:06 35 by the State about the contents. Are you wanting to object  
09:44:16 36 to the tender or parts of the tender?  
09:44:20 37  
09:44:21 38 MR HOLT: I have respectfully an approach to propose.  
09:44:24 39 Before I deal that, can I just deal with one matter, which  
09:44:25 40 is we received the amended statement last night but for  
09:44:29 41 reasons that were no one's fault I only got access to the  
09:44:32 42 password to it this morning. Redactions are being made to  
09:44:35 43 that which will allow it then to be published. For those  
09:44:36 44 who received the earlier redacted version, which are the  
09:44:40 45 parties at the Bar table, and I'm not going to say the name  
09:44:42 46 and I'd ask no one else to, in paragraph 103 the second  
09:44:45 47 person who was referred to there, the revealing of that

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09:44:50 1 person's name would amount to a likely breach of the  
09:44:54 2 whistleblower protections and so the new version will  
09:44:58 3 propose a redaction to that name also.  
09:45:00 4  
09:45:00 5 COMMISSIONER: Is that the name in the second - what  
09:45:02 6 paragraph was that again?  
09:45:03 7  
09:45:04 8 MR HOLT: Paragraph 103. There's a reference to "chief"  
09:45:07 9 and then there's another person, it's that name the  
09:45:13 10 revealing of which would amount in our submission to a  
09:45:13 11 breach of whistleblower protection. We don't suggest that  
12 the Commission ought not take that into account. It might  
09:45:17 13 need to be dealt with confidentially at some point, but for  
09:45:18 14 present purposes in terms of publication, the version we  
09:45:22 15 will send this morning will include a redaction over that  
09:45:25 16 name for that reason and if the issue needs to be dealt  
09:45:29 17 with, we'll make submissions on that later, I don't wish to  
09:45:32 18 waste the Commission's time on that now.  
19  
20 COMMISSIONER: Sure.  
21  
09:45:35 22 MR HOLT: The other issues that we've raised, Commissioner,  
09:45:37 23 we've provided a shaded version of the statement with  
09:45:40 24 matters in it which we respectfully submit are outside the  
09:45:44 25 Terms of Reference. We understand from what our learned  
09:45:46 26 friend Mr Woods said yesterday that he intends this morning  
09:45:49 27 only to take the witness to those matters which the  
09:45:51 28 Commission or he considers are particularly relevant.  
09:45:53 29 We'll attempt to confine cross-examination to those. We  
09:46:00 30 remain concerned with respect about (a) that there are  
09:46:02 31 matters there that go well beyond the Terms of Reference  
09:46:05 32 and raise very significant allegations. Secondly, in light  
09:46:08 33 of that the limited time for cross-examination, which we  
09:46:10 34 understand is simply a function of the reality of the  
09:46:13 35 situation we're in, what I respectfully submit is that we  
09:46:16 36 effectively see how matters play out today, try and limit  
09:46:20 37 things, and if we need to make further submissions though  
09:46:25 38 we will make them.  
39  
40 COMMISSIONER: Yes.  
41  
09:46:25 42 MR HOLT: But we don't resile from the position that we put  
09:46:28 43 in writing to the Commission but I didn't want to waste any  
09:46:29 44 time this morning given the limitations of time.  
09:46:29 45  
09:46:29 46 COMMISSIONER: Just to make it clear though you understand  
09:46:32 47 it will be tendered as a public document apart from the PII

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09:46:36 1 redactions?  
09:46:38 2  
09:46:38 3 MR HOLT: And we object to that on the basis that's in the  
09:46:41 4 material. We've put that in the writing. I don't wish to  
09:46:44 5 effectively waste the Commission's time with it. We  
09:46:47 6 suspect that the position will almost sort itself out over  
09:46:52 7 the course of the day because the focus will be on matters  
09:46:53 8 which are genuinely relevant.  
09:46:53 9  
09:46:53 10 COMMISSIONER: Yes, but even so at the moment what is  
09:46:54 11 proposed is that the whole statement will be tendered.  
09:46:57 12  
09:46:57 13 MR HOLT: Yes, we understand that, Commissioner, and we  
09:46:59 14 object to those portions of the tender which we say are  
09:47:03 15 outside of the Terms of Reference. But you'll have had an  
16 opportunity to consider that in light of the written  
09:47:05 17 submissions that we've made. I don't wish to waste time on  
09:47:07 18 that this morning. And if we need to cross-examine, if we  
09:47:13 19 seek to cross-examine beyond the capacity to do so today,  
09:47:15 20 which may not become necessary, we'll raise that later,  
09:47:16 21 Commissioner, is the remedy.  
09:47:16 22  
09:47:17 23 COMMISSIONER: That's a separate issue.  
09:47:18 24  
09:47:18 25 MR HOLT: It is.  
09:47:19 26  
09:47:19 27 COMMISSIONER: I just want to make it plain to you at the  
09:47:21 28 moment I think it's the intention of counsel assisting to  
09:47:24 29 tender the entire document on the basis - - -  
09:47:28 30  
09:47:29 31 MR WOODS: Subject to the PII review.  
09:47:31 32  
09:47:32 33 COMMISSIONER: Subject to the PII matters on the basis that  
09:47:34 34 it is of, the objected portions are of limited but  
09:47:38 35 peripheral relevance and won't be dealt on in the  
09:47:45 36 examination.  
09:47:45 37  
09:47:47 38 MR WOODS: I'm not intending to take the witness to - I  
09:47:47 39 can't say all of the matters that - so Victoria Police have  
09:47:50 40 provided proposed redactions for relevance. I certainly  
09:47:56 41 won't be saying that I agree with all of those and won't be  
09:47:59 42 taking the witness to matters that were sought to be  
09:48:01 43 redacted. I will be. But there are some matters that are  
09:48:06 44 perhaps a bit further away from the Terms of Reference, I  
09:48:08 45 won't say they're entirely irrelevant but they're things I  
09:48:12 46 don't intend to take the witness to and, just in the  
09:48:17 47 interests of time, if the witness intends to go to those

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09:48:21 1 matters I'll ask that the witness come back to the matters  
09:48:24 2 that I'm asking. That's the proposal at this stage. I  
09:48:28 3 should say as well, Commissioner, apparently parties with  
09:48:31 4 standing leave don't yet have a copy of it because of a  
09:48:35 5 relevance objection that's been made. I'm going to ask the  
09:48:40 6 solicitors assisting to provide the witness's statement to  
09:48:45 7 those parties with standing leave now by email.  
09:48:48 8  
09:48:49 9 COMMISSIONER: With the PII redactions?  
09:48:52 10  
09:48:53 11 MR WOODS: Sorry, standing leave have it, it's the parties  
09:48:56 12 who just have leave for this, and a couple of other parties  
09:48:59 13 who don't have it.  
09:48:59 14  
09:49:01 15 COMMISSIONER: Yes. So what's proposed is they'll be given  
09:49:02 16 the statement with the PII redactions?  
09:49:04 17  
09:49:05 18 MR WOODS: Yes, with the PII redaction contained in it, but  
09:49:09 19 no other redactions, not for relevance.  
09:49:10 20  
09:49:10 21 COMMISSIONER: Can I clarify this, your submission though  
09:49:12 22 is that otherwise the document can be publicly tendered.  
09:49:16 23  
09:49:16 24 MR WOODS: Yes.  
09:49:16 25  
09:49:17 26 COMMISSIONER: On the basis that it's of, the paragraphs  
09:49:21 27 objected to, and there are many of them, are of limited but  
09:49:27 28 arguably peripheral relevance to - - -  
09:49:29 29  
09:49:30 30 MR WOODS: Well, they are of varying levels of relevance.  
09:49:32 31 There are certainly some that are further away than others.  
09:49:36 32 In any event, the situation with this witness was the same  
09:49:38 33 with every other witness, they're asked a set of questions,  
09:49:42 34 the witness, unrepresented, as I understand it at the time,  
09:49:45 35 has answered the questions in the way that he has chosen to  
09:49:48 36 do so. In my submission it wouldn't be appropriate to  
09:49:53 37 redact that from the public simply on grounds of relevance.  
09:49:57 38 It should be put in entirely subject to the PII redaction  
09:50:02 39 and Victoria Police and any other parties with issues with  
09:50:06 40 it can challenge that evidence if they seek to but I won't  
09:50:11 41 be relying on it, the parts that I think that are a bit  
09:50:15 42 further away from the Terms of Reference than they need to  
09:50:17 43 be.  
09:50:17 44  
09:50:18 45 COMMISSIONER: All right then. Mr Goodwin, the State also  
09:50:22 46 sent some material in yesterday.  
09:50:25 47

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09:50:25 1 MR GOODWIN: Yes.  
09:50:25 2  
09:50:26 3 COMMISSIONER: Perhaps more by way of correction of some of  
09:50:28 4 the factual matters in it.  
09:50:31 5  
09:50:31 6 MR GOODWIN: Yes.  
09:50:32 7  
09:50:32 8 COMMISSIONER: Did you want to tender that or say anything  
09:50:34 9 in respect of it?  
09:50:35 10  
09:50:36 11 MR GOODWIN: No.  
09:50:36 12  
09:50:37 13 COMMISSIONER: More just to inform the Commission.  
09:50:39 14  
09:50:40 15 MR GOODWIN: We're in a similar wait and see position as )  
09:50:40 16 as Victoria Police. We've raised concerns about certain,  
09:50:44 17 what we say are certain factual inaccuracies in the  
09:50:47 18 statement, which are in a relatively narrow and confined  
09:50:51 19 sense. If those matters don't arise during the course of  
09:50:55 20 Mr Woods' questioning, there's nothing really more that the  
09:50:58 21 State would want to say about that.  
09:50:59 22  
09:51:00 23 COMMISSIONER: Yes, all right then. Yes, Mr Woods.  
09:51:04 24  
09:51:04 25 MR WOODS: Thank you, Commissioner. Now, thank you for  
09:51:10 26 letting us go through that, Mr Jones. Now, I'm going to  
09:51:14 27 take you to some of your background, but before I do so,  
09:51:19 28 you say towards the end of your statement that it's your  
09:51:24 29 professional opinion that the Nicola Gobbo saga is located  
09:51:28 30 and intertwined within a very broad context, do you recall  
09:51:32 31 those words?---Yes.  
09:51:33 32  
09:51:33 33 I take it that that's a reference to the fact that you  
09:51:36 34 can't understand the Victoria Police and Nicola Gobbo  
09:51:40 35 relationship without understanding the culture of Victoria  
09:51:45 36 Police as you experienced it at the time?---Yes, and also  
09:51:48 37 the impact on wider criminality. I understand you have  
09:51:53 38 tight Terms of Reference but I'm just making an opinion  
09:51:56 39 point there.  
09:51:56 40  
09:51:56 41 I understand. And your statement goes into considerable  
09:51:58 42 detail about matters related to Victoria Police's use of  
09:52:02 43 Ms Gobbo as a human source but also the broader context and  
09:52:07 44 other things that were occurring at that time within the  
09:52:11 45 Force that emerged during that time and during your time at  
09:52:15 46 Victoria Police, is that right?---Yes, that's correct.  
09:52:17 47

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09:52:18 1 And in light of that, and as you've indicated and heard us  
09:52:22 2 discussing a moment ago, I want to make it clear that the  
09:52:25 3 focus of my questions insofar as they're not directly  
09:52:30 4 related to the Nicola Gobbo/Victoria Police relationship  
09:52:33 5 will be wanting to talk a little bit more about those  
09:52:36 6 observations of culture at the time, do you understand  
09:52:38 7 that?---I understand, yes.  
09:52:40 8  
09:52:41 9 And you understand what the Terms of Reference of the  
09:52:43 10 Commission are, you've had a look at those?---Yes.  
09:52:45 11  
09:52:46 12 All right. And indeed, the relationship between Victoria  
09:52:51 13 Police and Nicola Gobbo is something that you describe in  
09:52:54 14 your witness statement as industrial abuse of the criminal  
09:52:58 15 justice processes of Victoria, and is that your  
09:53:01 16 view?---That's my view and it remains my view. That's  
09:53:04 17 where it finished up, yes.  
09:53:05 18  
09:53:06 19 I see. I want to just, as I've said I would, take you  
09:53:11 20 through some of our background. When did you commence your  
09:53:14 21 career as a police officer?---In 1971.  
09:53:17 22  
09:53:18 23 All right. You had senior policing roles throughout the  
09:53:22 24 90s and up to 2009, is that right?---That's correct.  
09:53:26 25  
09:53:27 26 And 2006 to 2009 you were the president of the  
09:53:33 27 ACP0?---That's correct.  
09:53:33 28  
09:53:34 29 What's that organisation?---That was then a kind of a proxy  
09:53:37 30 for the Federal Police which the UK then didn't have. It  
09:53:42 31 now has a National Crime Agency but at that time the  
09:53:45 32 strategic crime and terrorism issues were dealt with by  
09:53:49 33 Chiefs as a collective and I ran that as a Senior  
09:53:53 34 Constable.  
09:53:53 35  
09:53:53 36 I see. Then after that role you had 2009, the end of 2009  
09:53:56 37 to 2011 as a Deputy Commissioner in Victoria  
09:54:00 38 Police?---That's correct.  
09:54:01 39  
09:54:01 40 Obviously that's going to be the focus of the questions.  
09:54:04 41 From there you went on to an embassy roll overseas?---Yes,  
09:54:08 42 in between working at the British Embassy in DC, I was  
09:54:13 43 working as a consultant which I am at the moment.  
09:54:17 44  
09:54:17 45 You've served for international police forces, for example,  
09:54:21 46 Hong Kong, United States of America and Zimbabwe?---Yes.  
09:54:25 47

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09:54:25 1 You were awarded a Queen's police medal in 2000?---Yes,  
09:54:30 2 that's correct.  
09:54:30 3  
09:54:30 4 And you were knighted for services to policing in  
09:54:34 5 2009?---Yes, that was connected to the counter terrorism  
09:54:38 6 work that I was doing at the time and it was for the team  
09:54:41 7 as much as it was for me.  
09:54:42 8  
09:54:43 9 You hold a number of academic degrees that are set out in  
09:54:49 10 your statement, including an MBA?---Yes.  
09:54:51 11  
09:54:52 12 It's an MBA in policing?---It's MBA in business studies,  
09:54:56 13 Mr Woods, thank you.  
09:54:57 14  
09:54:57 15 During 2008 you had, you received notice of the Chief  
09:55:02 16 Commissioner's position coming up in Victoria, is that  
09:55:05 17 correct?---Yes, we were approached by an agency in  
09:55:08 18 Melbourne with a view to us advertising this vacancy  
09:55:12 19 nationally.  
09:55:12 20  
09:55:13 21 What was your role at that time?---I was the head of ACPO  
09:55:18 22 at that time, the Association of Chief Police Officers, so  
09:55:22 23 we advertised the job.  
09:55:22 24  
09:55:22 25 And then you applied for the position?---Yes.  
26  
09:55:23 27 And the application progressed in early 2009?---Yes, a  
09:55:27 28 number of colleagues applied, two or three I think along  
09:55:29 29 with myself.  
09:55:30 30  
09:55:33 31 And so you were still in the United Kingdom when this  
09:55:35 32 process was playing out?---Yes.  
09:55:37 33  
09:55:39 34 You were interviewed for that role?---I was, here in  
09:55:43 35 Melbourne by Premier Brumby, Helen De Silva, Bob Cameron I  
09:55:50 36 recall, the then police minister.  
09:55:52 37  
09:55:52 38 And ultimately Simon Overland was appointed to the Chief's  
09:55:57 39 role?---Yes, I was advised of that when I was back in the  
09:56:00 40 United Kingdom.  
09:56:01 41  
09:56:02 42 Within a few weeks of that - I take it you would have been  
09:56:05 43 disappointed?---I was but I regarded then Mr Overland was a  
09:56:09 44 good fit for the job and that was it, we all move on. I  
09:56:13 45 had already applied for another chief's job in the UK.  
09:56:16 46  
09:56:16 47 You were further contacted about the possibility of taking

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09:56:20 1 one of the deputy roles, is that correct?---Yes, that's  
09:56:23 2 correct.  
09:56:23 3  
09:56:24 4 You talk about, I won't go through all of it, but  
09:56:26 5 essentially your decision-making process to take that role  
09:56:29 6 in your statement, correct?---Yes, correct.  
09:56:31 7  
09:56:31 8 And one of the things was you expressed some optimism and  
09:56:39 9 excitement about taking on that role because you thought  
09:56:42 10 you'd be a good deputy to a Chief because of your  
09:56:47 11 particular experience?---Absolutely. I was a deputy for a  
09:56:48 12 while before I became a chief. I enjoyed the role. And I  
09:56:50 13 reasoned that at point in my career, you know, I had a lot  
09:56:53 14 to offer, I think I thought that was the understanding, if  
09:56:58 15 you will, in Melbourne, that I could come into the  
09:57:01 16 organisation and offer what experience I had to grow the  
09:57:04 17 competence of the organisation.  
09:57:05 18  
09:57:05 19 So in March 2009, by this stage you're formally offered the  
09:57:12 20 role?---Yes.  
09:57:12 21  
09:57:14 22 And your family and yourself emigrate to Australia?---We  
09:57:15 23 did.  
09:57:15 24  
09:57:16 25 That was, as you point out in your statement, with some  
09:57:19 26 excitement of the new lifestyle?---Absolutely. We've  
09:57:22 27 always wanted to live in Australia, it was our dream and it  
09:57:26 28 was just fantastic. And coming back here the last few days  
09:57:30 29 has made me realise why we loved it so much.  
09:57:35 30  
09:57:35 31 I see. We'll get to it in due course about your knowledge  
09:57:37 32 of your knowledge of Nicola Gobbo's role as a human source,  
09:57:40 33 but just to place that in time, because we're going to go  
09:57:42 34 through that early 2009 period when you commenced?---Right.  
35  
09:57:46 36 But it's not until around about mid to late 2010 that you  
09:57:51 37 discovered Victoria Police had been using Nicola Gobbo as a  
09:57:55 38 human source?---Yes, I did.  
09:57:55 39  
09:57:57 40 From 2005 to 2009, you knew about that stage. Did you hear  
09:57:59 41 about the previous registrations?---No, I didn't.  
09:58:02 42  
09:58:03 43 Upon being appointed to the deputy's role, you're allocated  
09:58:09 44 the Crime Department?---I was.  
09:58:11 45  
09:58:11 46 What did that role entail?---It entailed over sighting  
09:58:15 47 Victoria Police's approach to crime across the State,

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09:58:18 1 liaising with the other State police forces and the Federal  
09:58:22 2 agencies with regards to organised crime, and obviously  
09:58:25 3 having direct oversight of the Crime Department itself.  
09:58:27 4  
09:58:27 5 And what was the command or reporting structure of the  
09:58:31 6 Crime Department?---There was an Assistant Commissioner was  
09:58:35 7 then in charge of that department and he reported to me.  
09:58:38 8  
09:58:39 9 And then you were one under the chief?---Yes, I reported to  
09:58:42 10 the chief.  
09:58:43 11  
09:58:43 12 And where was that located, where was your office?---I was  
09:58:47 13 - at the Victoria Police Centre with the other deputies and  
09:58:51 14 the chief.  
09:58:53 15  
09:58:53 16 So when you commenced in the role you say you set about  
09:58:56 17 getting to know as much as you could about strategic crime  
09:59:00 18 issues, can you explain to the Commissioner what you  
09:59:03 19 did?---Yes. Obviously I spent some time around the State  
09:59:07 20 and contacting new colleagues interstate, but as far as the  
09:59:10 21 Crime Department went I asked for and received a series of  
09:59:14 22 very intense briefings about strategic crime issues across  
09:59:19 23 Victoria and the major investigations ongoing at that time.  
09:59:22 24  
09:59:22 25 Can you recall what some of those, relevant to the issues  
09:59:26 26 that the Commission is grappling with here, what some of  
09:59:29 27 those intense briefings you describe were about?---They  
09:59:33 28 were about ongoing investigations about the so-called gang  
09:59:37 29 wars that had taken place in Melbourne a few years  
09:59:40 30 previously and we were then at the tail end of that, but  
09:59:44 31 there was nevertheless a lot of activity around that, it  
09:59:48 32 was about that. It was about the drugs market in Victoria.  
09:59:53 33 About the levels of violence, domestic violence. It was  
09:59:56 34 the whole gamut really, but I did focus very much on the  
10:00:01 35 major crime Task Forces to understand how I could give them  
10:00:04 36 some support and leadership and learn what had happened  
10:00:07 37 there.  
10:00:07 38  
10:00:07 39 In relation to the major crime Task Forces and the gangland  
10:00:11 40 wars and those types of issues, at no point in time did  
10:00:15 41 anyone mention to you, this is prior to mid-2010 to the  
10:00:18 42 late 2010 point, that Nicola Gobbo had been involved in  
10:00:23 43 providing information to police?---That's correct.  
10:00:25 44  
10:00:26 45 All right. And this is despite having briefings on matters  
10:00:31 46 that you now know that Nicola Gobbo was intimately involved  
10:00:34 47 in?---Yes.

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10:00:35 1  
10:00:37 2 All right. Now I want to talk about, I want to ask you  
10:00:40 3 some questions about your first impressions of Victoria  
10:00:44 4 Police. You'd been in the senior role in the United  
10:00:49 5 Kingdom for, was it decades at that stage?--A decade at  
10:00:53 6 that point I'd been a chief.  
10:00:54 7  
10:00:55 8 Including positions of leadership and management at the  
10:00:57 9 highest level?--Yes.  
10:00:58 10  
10:00:59 11 All right. Now, with that expertise in mind, can you tell  
10:01:03 12 the Commissioner what observations you made, you made of  
10:01:08 13 Victoria Police and its structures at the time that you  
10:01:10 14 came into the role?--For me it struck me almost  
10:01:17 15 immediately just how good the local policing model was in  
10:01:20 16 Victoria. It's probably one of the best I'd ever seen, the  
10:01:23 17 watchhouse system, the way that the regions were  
10:01:26 18 structured. And the way that the public seemed to have a  
10:01:30 19 very close accountability with their teams, so I spent a  
10:01:34 20 long time going around the State. I actually sent an awful  
10:01:37 21 lot of material back to the United Kingdom, because at the  
10:01:40 22 time the UK was developing a neighbourhood policing model  
10:01:44 23 and I thought this was the best I'd ever seen. I still  
10:01:46 24 believe that.  
10:01:46 25  
10:01:47 26 It's still the best local policing model you've seen?--In  
10:01:51 27 my opinion. Although there are changes afoot, everything  
10:01:51 28 has to change, and I'm not fully aware of them, but at that  
10:01:56 29 time.  
30  
10:01:56 31 Sure?--And I thought it was just terrific, I really did.  
10:01:59 32 But the nearer I got to the centre I was aware of there was  
10:02:02 33 a very powerful bureaucracy and very expensive in terms of  
10:02:06 34 on cost, huge departments, lots of competitive rivalry  
10:02:12 35 between them, and in terms of the bureaucracy and meeting  
10:02:14 36 structure I found it incredibly opaque, inefficient and it  
10:02:20 37 didn't face the community in any, way shape or form.  
10:02:23 38  
10:02:23 39 You talk about in your statement observing a lack of  
10:02:24 40 integrity, could you explain what you say?--I don't want  
10:02:28 41 to generalise here because there's some fantastic people in  
10:02:31 42 Victoria Police at the centre and at the regions, but there  
10:02:33 43 were issues around my level which I found distasteful,  
10:02:37 44 particularly around the handling of people and I mentioned  
10:02:40 45 one, an example.  
10:02:41 46  
10:02:42 47 Human resources type issues you're talking about

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10:02:46 1 there?---Yes.  
10:02:46 2  
10:02:47 3 What about leadership and accountability, what observations  
10:02:51 4 did you make about that in terms of - - - ?---There was a  
10:02:52 5 strong culture to loyalty to the supervisor, your boss was  
10:02:58 6 all. I thought that was wrong, I thought it was toxic. I  
10:03:01 7 was also by then over sighting the Ethical Standards  
10:03:05 8 Department. I saw a number of files where this culture had  
10:03:08 9 led people into dead ends. In fact they were loyal to the  
10:03:12 10 Inspector or whatever, and not actually loyal to what's  
10:03:15 11 doing right and loyal to the law. That was then uncovered  
10:03:18 12 at some point during the ESD investigation and I saw that  
10:03:21 13 happen quite a lot.  
10:03:22 14  
10:03:22 15 One of the examples that the Commission has heard is, the  
10:03:26 16 position, one of the positions taken by the handlers before  
10:03:29 17 this Commission is that those above them knew precisely  
10:03:33 18 what was going on and gave an imprimatur to what was going  
10:03:38 19 on and they were never told to stop or curtail or do things  
10:03:42 20 differently. Does that surprise you in circumstances - -  
10:03:46 21 -?---No, it doesn't, because there wasn't an emphasis, when  
10:03:49 22 we were recruiting people and we were trying to bring them  
10:03:53 23 into the culture of policing, as it were, it was not made  
10:03:57 24 clear to people that the office of constable is an  
10:04:01 25 independent one. Their ultimate accountability was to  
10:04:06 26 doing the right thing and to the law, and not to their  
10:04:07 27 boss. And good leaders have nothing to fear from operating  
10:04:10 28 within those constraints, but it was made clear to me on  
10:04:13 29 more than one occasion that that absolute loyalty was  
10:04:18 30 something that was expected. And I was happy to give it up  
10:04:21 31 to the point where there were breaches in terms of what I  
10:04:25 32 felt was the thing to do and there were issues around the  
10:04:26 33 law.  
10:04:26 34  
10:04:26 35 One of the things that Nicola Gobbo said to her handlers in  
10:04:30 36 one of her private meetings with them was she'd thrown  
10:04:34 37 ethics and privilege out the window. That doesn't then  
10:04:37 38 appear in any of the documents that are recorded, you know  
10:04:42 39 what an ICR is?---Yes.  
10:04:44 40  
10:04:44 41 Or appear to have been reported in writing anywhere. Do  
10:04:49 42 you have any observations about it, that sort of  
10:04:52 43 practice?---My observation is that having got some  
10:04:55 44 information about how the operation was run it began as  
10:04:58 45 highly irregular, unethical and deteriorated over a period  
10:05:04 46 of years to something that was illegal and chaotic. So  
10:05:07 47 that wouldn't surprise me at all.

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10:05:09 1  
10:05:09 2 Despite that you're aware that the evidence suggests that  
10:05:12 3 Victoria Police were wanting to continue to use Ms Gobbo as  
10:05:15 4 a source in the years after her initial registration but  
10:05:18 5 not task her, essentially trying to cool off the  
10:05:22 6 relationship to some degree?---Yes, I was aware of that,  
10:05:25 7 yes.  
10:05:25 8  
10:05:26 9 Mr Biggin, was Mr Biggin someone you knew when you were in  
10:05:31 10 Victoria Police?---I had met him a couple of times but I  
10:05:34 11 didn't, I couldn't say that I knew him.  
10:05:35 12  
10:05:35 13 He has given evidence to the Commission that a December  
10:05:38 14 2008 SWOT analysis that was compiled by members of the SDU  
10:05:44 15 to point out the risks, the obvious risks as they saw  
10:05:49 16 them?---Yes.  
10:05:50 17  
10:05:50 18 To the organisation and to Ms Gobbo of her being used as a  
10:05:53 19 witness?---Yes.  
10:05:54 20  
10:05:54 21 Was a potentially career limiting document?---Right, right.  
10:05:59 22  
10:05:59 23 To be drafted and then passed on to one's superiors. Do  
10:06:03 24 you have any observations about that evidence?---I think  
10:06:04 25 that was probably a fair assessment. I believe, and I will  
10:06:08 26 always believe I was targeted and dismissed for precisely  
10:06:12 27 that reason, because I had raised this issue and reported  
10:06:15 28 it.  
10:06:15 29  
10:06:15 30 I wanted to take you through some of the concerns that you  
10:06:19 31 had about the OPI and that was the independent, well, on  
10:06:26 32 paper, independent police integrity unit, its job was to  
10:06:34 33 independently oversee the Police Force, is that a correct  
10:06:38 34 description?---That's correct, yes.  
10:06:39 35  
10:06:39 36 When you arrived, and something the Commission has heard  
10:06:43 37 significant evidence about, there was a practice that had  
10:06:46 38 developed of joint investigations between Victoria Police  
10:06:50 39 and the OPI?---Yes.  
10:06:51 40  
10:06:51 41 You took exception to that?---Yes, if I could just walk  
10:06:55 42 back a little bit. In the UK I had been responsible with  
43 government for drawing up legislation and guidance for the  
10:07:01 44 then IPCC, Independent Police Complaints Commission, that's  
10:07:05 45 since been grown and reformed again.  
10:07:08 46  
10:07:08 47 That was essentially the UK version?---Essentially,

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10:07:12 1 absolutely. And so I came to the table, as it were, with a  
10:07:13 2 degree of expertise and knowledge around regulation. So  
10:07:16 3 I'd spotted, if you like, on the way in, briefing myself up  
10:07:19 4 about the regulation of Victoria Police, within the Police  
10:07:24 5 Act there was provision for a police board, there wasn't  
10:07:26 6 one. So I thought where do we look for regulation? Well  
10:07:29 7 the Ombudsman and OPI I saw as very powerful checks and  
10:07:33 8 balances on the system. So I was quite surprised, I took  
10:07:37 9 over ESD to see that there were joint memorandums of  
10:07:40 10 understanding for a number of operations where the OPI were  
10:07:44 11 actually in lock step with Victoria Police, and I thought  
10:07:48 12 that put them in a terrible position in terms of regulating  
10:07:51 13 Victoria Police.

10:07:52 14  
10:07:53 15 I take it that's because of a potential to compromise  
10:07:56 16 because there's inroads into independence that might  
10:08:00 17 exist?---Precisely. In the end people sank or swam  
10:08:05 18 together and it compromised them totally in my opinion.

10:08:08 19  
10:08:09 20 Some of the witnesses who have given evidence during the  
10:08:12 21 year have been challenged about the propriety of joint  
10:08:16 22 investigations and a number of them have given evidence  
10:08:18 23 essentially to the effect that they didn't see and still  
10:08:22 24 don't see an issue with that occurring?---Right.

10:08:24 25  
10:08:24 26 What does that indicate to you?---Well I think we wouldn't  
10:08:27 27 be sitting here today if Victoria Police was effectively  
10:08:30 28 regulated. I think it's as plain as that. That says to me  
10:08:34 29 there is a fundamental misunderstanding about the need for  
10:08:38 30 regulation. Police have tremendous powers to deprive  
10:08:42 31 people of their liberty and they need to be held to account  
10:08:47 32 for that, but also held to account for the things they do  
10:08:48 33 and for effective delivery of police services, because at  
10:08:48 34 the end of the day, at the extreme end, lives depend on it.  
10:08:52 35 So you want your regulator to be in a position to say,  
10:08:55 36 "Victoria Police you've done a great job there" or,  
10:08:58 37 "Victoria Police you've done a very poor job there and  
10:09:00 38 these are the things you need to change", but once they  
10:09:04 39 became conflicted, and they became increasingly conflicted,  
10:09:06 40 they might as well not have been there.

10:09:08 41  
10:09:08 42 The Chief Commissioner who gave evidence this week to the  
10:09:11 43 Commission, his evidence was that he didn't see an issue  
10:09:15 44 with that process?---Right.

45  
10:09:16 46 Until he read your statement, obviously in very recent  
10:09:18 47 times?---Right

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1  
10:09:18 2 Does that cause you concern?---Well I think Mr Ashton came  
10:09:19 3 from the OPI background, probably didn't really confront  
10:09:24 4 those issues until all this was squared up.  
10:09:27 5  
10:09:28 6 But was clearly intimately involved in them?---Yes, he was.  
10:09:31 7  
10:09:31 8 The evidence before the Commission is that he had a  
10:09:33 9 conversation with Mr Ryan of Purana at the time when  
10:09:38 10 Ms Gobbo was being called before the OPI and there were  
10:09:41 11 concerns about how broad the questions she might be asked  
10:09:45 12 by the independent oversight body might be and Victoria  
10:09:48 13 Police sought to get, sought to get involved in what  
10:09:52 14 questions she might be asked and the breadth of  
10:09:54 15 them?---Right.  
16  
10:09:55 17 Does that cause concern?---Well it's a classic example of  
10:09:58 18 where the conflict had got to such a point where the senior  
10:10:02 19 people on either side of that discussion didn't realise how  
10:10:06 20 inappropriate that was. It would be like somebody coming  
10:10:11 21 here today and trying to influence what's happening here  
10:10:13 22 because of conflict.  
10:10:13 23  
10:10:13 24 You set out, I won't go into any more detail about it, but  
10:10:14 25 essentially you set out your critique of those things  
10:10:16 26 around paragraph 42 of your statement and I'll simply refer  
10:10:20 27 to that?---Yes.  
10:10:22 28  
10:10:23 29 You set about severing the ties between the OPI and  
10:10:28 30 Victoria Police, is that correct?---I did, I de-coupled  
10:10:31 31 them in late 2009.  
10:10:32 32  
10:10:33 33 Is that something you yourself identified and promoted or  
10:10:37 34 was it a number of people who were involved in that  
10:10:40 35 process?---No, I think I just raised it and then people, I  
10:10:43 36 could see on some people's face, "Why didn't we think of  
10:10:47 37 that?" But I said then, and I'll say again today, that I  
10:10:50 38 wasn't coming to this, "I know better than all of you". It  
10:10:54 39 was just something that people had drifted into but it  
10:10:56 40 needed to be stopped.  
10:10:57 41  
10:10:57 42 There was essentially, as I understand it, a written  
10:11:00 43 agreement or something like that, that was set in place to  
10:11:05 44 sever the ties between Victoria Police and the OPI?---Yes,  
10:11:08 45 I drew it up.  
10:11:09 46  
10:11:10 47 You drew it up. We haven't been able to locate that

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10:11:12 1 document as yet?---Right.  
2  
10:11:13 3 Do you know when that occurred?---It would be towards the  
10:11:16 4 end of 2009. Because of my knowledge regarding regulation  
10:11:22 5 I drew that myself and I can't remember whether I took it  
10:11:27 6 over to the OPI, I would have, and it wouldn't be anything  
10:11:31 7 I would have posted and in one of my regular contacts with  
10:11:34 8 them. Having got the agreement from Michael Strong to do  
10:11:37 9 it, I went away, drafted the agreement and left it with  
10:11:40 10 him.  
10:11:40 11  
10:11:40 12 So your initial conversation with Michael Strong, who at  
10:11:44 13 that stage was the head of the OPI?---Yes, he was, yes.  
10:11:47 14  
10:11:47 15 Did that come as a surprise to him when you expressed your  
10:11:50 16 views about - - - ?---I thought his reception was very  
10:11:53 17 positive, he could see the benefit of it and I used the  
10:11:57 18 example of what had happened to Paul Mullett and Noel  
10:12:00 19 Ashby. I thought the Diana operation was completely over  
10:12:05 20 resourced, far too much energy and attention had been  
10:12:09 21 invested in that, hugely disproportionate given the  
10:12:14 22 problems we've got around the State, and I used that as an  
10:12:16 23 example of where this in my opinion had gone wrong.  
10:12:17 24  
10:12:17 25 Indeed, I take it that your view about what had ultimately  
10:12:22 26 occurred with you in Victoria Police is not dissimilar to  
10:12:26 27 what occurred to - - - ?---No, and I reviewed the Diana  
10:12:29 28 information while it was processing at that point through  
10:12:32 29 that courts and I thought the destabilisation theory and  
10:12:35 30 the talk of a puppet Commissioner - - -  
10:12:36 31  
10:12:36 32 Just pausing there, the destabilisation theory, this is, in  
10:12:41 33 your view, an attempt by those in power to say that people  
10:12:48 34 that they don't want around and they want to marginalise  
10:12:51 35 are destabilising them?---Yeah, it was complete  
10:12:55 36 exaggeration, beyond exaggeration. And I thought whatever  
10:12:59 37 these two individuals had done, and I'd never met them, or  
10:13:02 38 had any words to say to them until this morning, I met the  
10:13:06 39 two of them for the first time, I just thought it was a  
10:13:07 40 huge exertion for very small reward and for me it was a  
10:13:11 41 strong indication that the regulator and us had become  
10:13:14 42 hopelessly, hopelessly conflicted. So I did make that  
10:13:18 43 point and it probably didn't go down too well, but  
10:13:22 44 Mr Strong seemed to understand what I was getting at. I  
10:13:25 45 remember also not long afterwards speaking to a gathering  
10:13:29 46 he'd organised of OPI like bodies around the country and as  
10:13:33 47 part of my presentation we went through this issue of, it's

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10:13:36 1 very important for the public to see that their regulators  
10:13:40 2 are wholly independent of police. And corruption  
10:13:43 3 allegations notwithstanding, there are ways of actually  
10:13:46 4 addressing that without having these combined ops.  
10:13:49 5  
10:13:49 6 Just for the sake of clarity, you understand that the  
10:13:52 7 process, well the OPI, in fact no longer exists?---I  
10:13:57 8 understand.  
10:13:57 9  
10:13:58 10 IBAC now carries out that task?---Yes.  
10:14:01 11  
10:14:01 12 You understand then that these issues that persisted at the  
10:14:05 13 time no longer persist now?---Yes. Just as a last point on  
10:14:09 14 that, some of the memorandums of understanding I saw, not  
10:14:13 15 more than one of them had paragraphs in there about the  
10:14:17 16 lead agency who turned up to the meeting would drive the  
10:14:20 17 thing. Wrong. And there was even a clause in them about  
10:14:23 18 that they would make all decisions regarding human sources,  
10:14:27 19 and that also relates to things you're looking at here  
10:14:30 20 today.  
10:14:30 21  
10:14:30 22 When you say "they would", it would be the committee  
10:14:33 23 itself?---The committee, yes.  
10:14:35 24  
10:14:35 25 Is that something that you understood was happening at the  
10:14:38 26 time the committees were making decisions about what human  
10:14:40 27 sources would do?---The problem was with that, once I took  
10:14:44 28 over the inquiries that we're talking about, I was not able  
10:14:47 29 to locate any records of meetings, decisions, direction and  
10:14:51 30 control given so I can't answer that. What I can say is  
10:14:55 31 the agreement gave the accountability for that to the  
10:14:59 32 committee.  
10:14:59 33  
10:14:59 34 We'll talk about some of those record keeping issues you  
10:15:05 35 identify in due course?---All right.  
36  
37 I just want a document to be brought up, it will come up on  
10:15:06 38 the screen in front of you. This is IBAC.0010.0001.0493.  
10:15:14 39 It's at p.10 and 11. This is just one of the Task Force  
10:15:20 40 Petra steering committee minutes and this is of 23 April  
10:15:24 41 2010. And I just want to understand some of the wording in  
10:15:30 42 it. While it comes up, it says, "Task Force Driver SCM to  
10:15:38 43 adopt TF Petra charter". This is obviously when Petra  
10:15:46 44 morphed into Driver?---Yes.  
10:15:47 45  
10:15:48 46 It says, "OPI want change to be oversight role and no  
10:15:52 47 longer joint investigation". Now this is 23 August 2010.

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10:15:57 1 You'd had those initial conversations towards the end of  
10:15:59 2 2009?---And here it was in action.  
10:16:04 3  
10:16:04 4 The phrase that I see there is, "OPI want change to be  
10:16:08 5 oversight role". It's p.10 and 11 of that document. If  
10:16:15 6 that could just come up on the witness's screen, the  
10:16:18 7 Commissioner's screen and my screen. Do you see that  
8 there, "OPI want change to be oversight role"?---Yes.  
9  
10:16:25 10 Was that something that came from the OPI or was it  
10:16:27 11 something that came from you?---It was certainly a settled  
10:16:30 12 practice by then that the OPI, and I'd actually asked them  
10:16:33 13 to undertake a few own motion investigations in the year  
10:16:36 14 previously  
15  
10:16:36 16 Yes?---And they'd actually done that for me, so I just  
10:16:40 17 think that's, if that's what they say that's fine,  
10:16:44 18 providing they were over sighting and not seeking to  
10:16:47 19 cooperate, that was good.  
20  
10:16:49 21 The point of my question I think is, was it in fact an idea  
10:16:54 22 of yours to de-couple or was it something that came from  
10:16:56 23 the OPI?---No, I de-coupled it in late 2009. It was just  
10:16:59 24 something I wouldn't continue with. And I also said to  
10:17:05 25 them back in 2009 that any door would be open, they could  
10:17:08 26 attend any meeting, any time of day or night, any police  
10:17:11 27 station, that was their job.  
28  
10:17:13 29 To independently oversee the police?---Yes. So by this  
10:17:16 30 point, this was more or less settled, and actually they did  
10:17:19 31 turn up to meetings, they did actually oversight and go to  
10:17:23 32 certain police stations to do with this particular  
10:17:26 33 operation, which is their job.  
34  
10:17:28 35 I want to take you through, you identify a moment in late  
10:17:34 36 2009 where your relationship with Mr Overland hits a bumpy  
10:17:43 37 road, let's say, and that seems to be precipitated from  
10:17:47 38 your recollection by Overland contacting you in late 2009  
10:17:54 39 and saying, "You'll no longer be stationed at police  
10:17:59 40 headquarters we're moving you down to St Kilda  
10:18:01 41 Road"?---That's correct.  
42  
10:18:02 43 Were there signs of issues between yourself and Overland  
10:18:04 44 before that?---We'd had strong robust discussions but I'd  
10:18:09 45 had the same with Kieran Walsh and Ken Lay and other  
10:18:14 46 people, and I'd always made it clear at that point, "I'm  
10:18:17 47 not coming into the organisation pretending I have all the

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1 answers" because I was finding there was many fantastic  
10:18:21 2 things or other things I asked questions about. So I  
10:18:22 3 wouldn't like to characterise it as a relationship issue,  
10:18:25 4 rather than I was challenging aspects of the culture. I  
10:18:29 5 think, you know, if I may, in 2011 that the stoush sort of  
10:18:34 6 angle got completely amplified beyond anything I'd ever  
10:18:40 7 seen.  
8  
10:18:41 9 That might be dealt with by others?---Okay. So it was  
10:18:42 10 occasionally difficult but I made clear there were things I  
10:18:47 11 weren't prepared to go along with, there were other things  
10:18:51 12 that needed to be reviewed and looked into, but there were  
10:18:53 13 also some terrific things which I got involved in.  
10:18:53 14  
10:18:54 15 So what do you say about the theory that this was all about  
10:18:56 16 a stoush between yourself and Overland, the souring of the  
10:19:00 17 relationship?---I just don't buy it. I think I was  
10:19:04 18 inconvenient for other reasons.  
10:19:05 19  
10:19:05 20 One of those reasons you identify in your statement was you  
10:19:08 21 wanting to do something about Nicola Gobbo's - - - ?---Yes,  
10:19:11 22 and it goes back to the culture of the expectation of you  
10:19:14 23 must be absolutely loyal to the hierarchy above all else,  
10:19:18 24 and I couldn't go along with that.  
10:19:20 25  
10:19:21 26 So one of the things that's interesting about the timing  
10:19:24 27 though is that this is late 2009 and this is, you see this  
10:19:31 28 as a clear sidelining of you?---Yes.  
10:19:34 29  
10:19:35 30 The Nicola Gobbo issues only come to you in  
10:19:40 31 mid-2010?---Yes.  
10:19:40 32  
10:19:41 33 And what I'm wanting to focus on is whether or not it  
10:19:46 34 really was the Nicola Gobbo issues that saw you ultimately  
10:19:50 35 leaving the Police Force?---Right.  
36  
10:19:51 37 Forced out because you were wanting to raise them?---It was  
10:19:54 38 one of the issues. There was a number of issues, it was  
10:19:56 39 one of the issues.  
10:19:57 40  
10:20:00 41 The move that was described, explained to you that you'd be  
10:20:04 42 moving down to St Kilda Road, did that come before or after  
10:20:08 43 your conversations with Michael Strong about - -  
10:20:12 44 -?---Afterwards, yes.  
10:20:14 45  
10:20:14 46 And so inevitably then it came after your initial internal  
10:20:20 47 discussions about de-coupling from the OPI as well?---Yes.

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10:20:24 1  
10:20:24 2 Did you understand that that had something to do with this  
10:20:27 3 what you observed to be a sidelining down the track?---I  
10:20:30 4 can't make that connection.  
10:20:31 5  
10:20:33 6 Some of the things that it's been explained, and I think  
10:20:40 7 unsurprisingly Mr Overland will take issue with, is some  
10:20:44 8 things that you say about his, firstly his lack of  
10:20:48 9 accountability. What were your observations about  
10:20:52 10 that?---My observation was the then preferred committee of  
10:20:55 11 structure of management for all functions was opaque and  
10:20:59 12 obscure and I'd always thought the best way for public  
10:21:02 13 service to operate, to have a clear line of accountability  
10:21:05 14 from people receiving the service, no matter which  
10:21:08 15 department we're talking about, and the head of the  
10:21:10 16 organisation. And there just wasn't that clear line of  
10:21:14 17 sight through. For example, there were boards of  
10:21:16 18 management here and there where the individual who was  
10:21:19 19 responsible and accountable for that function, they had a  
10:21:22 20 board of management where the chair was rotated and I found  
10:21:24 21 that, you know, frankly, I couldn't understand why they'd  
10:21:28 22 do such a thing. So for example, in the Crime Department  
10:21:30 23 I'd looked at minutes where the person who was running the  
10:21:34 24 department was actually not chairing a meeting where very  
10:21:39 25 important decisions is were taken around prioritisation  
10:21:43 26 towards a particular crime investigation. And the  
10:21:46 27 accountability, well you'd have to say the chair was very  
10:21:49 28 influential that day in steering those discussions. I just  
10:21:52 29 thought it doesn't make any sense.  
10:21:53 30  
10:21:53 31 That had an effect or whether or not people and committees  
10:21:57 32 would be accountable?---Yes.  
10:21:59 33  
10:21:59 34 You also talk about - - - ?---Can I just finish that point,  
10:22:04 35 because it's coming back to me now, I made the point very  
10:22:05 36 strongly that support departments in an organisation like a  
10:22:09 37 Police Force exist for one purpose and one purpose only,  
10:22:11 38 it's to support the people delivering police services, be  
10:22:15 39 they at the front line, Crime Department or what have you.  
40  
10:22:18 41 Yes?---That is their sold and only function for being. And  
10:22:21 42 I have always taken the view that if they're not able to  
10:22:25 43 deliver that in the way that they need to, efficiently and  
10:22:28 44 competently, you could even look at outsourcing them. But  
10:22:30 45 I found the position in Victoria Police where that wasn't  
10:22:33 46 the case.  
10:22:34 47

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10:22:34 1 In fact you were a promoter of outsourcing and seeing if  
10:22:37 2 the market might be able to be able to supply some  
10:22:42 3 resources more efficiently and more effectively?---I'd done  
10:22:43 4 in the UK and more often than not the central department  
10:22:47 5 would rise to the challenge, lean out and become more  
10:22:47 6 efficient and competent, but occasionally yes, outsourcing.  
10:22:51 7  
10:22:51 8 What was the reaction to those suggestions when you raised  
10:22:54 9 it?---I think it was a bit of a shock, a bit of a culture  
10:22:56 10 shock. But I think many people, once they thought it  
10:23:00 11 through, you know, "This bloke might be right. We do have  
10:23:03 12 very strong central departments, they are not at the  
10:23:06 13 service of the people delivering police services and they  
10:23:11 14 perhaps would benefit from the challenge". I wasn't saying  
10:23:13 15 that they were all bad by a long shot.  
10:23:16 16  
10:23:16 17 Another thing you say about Mr Overland is you talk about a  
10:23:19 18 lack of professionalism. No doubt his position will be  
10:23:22 19 that he was just doing his job and he was doing the job to  
10:23:26 20 the best of his ability. What do you say about  
10:23:28 21 that?---Could you be specific, Mr Woods, where I said  
10:23:31 22 professionally?  
10:23:32 23  
10:23:32 24 You say at paragraph 22 of your statement, and I'll take  
10:23:35 25 you to it?---Okay. 22 is when I thought that was  
10:23:44 26 unprofessional, to telephone me to say I was going to be  
10:23:49 27 moved down to St Kilda. Yes, I thought it was  
10:23:51 28 unprofessional.  
10:23:52 29  
10:23:53 30 Do you say that more broadly about Mr Overland or are you  
10:23:56 31 really just focusing on that particular issue?---On that  
10:23:58 32 one, yes. And the right way to do that would have been to  
10:24:02 33 call me in and open the discussion with me at that point,  
10:24:05 34 not to do it on the telephone.  
10:24:05 35  
10:24:06 36 You say that you saw other instances of that happen with  
10:24:09 37 your senior colleagues?---Yes.  
38  
10:24:10 39 From time to time as well in your statement?---Yes.  
10:24:11 40  
10:24:12 41 You talk about at paragraph 15 of the statement he was more  
10:24:18 42 concerned with his own power and influence than value for  
10:24:21 43 money and outcomes for the Victoria Police. Now, might it  
10:24:25 44 be that that's simply an observation of yours as an unfair  
10:24:30 45 observation or what's your position in relation to  
10:24:31 46 that?---No, I didn't personalise that to the Chief, but in  
10:24:34 47 paragraph 15 I'm making the point there that I got the Jack

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10:24:41 1 Rush report.  
2  
10:24:41 3 Yes?---And I gave this information to him in my evidence  
10:24:45 4 that 100 million had gone missing in IT, a huge blow out,  
10:24:48 5 one of many, and in my opinion that flowed from the  
10:24:51 6 inefficiency of the central departments and that somebody  
10:24:57 7 ought to be held to account for 100 million going west.  
10:24:57 8 Nobody ever was.  
10:24:57 9  
10:24:58 10 You're not identifying the role of the Chief in relation to  
10:25:01 11 that?---No. Well, inasmuch as when you're the Chief the  
10:25:04 12 buck stops at your desk, so in that respect yes.  
13  
10:25:06 14 Yeah, okay?---And the Chief was obviously atop the  
10:25:09 15 situation when these sorts of things were happening. I  
10:25:12 16 mean \$100 million of taxpayers' money. Jack Rush said  
10:25:13 17 something should be done about that and I'm pretty sure  
10:25:16 18 nothing has been.  
19  
10:25:17 20 In response to, well, just one last thing about the move  
10:25:23 21 from headquarters to St Kilda Road. Your view that you've  
10:25:27 22 confirmed to the Commission is it was an attempt to  
10:25:29 23 sideline you?---Yes.  
24  
10:25:32 25 Do you say it was linked to what you'd said about  
10:25:34 26 de-coupling the OPI or was it something more?---I believe  
10:25:37 27 it was linked to my actually challenging things which I  
10:25:42 28 thought were a waste of money and not doing the best for  
10:25:46 29 the Victorian public and I think that it flowed from that.  
10:25:49 30  
10:25:50 31 It might be said by others that that's, that simply is a  
10:25:55 32 theory of yours and there might be a million different  
10:25:57 33 administrative reasons or efficiency reasons, et  
10:26:00 34 cetera?---That's fair enough.  
35  
10:26:02 36 Do you accept that that might be another  
10:26:03 37 explanation?---That's fair enough, yes.  
38  
10:26:05 39 Okay?---But I get back to my earlier point, there's a more  
10:26:08 40 professional way of dealing with that. "Look here, Ken,  
10:26:10 41 we've got real issues with the way you're handling this,  
10:26:15 42 that and the other. Let's talk this through. This isn't  
10:26:15 43 the way to go about it." I was beginning to get feedback  
10:26:20 44 at that point about how outspoken I was, and I believe in  
10:26:20 45 the United Kingdom I'd been challenged by many chiefs which  
10:26:24 46 I was running the central organisation to be more vocal at  
10:26:29 47 times. It was quite a surprise for me.

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10:26:29 1  
10:26:29 2 Did you see it as the role of a deputy to respectfully  
10:26:34 3 challenge decisions of those above them?---Absolutely, and  
10:26:36 4 I would say that for every rank and grade.  
10:26:39 5  
10:26:39 6 Is it your view that you did or when you did so, you did so  
10:26:42 7 respectfully?---Yes, it is.  
10:26:44 8  
10:26:44 9 Was it welcome or unwelcome?---Initially I think it was  
10:26:48 10 welcome, but as time wore on it didn't seem to be that  
10:26:51 11 welcome. As a Deputy Commissioner with a statutory  
10:26:55 12 accountability under the Police Act.  
10:26:56 13  
10:26:57 14 And separate statutory accountability to the  
10:26:59 15 Chief?---Separate. I regarded and still regard that a very  
10:27:03 16 important check and balance to the power of a Chief, when I  
10:27:05 17 had as a Chief I had a number of good deputies who stopped  
10:27:09 18 me making unwise decisions at times, and you relied on them  
10:27:12 19 to do that, and they were reminded constantly by the  
10:27:13 20 regulators in the UK, "You've got an independent  
10:27:15 21 accountability, you're not just there to do as you're  
10:27:18 22 told".  
10:27:18 23  
10:27:19 24 No doubt you experienced frustration from time to time with  
10:27:22 25 those views being expressed?---Yes.  
10:27:23 26  
10:27:24 27 But sometimes accepted and sometimes rejected, is that  
10:27:27 28 right?---Yes. But when you're running, you know, a billion  
10:27:32 29 dollar plus organisation of that level you need to be able  
10:27:35 30 to withstand constant constructive challenge. Anyone has  
31 to. You've got huge trust on behalf of the public to get  
10:27:40 32 it right.  
10:27:40 33  
10:27:40 34 On that issue you talk, and I don't want to dwell on this  
10:27:45 35 for too long, but you're talking about the size and the  
10:27:48 36 cost of the organisation?---Yes.  
10:27:49 37  
10:27:49 38 You saw quite a deal of waste and very heavy management at  
10:27:53 39 the time you were there. Might it be that amount of money  
10:27:57 40 and that amount of management was simply required to be  
10:28:00 41 able to run a proper Police Force?---That's a point of  
10:28:04 42 view, it's not mine.  
10:28:05 43  
10:28:05 44 All right. So in late, well, I want to ask you about  
10:28:12 45 taking control of the Briars and Petra steering committees  
10:28:19 46 in about mid-2010. Now Briars being the possible police  
10:28:25 47 involvement in the murder of Shane

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10:28:29 1 Chartres-Abbott?---That's correct.  
10:28:31 2  
10:28:32 3 And Petra being possible police involvement in the murder  
10:28:35 4 of Terrence and Christine Hodson?---That's correct.  
10:28:38 5  
10:28:39 6 Who was in control of those steering committees prior to  
10:28:44 7 you taking control?---That would be the Chief, Luke  
10:28:51 8 Cornelius and Graham Ashton. Other people had attended on  
10:28:54 9 those committees at various times.  
10:28:55 10  
10:28:56 11 The structure of those committees was what, was it always  
10:28:59 12 the head of crime or was it - who were the members of the  
10:29:03 13 committee and what were their roles?---They were run by the  
10:29:08 14 Chief I think because there were legacy issues for him  
10:29:12 15 because he'd had the job that I had prior to becoming  
10:29:15 16 Chief, so he was handling them for a while when I came into  
10:29:19 17 the Force.  
18  
10:29:19 19 Yes?---In early 2010 I actually assumed control of them.  
10:29:23 20  
10:29:23 21 Who else, do you have a recollection - - - ?---As I say  
10:29:25 22 this is the issue that not being able to locate any records  
10:29:28 23 or minutes.  
10:29:29 24  
10:29:30 25 This is something I'll, in fact I might move to it now.  
10:29:36 26 When you assumed control of, well not control, when you  
10:29:42 27 became involved in those steering committees, you I take it  
10:29:48 28 firstly ask to see the records of the steering  
10:29:52 29 committees?---Yes, absolutely, yes.  
10:29:53 30  
10:29:53 31 What did you receive?---Next to nothing. I received a few  
10:29:56 32 one page briefing notes which the senior Inspector may have  
10:30:01 33 walked into a meeting to brief the committee and then  
10:30:04 34 walked out and then the committee was left to discuss them.  
10:30:07 35 I had a few of those.  
10:30:08 36  
10:30:09 37 Is that than an unusual thing for you to see?---I thought  
10:30:12 38 it was an abysmal way to run an operation of that sort.  
39  
10:30:15 40 Why's that?---Because there's no evidence there of risk  
10:30:18 41 management, there was no evidence there of alternatives  
10:30:20 42 looked at and rejected. You're dealing with life and death  
10:30:23 43 operations here, these were highly dangerous consequences  
10:30:28 44 for these operations and it just wasn't there.  
10:30:30 45  
10:30:30 46 You'd worked prior to this date in some very, very  
10:30:34 47 sensitive terrorism type matters?---Yes.

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10:30:37 1  
10:30:37 2 Where the notes were, or any notes taken of committee  
10:30:40 3 meetings, et cetera, would have been incredibly sensitive  
10:30:43 4 documents?---Absolutely.  
10:30:44 5  
10:30:44 6 Were the notes taken in any event?---They were, they were  
10:30:47 7 minuted. Everything - so that when you took an inquiry  
10:30:50 8 over you could look back through it and see what had been  
10:30:52 9 done and why, otherwise you're going to put your foot in it  
10:30:54 10 and you're going to do something wrong. The other thing it  
10:30:55 11 allows is for regulators to come in and actually check,  
10:30:58 12 "Three months ago you had this meeting, you agreed to do  
10:31:01 13 this. What was the consequence of that?" You know, it's  
10:31:03 14 just good practice.  
10:31:04 15  
10:31:04 16 What did you do as a result of learning that there was this  
10:31:09 17 - - - ?---We set up a more regular structure of minuting  
10:31:14 18 and a more secure way of keeping minutes. I think I was  
10:31:18 19 told one of the reasons for a lack of documentation was the  
10:31:22 20 extreme sensitivity and the worry about breach and leak,  
10:31:27 21 which I understand, but there are better ways of dealing  
10:31:30 22 with it than just not writing anything down.  
10:31:33 23  
10:31:33 24 I might show some of the minutes from when you were  
10:31:36 25 assuming your position on the steering committee. This is  
10:31:39 26 a Petra minute, it's IBAC.0010.0001.0493. It's at p.1.  
10:31:51 27 That could just come up on mine, the Commissioner's and the  
10:31:55 28 witness's screen. You'll see there it's 26 May  
10:32:00 29 2010?---Yes.  
10:32:00 30  
10:32:00 31 You're there, Moloney, Dunne, Cornelius, Pope, Smith and  
10:32:06 32 Gawne?---Yes.  
10:32:06 33  
10:32:07 34 And you'll see that there is, if you scroll - you see, for  
10:32:15 35 example, "Charges re Dale", you advised the meeting that  
10:32:19 36 following that OPP were to withdraw charges on 4 June, do  
10:32:24 37 you recall what that's in relation to?---I recall but I  
10:32:27 38 don't recall that particular minute. Yes, I know what  
10:32:30 39 that's about.  
10:32:31 40  
10:32:31 41 You do know what it's about?---Yes.  
10:32:33 42  
10:32:33 43 And it was the withdrawal of, do you know which charges  
10:32:37 44 they were, do you have a recollection?---The charges of  
10:32:39 45 murder for the Hodsons.  
10:32:41 46  
10:32:42 47 And what was the reason that those charges were to be

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10:32:45 1 withdrawn?---This was just after Carl Williams was  
10:32:48 2 murdered.  
10:32:48 3  
10:32:49 4 Yes?---Obviously the loss of his evidence meant that that  
10:32:53 5 case fell.  
10:32:53 6  
10:32:54 7 At this stage, 26 May 2010, you say it was sort of mid to  
10:32:58 8 late 2010 you became aware of Ms Gobbo's previous  
10:33:01 9 role?---Yes.  
10:33:01 10  
10:33:02 11 Did you know about it at this stage?---No, obviously she  
10:33:05 12 was a very controversial, well-known figure around  
10:33:08 13 Melbourne, you couldn't avoid reading about her, but no, I  
10:33:13 14 didn't know anything about what had happened previously  
10:33:16 15 with her.  
10:33:16 16  
10:33:16 17 Just looking at the - - - ?---Although what date - no, I  
10:33:18 18 didn't, this is 26 May.  
10:33:19 19  
10:33:20 20 Looking at the structure and content of that, is this the  
10:33:24 21 practice that, is this a more expansive minute than you  
10:33:30 22 would have seen beforehand or is this before that system  
10:33:33 23 had been expanded?---No, I expanded it to this and would  
10:33:37 24 have expanded it further, but I thought that was sufficient  
10:33:40 25 at the beginning of the handover period.  
10:33:42 26  
10:33:43 27 You might have seen otherwise when you came in just a few  
10:33:47 28 words?---I would have looked for references at each item to  
10:33:50 29 papers to be prepared so that people could look at these  
10:33:53 30 issues historically.  
10:33:56 31  
10:33:56 32 Just scrolling down, you'll see there "Witness F" on the  
10:34:01 33 next page, it has some highlighting on it?---Yes.  
10:34:04 34  
10:34:04 35 She's discussed there because of her proposed role as a  
10:34:09 36 witness against Mr Dale in those charges, is that  
10:34:13 37 right?---Yes, that's correct.  
10:34:14 38  
10:34:14 39 It says that there's, "A risk assessment to be conducted as  
10:34:17 40 a matter of urgency. Letter to F via VGSO today advising  
10:34:23 41 she won't be required as a witness. Risk still exists and  
10:34:27 42 best interests to enter the program" and it says, "JP HSU  
10:34:33 43 file high risk to F". Just looking at that, HSU, would  
10:34:37 44 that have caused you concern to know that there was an HSU  
10:34:42 45 file on her?---Forgive me, I don't know what that acronym  
10:34:47 46 stands for today. I know that's Jeff Pope.  
10:34:50 47

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10:34:50 1 Do you know what Pope's role was at the time?---No.  
10:34:53 2 Obviously I would have, if I was in this meeting, that  
10:34:56 3 shorthand would make more sense but it's a long time ago.  
10:35:02 4  
10:35:03 5 Well, Human Source Unit perhaps?---Right.  
10:35:04 6  
10:35:04 7 What I'm wanting to understand there is just the timing of  
10:35:07 8 you becoming aware of Gobbo, because it might be said that  
10:35:10 9 this is a note that identifies that she was carrying out  
10:35:15 10 that role or had been at some stage and that there was a  
10:35:18 11 high risk to her as a result of that?---Sorry to interrupt,  
10:35:24 12 this was about that she'd been obliged to become a witness,  
10:35:30 13 this is actually, this is back in 2008 before I joined, you  
10:35:34 14 knew about that of course.  
15  
10:35:35 16 Yes?---And that the relationship had deteriorated to the  
10:35:38 17 point where, you know, these sorts of things were becoming  
10:35:40 18 apparent. But I wasn't aware then of what the underlying  
10:35:44 19 issues were.  
10:35:45 20  
10:35:45 21 "The risk assessment to be conducted as a matter of  
10:35:49 22 urgency", do you know why there would have been a risk  
10:35:52 23 assessment to be conducted?---Because there were threats, I  
10:35:54 24 recall, on her life with regard to it then becoming  
10:35:59 25 knowledge that she was going to give evidence against  
10:36:02 26 Mr Paul Dale.  
10:36:03 27  
10:36:03 28 And on the basis of that "JP HSU file" is an indicator as  
10:36:09 29 use as a human source?---Not necessarily. That could be  
10:36:13 30 within the Source Unit, there were other threats to her  
10:36:15 31 that came out of their information. It wouldn't  
10:36:17 32 necessarily mean that, but obviously that's for Mr Pope.  
10:36:21 33  
10:36:22 34 I won't take you through all of the minutes but I just want  
10:36:25 35 to understand that if the minutes indicate a date of a  
10:36:30 36 meeting in your presence at the meeting without having to  
10:36:33 37 take you through all of them, you'd accept that you were at  
10:36:37 38 those meetings?---Yes, I would.  
10:36:38 39  
10:36:39 40 I said that we'd get to some issues about, some other  
10:36:46 41 issues about record keeping. That can come off the screen  
10:36:51 42 now. There's been evidence from the Chief Commissioner and  
10:36:55 43 Mr Cornelius this week about stopping their diaries.  
10:37:04 44 They've been challenged by counsel assisting on that  
10:37:07 45 process on a perhaps quite obvious basis?---Yes.  
10:37:10 46  
10:37:10 47 One of them being a diary is kept to record the truth of

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10:37:14 1 events and if one isn't keeping a diary then they are  
10:37:18 2 seeking to obscure the truth of what occurred, or not  
10:37:21 3 reveal the truth of what occurred?---Right.  
4  
10:37:24 5 What are your observations about not keeping  
10:37:28 6 diaries?---When I came into the force I could see the  
10:37:30 7 senior people by and large didn't keep diaries in the way  
10:37:33 8 that I think you're suggesting. Most people kept day  
10:37:38 9 books. I came from a tradition where your diary or your  
10:37:41 10 notebook was only for evidential matters if you might have  
10:37:42 11 to produce in court, so once people got beyond a certain  
10:37:46 12 rank they didn't keep notebooks. All I kept in notebooks  
10:37:50 13 was leave, meetings and what have you, but I religiously  
10:37:52 14 kept and still keep daybooks.  
10:37:56 15  
10:37:56 16 I see. So that might explain the next question. What I  
10:38:01 17 was going to say, just this morning Victoria Police have  
10:38:04 18 produced a diary of yours which appears to relate to 2009  
10:38:13 19 from May 2000 and - a period of approximately a year, up  
10:38:27 20 until the following year and it really only records, and  
10:38:31 21 this is a diary I should say and I hear what you say about  
10:38:35 22 a notebook, but it records, for example, travel to  
10:38:38 23 Mildura?---Yes.  
10:38:38 24  
10:38:39 25 Extended duty, extended duty, et cetera, et cetera?---Admin  
10:38:44 26 matters really.  
10:38:44 27  
10:38:45 28 It really only has a handful of pages?---H'mm.  
10:38:48 29  
10:38:48 30 If the criticism were to be made of you, well, your diary  
10:38:52 31 doesn't contain any detail whatsoever, what would your  
10:38:55 32 answer to that be?---My answer to that would be that I was  
10:38:59 33 mirroring the practices I found, and also it conformed with  
10:39:02 34 what I was used to in the UK, beyond a certain level people  
10:39:07 35 didn't keep a formal notebook, it was kept for evidence  
10:39:10 36 only, but kept daybooks. Because you would be required to  
10:39:12 37 say on a particular day, particular time, "What did you do  
10:39:14 38 at that particular meeting or that discussion" or what have  
10:39:17 39 you, and I did keep that. And everyone will attest to  
10:39:20 40 that.  
10:39:20 41  
10:39:21 42 So you kept comprehensive daybooks?---Yes, yes.  
10:39:24 43  
10:39:25 44 Were they required to be reviewed in the same way that  
10:39:28 45 diaries for more junior officers needed to be reviewed by  
10:39:31 46 senior officers?---Not in my experience, no.  
10:39:33 47

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10:39:33 1 And what - - - ?---While I was Acting Chief I didn't look  
10:39:36 2 at anybody else's either. I realised a different  
10:39:40 3 interpretation is now placed on it, but I saw it as an  
10:39:43 4 administrative record for senior officers, unless they got  
10:39:47 5 involved in an arrest or something then it would be, that  
10:39:50 6 would be the right place to record their evidence.  
10:39:52 7  
10:39:53 8 So your practice was - did you keep expansive notes in your  
10:39:58 9 daybooks?---Yes. Well expansive, it's a question - - -  
10:40:02 10  
10:40:02 11 It's a question of measure of course?---I was very keen,  
10:40:05 12 and I've always been as a senior officer, if I say I'm  
10:40:08 13 going to do something, I get it done. That's the only  
10:40:11 14 thing I relied on. At the end of every day I'd clear all  
10:40:15 15 the actions I'd committed to, send out instructions or  
10:40:18 16 requests, and got things done. So I saw it as a device for  
10:40:22 17 that, for accountability really.  
10:40:23 18  
10:40:23 19 What about - so two of those individuals that I've  
10:40:27 20 identified, Mr Ashton and Mr Cornelius who didn't keep  
10:40:32 21 diaries, do you know whether they were following a similar  
10:40:35 22 practice to you in that they kept detailed day books or  
10:40:40 23 notebooks.  
10:40:40 24  
10:40:40 25 MR COLEMAN: I object to that. The basis of the question  
10:40:43 26 with respect to Mr Ashton is misleading. The evidence of  
10:40:48 27 Mr Ashton was with respect to when he was at the OPI and  
10:40:53 28 the very specific reason as to why he didn't keep a diary.  
10:40:53 29 So it's not relevant to the police requiring to keep a  
10:40:57 30 daybook for Mr Ashton's responses to why he didn't keep  
10:41:00 31 notes.  
10:41:01 32  
10:41:01 33 MR WOODS: I can rephrase.  
34  
35 COMMISSIONER: Thanks Mr Woods.  
36  
10:41:02 37 MR WOODS: Focusing on Mr Ashton and his role at the OPI,  
10:41:05 38 and that's an oversight role that you have some  
10:41:07 39 understanding of?---Yes.  
10:41:08 40  
10:41:09 41 Is there a difference in your view between a senior police  
10:41:13 42 officer in a role within Victoria Police and someone who's  
10:41:17 43 carrying out independent oversight in your analysis of the  
10:41:20 44 propriety or otherwise of keeping expansive notes?---As a  
10:41:25 45 member of the public I would find that not, not acceptable.  
10:41:28 46  
10:41:28 47 What about as senior officer - - - ?---And Mr Ashton should

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10:41:36 1 keep notes of the things that he's doing and take  
10:41:37 2 sufficient means to protect that information in a secure  
10:41:40 3 way.  
10:41:40 4  
10:41:41 5 Back to what I was asking you before, just restricting your  
10:41:42 6 answer to police officers who are on the committees that  
10:41:46 7 you were on. Was your experience or your observation that  
10:41:51 8 they were keeping notebooks in any event?---Yes, yes. And  
10:41:55 9 Luke Cornelius, in particular, kept very detailed, well he  
10:41:59 10 seemed to be writing verbatim the things that I was saying  
10:42:02 11 and I wasn't unhappy about that.  
10:42:04 12  
10:42:04 13 It might be said then that really what your practice was,  
10:42:08 14 was exactly the same as what Cornelius' practice  
10:42:13 15 was?---Yes.  
16  
17  
10:42:14 18 So as long as there was a note kept in the diary or a  
10:42:16 19 daybook?---And actions flowed from that, yes. And these  
10:42:20 20 daybooks obviously at some point could be reproduced and  
10:42:20 21 examined.  
10:42:24 22 You've kept your daybooks with you or were they left with  
10:42:27 23 Victoria Police?---No, they were left - they were in my  
10:42:29 24 office the day I was constructively dismissed. My staff  
10:42:36 25 were not keen to see me walk out of the building with all  
10:42:39 26 my clapped out possessions in a cardboard box so the things  
10:42:42 27 arrived at my house over the next two days. And it wasn't  
10:42:43 28 until I got back to the UK I realised the two books weren't  
10:42:47 29 there.  
10:42:47 30  
10:42:49 31 Have you found out what became of those two notebooks  
10:42:52 32 since?---No, I haven't.  
10:42:53 33  
10:42:53 34 Do you know if they're in the possession of Victoria  
10:42:55 35 Police?---I don't know. All I can say is I didn't get  
10:42:58 36 them.  
10:43:00 37  
10:43:00 38 Where did you leave them?---They were in my office.  
10:43:01 39  
10:43:01 40 On your desk?---I used to keep them in the right hand  
10:43:05 41 drawer, I had two offices while I was there. But as I say,  
10:43:08 42 the staff boxed the stuff up. The media were waiting  
10:43:13 43 outside and obviously they didn't want to see me humiliated  
10:43:18 44 like that, and I really appreciate and respect that they  
10:43:20 45 did that. But it wasn't my primary concern to go through  
10:43:21 46 the box when it was brought to my unit. I was just in fear  
10:43:23 47 at that point, I had death threats and other things.

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1  
2 The reason for my questions is, of course, that they'd be  
10:44:13 3 documents, because of the events that have been described  
10:44:13 4 in them?---Yes.  
5  
10:44:13 6 That would be of interest to the Commission?---Absolutely.  
10:44:13 7 They were of interest to me when I was working at the  
10:44:13 8 Ombudsman's as well and they weren't there.  
9  
10:44:13 10 In April 2010 Carl Williams is murdered in Barwon  
10:44:13 11 Prison?---Yes.  
12  
10:44:13 13 That's when you, well, Task Force Driver is established and  
10:44:13 14 you take over control of that Task Force?---Yes, I created  
10:44:13 15 that operation.  
16  
10:44:13 17 It's the situation that Petra, which had been the  
10:44:13 18 investigation into the murder of the Hodsons?---Yes.  
19  
10:44:13 20 Was essentially rolled into Driver?---That's correct.  
21  
10:44:13 22 As was indicated in a discussion earlier, there's aspects  
10:44:13 23 of that that I don't seek to lead evidence from you about,  
10:44:15 24 aspects of it that are in your statement, I should say.  
10:44:18 25 You have periods throughout 2010, it must be I assume when  
10:44:25 26 Mr Overland is on leave, when you assume the Assistant  
10:44:30 27 Commissioners, or you were Acting Chief Commissioner  
10:44:33 28 worry?---Yes, that's correct.  
29  
10:44:34 30 What sort of periods of time were they, were they weeks or  
10:44:35 31 months?---No, they were various time periods but I think in  
10:44:38 32 May it was almost a month, so I had quite broad  
10:44:42 33 responsibility obviously at that point.  
34  
10:44:46 35 I want to move to the time when you, in your statement you  
10:44:50 36 say that you discover this use of Nicola Gobbo as a human  
10:44:55 37 source that had been the case prior to your arrival, and I  
10:45:00 38 think it's paragraph 67 of your statement?---M'mm.  
39  
10:45:06 40 You say halfway down, "I did not know that she had a  
10:45:13 41 parallel and secret life with other Victoria Police  
10:45:16 42 officers, one where she was an active informer of  
10:45:19 43 long-standing and that there were growing tensions in that  
10:45:22 44 relationship. She did not disclose any of this to Petra  
10:45:26 45 staff in 2008. The covert recording took place and I was  
10:45:32 46 satisfied that Carl Williams' allegations against Paul Dale  
10:45:35 47 were at least partially corroborated by things that Paul

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10:45:39 1 Dale had said". That's your recollection?---That's my  
10:45:42 2 recollection, yes.  
3  
10:45:43 4 Just focusing on the first part of that, this parallel and  
10:45:47 5 secret life that you discovered about Ms Gobbo?---M'hmm.  
6  
10:45:49 7 That must have been a very significant revelation to  
10:45:53 8 you?---Yes, it was. Obviously I was aware of the ongoing  
10:45:57 9 row with Ms Gobbo and Victoria Police and the witness  
10:46:00 10 security issues, but the team very quickly began to  
10:46:03 11 discover that she'd had a role as an informer, gatherer of  
10:46:09 12 intelligence, and over the weeks after the Williams'  
10:46:12 13 murder, you know, this became more and more shocking to me  
10:46:16 14 that this had happened.  
15  
10:46:18 16 And the team, I assume you're talking about the  
10:46:21 17 investigative team?---Yes, because I'd tasked them to look  
10:46:24 18 across all the holdings of all the inquiries because it's  
10:46:28 19 often the case that when you've got discrete teams working  
10:46:33 20 they can get actually get a little bit blinkered and miss  
10:46:35 21 stuff, so we brought it all together and sure enough some  
10:46:36 22 of this stuff started to come out.  
23  
10:46:38 24 And Sol Solomon and Cameron Davey being two members of that  
10:46:42 25 team?---Yes, Petra.  
26  
10:46:43 27 Did you have contact with them, regular contact with  
10:46:44 28 them?---I had contact particularly with Sol Solomon over a  
10:46:48 29 brief that he was preparing.  
30  
10:46:51 31 Was it your understanding that he knew before you knew  
10:46:55 32 about her role as a source, or that he found out around the  
10:46:58 33 same time?---My understanding is from the briefing I got  
10:46:58 34 and the file I saw, that he didn't know.  
35  
10:46:59 36 He didn't know?---No, he didn't know.  
37  
10:47:01 38 Until you knew?---That's right.  
39  
10:47:04 40 All right. It might be an obvious question but what are  
10:47:11 41 the issues with a Task Force - it had been Petra dealing  
10:47:18 42 with her as a witness and then Driver - and the  
10:47:22 43 investigators within Driver not knowing about what you call  
10:47:25 44 this parallel secret life?---Well I think that also  
10:47:29 45 Sergeant Bezzina, who was one of the initial investigators  
10:47:32 46 of that homicide, and Solomon, they were in the fight with  
10:47:37 47 one hand tied behind their back because they weren't aware

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10:47:42 1 of the complexities and the links that she had to various  
10:47:45 2 people in and around those inquiries. So they were  
10:47:48 3 investigating homicides, probably the greatest  
10:47:51 4 responsibility and duty on police. They were - - -  
5  
10:47:55 6 About the justification thought, or the potential  
10:47:56 7 justification of that, that the identity of human sources  
10:47:59 8 must be kept very private, and even private from other  
10:48:03 9 members of other Police Forces?---Up to a point, Mr Woods,  
10:48:05 10 but they were investigating the taking of life and that  
10:48:10 11 just trumps everything. I don't buy that.  
12  
10:48:13 13 And Ms Gobbo was a significant witness?---She was. She  
14 was.  
15  
10:48:15 16 I understand your evidence to be it's a significant  
10:48:18 17 revelation. Do you have a particular memory of the moment  
10:48:23 18 that someone described this to you? You talk about a  
10:48:27 19 growing understanding, but was there a moment?---Yeah, I  
10:48:31 20 mean within a number of weeks after Carl Williams' murder  
10:48:34 21 the team were beginning to surface there was more to the  
10:48:37 22 Gobbo situation than we understood, and they began to bring  
10:48:41 23 to me briefings about where she'd been tasked to gather  
10:48:44 24 information, where she'd been sourced with someone who had  
10:48:49 25 been convicted, and it just grew and grew. And I just  
10:48:51 26 couldn't believe it .  
27  
10:48:52 28 It grew and grew but you talk about - - - ?---And I hadn't  
10:48:56 29 been told. You know, this was discovered because we'd set  
10:48:58 30 up this particularly unique way of operating.  
31  
10:49:01 32 You talk about your anger and your shock at this industrial  
10:49:05 33 subversion of the criminal justice system?---Yes, m'hmm.  
34  
10:49:08 35 The reason I'm pressing you on this, there must have been a  
10:49:11 36 moment - - - ?---Well - - -  
37  
10:49:13 38 - - - when you were told, when someone told you?---It was  
10:49:17 39 when I, and I did review a file and I can't remember which  
10:49:18 40 file it was, where she'd appeared for an individual at the  
10:49:21 41 same time she'd been informing on him.  
42  
10:49:23 43 Well I understand that?---So for me - and then I also asked  
10:49:26 44 about, well, obviously the prosecution, the judge, the  
10:49:28 45 trial? There was no record of anyone being informed.  
46  
10:49:32 47 At that stage you must have already known that she was a

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10:49:35 1 human source because you're seeing the subversion of the  
10:49:38 2 criminal justice system?---Yes.  
3  
10:49:40 4 As you describe it. Do I understand that that's a  
10:49:42 5 subversion you already know she's a source. What I'm  
10:49:45 6 asking you is the moment that someone told you or you  
10:49:48 7 realised that Gobbo had this previous private life as a  
10:49:53 8 human source?---Yes.  
9  
10:49:55 10 Do you know who told you?---I can't remember the precise  
10:49:56 11 moment. I think it would have been Superintendent Doug  
10:49:59 12 Fryer and Inspector Mick Frewen. They were the people who  
10:50:02 13 were briefing me.  
14  
10:50:03 15 All right. But you don't actually have a memory of it  
10:50:08 16 occurring?---I can envisage that moment but I can't tell  
10:50:14 17 what day it was. I said, "Are you serious? Are you  
10:50:17 18 serious? Has this been happening ?."  
19  
10:50:19 20 Was it Fryer and Frewen or one or the other?---I think it  
21 probably Doug initially, Superintendent Doug Fryer, and  
10:50:23 22 then both. And then, or as they began to uncover more of  
10:50:25 23 it, you know, I got more and more alarmed and more and more  
10:50:28 24 convinced that something terrible had happened.  
25  
10:50:30 26 You had another year or so at Victoria Police after that.  
10:50:36 27 What the Commission is aware of, that from the time that  
10:50:44 28 Ms Gobbo was used as a human source, or that came to an end  
10:50:47 29 in - the formal relationship sorry came to an end in  
10:50:51 30 January 2009?---Yes.  
31  
10:50:53 32 There were a series of investigations that occurred in the  
10:50:57 33 early 2000s?---Yes.  
34  
10:50:59 35 There was Mr Comrie's internal review, administrative  
10:51:04 36 review?---Happened after I - yes.  
37  
10:51:07 38 Yes. Then there was an IBAC investigation?---Yes.  
39  
10:51:11 40 A report?---Yes.  
41  
10:51:12 42 And then there were three failed attempts in the courts for  
10:51:15 43 the police - - - ?---Yes.  
44  
10:51:17 45 - - - to essentially prevent disclosure to the individuals  
10:51:21 46 of what this relationship they'd had with Ms Gobbo - - -  
10:51:25 47

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10:51:25 1 MR HOLT: Sorry, I think my friend suggested those reports  
10:51:30 2 might have been early 2000s. I think that was a slip.  
10:51:35 3  
10:51:36 4 MR WOODS: Sorry. 2012 and onwards. Sorry, it was a slip.  
10:51:39 5 I appreciate that. What I want to ask you about is that  
10:51:42 6 you were shocked and angry and surprised and all of those  
10:51:46 7 things?---M'hmm.  
8  
10:51:49 9 What did you do?---Initially I'd asked the Ombudsman to get  
10:51:52 10 involved in the Carl Williams' homicide, to look at the  
10:51:59 11 Corrections' issue, and eventually they did write a report,  
10:52:01 12 so I developed a good relationship with particularly the  
10:52:04 13 Deputy Ombudsman, and I confided in him a number of things  
10:52:13 14 that were emerging from my investigation, including this.  
15  
10:52:14 16 We'll go through some of that detail. Did you, once you  
10:52:17 17 were told about this relationship, did you then talk to the  
10:52:24 18 Driver investigators about the human source activity that  
10:52:26 19 had been happening?---I made it clear you know what my  
10:52:28 20 feelings and views were and to be fair to everyone  
10:52:31 21 involved, nobody was actually seeking to defend it. They  
10:52:35 22 were all very, very surprised.  
23  
10:52:36 24 They saw the same issues that you saw?---Yes, and also that  
10:52:39 25 investigators had been kept in the dark.  
26  
10:52:42 27 Did you become aware - now obviously one of the very  
10:52:46 28 significant things the Commissioner needs to take into  
10:52:50 29 account in this process is if and how Victoria Police went  
10:52:55 30 about disclosing this relationship?---M'hmm.  
31  
10:53:01 32 Firstly, in relation to that, did you understand at the  
10:53:07 33 time that it was explained to you that she'd worked as a  
10:53:10 34 source, or in the period afterwards, did you come to  
10:53:13 35 understand some of the cases that may have been affected by  
10:53:16 36 that?---Yes, I did.  
37  
10:53:17 38 Did you understand them to be significant cases?---Yes, I  
10:53:20 39 did.  
40  
10:53:21 41 What did you do to bring that to fruition or to bring  
10:53:26 42 disclosure, to bring about disclosure?---As I said,  
10:53:30 43 initially I confided in the Ombudsman and the staff.  
10:53:33 44 Obviously they're focus was on Corrections issues, but I  
10:53:37 45 brought them into it at that point. I had a meeting with a  
10:53:40 46 very senior jurist where I put the thing to him as a  
10:53:44 47 hypothesis and took his advice to take it to the Ombudsman.

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10:53:47 1 And in early January that's exactly what I did and that was  
10:53:50 2 the first of several reports to various regulators and  
10:53:55 3 individuals around that time, 2011, 12, 13, and the last  
10:53:59 4 one was 2018. I did what I thought was the right thing and  
10:54:04 5 reported it.

6  
10:54:05 7 What about discussions with the Chief Commissioner, did you  
10:54:08 8 bring your views to his attention?---Well the reason that I  
10:54:12 9 didn't, and I discussed this, say, with the particular  
10:54:14 10 judge I'd mentioned, the retired judge, is because he had a  
10:54:18 11 good idea about how he might review the situation for us,  
10:54:22 12 but it would involve the cooperation of all the senior  
10:54:24 13 officers and particularly the Chief, and the problem was  
10:54:26 14 with that, was the Chief would have been conflicted because  
10:54:30 15 he'd been on board some of these decisions in the past so I  
10:54:34 16 couldn't - - -

17  
10:54:34 18 So did you come to that view or come to that realisation  
10:54:36 19 that the Chief had been involved in this very use of - - -  
10:54:40 20 ?---At the very least he was conflicted and it could be  
10:54:43 21 worse, it could be not. But it wasn't the right thing to  
10:54:45 22 do at that point, from his interest, to actually go to him  
10:54:48 23 with it. It needed an independent outside scrutiny and  
10:54:51 24 review.

25  
10:54:51 26 You talked earlier about your separate and distinct  
10:54:55 27 statutory obligations?---Yes.

28  
10:54:56 29 Was this a manifestation of those? I mean why wouldn't you  
10:54:59 30 bring it up the line?---Absolutely. I said well that's a  
10:55:02 31 case where a line management unit doesn't come into it,  
10:55:04 32 which is why this State has created laws and protections  
10:55:08 33 for people who have concerns to have them looked at, you  
10:55:11 34 know, so you don't have to always go through the line.  
10:55:13 35 This was a serious matter. As I say, this was an  
10:55:15 36 investigation of a double homicide which in my opinion had  
10:55:19 37 been hamstrung.

38  
10:55:21 39 Going back to that discussion you have the Ombudsman,  
10:55:23 40 that's Mr Taylor?---Yes.

41  
10:55:25 42 And when was that conversation?---That would have been  
10:55:27 43 through the - 2010, after the murder of Carl Williams, as  
10:55:31 44 the scales began to fall from my eyes really. You know I  
10:55:33 45 was having regular meetings and briefings with them about  
10:55:37 46 the things they were discovering.

47

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10:55:38 1 Do you have any records of the dates of those  
10:55:41 2 discussions?---No, I don't. There are probably dates exist  
10:55:43 3 of meetings where this was discussed.  
4  
10:55:45 5 In your notebook?---Absolutely.  
6  
10:55:47 7 Is that the sort of thing you would have recorded?---Yes,  
10:55:50 8 it would have been. But I was looking to be more and more  
10:55:53 9 safe and secure in my assessment and appreciation so I was  
10:55:57 10 asking for more information from the team.  
11  
10:56:01 12 It wasn't described to you from the get-go, "She had been a  
10:56:05 13 human source and here are all of the cases that we think  
10:56:07 14 are affected"?---No, it was really, possibly mentioned, "It  
10:56:11 15 looks like she might have been an informer on this case or  
10:56:15 16 that case", and I'm saying, "Surely not. Let's look into  
10:56:19 17 that, let's find a bit more information", and it just  
10:56:21 18 developed from there.  
19  
10:56:22 20 So you meet with the Ombudsman. Do you recall where that  
10:56:26 21 meeting took place?---That would be in his office.  
22  
10:56:28 23 Okay?---That was in early 2011.  
24  
10:56:34 25 You say in your statement that your knowledge, this is at  
10:56:38 26 paragraph 63, "My knowledge of the Nicola Gobbo operation  
10:56:41 27 was growing and I was greatly concerned that the justice  
10:56:46 28 system had been undermined. I raised this and more with  
10:56:49 29 Mr Taylor"?---Yes.  
30  
10:56:50 31 Was that one discussion or a number of discussions?---It  
10:56:53 32 was a number of discussions.  
33  
10:56:54 34 And was it only about the Nicola Gobbo issue?---No, there  
10:56:57 35 were other issues as well of concern, but that was one of  
10:57:02 36 them.  
37  
10:57:02 38 Other issues perhaps not directly relevant to the Terms of  
10:57:04 39 Reference?---No. Absolutely, yes.  
40  
10:57:07 41 All right. You say at paragraph 94, "Later in 2010,  
10:57:12 42 although I was dealing with the Ombudsman on his duty of  
10:57:16 43 care investigation into the Carl Williams' murder, they  
10:57:19 44 seemed not to be able to pick up on the broader issues  
10:57:22 45 around Victoria Police use of Nicola Gobbo". What was your  
10:57:26 46 experience - when you say they are not able to pick up on  
10:57:31 47 the - - - ?---They didn't seem to grasp the importance of

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10:57:34 1 it.  
2  
10:57:34 3 The importance of its effect, its potential effect?---On  
10:57:38 4 the way this has possibly undermined the justice system and  
10:57:44 5 it had perhaps distorted and corrupted some trials.  
6  
10:57:46 7 What did you do to explain that to them?---I did explain it  
10:57:49 8 to them -just exactly that. But they were very much  
10:57:51 9 focused at that point on other investigations. It wasn't a  
10:57:54 10 matter that was dropped, I did keep pressing this and other  
10:57:57 11 issues on them. They took up one aspect of it and produced  
10:58:00 12 a report to parliament, a secret report, which I did  
10:58:04 13 comment on.  
14  
10:58:05 15 That was the statistics issue or was that different  
10:58:06 16 issue?---No, it was the settlement and the writ.  
17  
10:58:10 18 We'll talk a little bit more about that in due course?---I  
10:58:13 19 think they didn't really pick up or couldn't pick up on  
10:58:16 20 just how serious this was.  
21  
10:58:18 22 Is it your understanding that's because it's quite a  
10:58:21 23 nuanced and complex issue about the use of a barrister as a  
10:58:24 24 human source?---Possibly, possibly. Also because she was  
10:58:27 25 such a larger than life figure, you know, they may have  
10:58:32 26 dismissed this as well, this was all rumours and  
10:58:35 27 what-have-you, I don't know. You'll have to ask them.  
28  
10:58:38 29 Was it your observation that they weren't sure whether in  
10:58:40 30 fact it was true what was being disclosed to them?---That  
10:58:43 31 was possible. But it was for them, they could have  
10:58:46 32 actually asked for files and papers and did what the High  
10:58:49 33 Court did and looked at the number of cases.  
34  
10:58:52 35 The OPI's still in existence at that time?---Yes.  
36  
10:58:56 37 And you also approach Mr Strong?---Yes.  
38  
10:59:01 39 You say in your statement, "I had tried", this is paragraph  
10:59:05 40 92, "I had tried to get the OPI interested when I raised  
10:59:09 41 concerns in a broader sense with His Honour Michael Strong,  
10:59:12 42 who I fully trusted, one day in his office. I think I was  
10:59:16 43 Acting Chief at the time". When you say you raised it in  
10:59:21 44 the broader sense, did you identify that it was Nicola  
10:59:27 45 Gobbo acting as a human source or did you identify  
10:59:29 46 something less than that?---This actually took place I  
10:59:33 47 think while I was Acting.

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1  
10:59:34 2 In May?---In May. I'm not sure when this meeting took  
10:59:38 3 place. But there were just a number of issues I was  
10:59:41 4 concerned about and I was trying to test and get Michael's  
10:59:45 5 views on a number of things that I was concerned about.  
6  
10:59:50 7 Was it - - - ?---I don't think the Gobbo issue was part of  
10:59:53 8 that discussion.  
9  
10:59:54 10 You don't think so?---No.  
11  
10:59:56 12 Okay, I see?---I can't remember.  
13  
10:59:57 14 When you say you raised it in the broadest sense, you might  
11:00:01 15 be - broader sense means you raised integrity  
11:00:04 16 issues?---Other concerns, and in fact the investigations  
11:00:06 17 followed about some of those concerns.  
18  
11:00:10 19 You're quite confident that that discussion while you were  
11:00:13 20 Chief wasn't about the Gobbo issue?---Not confident but I  
11:00:15 21 can't, I don't think it was because of the timing.  
22  
11:00:16 23 Yeah, okay. In fact then I don't need to go into  
11:00:25 24 significant detail about that particular conversation with  
11:00:30 25 Strong. I want to ask you some questions about the  
11:00:36 26 attempts to prosecute Paul Dale. We've talked about the  
11:00:41 27 charges relating to the murder of the Hodsons?---Yes.  
28  
11:00:46 29 And the charges against him. Those charges weren't taken  
11:00:51 30 any further following the murder of Carl Williams?---Yes,  
11:00:53 31 that's correct.  
32  
11:00:54 33 There were then charges that were considered and ultimately  
11:00:59 34 brought and prosecuted by the Commonwealth in relation to  
11:01:04 35 evidence that he had given to the ACC?---That's correct.  
36  
11:01:08 37 I think you might refer to the FDPP in your statement but I  
11:01:13 38 think the correct acronym is the CDPP. But in any event  
11:01:17 39 there was - the prosecutorial Commonwealth body is what  
11:01:21 40 you're referring to - - - ?---Yes.  
41  
11:01:24 42 - - - when you refer to FDPP. Okay. You say in your  
11:01:28 43 statement at paragraph 72 and 73 that you met the FDPP in  
11:01:36 44 relation to a brief prepared by Sol Solomon in relation to  
11:01:40 45 a perjury allegation against Paul Dale based on his  
11:01:43 46 evidence at the ACC hearings?---That's correct.  
47

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11:01:47 1 Do you know who you met from the CDPP?---I can't, as I say,  
11:01:51 2 I no longer have my books so I can't remember the names of  
11:01:54 3 the people who were there.  
4

11:01:55 5 This is after it becomes known to you that Ms Gobbo had  
11:01:59 6 acted as a human source, 2005 to 2009?---That's correct.  
7

11:02:05 8 You say that the brief was very well prepared?---Yes, they  
11:02:10 9 were very complimentary to Sergeant Sol Solomon about the  
11:02:16 10 work he'd done, said it was some of the best that they'd  
11:02:18 11 seen.  
12

11:02:18 13 You say, "The brief relied in a partial sense on us being  
11:02:21 14 able to produce the covert tape recording voluntarily made  
11:02:25 15 by Nicola Gobbo when she spoke with Paul Dale". That's  
11:02:27 16 your recollection, that that was an integral part of the  
11:02:31 17 evidence?---Absolutely, it was fundamentally important to  
11:02:33 18 it in my opinion.  
19

11:02:34 20 So there's an obvious risk in that prosecution that her  
11:02:40 21 role as a human source, just as there's a risk in the Petra  
11:02:46 22 charges?---Yes.  
23

11:02:46 24 Her role as a human source would be revealed in the witness  
11:02:49 25 box?---Yes.  
26

11:02:53 27 What was your understanding about what would be revealed to  
11:02:56 28 Paul Dale voluntarily by Victoria Police or the CDPP about  
11:03:00 29 this relationship between Victoria Police and Nicola  
11:03:03 30 Gobbo?---My understanding was that that was yet to be  
11:03:06 31 discussed, you know, as the proposal for this trial as sort  
11:03:10 32 of progressed. There wasn't any discussion at that meeting  
11:03:12 33 about that.  
34

11:03:13 35 The brief of evidence though I take it didn't contain  
11:03:16 36 anything that revealed that?---No, the brief of evidence  
11:03:18 37 was about she had freely and volunteered with Sol Solomon  
11:03:22 38 to get information from Paul Dale and it was her that  
11:03:25 39 suggested that she wear a wire.  
40

11:03:30 41 It being the case that, and it might be said to be quite  
11:03:33 42 obvious, that her role as a human source for Victoria  
11:03:38 43 Police was something that would assist Mr Dale in his  
11:03:42 44 defence of those charges, you'd accept, firstly, that was  
11:03:46 45 the position?---Yes, absolutely, there would have been  
11:03:49 46 disclosures that followed.  
47

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11:03:50 1 So there would be a requirement for police to  
11:03:53 2 disclose?---Yes.  
3  
11:03:53 4 That requirement doesn't follow the issue of a subpoena for  
11:03:57 5 further disclosure?---M'mm.  
6  
11:03:59 7 You would agree that proper prosecution disclosure happens  
11:04:03 8 at the first instance in the brief of evidence?---Yes.  
9  
11:04:06 10 The brief of evidence didn't contain anything about that  
11:04:08 11 relationship, is that something that - - - ?---There wasn't  
11:04:12 12 the full clarity about what that relationship was.  
13  
11:04:15 14 Well, at this stage though you would have been on notice  
11:04:17 15 and would have had some issues, or you did have some issues  
11:04:21 16 in your own mind about - - - ?---I did.  
17  
11:04:23 18 - - - what about this role was. What I'm challenging you  
11:04:27 19 on, and asking for your response to, is whether or not you  
11:04:29 20 put your foot down and said, "This brief of evidence needs  
11:04:34 21 to disclose the relationship between Gobbo and Victoria  
11:04:37 22 Police"?---It would have necessarily followed those  
11:04:40 23 decisions that were taken that day, because there was a  
11:04:42 24 lack of clarity, we were still operating with a lack of  
11:04:45 25 clarity about the real relationship. We knew about the -  
11:04:48 26 because at the time the issue of the writ had surfaced.  
27  
11:04:51 28 Yes?---So we knew about that and I informed the CDPP about  
11:04:54 29 that.  
30  
11:04:55 31 So the writ had been issued in April of 2010?---Yes.  
32  
11:04:59 33 And was settled in August of 2010?---Yes.  
34  
11:05:04 35 This is between those dates?---Yes - no, it was after that  
11:05:07 36 date. This is December - - -  
37  
11:05:08 38 Sorry, this is the CDPP discussion, yes?---Yes.  
39  
11:05:13 40 That's after it's settled and we'll go through some of that  
11:05:16 41 detail in due course?---Okay.  
42  
11:05:18 43 But what I want to ask though is that when you're talking  
11:05:24 44 to the CDPP, and you would have seen the brief I take  
11:05:28 45 it?---Yes.  
46  
11:05:29 47 What did you do, if anything, about bringing about

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11:05:32 1 disclosure to Mr Dale?--Well that wouldn't have been my  
11:05:36 2 role. Had the prosecution been approved and gone through  
11:05:39 3 as it - it would have flowed from there. There'd have been  
11:05:44 4 a meeting with the prosecuting teams, there would have been  
11:05:46 5 discussion and debate about what could and shouldn't be  
11:05:48 6 disclosed and from what I could see that was the right  
11:05:50 7 thing to do.  
8  
11:05:51 9 Indeed, down the track the prosecutors were given  
11:05:56 10 information?---Yes.  
11  
11:05:58 12 About - - - ?---Yes, at the last minute.  
13  
11:06:01 14 About the relationship?---At the last minute.  
15  
11:06:02 16 At the last minute. But what I'm seeking to understand is  
11:06:05 17 that given your senior role?---M'hmm.  
18  
11:06:09 19 I want to understand whether you did anything about that  
11:06:12 20 disclosure yourself and, if not, why not?---The reason why  
11:06:15 21 I knew it would develop, the reason why I couldn't and  
11:06:18 22 didn't, is because I was aware of this above ground process  
11:06:22 23 regarding this writ and an allegation that Ms Gobbo had  
11:06:25 24 been forced to become a witness. I'm hearing from two of  
11:06:30 25 the investigators who I trust implicitly that wasn't the  
11:06:32 26 case. So I thought that was a process that would follow  
11:06:36 27 through from there. There would be obviously a request for  
11:06:39 28 disclosure and discovery but isn't something my level would  
11:06:42 29 have got involved in. But yes, it would flow.  
30  
11:06:47 31 But if it's an industrial subversion?---Yes.  
32  
11:06:51 33 And you were forming that view at the time?---Yes.  
34  
11:06:53 35 What I'm suggesting is that you would have and should have  
11:06:54 36 done something about it in relation to - - - ?---Well I  
11:06:56 37 did. I was reporting it to various regulators. I was  
11:06:59 38 doing what I could. Because what that required, even then,  
11:07:03 39 was somebody to sort of call time and call for a Royal  
11:07:05 40 Commission. Pure and simple. But it might have emerged  
11:07:07 41 from that discovery and disclosure process.  
42  
11:07:10 43 I see?---I think we were just glimpsing the tip of an  
11:07:14 44 iceberg and I think with what I've learnt since, which  
11:07:17 45 isn't obviously of any relevance here, that's exactly what  
11:07:19 46 it was.  
47

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11:07:22 1 We touched on a moment ago the civil claim that was made by  
11:07:26 2 Ms Gobbo and its settlement. Do you know when you became  
11:07:30 3 aware of her suing Victoria Police?---This would be,  
11:07:35 4 obviously I'd heard in discussions and rumours around the  
11:07:40 5 organisation, but I think, I'm looking at my statement  
11:07:42 6 here, this would be in the latter part of 2010.  
7

11:07:45 8 When she brought - the latter part of 2010. I can tell you  
11:07:51 9 the - - - ?---I mightn't have the dates, but that's when I  
11:07:54 10 began to see some evidence of it because the people  
11:07:57 11 involved in preparing it worked for me.  
12

11:08:00 13 In April 2010 that's when she brought her civil action, and  
11:08:05 14 it's clear in the documents and in various places, in fact,  
11:08:08 15 that it was a well-known thing that she had sued Victoria  
11:08:11 16 Police. Do you accept that you might have been told that  
11:08:13 17 she was bringing an action against Victoria Police as early  
11:08:16 18 as - - - ?---Yes, but I didn't see it and I wasn't shown it  
11:08:18 19 and I was told I couldn't see it.  
20

11:08:20 21 Sorry, I understand that. I should have clarified  
11:08:23 22 it?---Right.  
23

11:08:24 24 You didn't get to see it until it appeared on your desk one  
11:08:27 25 day?---About the written settlement, yes.  
26

11:08:29 27 Prior to that you knew that there was a civil action  
11:08:31 28 happening?---Yes, when I was trying to find out something  
11:08:35 29 about it.  
30

11:08:35 31 You weren't told much; is that right?---No, not at all. I  
11:08:38 32 kind of accepted at face value well this is nothing to do -  
11:08:41 33 this is before your era, this is between the organisation  
11:08:44 34 and this individual. And I thought fair enough. But in  
11:08:47 35 time, of course, I got to see the whole thing. But I'd  
11:08:51 36 heard rumours, Mr Woods, and I did challenge the lawyer  
11:08:54 37 concerned. I said, "Well, I'm hearing this, I'm hearing  
11:08:57 38 that. I don't understand why we owe her any money."  
39

11:09:00 40 I see. All right, now you came to understand that as part  
11:09:08 41 of the - I'm going to ask you about a number of aspects of  
11:09:10 42 that settlement. But you came to understand that one of  
11:09:14 43 the aspects of the settlement was that Victoria Police was  
11:09:20 44 restricting its ability to [REDACTED] ?---Yes,  
11:09:24 45 that's correct.  
46

11:09:25 47 And what are your observations about?---Well I'm not sure

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11:09:28 1 that anyone can trade away they're right [REDACTED]  
11:09:34 2 You know, as citizens we all have a duty and responsibility  
11:09:37 3 to each other and to me that didn't make any sense.  
11:09:38 4  
11:09:39 5 Legally speaking it's obviously problematic, but what about  
11:09:42 6 from - well it's a questionable effect I should say?---I  
11:09:46 7 agree with that.  
8  
11:09:46 9 But what about the situation where bureaucracy, such as  
11:09:51 10 Victoria Police, are undertaking that nevertheless in  
11:09:55 11 documents, do you have a concern about that?---I've got a  
11:09:58 12 total concern about that because the perception is  
11:10:00 13 something's been covered up. The better way to handle that  
11:10:04 14 would have been to appoint a third party to manage that  
11:10:07 15 writ and defence and that wasn't done. You know, people  
11:10:10 16 were conflicted.  
17  
11:10:11 18 In any event, I assume that you became aware that Ms Gobbo,  
11:10:15 19 far from - or have you become aware that far from wanting  
11:10:21 20 to [REDACTED], was actually actively asking to  
11:10:25 21 [REDACTED] after that?---That's my understanding and  
11:10:27 22 that's my belief.  
23  
11:10:29 24 The Ombudsman, as you say, looked into these issues. I  
11:10:34 25 don't want to ask about the particulars of that?---Right.  
26  
11:10:38 27 Just from your knowledge, this writ for PII [REDACTED] of  
11:10:42 28 dollars was commenced in April of 2010, makes no mention of  
11:10:46 29 the relationship as a human source?---No.  
30  
11:10:49 31 And is settled in August of 2010. One might think that's a  
11:10:55 32 remarkably short period of time to commence and settle a  
11:10:59 33 proceeding of this size. What's your observation?---I  
11:11:03 34 agree with that. When I eventually got it see it, which  
11:11:07 35 obviously after the settlement I was absolutely shocked  
11:11:10 36 because the writ was so deficient in what had actually  
11:11:12 37 happened and there was, in my opinion, a huge conflict in  
11:11:18 38 terms of the view expressed that she'd been more or less  
11:11:21 39 forced into becoming a witness, and what I have read and  
11:11:24 40 what I understand and I believed to be, well, that wasn't  
11:11:27 41 the case. And these two views couldn't be reconciled. But  
11:11:30 42 moreover, the fundamental issues that caused the High  
11:11:34 43 Court's judgment weren't discussed or mentioned in any way,  
11:11:39 44 shape or form and I saw parts, I think when I saw the full  
11:11:41 45 settlement response it was completely ignored. Well that  
11:11:44 46 looked too convenient to me and I thought it was wrong.  
47

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11:11:46 1 Another way of viewing that though perhaps is that it's  
11:11:50 2 Ms Gobbo's claim to make against Victoria Police?---Yes.  
3  
11:11:52 4 She can choose the basis on which she brings her  
11:11:57 5 claim?---Of course, yes.  
6  
11:11:57 7 And the police aren't required to defend anything more than  
11:12:00 8 the claim that's brought against them. That's a fair view,  
11:12:04 9 do you accept?---Up to a point. She's entitled, of course,  
11:12:07 10 to claim on anything that she wishes, but given the nature  
11:12:09 11 and extent of the relationship and the fundamental  
11:12:16 12 miscarriages that had occurred because of it, I think it  
11:12:20 13 was incumbent on us as Victoria Police to respond more  
11:12:23 14 fully and actually to try and engage this writ in a more  
11:12:26 15 comprehensive and honest way, frankly, and if I'd have been  
11:12:26 16 the Chief that's what would have happened.  
17  
11:12:28 18 On one view, I mean that might well be what Victoria Police  
11:12:31 19 did, because - and you're aware that Ms Gobbo has this week  
11:12:35 20 disclosed that she's intending to bring more civil action  
11:12:38 21 against Victoria Police?---Yes, I've seen that, yes.  
22  
11:12:41 23 Given the fact that we only - well, you only saw, Victoria  
11:12:48 24 Police only saw the tip of that iceberg in the claim that  
11:12:51 25 she brought against them and the significant remainder of  
11:12:57 26 the iceberg remained under water?---Right.  
27  
11:13:02 28 Wouldn't it be prudent in those circumstances to do what  
11:13:07 29 Victoria Police did, which was [REDACTED] from  
11:13:11 30 Ms Gobbo for, her [REDACTED] Victoria  
11:13:15 31 Police for [REDACTED]  
11:13:18 32 [REDACTED] of the proceeding, which was the turning into a  
11:13:20 33 witness, et cetera?---Yes.  
34  
11:13:21 35 But also, [REDACTED] which have [REDACTED] as at [REDACTED]  
11:13:26 36 [REDACTED] 2010 [REDACTED] from or in any way [REDACTED] the  
11:13:30 37 [REDACTED], [REDACTED] or [REDACTED] with  
11:13:33 38 Victoria Police or its members. Now that's [REDACTED]  
11:13:37 39 [REDACTED] absolutely everything it appears to be?---Yes.  
40  
11:13:41 41 You'd accept that's a prudent thing to do simply from a  
11:13:44 42 civil liability point of view?---But fundamentally what  
11:13:47 43 we're not saying to her, and what it appears that this more  
11:13:50 44 than - we're actually playing along - there's a conflict of  
11:13:53 45 view here. We have her saying she was forced into this and  
11:13:56 46 she's named the Chief. We have some very credible, of high  
11:14:00 47 integrity, investigators saying something completely

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11:14:03 1 different and I think on that basis that issue ought to  
11:14:06 2 have been resolved before this went forward. So I think it  
11:14:09 3 falls at that point for me, that this document went forward  
11:14:12 4 without that conflict being resolved. So our own staff are  
11:14:15 5 saying, "This is not right", you know, "this is untrue,  
11:14:18 6 that didn't happen". So we've actually got to resolve that  
11:14:22 7 before we start putting our hand in the taxpayer's pockets.  
8

11:14:26 9 You asked to see the statement of claim and were  
11:14:32 10 denied?---I was denied.

11:14:33 11 PII [REDACTED]

11:14:37 12 PII [REDACTED].

11:14:40 13 MR HOLT: PII [REDACTED]

11:14:41 14 PII [REDACTED]

11:14:44 15 PII [REDACTED].

11:14:48 16 PII [REDACTED].

11:14:49 17 MR WOODS: PII [REDACTED].

11:14:50 18 COMMISSIONER: PII [REDACTED]

11:14:52 19 MR HOLT: PII [REDACTED].

11:14:52 20 COMMISSIONER: PII [REDACTED]

11:14:53 21 MR HOLT: PII [REDACTED].

11:14:56 22 COMMISSIONER: PII [REDACTED]

11:14:58 23 PII [REDACTED]

11:15:01 24 PII [REDACTED].

11:15:06 25 MR HOLT: PII [REDACTED].

11:15:07 26 COMMISSIONER: PII [REDACTED]

11:15:12 27 MR HOLT: PII [REDACTED].

11:15:18 28 COMMISSIONER: PII [REDACTED]

11:15:19 29 MR HOLT: PII [REDACTED].

11:15:44 30 MR WOODS: PII [REDACTED]?

11:15:44 31 COMMISSIONER: PII [REDACTED]

11:15:47 32 PII [REDACTED].

11:15:49 33 MR WOODS: PII [REDACTED]

11:15:52 34 COMMISSIONER: All right. Just from line - the question  
11:15:53 35 was, "Who did you ask?" That can stay in it. Then from  
11:16:01 36 the rest of line 21 down to line 37 will be taken from the  
11:16:10 37 transcript and not streamed.  
11:16:14 38  
11:16:22 39  
11:16:32 40

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11:16:33 1 MR HOLT: Commissioner, because there are people in the  
11:16:34 2 room who haven't been present throughout the course of the  
11:16:39 3 proceedings, of course there's a standing order from you  
11:16:41 4 that where this process occurs there's non-publication, not  
11:16:46 5 just in terms of the stream, but non-publication of those  
11:16:48 6 matters which have been taken from the stream.  
11:16:50 7  
11:16:50 8 MR WOODS: I don't have yet an understanding of the basis  
11:16:52 9 the original claim was made this morning other than the  
11:16:55 10 name of the Act. I'm not sure I can disagree or agree with  
11:16:58 11 that.  
11:16:58 12  
11:16:59 13 MR HOLT: At least for present purposes, Commissioner.  
14  
15 MR WOODS: For present purposes, Commissioner.  
16  
11:17:03 17 COMMISSIONER: All right. There's to be no publication of  
11:17:04 18 what's just been redacted. The way the question was asked,  
11:17:09 19 there's no problem with you mentioning the name of that  
11:17:12 20 person.  
11:17:12 21  
11:17:13 22 MR WOODS: I'm just going to put the question. You asked  
11:17:15 23 Mr McRae, who was a person who reported to you at the  
11:17:18 24 time?---Yes, he was, yes.  
25  
11:17:21 26 To see the civil settlement?---The things I was hearing  
11:17:24 27 about. This was before it was actually published and  
11:17:27 28 settled.  
29  
11:17:28 30 Did he provide a copy of the statement of claim to  
11:17:30 31 you?---No, his view was that this was nothing to do with  
11:17:33 32 me, it was between the organisation and the Chief and her  
11:17:37 33 as a - suing them. I sort of understood that.  
34  
11:17:42 35 So did you accept that response?---Yes, I did at that  
11:17:44 36 point.  
37  
11:17:47 38 You say at paragraph 82 that nevertheless at some stage,  
11:17:51 39 and obviously after the proceedings settled in August of  
11:17:54 40 2010, they just materialise on your desk?---Yes.  
11:17:59 41  
11:17:59 42 The statement of claim?---In a huge bureaucracy this sort  
11:18:02 43 of thing does and did happen.  
44  
11:18:04 45 Do you know where they came from?---They'll have come from  
11:18:06 46 the legal department but they landed upon my desk.  
47

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11:18:11 1 Did you ask anyone, "Who's provided these documents to  
11:18:16 2 me"?---I don't recall.  
3  
11:18:17 4 It might have well been that it was identified on the  
11:18:20 5 documents where they'd come from but it was just the timing  
11:18:24 6 that seemed to be - - - ?---Yes, and obviously I was  
11:18:26 7 nominally the head of that department.  
8  
11:18:29 9 So that's how you came to understand that there'd been the  
11:18:31 10 sum of \$PII [REDACTED]; is that right?---Yes.  
11  
11:18:35 12 And that there was a removal of the [REDACTED]  
11:18:39 13 [REDACTED] with  
11:18:43 14 Ms Gobbo?---Yes.  
15  
11:18:44 16 That was now to be allowed?---Yes.  
17  
11:18:46 18 And that - - - ?---Sorry, could you just explain that?  
19  
11:18:53 20 Well, that as part of the settlement - so we've talked  
11:18:56 21 about two aspects of it?---Yes.  
22  
11:18:58 23 Firstly, Nicola Gobbo [REDACTED] Victoria Police from [REDACTED],  
11:19:01 24 [REDACTED] in their dealings?---Yes.  
25  
11:19:03 26 You knew that that had happened?---Yes, I'd read it, yes.  
11:19:07 27  
11:19:07 28 You knew that it was intended between the parties that  
11:19:11 29 Victoria Police wouldn't [REDACTED]?---Yes, I  
11:19:14 30 particularly remember that aspect of it.  
31  
11:19:17 32 That she was now allowed to [REDACTED] with [REDACTED]  
11:19:20 33 [REDACTED] again, is that something you read at the  
11:19:21 34 time or you - - - ?---I read it but it's just not something  
11:19:24 35 I recall at this moment.  
36  
11:19:28 37 The sum of money, the payment of the settlement sum is  
11:19:34 38 something you take exception to and you've given evidence  
11:19:37 39 about that today to the Commission?---M'hmm.  
40  
11:19:39 41 You understand that in any proceeding against a public  
11:19:45 42 authority such as Victoria Police?---Yes.  
43  
11:19:48 44 It would be prudent to seek and receive external counsel's  
11:19:54 45 advice on the boundaries of settlement?---Yes.  
46  
11:19:57 47 And you understand that that's something that in fact

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11:20:00 1 happened prior to the settlement?---I've learned since,  
11:20:03 2 yes.  
3

11:20:03 4 You'd accept that was a prudent thing to do to, firstly,  
11:20:06 5 seek that advice?---Providing that body was advised about  
11:20:09 6 the broader issues that we're aware of today. And, also,  
11:20:14 7 that there was this conflict between the investigators  
11:20:17 8 saying one thing and her saying another, they both couldn't  
11:20:19 9 be true at the same time.  
10

11:20:21 11 However, let's just - - - ?---Sorry, if that went through  
11:20:23 12 for settlement without that information being revealed,  
11:20:26 13 then in my opinion that was deficient.  
14

11:20:27 15 But on the other hand, from a strictly commercial point of  
11:20:31 16 view, if you think about it this way, she was bringing a  
11:20:33 17 claim as to the effect on her - - - ?---Yes.  
18

11:20:35 19 - - - her ability to earn income?---M'hmm.  
20

11:20:38 21 You understand that?---Yes.  
22

11:20:39 23 And she was bringing that claim based on the fact that she  
11:20:42 24 had been, they were using - proposing to use her as a  
11:20:47 25 witness?---Yes.  
26

11:20:48 27 And that in fact the [REDACTED] that was achieved was  
11:20:51 28 releasing a much broader relationship between the  
11:20:55 29 parties?---Yes, it was. That was the effect.  
30

11:20:58 31 In those circumstances, seeking external advice and  
11:21:00 32 settling within the range of that external advice, would be  
11:21:03 33 a prudent thing to do, do you accept that?---I'm afraid I  
11:21:09 34 don't because we have this problem of a huge conflict  
11:21:11 35 between her assertion on a legally sworn document and I've  
11:21:14 36 got to two investigators who have a completely different  
11:21:18 37 view. And I think that that - - -  
38

11:21:20 39 A sworn document though is a statement of claim where she  
11:21:23 40 is claiming against Victoria Police for a particular aspect  
11:21:25 41 of their relationship?---Yes.  
42

11:21:26 43 It's the fact that she's just not identifying this other  
11:21:29 44 relationship, for whatever reason?---M'hmm.  
45

11:21:31 46 She's not identifying the other relationship, and she's not  
11:21:33 47 pursuing - - - ?---Right.

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1  
11:21:35 2 - - - any recompense based on that relationship?--Right.  
3  
11:21:39 4 I understand your issues about propriety of what was  
11:21:44 5 sitting under the surface?--Right, right  
6  
11:21:45 7 But strictly from a commercial point of view what I'm  
11:21:48 8 suggesting to you is - - - ?---I can't dispute with you,  
11:21:49 9 Mr Woods, you're a lawyer, I'm not. It just didn't make  
11:21:52 10 any sense to me.  
11  
11:21:56 12 Your view is that Mr Overland's involvement in Ms Gobbo's  
11:22:00 13 civil proceedings arose to a conflict of interest; is that  
11:22:07 14 right?---Yes.  
15  
11:22:08 16 You understand that he was a named party in those  
11:22:11 17 proceedings?---Yes, as the Chief you represent the  
11:22:14 18 organisation, yes.  
19  
11:22:15 20 But also that he had an obligation to be involved in those  
11:22:19 21 proceedings and the decision-making process because of his  
11:22:22 22 role?---Yes.  
23  
11:22:23 24 And so might it be the case that despite there being a  
11:22:32 25 potential for conflict it was understandable and acceptable  
11:22:36 26 that he take some role in the progress of the civil  
11:22:38 27 proceedings?---It's a point of view, but had I been in the  
11:22:41 28 chair I'd have had a third party transparently handling  
11:22:45 29 that aspect for me, because there's always a perception  
30 down the track that this is done for convenience.  
31  
11:22:49 32 Just taking a slightly different issue. What about his  
11:22:53 33 involvement in the Petra and Briars matters, firstly, what  
11:22:58 34 was his involvement in those?---Well he was on the steering  
11:23:01 35 committee for quite a long time and when he was doing my  
11:23:04 36 job, so it was quite a heavy engagement.  
37  
11:23:07 38 Your view is that that caused a conflict of interest as  
11:23:10 39 well?---I absolutely feel that was a conflict of interest.  
40  
11:23:13 41 It might be obvious, but why is that?---Because he's been  
11:23:16 42 judge and jury in his own cause and the wiser thing to do  
11:23:20 43 would have been to step aside and have another third party  
11:23:23 44 to represent his views, the organisation's views in that  
11:23:27 45 settlement because, as I said, down the piece somebody's  
11:23:29 46 going to make a suggestion possibly that this wasn't done  
11:23:32 47 correctly.

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1  
11:23:33 2 On the other hand, Briars tasking Ms Gobbo, as it had done,  
11:23:39 3 to promote the investigation, and Petra having her wear the  
11:23:47 4 wire to implicate Dale?---Yes.  
5  
11:23:51 6 They are simply furthering investigative actions, aren't  
11:23:56 7 they?---Yes.  
8  
11:23:56 9 And so is it really of any moment that he would then be on  
11:24:01 10 a steering committee after the event as to the direction  
11:24:05 11 that those investigations might take, despite her acting as  
11:24:08 12 a human source in the past?---No, but it was unwise of him  
11:24:16 13 not to recuse himself from that process in my opinion.  
14  
11:24:20 15 In your opinion, I understand?---In my opinion.  
16  
11:24:21 17 You talk about the conversation - so you have a  
11:24:25 18 conversation with a retired judicial officer. Is that  
11:24:30 19 about the same time you're talking to the Ombudsman about  
11:24:32 20 the Gobbo issue?---No, I'd already had the discussions with  
11:24:35 21 the Ombudsman previously. This would be about September,  
11:24:38 22 October I think.  
23  
11:24:39 24 Of 2010?---Yes.  
25  
11:24:41 26 What you've explained you're wanting to do is to try and  
11:24:46 27 work out how to approach this issue and bring some light to  
11:24:48 28 it?---Yes, because the kind of enormity of it then was  
11:24:53 29 pretty apparent. So I wanted to sound out someone out I  
11:24:57 30 trusted and what I should do?  
11:24:59 31  
11:24:59 32 So that conversation you don't mention - well, firstly,  
11:25:02 33 what do you mention? You're cautious in your  
11:25:05 34 conversation?---I laid out the situation without naming  
11:25:08 35 names.  
36  
11:25:08 37 All right. So you said it was a practising criminal  
11:25:11 38 barrister?---Yes.  
39  
11:25:12 40 Used as a human source?---Yes.  
41  
11:25:14 42 Against her clients, did you understand that at the  
11:25:16 43 time?---Yes, yes.  
44  
11:25:18 45 And you were wanting, what, some guidance on how to  
11:25:22 46 approach that?---Yes, absolutely, because I regarded it as  
11:25:25 47 a breach of, a severe breach of process and undermining of

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11:25:29 1 the judicial system.  
2  
11:25:30 3 What were you told by that person?--Well his initial  
11:25:33 4 response, because he'd been involved before in reviewing  
11:25:36 5 cases, reviewing an issue for us, was that he could do it  
11:25:39 6 but he would need a request from the Chief. And obviously  
11:25:45 7 at that point I felt the Chief was conflicted because of  
11:25:48 8 his engagement and involvement in the investigations whilst  
11:25:50 9 a Deputy, or an Assistant Commissioner as well, so I think  
11:25:54 10 the conversation then went well, your other opportunity has  
11:25:58 11 to be you've already raised with it the Ombudsman, make a  
11:26:02 12 formal report. Which I did.  
13  
11:26:05 14 By this stage had you discussed it one-on-one or in a group  
11:26:12 15 Mr Overland?--With?  
16  
11:26:13 17 With Mr Overland. Had you discussed this issue of  
11:26:16 18 Ms Gobbo's use as a human source and its potential  
11:26:19 19 effects?--I don't recall discussing it in an overt way,  
11:26:25 20 no.  
21  
11:26:26 22 You took, I mean I think you might have on the evidence  
11:26:26 23 anyway, but you took the decision not to confront him with  
11:26:31 24 this, why?--Because obviously he had questions to answer  
11:26:33 25 in my opinion. There may have been a totally reasonable  
11:26:36 26 explanation for all this I was unaware of. But it may, at  
11:26:41 27 its worse interpretation, be evidence of some serious  
11:26:45 28 wrongdoing. And if the boot was on the other foot, you  
11:26:48 29 know, I'm sure that the same thing would have happened, you  
11:26:50 30 need to find some independent scrutineer to look at this.  
31  
11:26:53 32 But wouldn't you expect the Deputy to confront the boss in  
11:26:56 33 an open and transparent environment, to say, "Listen, this  
11:26:59 34 is a real issue, we need to do something about it, and I  
11:27:02 35 think you've got a conflict about it, so the way I'm  
11:27:04 36 proposing to do it is as follows"? Why wouldn't you go  
11:27:09 37 about it that way?--I don't think that would be the best  
11:27:11 38 and proper way to do it. The best and proper way to do it  
11:27:15 39 would be to find the appropriate regulator to start  
40 discretely assessing this for what I thought it was, and  
11:27:19 41 then to decide what steps to take next. It may have been  
11:27:21 42 they would have done such a thing and would have talked to  
11:27:25 43 the Chief about it but that wasn't the way I decided to go  
11:27:27 44 about it.  
45  
11:27:28 46 Back to where we were. So there's the issue with the CDPP,  
11:27:35 47 you have a discussion with them. In fact I want to

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11:27:39 1 identify exactly - this is paragraph 75 of your  
11:27:44 2 statement?---M'hmm.  
3  
11:27:46 4 You say you're duly advised. This just follows on from a  
11:27:56 5 paragraph dealing with civil settlement. I just wanted to  
11:27:59 6 confirm that you're advising of the CDPP of the potential  
11:28:05 7 complications was a result of the civil settlement and the  
11:28:10 8 undertaking not to [REDACTED]; is that  
11:28:14 9 right?---That's correct.  
10  
11:28:15 11 The CDPP expressed to you that there was no issue with  
11:28:22 12 [REDACTED] because she remained [REDACTED]  
11:28:26 13 [REDACTED]?---That's my recollection.  
14  
11:28:27 15 Do you remember who you it was you spoke to at the  
11:28:30 16 CDPP?---No, I don't, I'm sorry.  
17  
11:28:31 18 You go on in that paragraph to say you - you say it's not  
11:28:36 19 right to give someone concrete assurances that they will  
11:28:40 20 [REDACTED] and that's your view?---That's  
11:28:43 21 my view. Particularly given the complexity around the sort  
11:28:46 22 of criminal activity that had gone in Melbourne for all  
11:28:50 23 those years and her obvious involvement, not involvement in  
11:28:54 24 those crimes, but obviously her presence in and around most  
11:28:58 25 of those crimes.  
26  
11:28:59 27 We've touched on this but despite all of that you authorise  
11:29:04 28 the brief?---Yes.  
29  
11:29:06 30 Do you accept there is some issue for you there?---No.  
31  
11:29:09 32 In that knowing these issues - - - ?---I'd never authorised  
11:29:12 33 a brief before in Victoria, it's not something that would  
11:29:15 34 normally come to my level. So in the jurisdiction where I  
11:29:18 35 have my most experience, issues around discovery and  
11:29:20 36 disclosure would flow from that decision. So there'd then  
11:29:27 37 be engagement of senior prosecutors and they would discuss  
38 and describe under the disclosure Act what actions would be  
39 taken from that point.  
40  
11:29:31 41 But in authorising the brief aren't you in fact saying that  
11:29:34 42 this is an appropriate brief of evidence to be served on  
11:29:39 43 the accused?---Yes. But as I say, there was a process to  
11:29:42 44 follow from that point.  
45  
11:29:43 46 What you're identifying there, I take it, is that the  
11:29:49 47 accused could always subpoena?---Absolutely. And Mr Dale

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11:29:52 1 in previous processes, you know, had been very assiduous  
11:29:56 2 about discovery and disclosure.  
3  
11:29:58 4 You know, I assume, that one of the issues about disclosure  
11:30:01 5 that came up in that case was he's already got a  
11:30:04 6 significant amount of disclosure through the committal in  
11:30:07 7 the murder charge?---Right.  
8  
11:30:08 9 Did you know that at the time?---Yes.  
10  
11:30:13 11 You don't accept that at that stage of authorising the  
11:30:17 12 brief you should have said, "We need to disclose this  
11:30:21 13 relationship between Gobbo and Victoria Police"?---This, as  
11:30:24 14 I said, this is a matter I think then for the legal process  
11:30:28 15 from that point onwards. We're here saying there's a prima  
11:30:34 16 facie case. So it's the first ever brief I'd ever  
11:30:37 17 authorised in this jurisdiction and my experience where  
11:30:39 18 I've come from, and I probably shouldn't have relied on it,  
11:30:42 19 would be that from that point those discussions would begin  
11:30:43 20 to take place, the Crown prosecutors would be across  
11:30:46 21 discovery and disclosure from day one.  
22  
11:30:49 23 On the basis though that the police can be trusted to  
11:30:53 24 disclose to the prosecutorial authority?---Yes.  
25  
11:30:55 26 And what we've seen here is that that's not something that  
11:30:58 27 occurred no, no?---Absolutely, yes.  
28  
11:30:59 29 Not in this matter but in other matters?---No, in other  
11:31:02 30 matters, yes.  
31  
11:31:04 32 That might be a convenient time, Commissioner.  
33  
11:31:06 34 COMMISSIONER: We'll have the mid-morning break now.  
35  
36 (Short adjournment.)  
37  
11:56:31 38 [REDACTED]  
11:56:33 39 [REDACTED]  
11:56:35 40 [REDACTED]  
11:56:35 41 [REDACTED] [REDACTED]  
42  
11:56:36 43 [REDACTED]  
11:56:38 44 [REDACTED]  
11:56:43 45 [REDACTED]  
11:56:43 46 [REDACTED] [REDACTED]  
47

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11:56:44 1 [REDACTED]  
 11:56:46 2 [REDACTED]  
 3 [REDACTED]  
 4 [REDACTED]  
 5 [REDACTED]  
 6 [REDACTED]  
 11:56:51 7 [REDACTED]  
 11:56:52 8 [REDACTED]  
 11:56:56 9 [REDACTED]  
 11:56:57 10 [REDACTED]  
 11:56:58 11 [REDACTED]  
 12 [REDACTED]  
 11:56:59 13 [REDACTED]  
 11:57:01 14 [REDACTED]  
 11:57:08 15 [REDACTED]  
 11:57:13 16 [REDACTED]  
 11:57:21 17 [REDACTED]  
 11:57:21 18 [REDACTED]  
 11:57:21 19 [REDACTED]  
 20 [REDACTED]  
 11:57:23 21 [REDACTED]  
 11:57:25 22 [REDACTED]  
 11:57:25 23 MR COLLINSON: If the Commissioner pleases.  
 24  
 11:57:27 25 COMMISSIONER: All right, thank you. Thanks Mr Collinson.  
 11:57:29 26 Yes. We didn't tender the exhibit, we talked about it but  
 11:57:36 27 we didn't get round to tendering the statement.  
 11:57:40 28  
 11:57:40 29 MR WOODS: That's correct, Commissioner. It's a PII  
 11:57:43 30 reviewed version of the most recent statement ready for  
 11:57:46 31 tender.  
 11:57:48 32  
 11:57:49 33 #EXHIBIT RC903A - (Confidential) Statement of Kenneth  
 11:57:54 34 Jones.  
 11:57:54 35  
 11:57:55 36 #EXHIBIT RC903B - (Redacted version.)  
 11:57:59 37  
 11:58:00 38 MR WOODS: I should say, I know we've already dealt with it  
 11:58:03 39 today, my submission is that that's ready for publication,  
 11:58:06 40 the redacted version can be published forthwith, despite  
 11:58:11 41 the relevance issues.  
 11:58:11 42  
 11:58:13 43 COMMISSIONER: It has the latest redaction that was  
 11:58:17 44 mentioned by Mr Holt, yes.  
 11:58:19 45  
 11:58:19 46 MR WOODS: Yes. Thank you for bearing with us there,  
 11:58:22 47 Mr Jones. We got to a January 2011 discussion that you had

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11:58:31 1 with the Ombudsman. As I understand it that was a  
11:58:34 2 subsequent conversation with the Ombudsman, or is that the  
11:58:38 3 first one?---No, that was subsequent and a number of issues  
11:58:42 4 were wrapped up in that contact.  
5  
11:58:46 6 Amongst those was the Gobbo issue?---Yes.  
7  
11:58:49 8 Mentioned by name at that stage?---Yes.  
9  
11:58:51 10 You had, I was going to say a lukewarm response, but  
11:58:56 11 perhaps the way you describe it was a lack of understanding  
11:58:59 12 about the implications was your observation; is that  
11:59:02 13 right?---Yes.  
14  
11:59:02 15 The earlier one?---I think it was difficult for them to  
11:59:05 16 grasp the potential import of what I was saying.  
17  
11:59:11 18 I see?---They went forward of course on another issue,  
11:59:14 19 which I then returned in February to give them information  
11:59:17 20 about that.  
21  
11:59:18 22 Yes, all right. That's right, February 2011 they attend -  
11:59:24 23 well, Mr Taylor attends your house; is that correct?---Yes.  
11:59:27 24 I was referring to the second meeting I had with them about  
11:59:31 25 another issue that's not relevant to the Commission, yes,  
11:59:34 26 and then he came to our house.  
27  
11:59:37 28 He has a discussion with you at that stage, a concern that  
11:59:44 29 he has about your telephones and emails being unlawfully  
11:59:49 30 compromised by the OPI; is that correct?---That's the  
11:59:52 31 information he gave me.  
32  
11:59:53 33 And is that something he knew about or something he  
11:59:55 34 suspected?---I took it that he knew about it.  
35  
11:59:59 36 All right. He raised the possibility of your home and your  
12:00:04 37 car having listening devices in them?---Yes.  
38  
12:00:08 39 Did he explain why it was that he thought the OPI might be  
12:00:11 40 taking those measures?---He thought it was a reprisal for  
12:00:16 41 me speaking out.  
42  
12:00:17 43 Speaking out about the Gobbo issue or all of the  
12:00:21 44 issues?---About I think a number of issues.  
45  
12:00:24 46 As a result of that - I assume you accepted these as things  
12:00:31 47 you should be concerned about?---Yes, we were very worried

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12:00:33 1 and my wife was terrified and she's never been better  
12:00:39 2 since.  
3  
12:00:39 4 You say that a number of other things happened at around  
12:00:42 5 that time that caused you concern and you link these things  
12:00:48 6 to you raising issues about - - - ?---Yes.  
7  
12:00:52 8 - - - criminal statistics, about Nicola Gobbo?---Yes.  
9  
12:00:55 10 The use of Nicola Gobbo as a human source I should  
12:00:58 11 say?---Yes.  
12  
12:00:59 13 And a few other issues; is that right?---Yes.  
14  
12:01:02 15 One of the things that you say caused you concern was  
12:01:04 16 finding a red laser dot on your chest as walked around the  
12:01:08 17 tan?---Yes, on my wife's chest, mine and our dog, and it  
12:01:12 18 was - - -  
19  
12:01:13 20 From your experience you thought that was a military - - -  
12:01:15 21 ?---Well I've got some firearms experience. It wasn't the  
12:01:19 22 sort of laser that you'd buy in a toy store. It was the  
12:01:22 23 real thing and it had come from a huge distance away. It  
12:01:26 24 was very, very steady.  
25  
12:01:27 26 You don't know for a fact what the source of that red laser  
12:01:30 27 dot was?---No, but I'd been under death threats. I was  
12:01:33 28 carrying a gun. We'd had an armed protection team in our  
12:01:35 29 house. Somebody had tried to get a contract to kill me in  
12:01:40 30 Queensland.  
31  
12:01:40 32 Who told you about the contract to kill you?---That would  
12:01:43 33 be Jeff Pope.  
34  
12:01:44 35 Was the source of these threats and the information about  
12:01:46 36 the contract on your life ever disclosed to you? Was there  
12:01:50 37 ever any understanding of who it was who was carrying this  
12:01:55 38 out?---No, they ran the operation separate, quite properly  
12:01:57 39 from the target, which was me, and I was just briefed about  
12:02:01 40 the level of threat, whether it was rising or falling.  
41  
12:02:04 42 There might just be an issue to be raised, Commissioner.  
12:02:06 43  
12:02:07 44  
12:02:10 45  
12:02:13 46  
12:02:19 47

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COMMISSIONER: All right, we'll get back to Mr Jones' evidence.

MR WOODS: I think we were talking about a death threat that was explained to you that had come from Queensland that Mr Pope explained to you?---Yes.

Did he explain to you that the genesis of that threat was from criminal figures or organised criminal figures?---It was organised crime.

Not an unsurprising thing to happen to a police officer from time to time?---No, but I think pretty unusual in terms of the way they assessed the threat. I wasn't brought into that but to find I'd have to go around armed, to have an armed team around my unit 24/7, it was obviously a severe threat.

You put those issues in your statement I assume because you understand them to be somehow linked to the issues that you were raising within Victoria Police?---Not the threats themselves.

Okay, so not the threats?---No, I thought they came externally and I thought they were legitimate.

Okay, I see. The TIs and LDs that you were told about/suspected, obviously that was - - - ?---That was separate issue.

A separate issue and OPI related, as you understood it?---Yes.

The red laser dot, again I assume you don't know to this

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12:09:36 1 day what the source of that was?---That's correct.  
2  
12:09:39 3 Did you raise, firstly, the issues with the Chief  
12:09:45 4 Commissioner, did you raise the fact that the OPI might  
12:09:48 5 have been involved in an investigation into you?---No, I  
12:09:53 6 did not. The Ombudsman wanted to keep that very tight and  
12:09:58 7 they were very discreet and they gave instructions that  
12:10:04 8 that knowledge obviously wasn't to be shared.  
9  
12:10:08 10 Not long after these things occurred you left Victoria  
12:10:15 11 Police, and I'm going to go through some of the events that  
12:10:18 12 led up to that, but that was in May 2011?---That's correct.  
13  
12:10:23 14 Can you explain the circumstances, the question being  
12:10:29 15 whether or not you were fired, I think you've talked about  
12:10:32 16 constructive dismissal, language of resign or resignation  
12:10:37 17 is used. What were the circumstances that led to your  
12:10:40 18 departure?---I was called to the Chief's office and I was  
12:10:45 19 told to leave the building by close of business that day.  
20  
12:10:48 21 What was the relationship between yourself and the Chief  
12:10:50 22 like at that stage, given - - - ?---As I say, I wouldn't  
12:10:54 23 want to personalise this but my relationship perhaps with  
12:10:57 24 that level of the Force, you know, it wasn't good.  
25  
12:11:02 26 Yes?---So, yes.  
27  
12:11:03 28 When you say you don't want personalise it, you've given  
12:11:06 29 evidence previously that the vendetta theory is no more  
12:11:11 30 than that, just a theory and it was no more?---It wasn't,  
12:11:15 31 because the Ombudsman advised me to make a complaint, that  
12:11:19 32 detrimental action was taken against me because they  
12:11:23 33 suspected reports had been made. He published a report  
12:11:27 34 which said detrimental action had been taken against me by  
12:11:29 35 the Chief, my reputation, my prospects were irrevocably  
12:11:36 36 harmed, but it didn't meet the threshold of a criminal  
12:11:37 37 offence, so I think that that was confirming what I  
12:11:39 38 suspected about some of the actions taken.  
39  
12:11:42 40 So you were vindicated from the point of view of the  
12:11:47 41 detrimental action?---Yes.  
42  
12:11:49 43 As for the effects of that, nothing flowed but that finding  
12:11:53 44 was made?---That finding was public.  
45  
12:11:56 46 Yes, sure. No doubt it will be said to you that in fact  
12:12:06 47 you weren't constructively dismissed or sacked from your

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12:12:12 1 role?---M'hmm.  
2  
12:12:15 3 But made your own decision to leave. What's your evidence  
12:12:18 4 about that?---I was finding it impossible to work and  
12:12:22 5 basically I couldn't function. I couldn't do the job I was  
12:12:24 6 getting paid do so I said I'd have to go.  
7  
12:12:27 8 How did that manifest, that inability to carry out your  
12:12:30 9 role? What impediments did you face?---I felt like a stone  
12:12:34 10 in somebody's shoe, I was being given the cold shoulder,  
12:12:37 11 people were ignoring me, not speaking to me. There was  
12:12:40 12 suspicion and mistrust. I'd become a hugely divisive  
12:12:46 13 figure. There were briefings in the press against me. It  
12:12:50 14 was very, very unpleasant.  
15  
12:12:51 16 You say that you were told that there was a meeting on the  
12:12:55 17 morning that this discussion happened between the Chief and  
12:13:00 18 you where others were told that you were - - - ?---Yes.  
12:13:04 19  
12:13:04 20 - - - going to be sacked or asked to resign, or what was  
12:13:10 21 it, later that day, do you understand what they were  
12:13:12 22 told?---Yes. My first - I was told that there'd been an  
12:13:14 23 agreement, I read there'd been an agreement between the  
12:13:17 24 people present, and I think there were inappropriate people  
12:13:20 25 present in that room. I'd regard Mr Pope as one of those  
12:13:23 26 people. The press and media officer was another. This was  
12:13:27 27 a matter for the Deputies and the Chief and that - - -  
28  
12:13:29 29 Why is it that Mr Pope shouldn't have been part of that  
12:13:32 30 decision?---Because he was junior - (a) because he was  
12:13:35 31 junior to me, (b) because he was conflicted by that point,  
12:13:38 32 and I was learning things also that related to him and he  
12:13:41 33 had a relationship with Ms Gobbo.  
34  
12:13:44 35 Well on one view anyone in that room would have been  
12:13:46 36 conflicted given - well, I shouldn't say anyone, that the  
12:13:50 37 Chief Commissioner would have had a conflict in your view  
12:13:54 38 as well because of his previous involvement with the use of  
12:13:57 39 Nicola Gobbo as a human source?---M'hmm. But the issue  
12:14:00 40 about the seniority and the Deputies and the Chief I think  
12:14:05 41 is the professional way to have handled that.  
42  
12:14:07 43 You found out after the meeting, or you were told and you  
12:14:10 44 believe that the individuals at the meeting high-fived each  
12:14:13 45 other when they found out about that dismissal; is that  
12:14:16 46 correct?---That's correct.  
47

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12:14:17 1 Who told you that?---A number of people who worked for me  
12:14:20 2 on that level.  
3

12:14:21 4 Who were at the meeting or who - - - ?---No, these are  
12:14:23 5 support staff.  
6

12:14:26 7 You say that Overland made a report to the OPI that same  
12:14:30 8 day; is that correct?---That's correct.  
9

12:14:33 10 And you found out about that report in due course?---Yes.  
11

12:14:37 12 Some time afterwards?---I didn't know that day obviously  
12:14:40 13 but, yes, I found out some time afterwards.  
14

12:14:42 15 How long after that day did it take for you to return to  
12:14:45 16 the United Kingdom?---It was a couple of months I think.  
12:14:50 17 Weeks in fact. Forgive me, I can't remember the precise  
12:14:53 18 dates but a couple of weeks.  
19

12:14:54 20 And you were no doubt very aggrieved by the circumstances  
12:14:59 21 of - - - ?---Yes.  
22

12:15:03 23 - - - the termination of your - - - ?---I got home that  
12:15:06 24 day, there were media outside our door, they'd already been  
12:15:08 25 briefed. There were hostile questions. They'd knocked on  
12:15:11 26 the neighbour's doors. They'd been around the local  
12:15:15 27 stores. We were completely and utterly humiliated. My  
12:15:19 28 wife was in bits. It was disgusting what was done to us.  
29

12:15:25 30 The Media Unit at Victoria Police, is it your understanding  
12:15:27 31 that they were involved in advising the media of these  
12:15:30 32 events?---I don't know.  
33

12:15:32 34 Do you have any observations about the size or strength or  
12:15:35 35 influence of the Media Unit at Victoria Police?---No, I  
12:15:36 36 haven't, Mr Woods.  
37

12:15:38 38 You talk about, just on a side issue, you're critical of  
12:15:44 39 the politicisation of policing in various jurisdictions.  
12:15:49 40 Was that something you observed in Victoria at the  
12:15:51 41 time?---There was always a flavour of that. I can't give  
12:15:53 42 you any piece of evidence to support that, but there was  
12:15:56 43 always a feeling of political engagement involvement. And  
12:15:59 44 in fact I did see in an Ombudsman report that a Minister  
12:16:03 45 had expressed to the Chief and others, "He's after your  
12:16:07 46 job", which was utter nonsense. If that isn't political  
12:16:10 47 involvement - there were other comments like that as well.

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1  
12:16:13 2 So is it the fact that governments and Police Forces should  
12:16:16 3 keep well apart?---Absolutely. The police are part of the  
12:16:19 4 executive, yes, they're under the control of the Ministers  
12:16:22 5 of government, yes. But when it comes to investigation and  
12:16:25 6 operational matters, in order for the Chief and the rest of  
12:16:28 7 us to be held to account there needs to be a clear  
12:16:30 8 separation.  
9  
12:16:31 10 There's no doubt going to be personal relationships at  
12:16:34 11 times between parliamentarians and the police?---Of course,  
12:16:35 12 there has to be. And when Mr Brumby said, you know, he  
12:16:39 13 thought Simon was the best pick, you know I totally agree  
12:16:44 14 and I understand that.  
15  
12:16:45 16 When you understood that and that's why you express in your  
12:16:48 17 statement and to your evidence before the Commission that  
12:16:49 18 you were nevertheless excited about the role of Deputy once  
12:16:54 19 that was offered?---Absolutely.  
20  
12:16:58 21 Your view is that the termination of your time or your  
12:17:04 22 firing, as you say, is connected to the issue about you  
12:17:09 23 discovering and - - - ?---Doing the right thing.  
24  
12:17:13 25 Well, bringing to the fore in part the Nicola Gobbo  
12:17:17 26 issue?---Yes, and the other issues too, absolutely.  
27  
12:17:19 28 Do you have evidence of that or is it something that's by  
12:17:22 29 implication?---I think the Chief and the others know full  
12:17:25 30 well that if you're going to boot somebody out of the  
12:17:27 31 office at the same time you're going to initiate some sort  
12:17:31 32 of covert investigation, it's a completely futile exercise.  
12:17:34 33 There are standard techniques to test people's integrity,  
12:17:38 34 to test whether they leak information. These all could  
12:17:42 35 have been used and deployed. They were never used. The  
12:17:44 36 article I was accused of leaking turned out to be a  
12:17:47 37 collection of, this was analysis by people other than me,  
12:17:48 38 of public domain information and some very intelligent  
12:17:53 39 analysis of it by the journalist concerned. He went on  
12:17:57 40 oath to say I had nothing do with it and it still didn't  
12:18:00 41 stop, and this went on for nearly three years.  
42  
12:18:03 43 This is on a slightly different issue though, this is the  
12:18:05 44 - - - ?---This is a leak of something to do with the Carl  
12:18:09 45 Williams' murder. It was utter tripe. I had in my  
12:18:10 46 possession, and I gave this information to Justice Kellam,  
12:18:13 47 about ten items which would blown this State apart. I said

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12:18:17 1 if I wanted to embarrass anybody, and I'm not the sort of  
12:18:20 2 person to do that, and he agreed with me. So, yes, I'm  
12:18:23 3 pretty aggrieved by what happened to me, and no one's ever  
12:18:27 4 apologised despite Justice Kellam saying that they had no  
12:18:32 5 information or intelligence or evidence to come up with any  
12:18:34 6 of their tenuous theories and the investigation should  
12:18:36 7 cease.  
8  
12:18:36 9 You were vindicated about those issues by an IBAC inquiry,  
12:18:45 10 is that right?---Yes, but nobody apologised. Still  
12:18:48 11 haven't.  
12  
12:18:48 13 You say in your statement, this is paragraph 104, "I am in  
12:18:50 14 no doubt that this detrimental action was taken because it  
12:18:54 15 was suspected what I had reported what I had found out  
12:18:55 16 about Nicola Gobbo"?---Yes.  
12:18:57 17  
12:18:57 18 "And other matters and that I needed to be discredited and  
12:19:01 19 silenced"?---That's what I believe.  
20  
12:19:03 21 And that remains your view?---It's a classic fight back  
12:19:08 22 from someone who's under suspicion and has something to  
12:19:11 23 hide, to undermine the credibility of the person making the  
12:19:14 24 report. If I was wrong they could have sat back and let  
12:19:18 25 those reports and the investigations play forward but, no,  
12:19:20 26 they didn't do that.  
27  
12:19:21 28 So in your view they got rid of the source of the trouble  
12:19:26 29 rather than - - - ?---I was undermined so totally by what  
12:19:30 30 some recruiters that were later to say to me in 2012/13 by  
12:19:34 31 the Google effect. Jobs which I was heavily qualified for  
12:19:38 32 I didn't get on the short-list, and due diligence, people  
12:19:41 33 obviously, they searched the web and said, "Well, it's  
12:19:43 34 between you and Fred. Fred's got none of this. Look at  
12:19:47 35 this mess you were involved in". Did not want to take the  
12:19:50 36 risk.  
37  
12:19:51 38 Following this particular time in May 2011 and the ceasing  
12:19:57 39 of your role at Victoria Police, you were approached by the  
12:20:02 40 government, by the then Police Minister; is that  
12:20:05 41 right?---Yes.  
42  
12:20:07 43 And by Mr Weston, the government's police advisor?---I was.  
44  
12:20:12 45 That was, as you understood it, at the request of the  
12:20:15 46 Cabinet Minister Andrew McIntosh?---That's correct.  
47

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12:20:18 1 And you were asked to withdraw your resignation?---I was.  
2  
12:20:24 3 And what was your response to that?---I point blank  
12:20:28 4 refused. And by the way, these comments are repeated in  
12:20:30 5 submissions to the OPI, they just ignored it and continued  
12:20:33 6 with their puppet Commissioner nonsense. That - as Justice  
12:20:39 7 Kellam said, all the exculpatory material was routinely and  
12:20:42 8 reflexively ignored, and that was one of it, so I was met  
12:20:43 9 by other people, so said government emissaries, and I made  
12:20:47 10 the point, no, we need to go, I'd become a divisive figure,  
12:20:53 11 I will not withdraw.  
12  
12:20:59 13 Your observations were that the OPI essentially ignored the  
12:21:05 14 Gobbo issues when you raised them?---Well I can't speak for  
12:21:12 15 them but I can say the dates on which submissions were made  
12:21:15 16 which recounted this tale to that regulator, to the  
12:21:18 17 Ombudsman and to other people, years ago. And if I'd have  
12:21:21 18 been listened to back then, who knows what we would have  
12:21:25 19 been able to stop/deal with.  
20  
12:21:29 21 In that regard, I mean the Commission has heard evidence in  
12:21:32 22 recent days of trials, and it's not dissimilar in a sense  
12:21:39 23 to what I was challenging you on a moment ago about the  
12:21:42 24 brief of evidence against Paul Dale for the ACC?---Right.  
25  
12:21:46 26 For that to be authorised and issued in the absence of  
12:21:49 27 disclosure and you've given your evidence about why that  
12:21:52 28 is?---M'hmm.  
29  
12:21:53 30 The Commission has heard that the now Chief Commissioner of  
12:21:58 31 Police had before him well prior to the prosecution of a  
12:22:04 32 man called Rob Karam for a very large importation of  
12:22:08 33 ecstasy?---Yes.  
34  
12:22:09 35 From Calabria, that in a minute, a typed out record of a  
12:22:19 36 minute it says that there was an awareness of Ms Gobbo's  
12:22:23 37 role?---Right.  
38  
12:22:25 39 As being the source of that information and there being  
12:22:28 40 some suggestion that obviously needed to be looked into as  
12:22:34 41 to whether or not she was acting for the individual at the  
12:22:38 42 time she provided that information to the police?---Right.  
43  
12:22:40 44 The Chief Commissioner was challenged firstly that that  
12:22:43 45 note recorded that he knew those matters and his initial  
12:22:49 46 evidence was, "Well, it was just the potential of those  
12:22:54 47 matters rather than those actual matters"?---Right.

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1  
12:22:57 2 What's your view about the propriety or otherwise, bearing  
12:23:04 3 in mind what I've asked you about the Dale brief, of  
12:23:06 4 knowing that there's a prosecution that is  
12:23:10 5 upcoming?---M'hmm.  
6  
12:23:11 7 Where there are serious issues, some of them realised and  
12:23:14 8 some of them potential, and that is not thoroughly  
12:23:17 9 investigated with a view to disclosure prior to the trial  
12:23:24 10 and the court not being given the opportunity to decide  
12:23:28 11 whether or not those issues are subject to public interest  
12:23:30 12 immunity?---Well I think the wise thing to do would be to  
12:23:35 13 halt that process and to undertake the sort of examinations  
14 you've suggested. That would be the wise and proper thing  
12:23:36 15 to do. To go forward at that point, practising a deceit on  
12:23:39 16 the court, the jury, the judge and the public, I'm just  
12:23:44 17 baffled by that. And I found that in other cases, as I  
12:23:47 18 said, post Williams' murder.  
19  
12:23:49 20 You found that in other cases?---Yes.  
21  
12:23:52 22 Affected by Nicola Gobbo, or potentially  
12:23:54 23 affected?---Potential, and we were talking about potential.  
12:23:56 24 But the evidence was very, very strong.  
25  
12:23:58 26 Again, might it be said that once you receive that strong  
12:24:01 27 evidence?---M'hmm.  
28  
12:24:02 29 And you are in a very senior role?---Yes.  
30  
12:24:04 31 You yourself have an obligation to do something about  
12:24:08 32 that?---Well I did.  
33  
12:24:10 34 When you say you did, that's you raising it with the  
12:24:13 35 Ombudsman?---I first of all raised it with the jurist I  
12:24:16 36 mentioned.  
37  
12:24:17 38 Yes?---By which time I was pretty firm in my conclusions,  
12:24:21 39 and an investigation needed to follow.  
40  
12:24:22 41 Yes?---And a continued relationship with the Ombudsman so I  
12:24:26 42 formally, because I'd sort of laid it out for them, but as  
12:24:30 43 I say they didn't quite comprehend the import of it. But  
12:24:33 44 in January I laid it out much more clearly and again  
12:24:37 45 throughout that year really, when I was dealing with them  
12:24:39 46 and with the OPI.  
47

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12:24:41 1 Might it not have been a more effective approach to, if you  
12:24:45 2 were getting this lukewarm response from the OPI?--M'hmm.  
3  
12:24:50 4 To raise the issues as loudly and with as much force as  
12:24:57 5 possible within Victoria Police?---No, because that  
12:24:58 6 wouldn't be fair to them because had an investigation  
12:25:04 7 ensued somebody would have said, well, you've had a chance  
12:25:07 8 to cover your tracks. It wouldn't be right - if somebody  
12:25:09 9 thought that about me, I'd rather have an independent  
12:25:12 10 review without my knowledge so no one can accuse me, "Well,  
11 Fred Smith came to tell you about that and he was really  
12:25:15 12 angry about what you'd done and you've gone and got rid of  
12:25:17 13 things". So it just isn't the right way to do it. I'm  
12:25:21 14 sorry, that's just the way I would do it. I mention a case  
12:25:25 15 where an individual was strongly suspected of having money  
12:25:28 16 that he shouldn't have had possession of and we conducted  
12:25:31 17 an investigation into him which exonerated him totally and  
12:25:34 18 to this day he doesn't know about it. And that's the right  
12:25:37 19 way to do it. But to go banging on his door, no doubt we  
12:25:42 20 would have exonerated him as well, but it probably would  
12:25:46 21 have been the end of his reputation.  
22  
12:25:48 23 Does that stand in contrast to the way the OPI, as you  
12:25:50 24 understand it, was looking into you at the time?---I think  
12:25:52 25 it totally does.  
26  
12:25:55 27 I mean wasn't that happening covertly in your view?---It  
12:25:58 28 went on for years and I don't understand what - if I was as  
12:26:00 29 dishonest as was alleged, how on earth they were expected  
30 to actually discover and uncover anything once they'd  
12:26:02 31 tipped me off they were going to start doing it and the  
12:26:05 32 Ombudsman telling me that they are illegally going to bug  
12:26:08 33 and surveil you, it just didn't make any sense.  
34  
12:26:11 35 It's not a good investigative technique?---No, it's not. I  
12:26:14 36 think the intention was to discredit in silence, and it  
12:26:18 37 worked. We were terrified. And I couldn't get work. So  
12:26:23 38 my word was not worth much for a long, long time before I  
12:26:27 39 tried to recover my reputation.  
40  
12:26:28 41 The Gobbo issues being raised with the Ombudsman occurs  
12:26:31 42 again, in a continuing fashion perhaps, on return to the  
12:26:36 43 United Kingdom in about July 2011?---Yes, they came to see  
12:26:41 44 me.  
45  
12:26:41 46 There are records, obviously significant records of their  
12:26:46 47 dealings with you and they have a multiday from memory - -

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12:26:50 1 - ?---Two days.  
2  
12:26:51 3 - - - interview with you?---Yes.  
4  
12:26:52 5 And that's Mr?---Sullivan.  
6  
12:26:57 7 Sullivan and Vanderhaar?---Yes.  
8  
12:27:01 9 In that process you're talking about the Gobbo settlement,  
12:27:09 10 the Gobbo issues?---Yes.  
11  
12:27:10 12 And raising them with the Ombudsman?---Yes, I was.  
13  
12:27:13 14 I want to - in fact when I tender this I might tender a few  
12:27:17 15 other things that I've been - that I haven't tendered yet.  
12:27:23 16 If I can just pause there for a moment, Mr Jones. There's  
12:27:27 17 a couple of - some Petra minutes that I referred to  
12:27:32 18 earlier, Commissioner, which is IBAC.0010.0001.0493. I'm  
12:27:41 19 seeking to tender all of the minutes in that document.  
20  
12:27:48 21 COMMISSIONER: What are the dates of those minutes then?  
12:27:50 22  
12:27:51 23 MR WOODS: I think they start on 26 May 2010.  
24  
12:27:56 25 COMMISSIONER: Yes, they did.  
12:27:57 26  
12:27:58 27 MR WOODS: I'm not quite sure where they finish. But 26 May  
12:28:02 28 onwards. Here we go. I might have the last one.  
29  
12:28:10 30 COMMISSIONER: 26 March 2011 apparently.  
12:28:15 31  
12:28:16 32 #EXHIBIT RC904A - (Confidential) IBAC.0010.0001.0493.  
12:28:18 33  
12:28:18 34 #EXHIBIT RC904B - (Redacted version.)  
12:28:20 35  
12:28:20 36 MR WOODS: Thank you, Commissioner. The next document I  
12:28:22 37 want to take the witness to I'll tender now so I don't  
12:28:25 38 forget. It's document V0.0001.0001.0101 and that is a 29  
12:28:42 39 July 2011 file note of the Ombudsman investigators.  
12:28:52 40  
12:28:52 41 #EXHIBIT RC905A - (Confidential) V0.0001.0001.0101.  
12:28:54 42  
12:28:54 43 #EXHIBIT RC905B - (Redacted version.)  
12:28:59 44  
12:29:02 45 Have you seen - that can come up on the screen, thank you.  
12:29:08 46 Have you seen the Ombudsman's notes before?---No.  
47

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12:29:15 1 You can see though that that is a file note of the  
12:29:18 2 discussions between yourself and those two gentlemen in the  
12:29:22 3 United Kingdom on 28 July and 1 August 2011?---Yes.  
4

12:29:30 5 I don't propose to take you through the entire document,  
12:29:32 6 but if we could go to p.7?---M'hmm.  
7

12:29:40 8 You'll see there, right at the bottom sorry, if you could  
12:29:51 9 just enlarge that paragraph. SKJ - that's you obviously.  
12:29:55 10 You said that McRae and Overland were heavily in the Gobbo  
12:29:59 11 settlement and you couldn't understand why she was paid  
12:30:02 12 PII [REDACTED] other than that her protection was incompetent  
12:30:08 13 and it was well-known that she was informing to police  
12:30:10 14 about a number of her clients. You accept that this is one  
12:30:14 15 of the issues that you were describing to the  
12:30:17 16 Ombudsman?---Yes.  
17

12:30:18 18 At p.16 of that note, again you talk about your suspicions  
12:30:25 19 about the payment of PII [REDACTED] to Nicola Gobbo and a  
12:30:30 20 written undertaking she will not [REDACTED]  
12:30:32 21 [REDACTED]  
12:30:36 22 [REDACTED]?---M'hmm.  
23

12:30:37 24 You advise that Gobbo has been giving police information  
12:30:40 25 about her criminal clients for years and that this and the  
12:30:44 26 possibility that she was informing directly to Simon  
12:30:47 27 Overland may be the reason why the payment and other  
12:30:49 28 undertakings were made. Now you don't have any evidence to  
12:30:53 29 say that the information Nicola Gobbo was giving was  
12:30:56 30 directly to Simon Overland?---No.  
31

12:30:59 32 And you understand - - - ?---It was a possibility. I think  
12:31:02 33 they paraphrased things I was saying.  
34

12:31:04 35 I see?---Given that they were on the steering committees,  
12:31:08 36 you know, they have to be asked. Well they've got  
12:31:10 37 questions to answer, I'll say no more than that.  
38

12:31:15 39 There's just one other document I want to bring up. It's  
12:31:18 40 VO.0001.0002.0007. This is just the contact that I think  
12:31:26 41 predates this?---Right.  
42

12:31:32 43 Is that a document that you've seen before?---I don't  
12:31:36 44 recognise it.  
45

12:31:38 46 No. But that records a telephone and text message exchange  
12:31:47 47 from you to Mr Taylor; is that correct?---It reads like

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12:31:54 1 that. It's certainly about me. Yes, I was very depressed.  
2  
12:31:59 3 You were, sorry very?---Very depressed, at the end of  
12:32:03 4 paragraph 1.  
5  
12:32:04 6 Sorry, I thought you said impressed for a moment then.  
12:32:07 7 Okay. I tender that document, Commissioner. It's a file  
12:32:11 8 note of John Taylor, it appears.  
9  
12:32:14 10 COMMISSIONER: 12 July 2011.  
12:32:16 11  
12:32:16 12 MR WOODS: Yes.  
12:32:17 13  
12:32:17 14 #EXHIBIT RC906A - (Confidential) V0.0001.0002.0007.  
12:32:18 15  
12:32:19 16 #EXHIBIT RC906B - (Redacted version.)  
12:32:21 17  
12:32:21 18 Then I want to take you to the transcript of the first part  
12:32:25 19 of your interview with the Ombudsman and that is  
12:32:35 20 IBAC.0010.0001.0363?---M'hmm.  
21  
12:32:42 22 I just want to identify that this is a record of at least  
12:32:48 23 the first part of the conversation. You can see there,  
12:32:51 24 "Ken Jones", down the bottom left?---Yes.  
25  
12:32:54 26 29/7/11. Interview Part 1, and it's Mr Sullivan asking  
12:33:00 27 questions and you answering them, do you see that?---I see  
12:33:03 28 that.  
29  
12:33:03 30 I tender that, Commissioner.  
12:33:06 31  
12:33:07 32 #EXHIBIT RC907A - (Confidential) IBAC.0010.0001.0363.  
12:33:07 33  
12:33:08 34 #EXHIBIT RC907B - (Redacted version.)  
12:33:09 35  
12:33:09 36 You say at question 163, so it might be over the next page,  
12:33:17 37 you're saying to the Ombudsman there in 2011?---Yes.  
38  
12:33:29 39 It's Mr Vanderhaar's question. He asks, "Informing on a  
12:33:34 40 lot of clients". And you say to the Ombudsman's  
12:33:37 41 investigators, "Yeah, she was one of the - and Doug will  
12:33:41 42 tell you all about that". That's Doug Fryer?---Doug Fryer,  
12:33:44 43 correct.  
12:33:44 44  
12:33:45 45 "She was one of the best sources they'd ever had and I  
12:33:47 46 couldn't believe it when I found out about it"?---That's  
47 correct.

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12:33:50 1  
12:33:51 2 "It would not happen in my time because that's just  
12:33:54 3 completely wrong what happened then and I think the  
12:33:56 4 judiciary once, if they got to know about this - so I think  
12:34:01 5 there is some joint interest in keeping all that covered  
12:34:04 6 up, but I still don't get the PII [REDACTED]". What you  
12:34:08 7 were doing there was explaining the significance, as it  
12:34:10 8 seems - - - ?---Yes.  
9  
12:34:12 10 - - - of the informing?---That's correct.  
11  
12:34:13 12 So you knew - by this stage in 2011 you'd left the Force,  
12:34:17 13 but you knew that she was one of the best sources that they  
12:34:22 14 had, so you knew that she was used a significant amount of  
12:34:25 15 times for a significant amount of information about  
12:34:28 16 significant matters?---Yes, I'd been some indication of the  
12:34:31 17 volume. It wasn't a one-off.  
18  
12:34:34 19 Yeah, okay. Now that's the third time I think on my count  
12:34:39 20 that you - - - ?---Formally - - -  
21  
12:34:42 22 - - - raised the issue with the Ombudsman?---Yes, formally.  
23  
12:34:50 24 What was the result of raising those Gobbo issues with the  
12:34:52 25 Ombudsman?---They conducted an investigation into the pay  
12:34:55 26 out, into the settlement.  
27  
12:34:58 28 Okay?---I'm not aware that anything else happened, but it  
12:35:00 29 may have happened, but I was not aware of it.  
30  
12:35:03 31 So the focus was on the - - - ?---The settlement.  
32  
12:35:06 33 Are you aware how it was - so you thought that Fryer was  
12:35:09 34 perhaps the person who first disclosed this use - - -  
12:35:14 35 ?---Well he was the leader of the team and he'd started to  
12:35:16 36 combine the information report to me, but yes.  
37  
12:35:18 38 Presumably that's why when you're talking to the Ombudsman  
12:35:21 39 this time later you're saying, "Doug will be able to help  
12:35:25 40 you with that"?---Yes.  
41  
12:35:26 42 Did he tell you how he came to know about Ms Gobbo's  
12:35:29 43 informing activities?---They were - my recollection is that  
12:35:33 44 looking at files and connections and documents they'd got,  
12:35:36 45 they'd become aware of it.  
46  
12:35:38 47 So your understanding is that - - - ?---It emerged from the

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12:35:41 1 work I'd asked them to do, yes.  
2  
12:35:43 3 I see. So as part of the investigation?---When you've got  
12:35:46 4 intelligence and information in silos often connections are  
12:35:51 5 missed, and their task was to join this information  
12:35:54 6 together and to see what, if any, connections there were  
12:36:00 7 that could help get justice for the Hodsons and other  
12:36:03 8 people.  
9  
12:36:05 10 Were you given any indication of surprise on behalf of, in  
12:36:05 11 discussions you had with Mr Fryer that he was also  
12:36:08 12 surprised to find this out when he found it out?---They  
12:36:09 13 were disappointed and very surprised. That's my  
12:36:12 14 impression. They didn't seek to defend it in any other way  
12:36:15 15 and say, "This is what we do in Australia", they were just  
12:36:18 16 gutted by it really.  
17  
12:36:19 18 Was your discussion with them, did it touch on their  
12:36:23 19 understanding of the significance of this sort of behaviour  
12:36:25 20 to the judicial process?---No, and it probably would have  
12:36:31 21 done if they'd have said, well, this is how things are done  
12:36:34 22 and I would have challenged them. But no, they seemed to  
12:36:39 23 understand the import of it from the get-go.  
24  
12:36:43 25 The OPI investigation then that proceeds is into the civil  
12:36:49 26 settlement?---Yes.  
27  
12:36:50 28 And that is - - - ?---Ombudsman.  
29  
12:36:53 30 The Ombudsman, that's right. There's an OPI investigation  
12:37:01 31 that follows but that's not about the Gobbo issues, do I  
12:37:05 32 understand that correctly?---Sorry, the Ombudsman or OPI?  
33  
12:37:09 34 Sorry, sorry. Before we get to Kellam's dealing with  
12:37:16 35 things?---Yes.  
36  
12:37:16 37 What inquiries do you understand were carried out as a  
12:37:19 38 result of your - - - ?---Well the Ombudsman obviously do  
12:37:22 39 some confidential reports which they don't tell you about  
12:37:25 40 what they'd done, I appreciate that. But I was aware of  
12:37:29 41 the one that they conducted into the settlement because  
12:37:32 42 they gave me some of the elements of the draft report to  
12:37:35 43 comment on.  
44  
12:37:39 45 Justice Kellam's review, again at that stage is about the  
12:37:44 46 use - well, about the allegations that had been made  
12:37:50 47 against you?---Yes.

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1  
12:37:51 2 Rather than the Gobbo issues, that's a different focus; is  
12:37:55 3 that right?---Yes.  
4  
12:37:56 5 You talk separately about police knowledge and  
12:38:00 6 understanding of legal professional privilege. A number,  
12:38:08 7 if not all, of the many police officers who have given  
12:38:10 8 evidence before the Commission this year have been asked  
12:38:14 9 both in writing and in their oral evidence to explain their  
12:38:19 10 understanding of what legal professional privilege  
12:38:22 11 means?---Okay.  
12  
12:38:23 13 You express a view in paragraph 90 and 91 that the way  
12:38:32 14 legal professional privilege works and the parameters of  
12:38:36 15 legal professional privilege is well understood by police  
12:38:38 16 in your experience?---Particularly investigators, people at  
12:38:42 17 the coalface of criminal investigation understand it only  
12:38:46 18 too well.  
19  
12:38:48 20 Some of the records, and I don't need to take you to them,  
12:38:52 21 but Sandy White, who seems be the main - well, who was the  
12:38:56 22 controller of Ms Gobbo?---M'mm.  
23  
12:38:58 24 That's a pseudonym - was on a - so he's given evidence to  
12:39:06 25 the Commission he was very keen to avoid privileged  
12:39:09 26 information, and indeed in the records that - the ICRs that  
12:39:13 27 were kept it's clear from time to time the handlers and  
12:39:18 28 controllers are saying to Gobbo, "We don't want privileged  
12:39:22 29 information". Whether or not that filtered through is a  
12:39:24 30 matter that's contested. But there's evidence in one of  
12:39:29 31 the transcripts of Sandy White challenging Ms Gobbo on what  
12:39:36 32 may and may not be privileged?---Right.  
33  
12:39:40 34 It's been said and put to him and to a number of other  
12:39:43 35 witnesses that Gobbo herself was in a far better position  
12:39:46 36 to understand?---Yes.  
37  
12:39:48 38 The parameters of privilege than police officers?---Yes.  
39  
12:39:51 40 You'd accept that's the case?---I would.  
41  
12:39:53 42 A practising criminal barrister?---Yes, and she'd  
12:39:58 43 understand the privilege belongs to the client.  
44  
12:40:00 45 The issues or the risks - sorry, I withdraw that. When  
12:40:03 46 handlers are talking to a human source, some of the  
12:40:08 47 evidence that's been given to the Commission is that it's

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12:40:11 1 their role to simply record everything that the source  
12:40:13 2 tells them, even problematic things, because it's simply  
12:40:19 3 just a source of - it's a record of the information that  
12:40:22 4 they gave and you're not to try and shut down the source  
12:40:26 5 too much and you want them to talk?--I understand that.  
6  
12:40:28 7 But there's a filtering process that happens  
12:40:32 8 afterwards?--Right. But you can't unsee and unhear what  
12:40:35 9 you've just seen and heard.  
10  
12:40:38 11 Yes. And I think an expression that certainly I've used  
12:40:39 12 with witnesses is that Victoria Police seem to have gotten  
12:40:42 13 themselves in a bit of a tangle with Gobbo?--Absolutely  
14  
12:40:44 15 Because once they used her as a human source there were  
12:40:47 16 obvious issues to her safety if that role ever came  
12:40:50 17 out?--Yes.  
18  
12:40:51 19 There are issues with the propriety of information, or the  
12:40:55 20 source of the information that had been obtained. Can you  
12:41:00 21 think of circumstances in which it may well be a good idea  
12:41:03 22 or a safe idea to use a practising criminal barrister?--I  
12:41:06 23 have some experience where lives are threatened or in a  
12:41:10 24 terrorism situation.  
25  
12:41:11 26 Yes?--Where a lawyer will actually breach that privilege,  
12:41:14 27 but from that point on any hope of prosecution that, that  
12:41:17 28 all ends with that moment, but a life or lives may be  
12:41:21 29 saved. There are circumstances clearly where privilege  
12:41:23 30 can't contain that kind of future crime information.  
31  
12:41:26 32 If the source is to actively act against their client's  
12:41:32 33 interests by disclosing information from the client or  
12:41:36 34 about the client to a police authority, what does that -  
12:41:42 35 what would that say to you about the ongoing relationship  
12:41:45 36 between the client and the practitioner?--Well it's a  
12:41:48 37 completely corrupted relationship and the consequences are  
12:41:52 38 a distortion of the criminal justice process and, as I say  
12:41:55 39 here, the consequences of this will be lasting and severe.  
12:41:59 40 For years people are going to stay, defence lawyers and  
12:42:03 41 crooks, you know, look what happened with this case, this  
12:42:06 42 has happened in my case. It's going to be a long time  
12:42:08 43 getting over this. The damage that's been done I think is  
12:42:11 44 severe.  
45  
12:42:12 46 On the assumption that we can put - let's just say, put the  
12:42:23 47 controversy about LPP to one side, for the sake of the

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1 discussion LPP was successfully avoided?---Yes.

2

12:42:27 3 Obtaining information from a practitioner about their  
12:42:30 4 client in circumstances where you know that practitioner is  
12:42:32 5 acting for the client?---Yes.

6

12:42:33 7 You know the practitioner continues to act for the client,  
12:42:35 8 the police authority know it, the source who's the  
12:42:39 9 barrister knows it but the client doesn't know it, does  
12:42:41 10 that cause you any concerns?---I think you're talking,  
12:42:47 11 you're beginning to talk about a conspiracy to pervert the  
12:42:49 12 course of justice. If that particular process you've  
12:42:52 13 discussed goes through to trial, the trial judge, the jury,  
12:42:54 14 the prosecutors, they don't know about it. I mean you  
12:42:57 15 haven't there got a fair trial. You've fundamentally  
12:43:00 16 undermined one of the tenets of a common law democracy.

17

12:43:05 18 In your experience both in Australia and aboard, a  
12:43:07 19 situation such as that, just focusing on the conflict of  
12:43:11 20 interest issue and putting privilege to one side - well  
12:43:15 21 let's just talk about your experience in Victoria Police.  
12:43:20 22 Do you see any potential for that not being a very obvious  
12:43:24 23 issue to those around them and the potential that they  
12:43:26 24 simply couldn't have comprehended or got their head around  
12:43:32 25 - - - ?---No, I think that my own opinion about all this,  
12:43:36 26 it began as an unethical and irregular arrangement and  
12:43:40 27 quickly descended into chaos. And I think by the time the  
12:43:46 28 train had sort of run away from it, they didn't know how to  
12:43:48 29 stop it, and I think the information was contained for  
12:43:48 30 that. I think people did know of the threat and they did  
12:43:51 31 sense what might happen should this ever be disclosed and  
12:43:55 32 discovered. So I inferred from that that people were  
12:43:57 33 aware, you know, of how difficult this had become.

34

12:44:00 35 Yes. Thank you, they're the questions Commissioner.

36

12:44:04 37 COMMISSIONER: Yes, thank you. Have we sorted out an order  
12:44:07 38 of cross-examination?

39

12:44:09 40 MR HOLT: We have. We think it might be most efficient if  
12:44:12 41 I go first.

42

12:44:14 43 COMMISSIONER: If you go first, all right. Thanks,  
12:44:15 44 Mr Holt.

45

12:44:16 46 MR HOLT: Would it be possible to get a lectern if I may.

47

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12:44:30 1 COMMISSIONER: Yes, of course.  
12:44:31 2  
3 <CROSS-EXAMINED BY MR HOLT:  
4  
12:44:35 5 Thank you, Commissioner. Mr Jones, my name is Saul Holt,  
12:44:38 6 I'm counsel for Victoria Police. I have a few questions  
12:44:40 7 for you. You'll understand we're limited in time so I  
12:44:43 8 apologise to everyone if I don't appear to be covering  
12:44:45 9 issues. But please, I'm not trying to rush you?---No  
12:44:47 10 worries.  
11  
12:44:48 12 Can I deal first with a question you were asked about in  
12:44:51 13 terms of record keeping. You indicated that your practice  
12:44:55 14 was to keep a pretty scant diary of days off and so on  
12:45:00 15 which we've seen, and then a day book with more detailed  
12:45:03 16 notes?---Yes.  
17  
12:45:04 18 When you came - you indicated that was in part because of  
12:45:08 19 your experience in the United Kingdom unsurprisingly?---And  
12:45:10 20 also what I saw was a common custom and practice.  
21  
12:45:13 22 Yes, but just so we're clear about this, as well common  
12:45:18 23 custom and practice, Victoria Police operate under what's  
12:45:20 24 called the Victoria Police Manual which you would have been  
12:45:23 25 well familiar with at the time?---Yes.  
26  
12:45:24 27 Were you aware at the time that officers who were attached  
12:45:27 28 to the Crime Command or to a CIU were obliged to keep an  
12:45:31 29 official diary, that would make sense to you?---Well  
12:45:33 30 obviously that was, and I did read lots of that, but not  
12:45:37 31 all of it, but I can't recall that but I'll accept that  
12:45:39 32 that's the case.  
33  
12:45:40 34 Thank you. And specifically in terms of anyone else,  
12:45:42 35 particularly Inspectors and those at VPS5 and above, are  
12:45:46 36 required to keep what I just described as appropriate  
12:45:48 37 records?---Yes.  
38  
12:45:49 39 Again you'd consider that a proper approach?---Yes.  
40  
12:45:51 41 The appropriateness of those records, or the nature of  
12:45:54 42 those records would depend on the nature of the role  
12:45:57 43 obviously enough?---Yes.  
44  
12:45:58 45 The way you discharged your obligation, even if you weren't  
12:46:01 46 specifically aware of it, to keep appropriate records was  
12:46:02 47 through the day books that you've identified?---Yes.

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1  
12:46:05 2 And presumably also through notes on documents that you  
12:46:07 3 might put up the chain to Mr Overland?---Yes, because, as I  
12:46:11 4 said, Mr Holt, I would then - my common practice at the end  
12:46:14 5 of the day, all the actions, I would then translate that  
12:46:16 6 into policy notes, emails, and that was the day done.  
7  
12:46:20 8 And in terms of the work you do, at the level you were at,  
12:46:23 9 at Deputy Commissioner, you were often going to meetings,  
12:46:26 10 to briefings and so on; aren't you?---Yes.  
11  
12:46:30 12 Big days?---Yes.  
13  
12:46:31 14 And the record keeping is often, as we've seen variable  
12:46:33 15 practices, but can be on diary notes, for example, on  
12:46:38 16 meeting agendas, those kinds of things?---Because the day  
12:46:41 17 book in my long experience is the best way to handle that.  
18  
12:46:43 19 The obligation, as you'd understand it, is to keep  
12:46:47 20 appropriate records?---Yes.  
21  
12:46:48 22 Just on a couple of broader issues in relation to your  
12:46:52 23 role. You've indicated to us in paragraph 12 of your  
12:46:56 24 statement that you became the Deputy Commissioner of Crime  
12:47:00 25 when you were appointed but that you also had other  
12:47:02 26 portfolios under your responsibility?---Yes, Ethical  
12:47:07 27 Standards, Information Security, Legal Services and  
12:47:09 28 eventually Media and Comms.  
29  
12:47:11 30 And also Intel and Covert Support?---Yes, they were part of  
12:47:15 31 the Crime Command.  
32  
12:47:16 33 There was an Assistant Commissioner in charge of Intel and  
12:47:21 34 Covert Support?---Yes, Jeff Pope was brought in to do that.  
35  
12:47:24 36 And there was a separate Assistant Commissioner in charge  
12:47:26 37 of Crime?---Crime, yes.  
38  
12:47:27 39 And then there was a separate person in charge of  
12:47:28 40 Information and Security?---Yes.  
41  
12:47:29 42 But you chaired the committee in relation to Information  
12:47:32 43 Security and - - - ?---Yes, well he was a brand new  
12:47:34 44 appointment and I sort of developed the policy around that  
12:47:37 45 with him.  
46  
12:47:38 47 We'll come back to that. Then at some point you also got

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12:47:42 1 Legal Services but it was a bit into your tenure as I  
12:47:45 2 understand it?--My recollection it was fairly early on,  
12:47:47 3 but yes, I got that.  
4  
12:47:49 5 And you also had Ethical Standards?--Yes, from the off  
6  
12:47:52 7 I'm sorry?--From the get-go, from my day of my  
12:47:56 8 appointment.  
9  
12:47:57 10 Yes. If we look at the matters that were directly under  
12:47:59 11 your control, as Deputy Commissioner you have the Ethical  
12:48:00 12 Standards Department headed up by an Assistant  
12:48:04 13 Commissioner?--Yes.  
14  
12:48:04 15 You told us before about some covert, I don't mean that  
12:48:10 16 pejoratively, investigations that you did and certain  
12:48:11 17 allegations that were made against officers, you talked  
12:48:13 18 about the large sums of money example I'm thinking  
19 of?--Yes.  
20  
12:48:16 21 That was through ESD, the processes of ESD?--Yes, that was  
12:48:19 22 exactly that particular case that I mentioned there, yes.  
23  
12:48:22 24 So you had the benefit as Deputy Commissioner with line  
12:48:24 25 responsibility from - - - ?--Yes.  
26  
12:48:26 27 - - - from ESD to be able to conduct precisely those kinds  
12:48:29 28 of investigations?--Yes.  
29  
12:48:30 30 Terrific. Then on the other side you had a direct report  
12:48:35 31 from Mr Pope as AC Intel and Covert Support?--I did.  
32  
12:48:40 33 And you understood the various portfolios that sat within  
12:48:45 34 his bailiwick so to speak?--Yes.  
35  
12:48:46 36 And they included the Human Source Management Unit?--Yes.  
37  
12:48:49 38 And they included the Source Development Unit?--Yes.  
39  
12:48:50 40 So you had a direct line management role straight into the  
12:48:53 41 area that you came to understand had managed Nicola Gobbo  
12:48:58 42 for a number of years?--Yes.  
43  
12:49:01 44 Because obviously if you want to find out about something  
12:49:05 45 which is in another Deputy Commissioner's bailiwick,  
12:49:07 46 right?--M'mm.  
47

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12:49:08 1 You go, as a matter of professional courtesy and  
12:49:11 2 appropriate Command structure, you'd go across and down,  
12:49:14 3 wouldn't you?---Yes.  
4

12:49:15 5 And any dispute between Deputy Commissioners would go up  
12:49:18 6 and be resolved by the Chief?---Yes.  
7

12:49:21 8 In the ordinary course?---Yes.  
9

12:49:22 10 But here, of course, you had the enormous advantage of  
12:49:25 11 having direct line into both ESD and HSMU and the  
12:49:28 12 SDU?---Yes.  
13

12:49:29 14 As well as responsibility for the Crime matters that you've  
12:49:31 15 talked to us about, the strategic Crime issues?---Yes.  
16

12:49:34 17 Thank you, I understand. Just on a couple of more general  
12:49:38 18 matters as well. You explained in a couple of places in  
12:49:43 19 your statement, but may I direct your attention to  
12:49:46 20 paragraph 11, the significance from your perspective of -  
12:49:52 21 and the fact that as Deputy Commissioner you had a  
12:49:54 22 statutory individual accountability to the State, I'm using  
12:49:58 23 your words?---Yes, that's as I understood it.  
24

12:50:01 25 And you saw that as being a very important part of your  
12:50:04 26 function?---Yes. In fact Jack Rush commented on it, that  
12:50:07 27 this was something that was there.  
28

12:50:09 29 Yes?---Lots of people didn't accept it, but he said, yes,  
12:50:12 30 it was there.  
31

12:50:13 32 He did say yes, it was there. He also said reasonable  
12:50:16 33 minds can differ about whether it's a good idea. But we  
12:50:22 34 probably don't need to have that discussion today?---No,  
12:50:22 35 absolutely.  
36

12:50:23 37 In any event, what you go on to say at paragraph 11 is,  
12:50:24 38 "This is a very important check and balance with  
12:50:26 39 significant powers available to a Chief"?---Yes.  
40

12:50:29 41 You saw, I'm not taking issue with it for one moment, you  
12:50:32 42 saw yourself as having a direct line to government which  
12:50:34 43 was precisely designed statutorily, and which you  
12:50:38 44 understood to be so, as a check and balance to the  
12:50:41 45 significant powers available to the Chief?---But only a  
12:50:44 46 reserve.  
47

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1 May I just finish?---Yes, please.  
2  
12:50:44 3 To the Chief Commissioner of Police, yes?---I only saw that  
12:50:48 4 as a reserve, a sort of last resort line.  
5  
12:50:52 6 Absolutely?---My line was to Simon.  
7  
12:50:54 8 Yes, for exceptional circumstances?---Yes.  
9  
12:50:56 10 I'm not suggesting you spent your life talking to  
12:50:58 11 government directly, but it has that, from your perspective  
12:51:03 12 you understood and proceeded on the basis that it had that  
12:51:07 13 function?---Yes, and Kieran Walsh frequently said we've got  
12:51:09 14 a statutory accountability.  
15  
12:51:11 16 We are on the same page, Mr Jones?---Okay.  
17  
12:51:14 18 Don't need to dispute that with you. I just want to be  
12:51:17 19 clear about it?---Yes.  
20  
12:51:18 21 Can we then turn please to the question of your knowledge,  
12:51:20 22 the timeline of your knowledge of Nicola Gobbo and her  
12:51:23 23 handling by the SDU, the issues that we're all very much  
12:51:26 24 here to discuss. Now by way of brief timeline, you start  
12:51:29 25 on the 1st of July of 2009?---Correct.  
26  
12:51:36 27 You'd been appointed some months earlier but obviously it  
12:51:39 28 takes some time to move halfway around the world?---M'hmm.  
29  
12:51:44 30 Again, I'm not doing every piece of the timeline, but just  
12:51:49 31 for these purposes, Carl Williams is killed in Barwon  
12:51:52 32 prison in April 2010?---That's correct.  
33  
12:51:55 34 By 21 April 2010 you establish the Driver Task Force to  
12:51:59 35 investigate that matter?---Correct.  
36  
12:52:01 37 You bring together resources, in fact I think you say you  
12:52:04 38 pour resources into it, appropriately?---Yes, we did, yes.  
39  
12:52:10 40 Get the best investigators you can find, set up the best  
12:52:14 41 investigation?---Yes.  
42  
12:52:15 43 Thank you. Then what you describe in your statement, and  
12:52:17 44 our learned friend Mr Woods has walked you through it or  
12:52:20 45 taken you to some parts of it, you describe, you start at  
12:52:23 46 paragraph 37, you describe taking a series of intense  
12:52:32 47 briefings from as many Task Forces and groups - from the

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12:52:34 1 many Task Forces and groups within Crime Command?---That's  
12:52:38 2 correct.  
3  
12:52:38 4 That was in 2009 before Driver was set up?---Yes, that was  
12:52:42 5 when I was being introduced to the Force.  
6  
12:52:45 7 Do you recall whether you got a briefing from or requested  
12:52:47 8 a briefing from the HSMU/SDU at that time?---I don't  
12:52:52 9 recall, but I would have seen a list of departments under  
12:52:55 10 Dannye and Jeff. Well Jeff hadn't come into the Force at  
12:52:56 11 that point, but Dannye had it all, and I would have asked  
12:53:00 12 and had appointments for those briefings.  
13  
12:53:04 14 In any event what we see is you were to discover this, that  
12:53:05 15 is Nicola Gobbo and her informing activities, after -  
12:53:10 16 following the murder of Carl Williams, after you created  
12:53:14 17 Driver is what you say?---That's correct.  
18  
12:53:16 19 And you were very angry and shocked by what you later  
12:53:20 20 learned around the deployment of Nicola Gobbo, and to use  
21 the phrase that's in your statement and was referred to  
22 this morning, the industrial subversion of Victoria's  
12:53:26 23 criminal justice system, and you were also greatly  
12:53:26 24 concerned "at the earlier failure to properly brief me on  
25 the Nicola Gobbo insertion" into the many historic and  
12:53:32 26 current investigations which you had oversight of?---That's  
12:53:32 27 correct.  
28  
12:53:34 29 Can we just fast-forward so I can kind of bookend this and  
12:53:38 30 we'll talk about what happened in between. In October,  
12:53:42 31 September or October of 2010 you are so concerned by what  
12:53:45 32 you've learnt that you have a confidential meeting with a  
12:53:49 33 former judge?---Yes.  
34  
12:53:51 35 A former judge who'd conducted inquiries that you thought  
12:53:54 36 were of a sufficiently similar nature to be an appropriate  
12:53:57 37 person to speak with?---Yes.  
38  
12:53:59 39 As you explained to our learned friend Mr Woods this  
12:54:01 40 morning, what you explained to that person was what you  
12:54:04 41 then knew, which was that Nicola Gobbo, criminal defence  
12:54:09 42 barrister - yes, those things?---I didn't name her.  
43  
12:54:12 44 I'm sorry, a person, criminal defence barrister?---I  
12:54:15 45 hypothesised it.  
46  
12:54:16 47 Criminal defence barrister?---Yes.

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1  
12:54:19 2 Who'd been a human source for a number of years?---M'hmm.  
3  
12:54:22 4 On multiple high profile investigations and  
12:54:27 5 prosecutions?---Yes.  
6  
12:54:28 7 And specifically, as I recall your evidence and made a note  
12:54:29 8 of it, that she had been giving information against current  
12:54:34 9 clients?---That's what it appeared, yes.  
10  
12:54:40 11 We can take it then that by September/October of 2010 that  
12:54:41 12 was your state of knowledge?---Yes.  
13  
12:54:44 14 Because otherwise you wouldn't have been in a position to  
12:54:45 15 explain it to the judge, I understand?---It could have been  
12:54:47 16 November, I have difficulty sequencing that meeting, but  
12:54:53 17 yes. It was around that period.  
18  
19 Let's leave it at September to November, right?---Okay.  
20  
12:54:54 21 Prior to that you'd seen Mr Taylor of the Ombudsman's  
12:55:00 22 office?---Yes.  
23  
12:55:01 24 You said you'd raised it among other issues, but I sort of  
12:55:05 25 had the sense, and I wanted you to clarify it, that you  
12:55:09 26 were kind of maybe being a bit coy or a bit, not quite  
12:55:12 27 telling everything at that point?---No, I was saying to  
12:55:16 28 Mr Taylor and his staff that these issues are emerging.  
12:55:19 29 They were looking into the way that Justice and Corrections  
12:55:22 30 had organised Carl Williams' incarceration with Johnson [REDACTED]  
12:55:28 31 [REDACTED] so they were looking at that. So I was having a  
12:55:35 32 lot of contact with them, so I was, like, I'm beginning to  
12:55:36 33 get a sight of this.  
12:55:36 34  
12:55:37 35 Of what?---Well that there was possibly a  
12:55:38 36 distortion/corruption of the system.  
37  
12:55:39 38 So you put it as high as a possible distortion?---And I - -  
39 -  
40  
12:55:42 41 Just wait, please?---And I - - -  
42  
12:55:42 43 You put it as high as a possible distortion of the criminal  
12:55:47 44 justice system?---Yes.  
45  
12:55:48 46 I see. I think the way you put it this morning was that  
12:55:50 47 that didn't seem to go anywhere, they didn't seem to get

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12:55:53 1 it?---No, I think that's fair.  
2  
12:55:54 3 Then you go and speak with Michael Strong of the OPI, this  
12:55:57 4 is again - - - ?---I think that happened before then.  
5  
12:55:59 6 In any event - - - ?---When I was Acting Chief.  
7  
12:56:02 8 Obviously after you learn - - - ?---No, but Gobbo was  
12:56:05 9 mentioned to Michael Strong.  
10  
12:56:06 11 I'm sorry, okay, we can - - - ?---No, there were a number  
12:56:08 12 of issues.  
13  
12:56:09 14 You did clarify that, thank you?---Yes.  
15  
12:56:11 16 So we'll cross that out. In any event, things are so  
12:56:14 17 significant by that point, that is the point that you speak  
12:56:16 18 to the ex-judge in September to November of 2010?---Yes.  
19  
12:56:21 20 You think it warrants some form of public inquiry, probably  
12:56:25 21 a Royal Commission?---It wants an independent third party  
12:56:29 22 scrutiny and possibly a Royal Commission, yes.  
23  
12:56:31 24 That's how significant this is for you?---I believed that  
12:56:33 25 to be the case.  
26  
12:56:35 27 And in your career, you've only had a few moments like that  
12:56:38 28 I suspect?---Very few. I've had them.  
29  
12:56:41 30 So we now understand your state of mind. In December of  
12:56:44 31 2010 - could I just pause there. This sounds very much  
12:56:48 32 like one of those exceptional circumstances where the  
12:56:52 33 direct statutory accountability to the government might  
12:56:58 34 suddenly start coming into play. Why on earth would you  
12:57:00 35 not simply at that point recognise this was about the check  
12:57:04 36 and balance on the exercise of the powers of the Chief, if  
12:57:06 37 you thought the Chief was involved, and go to  
12:57:08 38 government?---I think at that time there was an election,  
12:57:13 39 people were very distracted by it. I haven't got - I know  
12:57:16 40 there was an election at that point. I don't recall why I  
12:57:18 41 didn't do that, but that was happening at the time.  
42  
12:57:20 43 If you had this direct statutory accountability, which you  
12:57:24 44 say, and repeat in your statement, you say is an important  
12:57:27 45 part of the institutional function of a Deputy  
12:57:29 46 Commissioner?---Yes.  
47

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12:57:30 1 Why on earth would this not be the moment at which you  
12:57:32 2 exercise that?---Well, I've just explained. I think there  
12:57:35 3 was an election. But also, I was communicating with one of  
12:57:38 4 the top regulators in the State. The Ombudsman had  
12:57:42 5 regulatory authority over the OPI as well. It couldn't go  
6 any higher.  
7

12:57:44 8 Who didn't seem to get it?---Well, it's often the case I  
12:57:48 9 think with investigators who don't come from a policing  
12:57:50 10 background, and I think in time they will.  
11

12:57:52 12 Let's move on?---I mean they are the government, they are  
12:57:54 13 the State surely.  
14

12:57:55 15 By December - yes, but when you talk about a direct  
12:57:59 16 statutory accountability to the State as part of the Police  
12:58:02 17 Act, you're not talking about the capacity to report to the  
12:58:06 18 Victorian Ombudsman, which everybody has, you're talking  
12:58:09 19 about a separate relationship with government?---Well I did  
12:58:11 20 raise it with government later, but yes.  
21

12:58:13 22 When?---Around the time I was dismissed.  
23

12:58:16 24 Around the time you were dismissed, all right. We'll come  
12:58:20 25 to that. Now, let's then move forward to December of 2010  
12:58:24 26 and the meeting that you have with the Commonwealth  
12:58:28 27 Director of Public Prosecutions and Mr Solomon. You know  
12:58:30 28 the meeting I'm talking about?---Yes.  
29

12:58:31 30 I understand you don't have notes available to you, I'm not  
12:58:34 31 being critical?---Right.  
32

12:58:36 33 But you don't have notes available to you. But you know  
12:58:38 34 Mr Solomon's given a statement?---Yes, I've seen it.  
35

12:58:41 36 Yes, I was going to say, you've seen it?---It's online.  
37

12:58:44 38 And again, I'm not being critical. Could we pull it up,  
12:58:48 39 please, it's Exhibit 326B and it's COM.0041.0002.0001.  
12:58:58 40 Could we go, please, to p.16 of 25 I think. Just go to  
12:59:04 41 that. I apologise, Commissioner. We'll just find that  
12:59:28 42 passage. Would you accept from me - and I'll show you it  
12:59:31 43 in a moment?---Okay.  
44

12:59:32 45 But would you accept from me for the purposes of time that  
12:59:36 46 that meeting takes place on 20 December 2010? You'd have  
12:59:39 47 no issue with Mr Solomon's recollection in that

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12:59:43 1 regard?---No.  
2  
12:59:44 3 You are meeting with the prosecution about - p.19, please,  
12:59:48 4 of 25. In the middle of the page. You can see there an  
12:59:56 5 "on 20 December" reference?---Yes.  
6  
12:59:58 7 You attend the office of the Commonwealth Director of  
13:00:02 8 Public Prosecutions, we can see that?---Yes, I can see  
13:00:04 9 that.  
10  
13:00:04 11 While we have it up, so I don't have to return to it,  
13:00:08 12 you're going there in relation to a brief that Victoria  
13:00:11 13 Police have produced for the ACC offences said to be  
13:00:14 14 committed by Mr Dale?---Correct.  
15  
13:00:19 16 Mr Solomon was there with you, Inspector Gawne, Inspector  
13:00:23 17 Frewen, Krista Breckweg of the CDPP, her manager Mark  
13:00:29 18 Pedley, then the Acting Director, Vicki Argitis?---Correct.  
19  
13:00:33 20 Again, I know you don't recall it, but you'd accept that to  
13:00:35 21 be accurate?---Yes, I'd accept that.  
13:00:35 22  
13:00:36 23 You were advised that after examining the brief it was the  
24 opinion of the CDPP prosecutors - that is Solomon was,  
13:00:39 25 sorry - that the case is strong and should proceed and you  
13:00:42 26 then advise prosecutors of a complicating  
13:00:47 27 factor?---Correct.  
28  
13:00:47 29 It was 3838's writ settlement with the Victoria Police and  
13:00:51 30 that it included an agreement that she [REDACTED]  
13:00:53 31 [REDACTED] in the future by Victoria Police for any  
13:00:54 32 Victoria Police matter?---M'hmm, correct.  
33  
13:00:56 34 And a note there was that further advice would be sought by  
13:00:59 35 the CDPP regarding the validity of such an agreement,  
13:01:03 36 yes?---Correct.  
37  
13:01:03 38 Mr Solomon notes that you voiced your disagreement, your  
13:01:07 39 disapproval of that agreement. He said that you were not  
13:01:09 40 privy to any discussions surrounding the agreement and you  
13:01:12 41 had not yet seen a copy of the written agreement but that  
13:01:15 42 you know of it. Mr Solomon reports that you said that such  
13:01:19 43 an agreement was improper and should never have been  
13:01:22 44 entered into. Is that accurate reflection of (a) what you  
13:01:23 45 said, and (b) your views?---It may be a paraphrasing but  
13:01:27 46 what I said, that was my opinion and belief. But I make  
13:01:29 47 clear that - I qualify, because these were rumours that

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13:01:32 1 were going around at the time.  
2  
13:01:34 3 Well, okay. But these are rumours going around at the time  
13:01:38 4 about the settlement of a writ with Nicola Gobbo,  
13:01:42 5 yes?---Yes.  
6  
13:01:42 7 The very person who by this stage you had formed a view  
13:01:47 8 that Victoria Police's handling of wanted a Royal  
13:01:50 9 Commission?---Yes.  
10  
13:01:51 11 That serious was the - - - ?---Just my opinion, that it was  
13:01:55 12 so egregious that it would need an independent high powered  
13:01:59 13 review of some sort.  
14  
13:02:00 15 An industrial subversion at that stage?---Yes.  
16  
13:02:04 17 In your view, of the Victorian criminal justice  
13:02:09 18 system?---Yes.  
19  
20 And you approved the brief?---Yes.  
21  
13:02:09 22 You are the Deputy Commissioner of Victoria Police for  
13:02:12 23 Crime and you approved the brief personally?---Yes.  
24  
13:02:15 25 You do that, we take it, in full knowledge of the fact that  
13:02:18 26 3838 was Nicola Gobbo, that she was to be a witness in the  
13:02:22 27 case?---Yes.  
28  
13:02:23 29 And therefore with full knowledge of the fact that you held  
13:02:26 30 the view that there was likely to have been a subversion of  
13:02:29 31 the Victorian criminal justice system?---Yes, because - - -  
32  
13:02:32 33 Just wait, please. Based on her conduct acting for clients  
13:02:37 34 and then nonetheless being a police informer?---Correct.  
13:02:41 35  
13:02:41 36 You approved the brief. You're meeting with the  
13:02:43 37 Commonwealth Director of Public Prosecutions?---M'hmm.  
38  
13:02:47 39 And you say nothing about it; is that right?---Because what  
13:02:52 40 I said was that she had issues around her credibility but  
13:02:57 41 what we discussed was at that meeting, was that we would  
13:03:00 42 ask, we would get her just to produce the tape, because we  
13:03:04 43 could prove the tape was set up and supplied to her by an  
13:03:07 44 individual officer, they then observe her going to the  
13:03:10 45 meeting, she comes away from the meeting, she hands over  
13:03:13 46 the tape. She would be no more than produce the tape. I  
13:03:17 47 had officers at either end of that transaction who would

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13:03:20 1 guarantee the validity of it.  
2  
13:03:23 3 Do I understand the answer that you've just given to me  
13:03:25 4 that your view on that day was you didn't tell the CDPP - -  
13:03:29 5 - ?---No, I did.  
6  
13:03:30 7 Just wait, please. That you didn't tell the CDPP because  
13:03:35 8 you thought there was a way of avoiding disclosing Nicola  
13:03:38 9 Gobbo's identity as a human source because - - - ?---No,  
10 that's not correct.  
11  
13:03:40 12 Just wait, please. Because of the limited nature of her  
13:03:43 13 evidence?---That's not correct.  
14  
13:03:44 15 I see. Well - - - ?---I'd decided, yes, that she was  
13:03:49 16 hugely potentially qualified as a witness of truth but I  
13:03:52 17 also, I'd worked out that we could actually get the tape in  
13:03:56 18 evidence without actually having to rely on issues  
13:04:00 19 surrounding her character. And it was so important because  
13:04:03 20 we were looking at a homicide investigation. And they  
13:04:06 21 agreed with it, this was raised and discussed in a meeting.  
22 You can speak to them.  
23  
13:04:09 24 What was raised in a meeting?---This proposal upon how we  
13:04:11 25 might introduce/adduce the evidence from the tape.  
26  
13:04:14 27 Yes, but did you tell them, "And one of the values of that  
13:04:17 28 is that she's a human source whose relationship with the  
13:04:21 29 police, in my view, has corrupted the criminal justice  
13:04:24 30 system such that I consider there should be a Royal  
13:04:25 31 Commission"? You didn't say that to them?---Not in those  
13:04:27 32 words, no.  
13:04:27 33  
13:04:28 34 Well not in any words?---No, absolutely, I made it  
13:04:31 35 perfectly clear that I didn't regard her as a witness of  
13:04:34 36 truth, there was huge controversies around her which  
13:04:38 37 everyone was reading about, so I decided and discussed with  
13:04:39 38 them how this evidence might be adduced.  
39  
13:04:43 40 This morning you told our learned friend Mr Woods that the  
13:04:47 41 reason why you didn't say anything on that occasion was  
13:04:49 42 because you trusted the disclosure process would roll  
13:04:51 43 through and that issues surrounding her role as a human  
13:04:53 44 source would then be disclosed. Do you recall giving that  
13:04:56 45 answer?---Absolutely.  
46  
13:04:57 47 Thank you. Again, let's just see if we can perch on your

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13:05:01 1 state of knowledge at that point of time. You were of the  
13:05:04 2 view that you had been, it seems implied, but let's put it  
13:05:09 3 out there, that this information had been deliberately  
13:05:13 4 withheld from you by those who might be responsible for it;  
13:05:16 5 is that right?---Yes.  
6  
13:05:18 7 Had been deliberately withheld from investigators,  
13:05:20 8 including those who were working on the Dale  
13:05:22 9 prosecution?---Yes.  
10  
13:05:23 11 And so with the greatest of respect, in what universe did  
13:05:25 12 you think that it was sufficient to sit back and rely on  
13:05:28 13 the disclosure processes at that point rather than tell the  
14 prosecuting authority with responsibility that which you  
13:05:32 15 had learnt?---That's an unfair summary. I'd advised them  
13:05:36 16 about there were issues around her character and  
17 credibility and we devised a method whereby we could adduce  
13:05:40 18 the evidence of that tape without her character coming into  
13:05:46 19 question so the other inquiry could continue.  
20  
21 But again this comes back to the point we were - - -  
13:05:48 22 ?---And then it would be up to the court to decide whether  
13:05:50 23 or not that way of bringing that evidence was adequate and  
13:05:53 24 sufficient.  
25  
13:05:55 26 That process, was it in your head at that point that you  
13:05:58 27 could run the Dale prosecution without revealing her role  
13:06:01 28 as a human source?---No, it wasn't  
29  
13:06:02 30 Given what you knew about it?---No, it wasn't.  
31  
13:06:04 32 So again I come back to my question: why is it that you  
13:06:07 33 thought that the disclosure processes would be sufficient  
13:06:09 34 to deal with this issue given your concerns about  
13:06:11 35 deliberate withholding of it?---Because the disclosure  
13:06:14 36 process in my experience would take some months, by which  
13:06:17 37 time this matter, and we know it was, actually registered  
13:06:21 38 and logged with the Ombudsman in a more formal way. And we  
13:06:24 39 know that the brief was actually, didn't go through anyway.  
40  
13:06:27 41 We know that brief doesn't end up going through just before  
13:06:30 42 committal, right, you know that now? You know that  
13:06:33 43 now?---Yes.  
44  
13:06:33 45 And do you know why that occurred?---Yes, I do.  
46  
13:06:35 47 Do you know that advice was sought from Mr Maguire who

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13:06:40 1 provided it to Mr Ashton, Mr McRae and  
13:06:45 2 Mr Cartwright?---I've not seen it but I've heard of that,  
13:06:47 3 yes.  
4  
13:06:48 5 And on that very same day those persons directed that the  
13:06:49 6 Commonwealth Director of Public Prosecutions be told that  
13:06:50 7 she was a human source and provided with access to the full  
13:06:54 8 source management log?---I've not seen all that detail but,  
13:06:57 9 yes, I'm aware of the process that took place.  
10  
13:07:00 11 It sounds like a horrible cover up, doesn't it,  
13:07:04 12 Mr Jones?---I'm sorry, I don't understand.  
13  
13:07:06 14 I thought part of your thesis here was that Command were  
13:07:09 15 involved in a cover up of Nicola Gobbo's activities and  
13:07:15 16 this is why all of these steps were taken?---Is that a  
13:07:16 17 question or - - -  
18  
13:07:16 19 Is that your thesis?---Is that a question?  
20  
13:07:20 21 Is that your thesis? It is a question?---Well could you  
13:07:21 22 repeat it again and I'll respond to it.  
23  
13:07:21 24 Is your thesis that Command of Victoria Police were  
13:07:26 25 covering up at your time there the involvement of Nicola  
13:07:29 26 Gobbo as a human source to avoid embarrassment?---There was  
13:07:32 27 certainly someone was covering up, I don't know who they  
13:07:35 28 were, whether they were Command or other people, but  
13:07:39 29 certainly, yes.  
30  
13:07:40 31 You see, it just seems that once Mr Maguire's advice, which  
13:07:44 32 we've seen, which suggests precisely these kinds of  
13:07:45 33 problems, the ones that you say you were concerned about in  
13:07:48 34 December of 2010?---Yes.  
35  
13:07:49 36 Comes to the attention of Mr Ashton, Mr McRae and  
13:07:51 37 Mr Cartwright, the Commonwealth Director of Public  
13:07:54 38 Prosecutions staff and counsel are immediately told within  
13:07:58 39 hours and provided with access to the SML?---Right.  
40  
13:08:01 41 What was stopping you from taking a step of that kind?---At  
13:08:05 42 the meeting in December?  
43  
13:08:06 44 Yes?---Because I didn't want to disclose how broad and how  
13:08:12 45 deep this might be to people who weren't - it wasn't  
13:08:16 46 necessary for them to find that out at that point. I knew  
13:08:18 47 at some point they'd have to be involved but, as I said, as

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13:08:22 1 a witness here I had doubts about her character and  
13:08:25 2 integrity. There was a way possibly of producing the  
13:08:28 3 validity of this tape without that being called into  
13:08:32 4 question. I thought that was the right thing to do.  
5  
13:08:34 6 What steps did you take following that meeting to ensure  
13:08:37 7 that those responsible for disclosure, that is the  
13:08:40 8 investigators, in that circumstance ensured that her role  
13:08:44 9 as a human source was revealed in a way that would make the  
13:08:47 10 Commonwealth properly aware of it?--Well obviously my  
13:08:49 11 experience is that would take some months from that point  
13:08:54 12 onwards and there would be prosecutors and defence would  
13:08:57 13 start to engage. But by then I had hoped to get some  
13:09:00 14 broader inquiry under way through the Ombudsman into that.  
13:09:03 15 So they would have discovered it at that point. I didn't  
13:09:06 16 have the facts myself. As I say I - - -  
17  
13:09:09 18 I'm sorry?---I didn't have the facts. I didn't have the  
13:09:12 19 evidence to say to them that she was in fact a human  
13:09:16 20 source. I'd been told this and I'd discovered it from some  
13:09:21 21 to-ing and fro-ing of cases. I don't see the significance  
13:09:23 22 that you're actually driving at.  
23  
13:09:25 24 I well understand that. Can we talk then about how you  
13:09:28 25 discovered the knowledge that allowed you to be in the  
13:09:31 26 position to speak with the ex-judge in September to  
13:09:36 27 November of 2010. You've indicated in your statement that  
13:09:41 28 you - and let's take paragraph 85 up if we may. I'm sorry,  
13:09:47 29 paragraph 61 to start, of your statement. Page 12. Do you  
13:09:54 30 have that with you, Mr Jones?---Yes, I do.  
31  
13:09:56 32 Thank you?---Sorry, 61?  
33  
13:09:58 34 Paragraph 61?---Yeah, I've got that.  
35  
13:10:00 36 Thank you. "The Driver crew also began to discover  
13:10:03 37 previously unknown connections of Nicola Gobbo to other  
13:10:05 38 Victoria Police investigations"?---Yes.  
39  
13:10:07 40 You learnt this from several of the Driver team, including  
13:10:10 41 Doug Fryer?---Yes.  
42  
13:10:11 43 "We found she'd been heavily engaged over a period of years  
44 on a number of investigations linked to Williams and others  
13:10:17 45 as a registered informer, including Purana and  
13:10:18 46 Briars"?---M'hmm.  
47

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13:10:19 1 You then go on to note that you made discrete inquiries and  
13:10:24 2 learnt that the Force had been involved with Nicola Gobbo  
13:10:27 3 over an extended period of time, possibly a decade. Over  
13:10:32 4 this period of time you learned that she had been informing  
13:10:35 5 on her clients and others, that she'd been actively and  
13:10:36 6 regularly tasked to gather specific information, that the  
7 operations involving her were becoming increasingly  
13:10:40 8 irregular, chaotic in latter years, no evidence such as  
9 risk assessments, legal advice and policy discussions of  
13:10:45 10 effective checks and balances around the obvious risks and  
13:10:49 11 legal professional privilege. "I found from documents I  
13:10:50 12 saw that her engagement had been sanctioned by senior  
13:10:54 13 people. There were links in the steering committee". Do  
13:10:56 14 you see that?---Yes.  
15  
13:10:57 16 Well, then we go over to 85 and 86, please. In addition,  
13:11:06 17 you discovered that in the prosecutions where it appeared  
13:11:09 18 she'd informed on her own clients there was no level of  
13:11:12 19 control, judge, prosecutors or defence lawyers being  
13:11:13 20 advised?---Correct.  
21  
13:11:15 22 Do you see that?---M'hmm.  
23  
13:11:17 24 And in 86 you give us the quite detailed description of  
13:11:21 25 information and intelligence and innuendo flowing in both  
13:11:24 26 directions, "From her to us and from us to her"?---Yes.  
27  
13:11:28 28 And the pattern tempo and intensity of serious crimes  
13:11:32 29 linked to the murderous gang feuds had been adversely  
13:11:36 30 effected in your opinion?---In my opinion, yes.  
31  
13:11:37 32 Great. Just before the break, if I might do this. What  
13:11:40 33 were the discrete inquiries that you made?---I was - - -  
34  
13:11:43 35 To establish that picture?---I have no specific recall. I  
13:11:48 36 can't recall specific files but I asked for information on  
13:11:50 37 particular cases where her insertion had been an issue for  
13:11:54 38 them.  
39  
13:11:55 40 Who did you ask?---It would have been the Driver team.  
41  
13:11:58 42 It's just the, at least the flavour of the material that  
13:12:02 43 you've indicated set out in your statement?---Yes.  
44  
13:12:04 45 Would appear to be the kind of material that you would  
13:12:08 46 glean from reading, as we all have, many of us have?---Yes.  
47

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13:12:11 1 The information contact reports and the source management  
13:12:15 2 log for the handling of Nicola Gobbo. Did you seek to  
13:12:17 3 obtain access to Source Development Unit other HSMU  
13:12:21 4 material?---I don't recall, Mr Holt.  
5  
13:12:23 6 Can I ask you to just press your own memory a little on  
13:12:27 7 this. You had, as we discovered - as we confirmed at the  
13:12:32 8 outset, line management responsibility into Intel and  
13:12:36 9 Covert Support. If you want a file, a Witsec file, or if  
13:12:39 10 you want a source file or if you want something like  
13:12:41 11 that?---Yes.  
12  
13:12:42 13 You go down through the line of Command and we've actually  
13:12:47 14 seen of examples of it here?---Yeah, you just ask for it.  
15  
13:12:50 16 People might get a bit grumpy, but they comply,  
13:12:55 17 right?---Right.  
18  
13:12:58 19 So the logical thing to do here is to say AC Pope or  
13:12:59 20 Superintendent Biggin or Officer Sandy White, whoever, "Can  
13:13:03 21 I have the source management log and can I have the ICRs".  
13:13:08 22 Did you do that?---No. Why would I do that? That would be  
13:13:12 23 signalling to people that I've got concerns that I thought  
13:13:15 24 that something seriously wrong had occurred and I thought  
13:13:18 25 that best done by an independent third party.  
26  
13:13:21 27 Again, I just want to ask you this question before the  
13:13:23 28 break. If you didn't have access to that material, how on  
13:13:27 29 earth were you able to form the conclusions that - - -  
13:13:32 30 ?---I did access to material that Doug Fryer and people -  
13:13:36 31 and Mick Frewen were bringing to me and I was getting  
13:13:38 32 briefings from them.  
33  
13:13:38 34 Were they getting that from the HSMU?---You'll have to ask  
13:13:41 35 them.  
36  
13:13:42 37 Did you ask them where they were getting this  
13:13:43 38 information?---I would assume they were getting it from,  
13:13:44 39 combining the holdings of the various investigations and,  
13:13:46 40 yes, and tracking information back through there.  
41  
13:13:48 42 Do you know whether they sought access and were granted  
13:13:52 43 access?---I can't recall.  
44  
13:13:53 45 To SDU holdings or HSMU holdings?---I can't recall,  
46 Mr Holt, it's a long time ago.  
47

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13:14:08 1 Is that an appropriate time, Commissioner?  
13:14:08 2  
13:14:08 3 COMMISSIONER: Yes, all right then. How much longer do you  
13:14:10 4 think you'll be, Mr Holt?  
13:14:13 5  
13:14:14 6 MR HOLT: Probably about an hour, Commissioner, but I'm  
7 aware that I'm covering matters that will hopefully allow  
13:14:15 8 others to deal with things more quickly.  
13:14:15 9  
10 COMMISSIONER: And who else is to cross-examine?  
11  
12 MR CHETTLE: Commissioner, I'd seek about 15 minutes to  
13 half an hour.  
14  
15 MR COLEMAN: I have two topics and I'll be 15 minutes at  
13:14:18 16 the most, Commissioner.  
13:14:18 17  
13:14:19 18 MS COLEMAN: Commissioner, I have three to four topics and  
13:14:22 19 I'll take half an hour to 45 minutes.  
13:14:29 20  
13:14:30 21 MR COLLINSON: I have one topic relating to paragraph 67.  
22  
13:14:34 23 COMMISSIONER: Just a few minutes?  
13:14:34 24  
13:14:34 25 MR COLLINSON: I would think realistically 20 minutes.  
26 I'll try to sort of tailor what I have to do according to  
13:14:45 27 on hearing it - - -  
13:14:45 28  
13:14:45 29 MR WOODS: Mr Holt is the fastest talker of all of them and  
13:14:49 30 he's covering a fair few topics. So it might be that a lot  
13:14:51 31 of those topics are dealt with. So the maths takes us  
13:14:53 32 past 4 pm unfortunately, but we'll just see. If we get  
13:14:56 33 there and there's some matters to deal with, we'll just  
13:15:00 34 have to deal with them in due course. It certainly won't  
13:15:03 35 be on Monday.  
36  
13:15:04 37 COMMISSIONER: We might just resume a little earlier then.  
13:15:06 38 We'll resume at 1.50.  
13:15:15 39  
13:15:15 40 MR HOLT: Thank you, Commissioner.  
13:15:59 41  
13:15:59 42 <(THE WITNESS WITHDREW)  
13:16:03 43  
44 LUNCHEON ADJOURNMENT  
45  
46  
47

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13:49:34 1 UPON RESUMING AT 1.50 PM:  
13:51:56 2  
13:51:56 3 COMMISSIONER: Yes Mr Holt.  
13:51:57 4  
13:51:58 5 MR HOLT: Thank you Commissioner. Mr Jones, as we were  
13:52:01 6 discussing before the break you had cause to speak with the  
13:52:06 7 Commonwealth Director of Public Prosecutions staff on 20  
13:52:08 8 December about, among other things, the condition or the  
13:52:12 9 term of the agreement with Ms Gobbo that prevented her from  
13:52:16 10 [REDACTED], you recall that?---Yes.  
13:52:18 11  
13:52:18 12 At paragraph 75 of your statement on p.16, you give your  
13:52:22 13 opinion it was simply not right to give anyone concrete  
13:52:25 14 assurances that they [REDACTED] I  
13:52:29 15 take it that was your view then?---That's my opinion, yes.  
13:52:33 16  
13:52:33 17 It remains your opinion now?---Yes.  
13:52:35 18  
13:52:36 19 In fact if you flick back over the page to paragraph 74,  
13:52:39 20 you'll see that you had in fact seen a document which  
13:52:43 21 included that condition, that the Force agree [REDACTED]  
13:52:48 22 Nicola Gobbo [REDACTED]?---Yes.  
13:52:49 23  
13:52:49 24 So you're very familiar with the precise terms of the - -  
13:52:52 25 -?---Not very familiar. I didn't see the full papers for a  
13:52:57 26 while, but yes.  
13:52:57 27  
13:52:57 28 But you had earlier seen that condition as you made clear  
13:52:59 29 in your statement?---Yes.  
13:53:01 30  
13:53:01 31 So you knew what you were talking about?---Yes.  
13:53:03 32  
13:53:04 33 Can we talk about the civil settlement, please, and your  
13:53:07 34 evidence in relation to it. Could you go over, please, to  
13:53:10 35 paragraph 80 on p.17 of your witness statement. I just  
13:53:15 36 want to go through briefly 80 to 83 in order to summarise  
13:53:21 37 what I understand your position to be and then I'll be  
13:53:24 38 asking you questions about that. 80, you talk about Finn  
13:53:28 39 McRae?---Yes.  
13:53:29 40  
13:53:29 41 You say that even though he reported to you, you asked him  
13:53:33 42 about the writ and the response and he said he was solely  
13:53:35 43 acting for the Chief and it didn't concern you and he  
13:53:39 44 couldn't show you the file?---Correct.  
13:53:40 45  
13:53:40 46 You say that you told him of the rumours that you were  
13:53:43 47 hearing, yes?---Yes.

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13:53:44 1  
13:53:44 2 And you suggested that the payout was being made for  
13:53:50 3 reasons of convenience and it was not being done for the  
13:53:54 4 right reasons?---Correct.  
13:53:56 5  
13:53:56 6 Now I just need to be clear with you, Mr McRae will utterly  
13:54:00 7 deny that any conversation of that type occurred. I take  
13:54:02 8 it you disagree?---I disagree.  
13:54:03 9  
13:54:03 10 In any event it's clear to you that Mr McRae, even though  
11 he reported to you, was declining to brief you on the file,  
12 declining to give you documents?---Yes.  
13  
13:54:08 14 I take it you have a clear memory of that?---Yes.  
13:54:10 15  
13:54:12 16 And in fact it appears, at least in terms of the flow of  
13:54:15 17 your statement, partly as a function of that you make these  
13:54:18 18 claims, that your view is that the whole process, that is I  
13:54:21 19 take it of settlement, paragraph 81, "Was a device to  
13:54:25 20 syphon significant sums of money to Nicola Gobbo allowing a  
13:54:29 21 line to be drawn perhaps in the hope that nothing I  
13:54:31 22 reported in 2010, 11 and 12", and some of which is emerging  
13:54:36 23 in the Royal Commission, "Would never see the light of  
13:54:38 24 day". Does that remain your view?---Yes.  
13:54:39 25  
13:54:40 26 "I did eventually see the writ and the settlement  
13:54:42 27 response." You say the file appeared in your office. "It  
13:54:43 28 was as bad as you feared" you said, "Neither her writ nor  
29 our response mentioned the informing activities of any  
13:54:48 30 affected clients or court cases"?---Correct.  
13:54:50 31  
13:54:50 32 That was your view then and your view now?---Yes.  
13:54:53 33  
13:54:53 34 I want to take you through some of the things that actually  
13:54:56 35 happened in terms of the settlement process. Firstly, do  
13:55:01 36 you agree, as was put to you by Mr Woods, our learned  
13:55:04 37 friend, that the writ was filed in April of 2010 and  
13:55:07 38 settled in August of 2010?---Yes.  
13:55:09 39  
13:55:10 40 And you agreed with the suggestion that that seemed very  
13:55:12 41 quick, did you have any comparison to - - - ?---I'd been  
13:55:16 42 involved in litigation obviously for a long time in my  
13:55:19 43 career, there's often conflicts with contractors or  
13:55:23 44 disappointed people, yes.  
13:55:25 45  
13:55:25 46 In the UK presumably?---Yes.  
13:55:26 47

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13:55:27 1 Thank you. In any event - - - ?---And the Ombudsman  
13:55:30 2 actually made that remark as well.  
13:55:33 3  
13:55:33 4 The Ombudsman did, and by that I take it you mean in the  
13:55:36 5 report where the Ombudsman said that there was no improper  
13:55:38 6 motive for the settlement of the civil claim?---Yes.  
13:55:40 7  
13:55:41 8 That report?---Yes, that report.  
13:55:42 9  
13:55:42 10 The Ombudsman examined the settlement of the civil claim  
13:55:48 11 and positively concluded that there was no improper purpose  
13:55:52 12 in the settlement?---Yes.  
13:55:53 13  
13:55:53 14 Right, thank you. I'm going to suggest to you that on 3  
13:55:55 15 June 2010 you were briefed in fact in a lot of detail by  
13:56:00 16 Mr McRae and Mr Lardner of the legal services division  
13:56:05 17 about the writ and about the proposed approach?---No.  
13:56:09 18  
13:56:09 19 You don't agree with that?---No.  
13:56:12 20  
13:56:12 21 If Mr Lardner has a file note or a diary note which I will  
13:56:16 22 take you to in a little while which says that he briefed  
13:56:19 23 you and Mr Overland with Mr McRae on 3 June 2010, would  
13:56:23 24 that change your position?---I would like to see it. I  
13:56:27 25 recall getting a telephone call from Mr Lardner around that  
13:56:32 26 time about this issue.  
13:56:33 27  
13:56:33 28 Something might jog your memory. Do you remember they  
13:56:36 29 actually wheeled into the Chief Commissioner's office, one  
13:56:38 30 of those fancy whiteboards that you can print stuff  
13:56:42 31 off?---No, I don't recall that.  
13:56:43 32  
13:56:43 33 Actually mapped out on the whiteboard the writ, the issues  
13:56:47 34 and the possible approach to it?---No, I don't recall that.  
13:56:50 35  
13:56:50 36 I see. And you may recall that as Mr McRae was explaining  
13:56:55 37 to you and Mr Overland about the claim, there was some  
13:56:59 38 jocularly and suggestion of, "This is law 101, you're  
13:57:03 39 giving us a legal lecture", does that ring a bell  
13:57:06 40 now?---Not at all.  
13:57:07 41  
13:57:07 42 In fact in the course of that you were keener to settle the  
13:57:10 43 proceeding than Mr Overland was at that point?---No, that's  
13:57:13 44 not correct.  
13:57:14 45  
13:57:14 46 I see. That's on 3 June 2010. Can I take to you a  
13:57:20 47 document - can I suggest that while you were there, because

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13:57:24 1 there was a period you were on leave, while you were there  
13:57:28 2 you were actually being updated about the progress of the  
13:57:31 3 settlement?---My recollection I put in my statement.  
13:57:33 4  
13:57:34 5 Can we have look at VPL.6017.0007.7142, please. I'll come  
13:58:07 6 back to it. There is a suggestion this comes to you but it  
13:58:10 7 may be in a different version of the document, but I'll  
13:58:10 8 show it to you for now so we can do that quickly. It  
13:58:14 9 suggests that in fact you were given this information  
13:58:16 10 about, "Today's directions hearing re Gobbo going as  
13:58:19 11 anticipated. Next court date anticipated to be a  
13:58:22 12 directions hearing on 30 August with a mediation to have  
13:58:25 13 occurred prior to the same?---No recall of that.  
13:58:28 14  
13:58:28 15 We'll leave tendering of that until I confirm that issue,  
13:58:32 16 Commissioner. In any event can we have a look please at  
13:58:34 17 VPL.6018.0007.6617. This is an email from you to  
13:58:46 18 Mr Overland. Do you accept that, as you can see on the  
13:58:49 19 face of the document?---Yes.  
13:58:52 20  
13:58:53 21 On 27 April 2010 indicating that you were going to take  
13:58:57 22 leave from 21 June until 4 August?---Right.  
13:59:03 23  
13:59:05 24 And if I suggest to you that in fact the various documents,  
13:59:07 25 and I'll show you a couple of later, indicate you did take  
13:59:10 26 leave over that period, would that feel about right?---It  
13:59:13 27 does, yes.  
13:59:13 28  
13:59:14 29 In actual fact you're out of, at least Victoria Police in  
13:59:17 30 terms of being on leave, it would appear, from 21 June up  
13:59:22 31 until about ten days before the settlement?---Something  
13:59:25 32 like that, yes.  
13:59:25 33  
13:59:25 34 It wouldn't surprise you, would it, if things were  
13:59:29 35 happening in your absence?---Absolutely, I would expect  
13:59:32 36 things to progress.  
13:59:33 37  
13:59:33 38 The sort of things that would happen in the proper  
13:59:35 39 settlement of consideration of civil litigation is the  
13:59:37 40 taking of legal advice, right?---Yes.  
13:59:40 41  
13:59:40 42 Would you expect that to be done by particularly - in the  
13:59:43 43 context of a case like this, particularly senior  
13:59:47 44 counsel?---I would expect it to happen, yes.  
13:59:49 45  
13:59:49 46 Would it surprise you to know it did happen, that advice  
13:59:52 47 was sought from three members of counsel in relation to the

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13:59:54 1 settlement?---As you say, it you would expect people to be  
13:59:56 2 engaged.  
13:59:57 3  
13:59:57 4 You'd indicated that part of your shock was that there was  
14:00:00 5 this disputed fact about whether she was forced to become a  
14:00:03 6 witness or not forced to become a witness. That's one of  
14:00:06 7 the reasons you thought something weird had gone on with  
14:00:09 8 the settlement?---Yes.  
14:00:09 9  
14:00:10 10 Would it give you some comfort, Mr Jones, to know that in  
14:00:12 11 fact part of the reason for settlement was because not of  
14:00:15 12 that point at all, but because there had been discovered to  
14:00:19 13 be a statement being made to Nicola Gobbo giving her a  
14:00:23 14 representation that her circumstances wouldn't change as a  
14:00:25 15 result of ever becoming a witness?---Obviously I'm not  
14:00:28 16 privy to that information.  
14:00:30 17  
14:00:31 18 No, you're not, yet you're still prepared on the basis of  
14:00:32 19 things you don't know to make a very serious allegation of  
14:00:35 20 a cover up, aren't you, Mr Jones?---No, I'm not.  
14:00:37 21  
14:00:38 22 Let's keep going then. Because, again, you would expect  
14:00:40 23 having received that advice but given the significance of  
14:00:42 24 the matter that it would be appropriate in a non-cover up  
14:00:45 25 of a kind of situation, for the Office of Police Integrity  
14:00:52 26 as the oversight body for police to be briefed on the  
14:00:53 27 pending settlement and the proposal to settle. Would you  
14:00:57 28 expect that to be good practice?---I wasn't privy to any of  
14:01:00 29 this.  
14:01:00 30  
14:01:00 31 I didn't ask you that. Would you expect that to be good  
14:01:02 32 practice?---I can't answer that, I can't give an opinion on  
14:01:07 33 that because the people driving it were obviously making  
14:01:09 34 their own decisions.  
14:01:11 35  
14:01:12 36 No, but you come into this process now and say, "On the  
14:01:15 37 basis of a few facts that I have I'm going to conclude  
14:01:18 38 there was a cover up". I'm suggesting to you that if it  
14:01:20 39 turns out that on 5 August 2010 Mr McRae, Mr John Cain as  
14:01:26 40 the Victorian Government solicitor, briefed Mr Strong and  
14:01:29 41 Mr Jetkovic on the proposal to settle this litigation,  
14:01:34 42 included by providing with lengthy piece of correspondence  
43 from the Victorian Government Solicitors Office?---Yes.  
44  
14:01:38 45 Setting out background including a lengthy association with  
14:01:41 46 Victoria Police. Would that help you to have confidence  
14:01:44 47 that this wasn't a cover up?---That obviously takes the

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14:01:47 1 issue forward , but I was dealing with the Ombudsman and  
14:01:49 2 they were briefing me and supplying me, they didn't mention  
14:01:52 3 that.  
14:01:52 4  
14:01:52 5 I'm talking to you about the civil settlement and the very  
14:01:55 6 serious allegation you made in the statement that this was  
14:01:58 7 a cover up by members of Victoria Police?---H'mm.  
14:02:00 8  
14:02:00 9 Does it assist you in that regard to know, if you accept it  
14:02:03 10 from me that that occurred, on 10 August?---You're telling  
14:02:07 11 me something. I wasn't at that meeting and I'm not privy  
14:02:10 12 to what was discussed and what was proposed.  
14:02:12 13  
14:02:12 14 You'd hope in a non - - - ?---You want me to express an  
14:02:15 15 opinion about some information I'm just not aware of.  
14:02:18 16  
14:02:18 17 It doesn't seem to stop you in a lot of other contexts,  
14:02:25 18 Mr Jones.  
14:02:25 19  
14:02:26 20 COMMISSIONER: That's a comment.  
14:02:27 21  
22 MR HOLT: I apologise, I withdraw that?---I disagree with  
23 you.  
24  
14:02:27 25 In addition in a kind of a non-cover up world you'd expect  
14:02:30 26 that Government might be briefed on the settlement?---Yes.  
14:02:33 27  
14:02:33 28 And they might take independent advice of their own from  
14:02:36 29 senior counsel?---Yes.  
14:02:37 30  
14:02:37 31 And again when the Victorian Ombudsman reviews the  
14:02:40 32 propriety of the settlement process it would give you some  
14:02:43 33 confidence to know that the Victorian Ombudsman concluded  
14:02:45 34 that there was no impropriety in the settlement?---It  
14:02:48 35 didn't give me any confidence at all.  
14:02:50 36  
14:02:50 37 I see. Now, the mediation occurs on 12 August 2010, we  
14:02:56 38 know, and the evidence is that the police were represented  
14:03:02 39 by Mr Lardner, I don't mean as in counsel, as in for the  
14:03:06 40 client, by Mr Lardner and Emmett Dunne, is this ringing a  
14:03:12 41 bell?---They're the right people, they were involved in ESD  
14:03:15 42 and Mr Lardner was in legal services so that would make  
14:03:16 43 sense.  
14:03:16 44  
14:03:17 45 But you say the whole thing is being kept from you still at  
14:03:21 46 this point, don't you? You discover it when the file  
14:03:23 47 magically appears on your desk at some later

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14:03:25 1 point?---That's what happened.  
14:03:26 2  
14:03:27 3 Right. Except that it's not what happened, is it, Because  
14:03:27 4 Mr Lardner and Mr Dunne phoned you from the mediation, do  
14:03:31 5 you recall that?---I had a call from Mr Lardner, this was  
14:03:32 6 put to me by the Ombudsman, yes, I do recall that.  
14:03:35 7  
14:03:35 8 You do recall that?---Yes.  
14:03:36 9  
14:03:36 10 You just didn't put that in your statement that you had a  
14:03:39 11 call during the course of the mediation from - -  
14:03:41 12 -?---There's lots of things I haven't put in here, Mr Holt,  
14:03:45 13 that call I recall discussing that with the Ombudsman  
14:03:49 14 because Mr Lardner had told him this. I said I took a call  
14:03:53 15 from Mr Lardner and questions were raised about the general  
14:03:57 16 worth and credibility of Ms Gobbo as a witness and I agreed  
14:04:00 17 with that, that she was now a compromised person. So yes,  
14:04:05 18 that - but that didn't effect what I took that as not  
14:04:11 19 germane to what I was doing in terms of the brief you were  
14:04:14 20 discussing earlier.  
14:04:15 21  
14:04:15 22 It's just that we were all left with a very a clear  
14:04:19 23 impression that this whole settlement process is being kept  
14:04:21 24 from you?---Yes.  
25  
26 Yet you're being called from the settlement?---No, it  
14:04:22 27 wasn't - that wasn't put to me, Mr Holt. With the greatest  
14:04:24 28 respect, I was just asked questions about her, was she  
14:04:28 29 going to be credible as a witness, and I said I'm afraid I  
14:04:31 30 have to - - -  
14:04:31 31  
14:04:31 32 I suggest it was much more specific than that. The fact  
14:04:36 33 the very condition which you are critical of, that is the  
14:04:40 34 condition that she was [REDACTED], the purpose of  
14:04:47 35 the call to you was in fact to get your approval as Deputy  
14:04:51 36 Commissioner for that very condition?---That was put to me  
14:04:53 37 by the Ombudsman.  
14:04:54 38  
14:04:54 39 And that's true, isn't it?---No, it's not true. It's  
14:04:58 40 risible that they would call me in middle of another  
14:05:01 41 meeting and ask me to approve a settlement of that size. I  
14:05:04 42 just wouldn't do it. There'd have to be a formal minuted  
14:05:06 43 meeting where that could be discussed and that didn't  
14:05:08 44 happen.  
14:05:08 45  
14:05:08 46 It was settled within bounds that had already been approved  
14:05:11 47 by Government as I told you. There was no difficulty with

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14:05:13 1 that. This was about the specific condition about not  
14:05:16 2 giving evidence, the one you're being critical of, and you  
14:05:18 3 were called because as Deputy Commissioner Crime and of  
14:05:22 4 Driver you were in a position to approve the making of that  
14:05:24 5 condition?---That wasn't what was told to me.  
14:05:28 6  
14:05:28 7 Can we have a look please at VPL.0005.0013.0968. It's a  
14:05:37 8 long document. It's at point .1009 of that document,  
14:05:41 9 that's where I'm looking for. Now, these are Mr Lardner's  
14:05:56 10 notes?---H'mm.  
14:05:57 11  
14:06:03 12 Can we go to 1009 of that whole bundle, please. It's the  
14:06:25 13 21:40 entry, if we could just pull that up, please. This  
14:06:30 14 is Mr Lardner's file note. "Emmett's discussion with Sir  
14:06:35 15 Ken Jones, Gobbo limited value so we can sign up, that not  
14:06:39 16 required in any matter begun, including Briars/Petra". Do  
14:06:44 17 you see that note?---I do see that note.  
14:06:46 18  
14:06:46 19 Do you accept that Mr Lardner would not have made that note  
14:06:49 20 had it not been a conversation which had occurred?---Sorry,  
14:06:52 21 Mr Holt, you - - -  
14:06:53 22  
14:06:53 23 Do you accept that Mr Lardner would not have made a note  
14:06:56 24 about a conversation that didn't occur?---But I've said  
14:06:58 25 that I was spoken to about her value but the last part of  
14:07:02 26 that is not part of our conversation and obviously I  
14:07:05 27 wouldn't approve a PII [REDACTED] dollar settlement over the  
14:07:08 28 telephone.  
14:07:08 29  
14:07:09 30 Mr Jones, I've just said to you I'm not suggesting you  
14:07:10 31 approved a PII [REDACTED] dollar settlement?---Right.  
14:07:12 32  
14:07:12 33 There was already boundaries agreed to, including by  
14:07:15 34 Government, to settle a claim within those boundaries,  
14:07:18 35 right. This was a specific condition?---Yes.  
14:07:20 36  
14:07:20 37 As the Deputy Commissioner of Crime you were the person who  
14:07:26 38 the people there considered needed to authorise it, and  
14:07:30 39 both Mr Dunne and Mr Lardner will say that you did, what do  
14:07:33 40 you say to that?---I didn't authorise it.  
14:07:35 41  
14:07:35 42 Thank you. I tender perhaps just that page, Commissioner.  
14:07:45 43 Sorry, just a moment. Go further down, please, to the next  
14:07:48 44 part of the entry. Do you see there a note from Emmett's  
14:08:00 45 discussion with Jeff Pope?---Yes.  
14:08:03 46  
14:08:04 47 Something, "Re Sir Ken's position", again there seems to be

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14:08:07 1 a discussion about your position?---Yes.  
14:08:09 2  
14:08:09 3 "Happy with Sir Ken's position"?---Yes.  
14:08:11 4  
14:08:11 5 Again, I want to suggest the whole point of that  
14:08:13 6 conversation was to approve the very condition which you  
14:08:16 7 say was so dodgy?---I only repeat what I've said, and also  
14:08:21 8 the Ombudsman took me through this in some detail I'm  
14:08:25 9 recalling now, it's in the report, that I actually resisted  
10 the suggestion that I did in any way authorise the  
11 settlement. I was asked about her value as a witness and I  
14:08:31 12 gave an opinion.  
14:08:32 13  
14:08:32 14 All right. Well we've been through - I'm sorry, now I  
14:08:34 15 tender perhaps the two pages, Commissioner, 1009 to 1010.  
14:08:41 16  
14:08:42 17  
14:08:43 18 #EXHIBIT RC908A - (Confidential) First two pages of  
14:08:44 19 Mr Lardner's diary, May 2010.  
14:08:50 20  
14:08:50 21 #EXHIBIT RC908B - (Redacted version.)  
14:08:52 22  
14:08:55 23 We've already been through your views as expressed about  
14:08:59 24 how awful this settlement was and how it was as bad as you  
14:09:02 25 feared, and in particular how it included no reference to  
14:09:05 26 her informing, do you recall that?---Yes.  
14:09:07 27  
14:09:08 28 Before we get to that, could I pull up, please,  
14:09:15 29 VPL.6124.0013.8009. The indication here on 18 June is,  
14:09:43 30 this is from Mr Bona to Mr Lardner, and it's a list of  
14:09:47 31 people to whom the update has been given and it includes  
14:09:50 32 you?---H'mm.  
14:09:51 33  
14:09:51 34 Do you accept you would have received the update.  
14:09:53 35  
14:09:54 36 COMMISSIONER: From Lardner to Bona.  
14:09:55 37  
14:09:56 38 MR HOLT: I'm sorry, Commissioner. Do you accept you would  
14:09:58 39 have received the update?---I don't recall receiving it but  
14:10:00 40 I can see my name on it, yes.  
14:10:01 41  
14:10:02 42 Again, this is just before you go on leave but then you go  
14:10:04 43 on leave about ten days, eight days before?---Obviously  
14:10:10 44 other staff open my emails as well, I don't see everything.  
14:10:12 45  
14:10:13 46 I understand that. We tender that email, Commissioner.  
14:10:15 47

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14:10:17 1 #EXHIBIT RC909A - (Confidential) Email from Lardner to  
14:10:18 2 Bona 18/6/10.  
14:10:18 3  
14:10:18 4 #EXHIBIT RC909B - (Redacted version.)  
14:10:19 5  
14:10:19 6 Again, you've indicated generally speaking, as we discussed  
14:10:23 7 before lunch, this developing but very quiet process you  
14:10:28 8 were engaged in in trying to uncover what was going on with  
14:10:31 9 Ms Gobbo?---Yes.  
14:10:32 10  
14:10:33 11 And that was obviously finding that out from your  
14:10:39 12 perspective, given what you've told us about those  
14:10:40 13 processes, would have to have been clandestine?---Not a  
14:10:46 14 word I'd use, no.  
14:10:47 15  
14:10:47 16 Done quietly, I'm not being pejorative?---Obviously  
14:10:53 17 something that serious you have to tread very carefully.  
14:10:55 18  
14:10:56 19 You got your investigators to try and find material for you  
14:11:00 20 which allowed you to come to those conclusions which we  
14:11:03 21 went through in some detail before lunch?---Yes.  
14:11:03 22  
14:11:03 23 I see. Your position is that effectively this was  
14:11:05 24 otherwise being kept away secret from you?---I wouldn't say  
14:11:10 25 secret.  
14:11:10 26  
14:11:11 27 What would you say?---When I came into the force obviously  
14:11:13 28 some of these very sensitive inquiries were being run,  
14:11:16 29 although I was the head of the crime function, some of the  
14:11:19 30 inquiries were still continuing and I didn't take them over  
14:11:24 31 until earlier the year. I wouldn't have said that was  
14:11:27 32 secret. I thought that was right and proper.  
14:11:27 33  
14:11:27 34 So the need to know principle applied?---Need to know,  
14:11:29 35 that's a better phrase, thank you.  
14:11:32 36  
14:11:32 37 So a need to know principle applied?---Yes.  
14:11:32 38  
14:11:32 39 Do you now say not a deliberate keeping from you?---Not  
14:11:36 40 initially. I think that was the inquiries, I assumed they  
14:11:39 41 were being run on a need to know basis as you suggest.  
14:11:42 42  
14:11:42 43 Let's have a look at the document you were taken to before,  
14:11:47 44 VPL.0100.0047.0997. Exhibit 904 if that assists. I am  
14:12:12 45 sorry, it was a different doc ID, I apologise, it was a  
14:12:16 46 duplicate. If we can have Exhibit 904. You were taken  
14:12:25 47 this morning to, if we just scroll down, to a reference to

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14:12:31 1 HSU, JP and HSU?---Yes.  
14:12:34 2  
14:12:35 3 Can you see, "Witness F"?---Yes.  
4  
14:12:37 5 "Risk assessment to be conducted as a matter of urgency.  
14:12:40 6 Letter to F via VGS0. JP", which was Jeff Pope?---I assume  
14:12:46 7 that was Jeff Pope, yes.  
14:12:47 8  
14:12:48 9 Not unreasonably because he was the Assistant Commissioner  
14:12:52 10 Intel and Covert Support?---Yes.  
14:12:52 11  
14:12:53 12 And "HSU file", Human Services Unit file surely?---I don't  
14:12:57 13 recognise the acronym, there's that many, but yes.  
14:13:01 14  
14:13:01 15 I don't understand?---The shorthand there. I didn't draw  
14:13:05 16 the minute up and obviously the individual that did that,  
14:13:08 17 that meant something. It didn't mean much to me. It  
14:13:12 18 doesn't mean much to me now.  
14:13:12 19  
14:13:12 20 But it's a minute and we've heard a lot about how you were  
14:13:16 21 bringing in this minuting process?---Yes.  
22  
14:13:17 23 And the care that needs to be taken with minutes to ensure  
14:13:21 24 that there's a credible process?---Yeah, but organisations,  
14:13:22 25 Mr Holt, have got oodles of acronyms.  
26  
14:13:27 27 Sure. Can you think of another one that it might, or we  
14:13:29 28 happy to run with it?---No, I'm happy to run with it.  
14:13:31 29  
14:13:31 30 So it appears there there's a discussion in May at least  
14:13:33 31 where a HSU file is being discussed and minuted in respect  
14:13:37 32 of the Petra Task Force?---Yes.  
14:13:39 33  
14:13:39 34 Can we look, please, at - it has been tendered -  
14:13:45 35 VPL.0005.0003.3050. You can see here this is a meeting re  
14:14:03 36 Witness F status on 21 June?---Yes.  
14:14:06 37  
14:14:06 38 And again this confirms, if you just look at the top part  
14:14:09 39 there, what we clarified before, which is that by this  
14:14:12 40 stage you're on leave?---Yes.  
14:14:14 41  
14:14:14 42 But there was an expectation as it would appear that you  
14:14:17 43 would be present at this meeting?---Yes.  
14:14:19 44  
14:14:20 45 Otherwise there would be no need to note that you were on  
14:14:23 46 leave, right?---No, absolutely.  
14:14:24 47

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14:14:24 1 You can see Mr McRae's there, Mr Cornelius, Mr Lardner,  
14:14:28 2 Mr Moloney and we can see there at item 6, "Access to Human  
14:14:34 3 Source Unit's summary document", do you see that?---Yes.  
14:14:36 4  
14:14:36 5 And this a meeting about Witness F, Nicola Gobbo?---Yes,  
14:14:39 6 point 6, yes.  
14:14:39 7  
14:14:40 8 And in a meeting including one of the very people who it  
14:14:43 9 appears that you're implicating in the cover up of the  
14:14:48 10 civil process, a meeting you're intended to be at, it was a  
14:14:53 11 discussion precisely about giving access to human source  
14:14:56 12 summary document about Witness F?---Yes, I can see that.  
14:14:59 13  
14:14:59 14 Pretty poor cover up, isn't it, Mr Jones?---I don't  
14:15:03 15 understand the point you're making, Mr Holt.  
14:15:05 16  
14:15:05 17 I tender that meeting agenda with Mr McRae's notes,  
14:15:10 18 Commissioner.  
14:15:10 19  
14:15:11 20 #EXHIBIT RC910A - (Confidential) Agenda meeting re Witness  
14:15:20 21 F status 21/6/10.  
14:15:20 22  
14:15:20 23 #EXHIBIT RC910B - (Redacted version.)  
14:15:21 24  
14:15:22 25 MR WOODS: Commissioner, just before it goes on, I must say  
14:15:25 26 I hadn't understood the point that was being made then, and  
14:15:27 27 obviously the witness didn't either, so it might be that  
14:15:30 28 that could be put a bit more clearly. I might be the only  
14:15:34 29 one who didn't follow it, but in any event.  
14:15:34 30  
14:15:35 31 MR HOLT: Mr Jones, what I'm suggesting is you've agreed  
14:15:37 32 this is a meeting at which it was at least intended you  
14:15:41 33 would be present?---No, I don't agree with that.  
34  
14:15:43 35 You don't agree?---I agree my name is on there and I don't  
14:15:45 36 know why it's on there. You'll have to ask the person who  
14:15:47 37 made the minute.  
14:15:48 38  
14:15:48 39 We'll do that, thank you?---And obviously I would have  
14:15:51 40 loved to have been there by the look of it.  
14:15:54 41  
14:15:54 42 Yes, well if you'd been there it appears that you'd have  
14:15:55 43 been in a meeting with Mr McRae, Mr Moloney, Mr Cornelius  
14:15:58 44 and Mr Lardner at which the very issue of access to the  
14:16:03 45 Human Source Unit summary document was being discussed with  
14:16:05 46 a specific reference to Dale and Petra?---Yep.  
47

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14:16:07 1 And with a note that it be provided to senior counsel, do  
14:16:09 2 you see that?---Yes, I do see that.  
14:16:11 3  
14:16:11 4 Thank you. I want to come back to this meeting that I  
14:16:15 5 suggested to you before occurs on 3 June 2010. You asked  
14:16:22 6 to see, perfectly reasonably, the file note of Mr Lardner  
14:16:26 7 so we'll show you that now. VPL.0005.0195.0953 is the  
14:16:38 8 whole document. And then we're going to .0964 if we may.  
14:16:51 9 Do you see this is a note of a CCP briefing on the 3rd of  
14:16:56 10 the 6th 2010?---Yes.  
14:16:58 11  
14:16:59 12 Do you see it notes McRae, Lardner, Ken Jones and Overland  
14:17:04 13 being present?---Yes.  
14:17:05 14  
14:17:05 15 "Overview of issues provided, don't do a thin defence. Sir  
14:17:09 16 Ken to be provided with all suppression orders. Doug Fryer  
14:17:12 17 has approval by CCP to be across databases of all  
14:17:16 18 operations. Witness statement re Mokbel? Sir Ken will  
14:17:20 19 follow up and get back to me". Do you see that?---Yes, I  
14:17:24 20 see that, yes.  
14:17:25 21  
14:17:25 22 The evidence will be that this briefing was a briefing  
14:17:27 23 about Ms Gobbo and Ms Gobbo's civil claim?---Okay.  
14:17:32 24  
14:17:32 25 Does it appear to be that to you given the content I've  
14:17:33 26 just read out?---It's an interpretation.  
14:17:35 27  
14:17:35 28 Pretty good one?---It's an interpretation.  
14:17:37 29  
14:17:37 30 "Don't do a thin defence", they're obviously talking here  
14:17:41 31 about drafting defence, kind of fits in?---That's a  
14:17:46 32 plausible interpretation, yes. I didn't write it and I  
14:17:49 33 don't recollect it.  
14:17:50 34  
14:17:50 35 I understand. At the end we have, "Witness statement re  
14:17:52 36 Mokbel, Sir Ken will follow up". Pretty clear you're in  
14:17:55 37 the meeting if it's discussing something that you're going  
14:17:57 38 to do?---Yes.  
14:17:58 39  
14:17:58 40 And the evidence will be that this is about Witness F. Do  
14:18:02 41 you recall why you would have been following up on the  
14:18:05 42 question of a Mokbel witness statement?---No, I don't  
14:18:08 43 recall.  
14:18:08 44  
14:18:08 45 In a meeting at which Simon Overland was present?---No, I  
14:18:14 46 don't recall.  
14:18:14 47

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14:18:15 1 You had indicated earlier that one of the things that you  
14:18:20 2 found most concerning about the way in which these matters  
14:18:22 3 were settled was the fact that there was nothing in the  
14:18:25 4 writ and nothing in the reply that dealt with her role as a  
14:18:28 5 human source, yes?---That did seem an issue of concern,  
14:18:32 6 yes.

14:18:32 7  
14:18:32 8 And the other thing that you've explained is that one of  
14:18:34 9 the primary reasons why you didn't raise this with  
14:18:38 10 Mr Overland, this increasing concern that you had about her  
14:18:41 11 as a human source, was because you were concerned about his  
14:18:45 12 potential compromise?---Yes.

14:18:46 13  
14:18:48 14 So bearing both of those matters in mind, I now want to  
14:18:51 15 show you - - -

14:18:52 16  
14:18:52 17 COMMISSIONER: Are you tendering that one?

14:18:53 18  
14:18:54 19 MR HOLT: Yes, I'm sorry Commissioner.

14:18:55 20  
14:18:55 21 #EXHIBIT RC 911A - (Confidential) File note CCP briefing  
14:18:56 22 3/6/10.

14:18:56 23  
14:18:56 24 #EXHIBIT RC911B - (Redacted version.)

14:18:57 25  
26 MR HOLT: Because this is one of those fancy electronic  
27 ones, you remember, where you can print off the - -  
28 -?---Yes.

29  
14:19:04 30 Can we have a look at the same document package please at  
14:19:09 31 .0966. 0966, I'm sorry, it's my accent. Could we flip  
14:19:34 32 that around? Do we have the capacity to flip that around?  
14:19:38 33 This is a printout of the whiteboard that Mr Lardner and  
14:19:40 34 Mr McRae will give evidence was wheeled into the Chief  
14:19:44 35 Commissioner's office on 3 June?---Yes.

14:19:46 36  
14:19:46 37 To talk you and the Chief Commissioner through the  
14:19:49 38 litigation you say you were being excluded from?---Yes.

14:19:52 39  
14:19:52 40 Do you remember this now?---No.

14:19:54 41  
14:19:55 42 Would you dispute that that's what happened in light of the  
14:19:58 43 file note I've shown you?---I can't say whether it did or  
14:19:59 44 didn't, I have no recollection. This is the first time  
14:20:01 45 I've seen it.

14:20:02 46  
14:20:02 47 It's just you have a very clear recollection it would

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14:20:05 1 appear in your statement of being kept out of the loop on  
14:20:08 2 this?---That was my concern at the time, yes.  
14:20:10 3  
14:20:10 4 To use a phrase that's been used, would you concede the  
14:20:12 5 possibility that you're wrong about that?---It's been such  
14:20:16 6 a long time, Mr Holt, I don't recall seeing that.  
14:20:18 7  
14:20:18 8 I see. But you'd accept, if Mr Lardner and Mr McRae were  
14:20:22 9 to say based on the file note we've seen from Mr Lardner  
14:20:26 10 also, the they wheeled this in for you and Mr Overland to  
14:20:30 11 have this very litigation explained to you, would you  
14:20:33 12 accept that or not?---You're asking me to confirm something  
14:20:36 13 that I told you I have no recollection of.  
14:20:39 14  
14:20:40 15 You claim to have a clear recollection of being positively  
14:20:44 16 denied a briefing on this litigation?---No, I think you're  
14:20:47 17 paraphrasing there.  
14:20:48 18  
14:20:48 19 I am. Do you disagree?---No, I think what I've said in my  
14:20:50 20 statement is what I believe my concerns were.  
14:20:53 21  
14:20:53 22 I'm not talking about concerns, I'm talking about a  
14:20:56 23 specific meeting. In any event can we just zoom in on the  
14:20:59 24 left-hand column perhaps to make that bigger. "Cause of  
14:21:04 25 action" and so on. This was Mr McRae talking you through,  
14:21:09 26 you and Mr Overland through the very issues that are raised  
14:21:13 27 in the writ. Again, it looks like, "Direct contract to  
14:21:16 28 stop all fiduciary duty, negligence"?---Yes.  
14:21:20 29  
14:21:21 30 "Parties, CCP and the SOV", State of Victoria, you see  
14:21:27 31 that?---I can see all that, yes.  
14:21:28 32  
14:21:28 33 Again is this ringing a bell now, Mr Jones?---Not at all.  
14:21:30 34 Not at all.  
14:21:30 35  
14:21:31 36 Let's see if this does. Can we go to the middle of the  
14:21:36 37 document please?---Of course the Ombudsman investigated  
14:21:38 38 this, they didn't show this to me either.  
14:21:38 39  
14:21:41 40 I'm sorry?---The Ombudsman did investigate this issue and  
14:21:44 41 they didn't share this with me either. Years ago I'm  
14:21:47 42 talking now.  
14:21:48 43  
14:21:49 44 Again, I take it you defer to Mr Lardner and his notes on  
14:21:53 45 this issue?---I can't. I can't get inside Mr Lardner's  
14:21:58 46 head. I'm just saying I can't recall it.  
14:22:00 47

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These claims are not yet resolved.

14:22:01 1 Can we see there under the heading "issues", can we sort of  
14:22:04 2 zoom, I know it's a little hard. "Issues", can you see  
14:22:10 3 that?---Yes.  
14:22:11 4  
5 See that?---Yes.  
6  
14:22:11 7 Just run your eye down please to "not included", can you  
14:22:15 8 see that?---Yes, I see that.  
14:22:17 9  
14:22:18 10 "Not included human source registered 2005 to 2008", do you  
14:22:22 11 see that?---Yes, I do.  
14:22:23 12  
14:22:23 13 Mr Jones, you were briefed by Mr McRae and Mr Lardner about  
14:22:29 14 the very issue that you say you are now concerned and  
14:22:33 15 surprised about?---Why would I have made the complaint that  
14:22:35 16 I made?  
14:22:36 17  
14:22:36 18 I was going to ask you that question, Mr Jones?---No, I  
14:22:38 19 don't recognise this and I don't recall being briefed in  
14:22:41 20 this way.  
14:22:41 21  
14:22:41 22 What I want to suggest, Mr Jones, is that what you're doing  
14:22:44 23 in relation to this is rewriting history?---Well I don't  
14:22:47 24 agree with that.  
14:22:47 25  
14:22:48 26 Because quite far from the point that you were being  
14:22:52 27 excluded from things involving Mr Overland about the  
14:22:55 28 settlement of the civil claim, you were being briefed on it  
14:22:57 29 in the same room as him, with actual reference to the fact  
14:23:02 30 that she's a registered human source and the fact that that  
14:23:05 31 was to be, that had not been included in the  
14:23:08 32 litigation?---I don't recall this and had I have done I  
14:23:11 33 would have said something at the time.  
14:23:13 34  
14:23:16 35 All right. I tender the whiteboard printout, Commissioner.  
14:23:24 36  
14:23:25 37 #EXHIBIT RC912A - (Confidential) Whiteboard printout from  
14:23:26 38 meeting on 3/6/10.  
14:23:26 39  
14:23:27 40 #EXHIBIT RC912B - (Redacted version.)  
41  
14:23:28 42 There's no date on it but I guess we're going to hear  
14:23:33 43 evidence about that later, are we?  
14:23:36 44  
14:23:37 45 MR HOLT: The evidence is that it's 3 June but there's no  
14:23:40 46 date on the document, Commissioner.  
14:23:41 47

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14:23:42 1 COMMISSIONER: Thank you. I'm told the email from Ken  
14:23:49 2 Jones to Simon Overland 27 June 2010 on leave cover wasn't  
14:23:54 3 tendered.  
14:23:55 4  
14:23:55 5 MR HOLT: I apologise, I tender that. It's part of Exhibit  
14:23:59 6 909, Commissioner.  
14:24:00 7  
14:24:00 8 COMMISSIONER: 909. It's part of the Lardner/Bona email  
14:24:06 9 chain, it's really an email chain, Lardner, Bona, Jones,  
14:24:13 10 Overland. 18 June and 27 June 2010.  
14:24:18 11  
14:24:18 12 MR HOLT: Yes.  
14:24:19 13  
14:24:20 14 COMMISSIONER: All right then.  
14:24:20 15  
14:24:21 16 MR HOLT: In any event, Mr Jones, your evidence is clear  
14:24:24 17 that you don't find out about any of this until after  
14:24:28 18 Driver starts, is that right?---That's correct.  
14:24:29 19  
14:24:29 20 Can we have a look please at VPL - - - ?---Any of this, you  
14:24:33 21 mean, Mr Holt? Could you define this, I don't want to  
14:24:37 22 actually make a mistake here.  
14:24:38 23  
14:24:44 24 That's a perfectly reasonable question. What I mean by  
14:24:44 25 this is the use of Nicola Gobbo as a human source?---That's  
14:24:49 26 correct.  
14:24:49 27  
14:24:50 28 VPL.6017.0005.4305. Can you see this is an email from Paul  
14:25:04 29 Jetkovic?---Yes.  
14:25:05 30  
14:25:08 31 Can we not zoom on this please, I'd be very grateful. On  
14:25:10 32 Wednesday 17 March 2010 to Luke Cornelius, you and  
14:25:15 33 Mr Moloney in relation to the Op Loris committal, do you  
14:25:19 34 see that?---Yes.  
14:25:20 35  
14:25:20 36 The email is from Paul back to you all but in fact the  
14:25:25 37 original email has obviously gone from Mr Cornelius to you,  
14:25:30 38 Mr Moloney and Jetkovic, do you see that?---Yes.  
14:25:32 39  
14:25:33 40 If we just go up the page, please, or down or whichever  
14:25:37 41 direction it is. This is the update on Operation  
14:25:46 42 Loris?---Yes, 2010, yes.  
14:25:47 43  
14:25:47 44 17 March 2010. It's an update in relation to the  
14:25:52 45 committal, application by Witness F, that's Ms Gobbo to be  
14:25:54 46 excused from a subpoena heard over two days, she was  
14:25:57 47 represented by a particular senior counsel on two days,

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14:26:00 1 three doctors were called. The magistrate would not set  
14:26:02 2 aside the subpoena but adjourned her evidence until later  
14:26:05 3 in the year to allow her to recover from surgery. We've  
14:26:08 4 all heard quite a lot about this particular incident in the  
14:26:10 5 course of the Commission?---Right.  
6  
14:26:11 7 But you accept you received that update?---I can't remember  
14:26:16 8 seeing this, but yes, it's got my name on it.  
14:26:19 9  
14:26:19 10 You accept you received it?---Other staff open my emails  
14:26:23 11 all the time, I used to get lots of them. I don't recall  
14:26:27 12 it. I'm saying it did arrive in my office.  
14:26:27 13  
14:26:27 14 It's an email from Luke Cornelius who was the Assistant  
14:26:32 15 Commissioner of ESD at the time?---Yes.  
16  
14:26:33 17 Who reported directly to you?---I can't accept something I  
14:26:35 18 can't remember, and other staff opened my emails routinely  
14:26:39 19 and dealt with them.  
14:26:40 20  
14:26:40 21 I'm trying to explore the likelihood of you having read it.  
14:26:44 22 Mr Cornelius is the Assistant Commissioner of ESD who  
14:26:48 23 reports directly to you?---Yes.  
14:26:49 24  
14:26:49 25 This is a matter of sufficient significance that it is  
14:26:55 26 being sent also to Jetkovic of the oversight body?---Yes.  
14:26:58 27  
14:26:58 28 It's an update on a particularly important proceeding  
14:27:00 29 relating to a particularly witness?---Yes.  
30  
14:27:03 31 In respect of a particularly important case for the thing  
14:27:05 32 you are most particularly concerned about?---Yes.  
14:27:07 33  
14:27:07 34 Thank you. You see there at the end and - sorry, four  
14:27:13 35 paragraphs down, please don't zoom in on it, information by  
14:27:16 36 a person we're calling Sandy White for the purposes of this  
14:27:19 37 hearing, Mr Jones, so please don't use the name that you  
14:27:25 38 can see?---Okay.  
39  
14:27:26 40 "The information from Sandy White is that she is mouthing  
41 off that she has had a win and won't be giving evidence.  
14:27:28 42 She has also tried to get in touch with Ron Iddles this  
14:27:30 43 morning". Again, you'd accept in context the "she" there  
14:27:34 44 is Nicola Gobbo?---Yes.  
14:27:36 45  
14:27:36 46 And you know the person Sandy White was the head of the SDU  
14:27:39 47 at the time?---Yes.

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14:27:39 1  
14:27:40 2 The high risk informer unit?---Yes.  
14:27:43 3  
14:27:44 4 So in March it doesn't appear that anyone is trying in any  
14:27:49 5 meaningful way to keep from you her role as a human source,  
14:27:54 6 does it?---I mean I'd need to study this but I don't think  
14:27:55 7 you can infer that with any certainty, and I don't recall  
14:27:57 8 seeing it. I wish I had.  
14:27:59 9  
14:27:59 10 You don't recall seeing it and you wish you had?---No, I'm  
14:28:03 11 just saying there was that much material coming into the  
14:28:06 12 office, so you have staff to deal with things and this is  
14:28:09 13 something I have no recollection of seeing.  
14:28:10 14  
14:28:10 15 As I'm showing you these things, Mr Jones, is it starting  
14:28:14 16 to give you any cause to doubt the theories that you put  
14:28:18 17 forward in your witness statement about conspiracies to  
14:28:21 18 keep things from you?---No, I'm not. I still feel the same  
14:28:23 19 way.  
14:28:23 20  
14:28:26 21 I see. Well let's again explore with the benefit of some  
14:28:29 22 documents your knowledge of these matters relating to  
14:28:32 23 Ms Gobbo and the involvement of Mr - - -  
14:28:34 24  
14:28:34 25 COMMISSIONER: Are you tendering that one?  
14:28:35 26  
14:28:36 27 MR HOLT: I'm sorry, Commissioner, yes.  
14:28:37 28  
14:28:38 29 #EXHIBIT RC913A - (Confidential) - Email from Jetkovic to  
14:28:39 30 Cornelius and others 17/3/10.  
14:28:39 31  
14:28:39 32 #EXHIBIT RC913B - (Redacted version.)  
14:28:40 33  
14:28:41 34 MR HOLT: When Operation Driver was established the first  
14:28:43 35 thing obviously to do was to get the investigators on the  
14:28:46 36 ground looking at issues?---Yes.  
14:28:48 37  
14:28:48 38 And identifying various streams of work that ought be  
14:28:52 39 done?---Yes.  
14:28:52 40  
14:28:52 41 Under your leadership and with various kinds of themes and  
14:28:56 42 operation names, perfectly orthodox stuff?---Yes.  
14:28:59 43  
14:28:59 44 And an initial report was prepared?---Yes, yes, of course.  
14:29:04 45 Reports were flowing all the time.  
14:29:06 46  
14:29:06 47 It's called a phase 1 report?---Right.

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14:29:09 1  
14:29:09 2 Does that ring a bell?---No.  
14:29:10 3  
14:29:10 4 Okay. And with very sensitive material you would be, as  
14:29:14 5 we've heard a lot of police officers are, you'd be very  
14:29:17 6 cautious about document security in relation to those  
14:29:21 7 issues?---Yes.  
14:29:22 8  
14:29:22 9 In fact recalling now the very sensitive issues that were  
14:29:24 10 being raised in respect of Operation Driver, you would  
14:29:27 11 apply the highest level of document security in relation to  
14:29:31 12 that?---Yes.  
14:29:32 13  
14 14 Indeed the document I'm going to show you, the phase 1  
14:29:32 15 report, it indicates that you provided your only copy to  
14:29:35 16 Mr Overland as a brief up to the Chief  
14:29:38 17 Commissioner?---Right.  
14:29:38 18  
14:29:39 19 Would that be something you'd expect to do?---Yes, it  
20 would.  
21  
14:29:41 22 To discuss very significant issues potentially affecting  
14:29:45 23 Government with the Chief Commissioner?---Yes.  
14:29:46 24  
14:29:47 25 Can we have a look please at VPL.0099.0103.0002. Scroll to  
14:31:05 26 the first page. That's fine, the first page. Do you see  
14:31:09 27 this as being the Driver Task Force phase 1 report?---Yes.  
14:31:13 28  
14:31:13 29 Do you recognise your handwriting?---Yes, I do.  
14:31:15 30  
14:31:15 31 You recognise your signature?---Yes.  
14:31:16 32  
14:31:17 33 You see the date is 7 June 2010?---H'mm.  
14:31:19 34  
14:31:20 35 You note at the top, entirely consistently with the  
14:31:23 36 document principles we identified before, "CCP only", and  
14:31:27 37 you've underlined that, "To see PS", what does the next  
14:31:33 38 word say?---Please.  
14:31:34 39  
14:31:34 40 Your signature and then the date and then the Driver Task  
14:31:38 41 Force phase 1 report. The Driver Task Force phase 1 report  
14:31:42 42 included some references to Nicola Gobbo, do you accept  
14:31:44 43 that or shall I show them to you?---I accept that, yes.  
14:31:48 44  
14:31:48 45 Let's look at a couple of them, p.18 of the report itself,  
14:31:52 46 please. I'm sorry, can you remove that from the screen.  
14:32:01 47 Apologies. Can we go instead to p.19, I'd be grateful.

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14:32:12 1 Again, references here as you can see just in the third  
14:32:15 2 paragraph to Gobbo in her role as a witness, and issues  
14:32:18 3 around paying school fees, those sorts of things which were  
14:32:22 4 emerging at the time, do you see that?---Yes, I see that.  
14:32:25 5  
14:32:25 6 Go over three pages please to p.22 of that document. And  
14:32:30 7 again, there's a note about subpoenas being filed by  
14:32:33 8 solicitors for Dale seeking materials, a number of  
14:32:36 9 documents relating to Petra, dealings with witness Gobbo,  
14:32:39 10 suspicious about how the defence came to know about  
14:32:42 11 specific documents and some speculation they might have  
14:32:45 12 been provided by Nicole Gobbo, do you see that?---Yes, I  
14:32:48 13 see that.  
14:32:48 14  
14:32:49 15 The report itself contains those kinds of references about  
14:32:52 16 Ms Gobbo, but if we can go back to the first page. You've  
14:32:55 17 noted there, "CCP Simon. Eyes only discussion.  
14:32:59 18 Significant implications for Government, once you've  
14:33:02 19 reviewed for" - sorry?---We can discuss.  
14:33:09 20  
14:33:09 21 "We can discuss. I have not taken a copy", and it says,  
14:33:13 22 "The lawyer issue we discussed is not in here",  
14:33:17 23 underlined?---H'mm.  
14:33:17 24  
14:33:18 25 Then at the bottom it notes that someone is drafting a, the  
14:33:22 26 non-VP, "Doug is drafting the non-VP agency letters for  
14:33:27 27 you"?---I see that, yes.  
14:33:28 28  
14:33:29 29 Was the lawyer issue being referred to there the fact that  
14:33:32 30 Nicola Gobbo was a human source?---I don't know. I can't  
14:33:35 31 recall what that comment relates to, but she's clearly  
14:33:39 32 named in the paper there anyway you've just shown me.  
14:33:41 33  
14:33:41 34 But as a witness not as a human source?---Right.  
14:33:43 35  
14:33:43 36 It's the sort of thing you would have an eyes only  
14:33:47 37 discussion about, except you can't have an eyes only  
14:33:47 38 discussion?---The whole thing was eyes only.  
14:33:50 39  
14:33:51 40 But it was the sort of thing you would have a confidential  
14:33:52 41 - - - ?---But she wasn't pivotal. We were trying then to  
14:33:56 42 find the people who killed Carl Williams and that was the  
14:33:58 43 focus of this group.  
14:33:59 44  
14:34:00 45 If I suggest that the lawyer issue there you were  
14:34:02 46 discussing with Mr Overland, just as it was openly  
14:34:05 47 discussed I suggest on 3 June in the meeting, was her as a

.13/12/19

11255

JONES XXN

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14:34:09 1 human source, I take it - - - ?---No, because had that been  
14:34:11 2 the case I wouldn't have made a complaint about it, I  
14:34:14 3 wouldn't raised the issue.  
14:34:15 4  
14:34:16 5 Well, we know about the complaint that you make in the file  
14:34:19 6 note that Mr Woods took you to about your discussion with  
14:34:21 7 the Ombudsman?---Yes.  
14:34:22 8  
14:34:22 9 And it does appear from that you do raise the fact that  
14:34:25 10 Nicola Gobbo was a human source?---Yes.  
14:34:27 11  
14:34:27 12 But is it fair to say, Mr Jones, that the primary complaint  
14:34:30 13 you were making was about the allegation of impropriety in  
14:34:34 14 respect of the civil settlement?---No.  
14:34:38 15  
14:34:39 16 Well that's how it reads?---I know it does.  
14:34:41 17  
14:34:42 18 It's just that we seem to have a series of people who you  
14:34:46 19 speak to, at least the Ombudsman on a couple of occasions,  
14:34:49 20 I think it's just that. Did you ever speak to the OPI  
14:34:51 21 about Nicola Gobbo?---No.  
14:34:51 22  
14:34:51 23 I see. And the discussion, the detailed discussion  
14:34:57 24 Mr Woods took you to is the one where you speak the most  
14:34:59 25 about Nicola Gobbo, is that fair?---That's fair.  
14:35:02 26  
14:35:02 27 It just seems you seem like a very articulate man and it  
14:35:07 28 just doesn't seem like anyone understood what you were  
14:35:11 29 saying, Mr Jones?---I wouldn't say that.  
14:35:12 30  
14:35:13 31 I want to suggest to you, Mr Jones, that in fact when we  
14:35:16 32 boil it all down, you are coming along to this Royal  
14:35:19 33 Commission now and using what you now know about Nicola  
14:35:23 34 Gobbo as an excuse for the things that occurred over that  
14:35:26 35 period of time?---That's not true. When I responded to the  
14:35:30 36 Ombudsman and their submissions when they were writing  
14:35:32 37 drafts to me at the OPI, I did mention my fundamental  
14:35:37 38 concern about the informing and the distortion of the  
14:35:39 39 criminal justice process.  
14:35:41 40  
14:35:41 41 I see?---So I did, and it's recorded.  
14:35:44 42  
14:35:44 43 Where is it recorded?---In the submissions.  
14:35:47 44  
14:35:47 45 I'm sorry?---In the submissions to those bodies.  
14:35:50 46  
14:35:50 47 In your submissions to those bodies?---Yes.

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14:35:52 1  
 14:35:52 2 When particularly please?---When? Certainly not long after  
 14:35:56 3 Williams was murdered, later that year as I was discussing  
 14:36:00 4 issues with Mr John Taylor.  
 14:36:01 5  
 14:36:02 6 This is about submissions. When were the submissions?---I  
 14:36:04 7 haven't got the dates but I was receiving draft reports  
 14:36:06 8 about issues and I was responding with that material in  
 14:36:09 9 those reports.  
 14:36:10 10  
 14:36:11 11 Which reports and therefore when?---For example, on this  
 14:36:14 12 issue, I responded to the Ombudsman on that report.  
 14:36:18 13  
 14:36:18 14 The one that ultimately said that there was no impropriety  
 14:36:21 15 in relation to the civil settlement, that one?---Yes.  
 14:36:24 16  
 14:36:24 17 I see?---So I'm not trying to revise history, I'm doing my  
 14:36:30 18 best here with my recall and I stand by what I've said.  
 14:36:35 19 But it is a long time ago.  
 14:36:36 20  
 14:36:37 21 Mr Jones, if in December of 2010 you as Deputy Commissioner  
 14:36:41 22 and then at later dates acting as Chief Commissioner of  
 14:36:44 23 Victoria Police believed at that point there had been this  
 14:36:47 24 industrial subversion of the criminal justice system by  
 14:36:51 25 Nicola Gobbo, and if that at that point had been of concern  
 14:36:54 26 to you, we would be seeing a trail of where you had raised  
 14:36:57 27 it with people, wouldn't we?---There is a trail.  
 28  
 14:37:01 29 I see?---I raised it seven or eight times formally with  
 14:37:05 30 those bodies in our submissions returning to them,  
 14:37:07 31 including Justice Kellam. Ask his staff. And including  
 14:37:10 32 the new IBAC Commissioner.  
 14:37:13 33  
 14:37:14 34 In which report?---In the report where he reviewed what had  
 14:37:19 35 happened to me.  
 14:37:19 36  
 14:37:19 37 In the report that comes out in 2013, 14?---14, yes.  
 14:37:23 38  
 14:37:24 39 14?---Thank you.  
 14:37:25 40  
 14:37:25 41 Just some discrete topics please, Mr Jones. In paragraphs  
 14:37:31 42 13 to 17 of your statement you describe a series of  
 14:37:37 43 critical reports about the Ombudsman, from the Ombudsman,  
 14:37:40 44 the OPI and others sharing a common thread of epic waste  
 14:37:45 45 and elusive accountability?---Yes.  
 14:37:48 46  
 47 You see that?---Yes, I do.

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1  
14:37:48 2 It's clear, isn't it, in context that what you say there is  
14:37:50 3 intended to relate to what you found when you came to  
14:37:54 4 Victoria Police, there had been a series of  
14:37:56 5 (indistinct)?---Absolutely, yes.  
14:37:57 6  
14:37:58 7 We've had a look and can't find any reports that predate  
14:38:02 8 your involvement in Victoria Police that say anything of  
14:38:04 9 the sort, so would you be able to point me to any?---I  
14:38:08 10 can't off the top of my head, no. There had been reports  
14:38:11 11 from various regulators and I recall seeing them.  
14:38:13 12  
14:38:13 13 Which reports?---Well there was one, I can recall one now,  
14:38:17 14 it was about waste within IT.  
14:38:19 15  
14:38:21 16 Waste within IT?---Yes.  
14:38:22 17  
14:38:22 18 Who had done that report?---I don't recall. Mr - - -  
14:38:26 19  
14:38:27 20 Mr Rush?---Mr Rush referred to it.  
14:38:29 21  
14:38:29 22 That was perhaps a 2009 KPMG report?---I think he reported  
14:38:35 23 in 2012.  
14:38:36 24  
14:38:37 25 He did. So a long time after you had started - - -?---Yes,  
14:38:39 26 but it was to do with a historical issue.  
14:38:41 27  
14:38:42 28 I'm just trying to find this series - the language you  
14:38:45 29 used, Mr Jones, was a series of critical reports about the  
14:38:49 30 Force from the Ombudsman, OPI and others which all shared a  
14:38:52 31 common threat of epic waste and elusive  
14:38:57 32 accountability?---Right.  
33  
14:38:58 34 Now can we shortcut this by you accepting that that was a  
14:39:02 35 gross exaggeration?---No, I don't agree with that. That  
14:39:04 36 was my opinion. I was an incoming chief officer, that was  
14:39:04 37 my opinion.  
14:39:04 38  
14:39:05 39 There either are a series of critical reports or there  
14:39:09 40 aren't, can you assist us at all with what they were?---If  
14:39:10 41 you give me time, yes.  
14:39:11 42  
14:39:12 43 All right. The Rush report itself, because at paragraph 15  
14:39:17 44 of course you say that, "Jack Rush QC said in his 2012  
14:39:22 45 review of Victoria Police structures that \$100 million had  
46 gone astray within the IT area and someone should be held  
14:39:26 47 accountable but no one ever was", do you see that?---I do

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14:39:30 1 see that.  
14:39:30 2  
14:39:32 3 Right. Now what Mr Rush actually said at p.74 of his  
14:39:35 4 report, making critical findings of IT management, was  
14:39:39 5 that, "There had been consequent losses of tens of millions  
14:39:44 6 of dollars", is that what you were talking about?--Well I  
14:39:44 7 haven't read the report recently, but yes.  
14:39:46 8  
14:39:47 9 How long before you wrote your statement had you read the  
14:39:51 10 report?---I haven't read it for years.  
11  
14:39:52 12 All right?---Six years.  
14:39:52 13  
14:39:52 14 Do you recall that the Rush report further noted that,  
14:39:56 15 "While the inquiry had reached conclusions critical of  
14:39:59 16 Victoria Police, it acknowledged that Victoria Police is  
14:40:01 17 not alone in the mismanagement of major IT. Pitfalls in  
14:40:08 18 delivery of IT in both public and private sectors are  
14:40:08 19 notorious"?---Absolutely, it's a massive issue.  
14:40:10 20  
14:40:11 21 At p.77 he goes back, that is Mr Rush goes back and talks  
14:40:15 22 about a KPMG report which made a series of recommendations,  
14:40:20 23 including most importantly the creation of a better  
14:40:24 24 oversight and governance approach to IT spending in  
14:40:28 25 Victoria Police. Do you recall that?---Sorry, are you  
14:40:34 26 referring to something Mr Kellam wrote?  
14:40:37 27  
14:40:37 28 No, Mr Rush?---Sorry, Mr Rush wrote.  
29  
14:40:40 30 Referring back to - - -?---No, as I said I have not looked  
14:40:42 31 at this for many years, so no, I don't recall that.  
14:40:44 32  
14:40:45 33 It might surprise you to know that one of the major  
14:40:48 34 recommendations of the report had been the establishment of  
14:40:52 35 an information management and security area with high level  
14:40:57 36 leadership?---Yes.  
14:40:58 37  
14:40:58 38 And who was that high level leadership for the two years  
14:41:01 39 you were there leading up to the Rush review? It was  
14:41:05 40 you?---IT department?  
14:41:06 41  
14:41:06 42 You were the person, I'll read Mr Rush's words, "After his  
14:41:11 43 appointment as Deputy Commissioner Crime Sir Ken Jones was  
14:41:16 44 nominated as the senior officer responsible for information  
45 management and security"?---Yes.  
46  
14:41:19 47 "An Information Management Security and Standards Division

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14:41:20 1 was established and a direct to IMSSD was  
14:41:24 2 appointed"?---Yes.  
3  
14:41:24 4 "Reporting initially to the Deputy Commissioner Crime. An  
14:41:27 5 information management and information securities committee  
14:41:29 6 was established, chaired by Deputy Commissioner  
14:41:34 7 Jones"?---Yes.  
8  
14:41:35 9 That all seems accurate. "Two years later however  
10 information governance within Victoria Police remains  
14:41:39 11 inadequate"?---No, this was to do with IT, the hardware. I  
12 was information officer of security which is about trying  
14:41:43 13 to tighten up policies to stop information leaking out of  
14:41:46 14 the organisation. I wasn't in charge of the, if you like  
14:41:50 15 the wires and boxes part of it which is what this is about.  
14:41:55 16  
14:41:55 17 You refer to the Rush inquiry?---Yes.  
18  
14:41:56 19 And the Rush inquiry included that on your watch, two years  
14:42:00 20 later, information governance within Victoria Police  
14:42:03 21 remains inadequate. Do you accept that or do you disagree  
14:42:04 22 with Mr Rush?---No, I agree with Mr Rush because we were  
14:42:06 23 building up a capability which didn't exist before the  
14:42:09 24 recommendation was made, and we brought in a person to run  
14:42:13 25 our information security. So for me it was about security  
14:42:16 26 and confidentiality. I didn't run, in fact the head of IT  
14:42:20 27 was a guy called Mr Vanderhaar. He didn't report to me.  
14:42:26 28 That's where in that area where this waste had occurred.  
14:42:28 29  
14:42:28 30 I see. Can we talk a little bit about Operation Diana.  
31 You understand that I'm short of time because of the  
32 constraints that we're under?---Yes.  
33  
14:42:33 34 I apologise that we're jumping through topics. At  
14:42:38 35 paragraph 42 of your statement, sorry, paragraphs 25, to 31  
14:42:45 36 of your statement you describe your views of Operation  
14:42:50 37 Diana?---Yes.  
14:42:51 38  
14:42:51 39 Can we be clear, Operation Diana was something which had  
14:42:55 40 happened before you arrived at Victoria Police?---It did,  
14:42:57 41 yes.  
14:42:57 42  
14:42:59 43 You were 12,000 miles away when it occurred?---Yes.  
14:43:02 44  
14:43:02 45 Right. You proffer a lot of opinions, including for  
14:43:06 46 example, a concern that the underlying affidavits in  
14:43:06 47 respect of Operation Diana were in some way

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14:43:10 1 deficient?---Yes.  
14:43:10 2  
14:43:11 3 But you'd never seen those affidavits?---No.  
4  
14:43:16 5 But you still proffer the opinion that they - - - ?---I  
14:43:16 6 felt that a disproportionate effort had been exerted in  
14:43:16 7 this particular instance. I had a look at some of the  
14:43:18 8 files around this issue because it was then progressing  
14:43:20 9 through our processes and through the court processes.  
10  
14:43:23 11 Not my question. You have asserted positively in your  
14:43:25 12 statement - - - ?---Yes.  
13  
14:43:26 14 - - - that the affidavits, that you have concerns about  
14:43:30 15 the affidavits that were used to obtain warrants in respect  
14:43:33 16 of Operation Diana?---Because I couldn't see, Mr Holt, when  
14:43:35 17 I was reading you could actually get warrants to bug and  
14:43:38 18 surveil people. And what I was reading was the  
14:43:40 19 intelligence or the suspicions around these individuals.  
20  
14:43:42 21 You've described Operation Diana as a joint police/OPI  
14:43:47 22 operation?---Yes.  
23  
14:43:47 24 Can I just put to you that that's, and it may just be that  
14:43:50 25 you were overseas at the time, but that's actually  
14:43:52 26 fundamentally wrong, it wasn't a joint operation, it was an  
14:43:55 27 OPI operation?---I believe it was a joint operation. I  
14:43:59 28 believe there were lots of joint meetings and joint sharing  
14:44:02 29 of effort in relation to it.  
30  
14:44:05 31 Evidence has been given it was an OPI operation, and  
14:44:08 32 there's a publicly available judgment in Mullett and Nixon  
14:44:13 33 and others by Justice Terry Forrest which makes clear that  
14:44:18 34 it was an own motion investigation commenced on 30 May 2007  
14:44:18 35 by the OPI and not known by Victoria Police until Victoria  
14:44:21 36 Police was briefed in September of 2007?---Right.  
37  
14:44:24 38 Does that assist you now to - - - ?---Yes, it does.  
39  
14:44:27 40 - - - to accept that you've made a mistake?---I was unaware  
14:44:31 41 of that.  
42  
14:44:32 43 It's just that Operation Diana is a joint operation as the  
44 kind of foundation of how terrible joint operations are is  
14:44:36 45 a significant theme through your statement, isn't  
14:44:38 46 it?---Yes.  
47

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14:44:38 1 You keep reverting back to look how bad Operation Diana  
14:44:42 2 was?--Well the papers I read have all showed me that they  
14:44:45 3 were in lock step and they were working together on it.  
4  
14:44:48 5 Do you accept now it's not a joint operation and you were  
14:44:49 6 simply - - - ?---No, you can still have a joint operations  
14:44:52 7 that aren't flagged as such. I saw documents which  
14:44:54 8 suggested to me the regulator and the Force were working  
14:45:02 9 together.  
10  
11 I see. In actual fact the involvement of Victoria Police  
12 have, which is set out in detail in publicly available  
14:45:06 13 documents, arose because the OPI got legal advice from  
14:45:09 14 Mr Rapke QC that the OPI did not have jurisdiction to lay  
14:45:14 15 charges against Mr Mullett and Mr Ashby, and as a result a  
14:45:18 16 police officer would need to do that and so a nominal  
14:45:22 17 informant was identified, satisfied himself that the there  
14:45:25 18 was sufficient evidence, and then the charges were laid and  
14:45:25 19 the file then was immediately handled by the DPP. That's a  
14:45:29 20 matter of public record, Mr Jones, do you accept it?---The  
14:45:32 21 papers I read suggested to me a lot of joint operation.  
22  
14:45:35 23 I see. You said that having seen the evidence, this was a  
14:45:38 24 sledgehammer to crack a nut. If, as the publicly available  
14:45:43 25 documents show, it wasn't a joint operation, firstly, you  
14:45:47 26 wouldn't have been privy to all of the evidence, would  
14:45:49 27 you?---I saw the files.  
28  
14:45:51 29 But you wouldn't have been privy to the OPI files, would  
14:45:54 30 you?---No, I wouldn't.  
31  
14:45:56 32 In an OPI operation?---No, and I wouldn't want to see them  
14:45:59 33 either.  
34  
14:46:00 35 Let's put that to one side. The basis for your assessment  
14:46:02 36 about how poor the evidence is, is based on not having  
14:46:06 37 evidence from the very body that was conducting the  
14:46:10 38 inquiry, is that the position that we're in?---I don't  
14:46:11 39 understand the point you've just made.  
14:46:12 40  
14:46:12 41 The point I'm making, Mr Jones, is again in your statement  
14:46:15 42 you're prepared to draw conclusions about things here, the  
14:46:18 43 quality of evidence, in circumstances where it is plain  
14:46:20 44 that you didn't have access to the body of evidence that  
14:46:23 45 was being used by the very body which was investigating  
14:46:27 46 Mr Mullett and Mr Ashby?---I had access to the files  
14:46:31 47 relating to that case.

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1  
14:46:33 2 You didn't have access to OPI files related to that  
14:46:36 3 case?---No, I didn't.  
4  
14:46:37 5 And OPI was the investigator?---But I had evidence within  
14:46:40 6 the papers that I read that they were working together.  
7  
14:46:42 8 Yes, but you didn't have the evidence they had  
14:46:45 9 gathered?---I've accepted that. I didn't have the OPI  
14:46:47 10 information.  
11  
14:46:48 12 So why would you make a statement to this Royal Commission  
14:46:51 13 asserting that the evidence was inadequate, sledgehammer to  
14:46:54 14 crack a nut, to use your phrase, when you hadn't had access  
14:46:58 15 to the material, Mr Jones?---I had access to the files.  
16  
14:47:00 17 Not the OPI files, did you?---It would be inconceivable in  
14:47:05 18 an operation of that sort that our files would be deficient  
14:47:08 19 to that extent.  
20  
14:47:09 21 Which is based on the assumption that you make that it's a  
14:47:13 22 joint operation?---Yes.  
23  
14:47:15 24 You're aware, aren't you, that the investigation that was  
14:47:18 25 done by the OPI was in fact done by Mr Wilcox of Queen's  
14:47:23 26 Counsel?---Yes.  
27  
14:47:24 28 Who was a former Federal Court judge?---Yes. Sorry, I've  
14:47:28 29 got some cramp here.  
30  
14:47:29 31 COMMISSIONER: Are you okay. Stand up, have a stretch, if  
14:47:31 32 you want to?---No, I'm okay. Go for it.  
33  
14:47:35 34 Let me know if you need a break?---It's okay. It's gone  
14:47:35 35 away now, go on.  
36  
14:47:36 36  
14:47:37 37 MR HOLT: Sorry, I know it's a long day?---So I'm aware of  
38 Mr Wilcox, yes.  
39  
14:47:39 40 Not just aware, a former Federal Court judge at that  
14:47:42 41 point?---Yes.  
42  
14:47:43 43 Who'd heard all of the evidence in both public and private  
14:47:46 44 hearings?---Yes.  
45  
14:47:47 46 And recommended prosecution on the basis of the material  
14:47:50 47 that he'd heard?---Yes.

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1  
14:47:52 2 The reason that things went awry in terms of Mr Wilcox was  
14:47:56 3 because there a problem with the way in which the delegated  
14:47:58 4 authority for him - - - ?---Yes, I'm aware of that.  
5  
14:48:00 6 Yes. So it was a problem with him being affirmed on the  
14:48:05 7 wrong day basically?---Yes, I saw the technicality, yes.  
14:48:07 8  
14:48:07 9 Yes, a technicality. But do you take any issue with  
10 Mr Wilcox of Queen's counsel's assessment of the strength  
14:48:10 11 of the - - - ?---No, Mr Wilcox wasn't judge and jury, he  
14:48:13 12 was saying there's issues here, there's a case to answer.  
13  
14:48:16 14 He was?---Yes.  
15  
14:48:16 16 He recommended that people be charged with criminal  
14:48:19 17 offences?---And lots of people get charged that aren't  
14:48:24 18 guilty and it's right and proper that they go through the  
14:48:27 19 process of courts.  
20  
14:48:27 21 It's just you described Diana as being, using a  
14:48:31 22 sledgehammer to crack a nut?---I did, I thought it was an  
14:48:33 23 employment matter. I think it had got out of hand.  
14:48:33 24  
14:48:34 25 You do understand, don't you, that one of the issues that  
14:48:35 26 became very significant in Operation Diana was the  
14:48:38 27 allegation that senior police officers were leaking, were  
14:48:40 28 providing information to another police officer or former  
14:48:43 29 police officer, that his phone was being bugged in  
14:48:46 30 circumstances where he was being investigated for a  
14:48:50 31 homicide?---Yes, I remember that.  
32  
14:48:52 33 Doesn't sound much like a nut, it sounds more like a sort  
14:48:54 34 of big concrete ball, doesn't it, Mr Jones?---No, I don't  
14:48:58 35 agree.  
36  
14:48:58 37 You don't agree?---No.  
38  
14:48:59 39 I see. Can I deal with - I'll deal with some issues  
14:49:12 40 shortly, and I'm doing this, Commissioner, because  
14:49:15 41 obviously we're short of time with Mr Jones. You've  
14:49:20 42 mentioned in your evidence the question of what you've  
14:49:24 43 described as the slicing and dicing of crime  
14:49:27 44 statistics?---Yes.  
45  
14:49:28 46 You're aware of significant numbers of kind of reports,  
14:49:32 47 investigations, particularly by the Ombudsman into that

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14:49:35 1 issue?---Yes, I am.  
2  
14:49:36 3 You accept the findings of the Ombudsman in that  
14:49:42 4 regard?---Yes.  
5  
14:49:42 6 You do. All right.  
7  
14:49:43 8 COMMISSIONER: I'm not sure if you've tendered the Driver  
14:49:51 9 Task Force phase one report with hand written notes of  
14:49:52 10 Mr Jones on the front.  
14:49:52 11  
14:49:53 12 MR HOLT: I suspect I didn't, Commissioner, in which case I  
14:49:54 13 do now.  
14:49:55 14  
14:49:55 15 #EXHIBIT RC914A - (Confidential) Driver Task Force Phase I  
14:49:51 16 Report with hand written notes of  
14:49:56 17 Mr Jones.  
14:49:56 18  
14:49:56 19 #EXHIBIT RC914B - (Redacted version.)  
14:50:01 20  
14:50:03 21 Mr Jones, I want to deal with your arrival at and departure  
14:50:10 22 from Victoria Police. But I don't want to do it - because  
14:50:14 23 I think you'd accept that as far as a departure from an  
14:50:17 24 organisation is concerned this is one where the coals have  
14:50:27 25 well and truly been raked by various organisations over the  
14:50:28 26 years since you left?---Yes.  
27  
28 There have been a number of what were described at various  
14:50:30 29 stages as duelling reports between oversight bodies about  
14:50:34 30 the precise circumstances of your departure, do you accept  
14:50:37 31 that?---I wouldn't put that characterisation, yes, but yes,  
14:50:40 32 there have been reports with different views about what  
14:50:43 33 happened, yes.  
34  
14:50:44 35 OPI issued a report that was effectively unfavourable to  
14:50:47 36 you?---Yes.  
37  
14:50:48 38 The Ombudsman issued one that was effectively favourable to  
14:50:51 39 you?---Yes.  
40  
14:50:52 41 And then IBAC, through Mr Kellam, issued a report which  
14:50:56 42 probably in fairness was more favourable to you?---I think  
14:50:58 43 it's beyond that. Mr Kellam said there's no evidence to  
14:51:01 44 support the allegations, the conclusions they were drawing.  
14:51:03 45 The investigation had been biased and that they'd been very  
14:51:06 46 selective in what they'd decided to include. They're  
14:51:09 47 ignoring exculpatory material. So I think it was beyond

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14:51:12 1 that and they put a stop to it.  
2  
14:51:14 3 Those are matters of public record, right?---They put a  
14:51:17 4 stop it, yes.  
5  
14:51:19 6 Let's just explore a couple of issues though that might be  
14:51:22 7 of relevance. You, as we've noted, commence on 1 July 2009  
14:51:26 8 as the Deputy Commissioner with responsibility for those  
14:51:29 9 various portfolios we've identified?---Yes.  
10  
14:51:32 11 As I understand it, in December of 2009, so some five  
14:51:36 12 months later, Mr Overland, according to paragraph 22 of  
14:51:39 13 your statement, proposes to move you out of headquarters  
14:51:43 14 and to relocate you to the Crime Department at St Kilda  
14:51:46 15 Road?---Yes.  
16  
14:51:46 17 It was a proposal, I suspect, that might have been  
14:51:50 18 explained to you on the basis that keen to make sure that  
14:51:55 19 there's immediate leadership in relation to the Crime  
14:51:58 20 Department?---No.  
21  
14:51:58 22 In any event, it was a question about where a Deputy  
14:52:01 23 Commissioner was going to have his office, yes?---Yes.  
24  
14:52:05 25 He proposed it, as you've put it, and your concern about  
14:52:11 26 it, other than the other concerns, was that he did it by  
14:52:13 27 phone and you thought that was unprofessional?---Sorry, if  
14:52:16 28 he - yes, I thought that, yeah, a discussion should have  
14:52:19 29 taken place.  
30  
14:52:20 31 And as you explain at - - - ?---Face-to-face.  
32  
14:52:23 33 As you explain at paragraph 23 you discuss it with your  
14:52:27 34 wife and you decided you were clearly no longer wanted, you  
14:52:30 35 should resign and look for another role in Victoria?---Yes.  
36  
14:52:34 37 Five months after you've started in a job you're told that  
14:52:37 38 there's a proposal to move you to a different building and  
14:52:41 39 your conclusion, having emigrated halfway round the world,  
14:52:45 40 is, "I'm going to resign", is that right?---Yes. I'm not  
14:52:48 41 given to emotional reactions. I've served for long periods  
14:52:54 42 of time in other organisations and I did and said that  
14:52:57 43 because of the way I was treated.  
44  
14:52:59 45 Because it was - you were told to move offices by phone, or  
14:53:02 46 it was proposed you move an office?---No, that was  
14:53:05 47 unprofessional, but if it had been done face-to-face I felt

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14:53:09 1 the same way, the rationale for it didn't persuade.  
14:53:12 2  
14:53:12 3 So You didn't want to go to a different building?---No, it  
14:53:15 4 was more than that. The symbolism of moving me from the  
14:53:18 5 centre would have been fairly dramatic.  
6  
14:53:20 7 In any event, from that point onwards, as you make clear,  
14:53:25 8 from that point onwards in 2009 it was clear to you that  
14:53:29 9 you were going to resign at some point, wasn't it?---Well I  
14:53:30 10 felt very uncomfortable, yes.  
14:53:32 11  
14:53:32 12 So the answer to my question is yes, from that point  
14:53:34 13 onwards it was just a question of when?---No, it wasn't.  
14:53:36 14 Things could have been improved and efforts were made and  
14:53:38 15 things did get better early in the following year.  
16  
14:53:40 17 Let's test that against what you say at paragraph 24. "I  
14:53:43 18 determined then that I would resign at some future point  
14:53:46 19 but decided to do my very best meanwhile"?---Well that was  
14:53:50 20 how I felt during those days.  
21  
14:53:52 22 This is in your statement that you wrote in  
14:53:55 23 September?---Yes. I'm just telling you how I felt at that  
14:53:57 24 time.  
25  
14:53:57 26 Okay. Let's just go back to what you do in between.  
14:54:02 27 There's a proposal for you to move offices and you then  
14:54:07 28 say, "As I was a Governor-in-council appointment I needed  
14:54:11 29 to advise government that I was intending to resign and  
14:54:14 30 why. I reasoned they must already know about the Chief's  
14:54:17 31 proposal and then I could take the opportunity to indicate  
14:54:20 32 my interest in other roles". Have I read that  
14:54:22 33 correctly?---Yes.  
34  
14:54:23 35 Do you actually, with respect, with a straight face say  
14:54:25 36 that you think that the Chief Commissioner of Police might  
14:54:27 37 have advised government that he proposed to move a Deputy  
14:54:31 38 Commissioner to a different building?---No, I think he'd be  
14:54:33 39 - he would advise them, yes, that something was going to  
14:54:34 40 happen along those lines. I would have done, because it  
14:54:38 41 would have provoked a row.  
42  
14:54:41 43 Perhaps only with you, Mr Jones?---That's your opinion.  
14:54:46 44 There would have been a huge row, if I'd have been moved to  
14:54:49 45 St Kilda Road the following Monday it would have been, it  
14:54:52 46 would gone around the Force, it would have got out into the  
14:54:54 47 media. It would have been a very, very controversial

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14:54:57 1 decision so government ought to have been told if that's  
14:55:00 2 what was going to happen.  
3  
14:55:01 4 In any event, you decide to take it on yourself not to  
14:55:05 5 check whether government's been told of the proposal. It  
14:55:08 6 was only at that stage, as I understand your evidence, a  
14:55:11 7 proposal, and instead to talk to them about indicating your  
14:55:13 8 interest in other roles; is that right?---Yes.  
9  
14:55:16 10 You call the senior official that you knew?---Yes.  
11  
14:55:19 12 And you're effectively trying to seed the ground then for  
14:55:22 13 another senior position in Victoria?---Sorry, I'm  
14:55:25 14 effectively - - -  
15  
14:55:25 16 Trying to seed the ground there for another senior position  
14:55:29 17 in Victoria?---Well I'm saying that I'm clearly not wanted  
14:55:31 18 here and I wasn't prepared to be sidelined and, yeah, I'd  
14:55:32 19 be staying in Australia looking for something else if this  
14:55:35 20 couldn't be resolved.  
21  
14:55:36 22 You describe a situation in respect of a Superintendent,  
14:55:38 23 who I won't name, in Ballarat and your views that  
14:55:42 24 Mr Overland behaved inappropriately in respect of that  
14:55:45 25 person because of things that had been overheard by  
14:55:48 26 intercepted communication?---Yes.  
27  
14:55:49 28 First thing, did you ever hear that intercepted  
14:55:51 29 communication?---No, I didn't.  
30  
14:55:53 31 No. The person you say told you about that was  
14:55:55 32 Mr Lay?---Yes, it was.  
33  
14:55:56 34 Can I be very clear with you, he utterly denies ever having  
14:56:00 35 that conversation with you. What do you say about  
14:56:02 36 that?---I didn't make it up. That's what I recall him  
14:56:05 37 saying.  
38  
14:56:08 39 If we then have a look, for example - we know, for example,  
14:56:15 40 that you pen a resignation letter, by June 2010 you penned  
14:56:24 41 a resignation later?---Yes, I think that was the first,  
14:56:29 42 yes.  
43  
14:56:29 44 Again, whatever - you've decided to resign in December, the  
14:56:36 45 previous year. You were going to resign at some point and  
14:56:39 46 then you actually put it into in writing in June of  
14:56:43 47 2010?---Yes.

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1  
14:56:44 2 The resignation letter is all about your irreconcilable  
14:56:52 3 differences with Mr Overland about executive  
14:56:54 4 structure?---Yes.  
5  
14:56:55 6 That's precisely what was being said and that was your  
14:56:56 7 primary concern in June of 2010?---Yes.  
8  
14:57:03 9 Then ultimately that resignation doesn't go ahead but you  
14:57:07 10 ultimately do resign with an intention that that be  
14:57:10 11 effective in August of 2012?---Correct.  
12  
14:57:16 13 On 6 May 2012 you were asked by Mr Overland to leave by the  
14:57:20 14 end of the day, that's what occurs?---Yes.  
15  
14:57:23 16 You understand that that was because, indeed as you've  
14:57:25 17 explained, that's because Mr Overland, in fact after, but  
14:57:28 18 in any event, went to OPI to make a complaint about media  
14:57:31 19 leaking?---Yes.  
20  
14:57:32 21 It was alleged that you had done?---Yes.  
22  
14:57:34 23 Again, that issue has been traversed through those various  
14:57:37 24 reports we've already discussed and can be available as a  
14:57:39 25 matter of public record?---Yes.  
26  
14:57:51 27 We were talking before about the fact that I think our  
14:57:54 28 learned friend Mr Woods used the word vindicated in respect  
14:57:56 29 of the Ombudsman's conclusions about the reasons for your  
14:57:59 30 departure, do you recall that?---Today?  
31  
14:58:02 32 Yes?---Yes .  
33  
14:58:03 34 You said, and the Ombudsman found basically that you had  
14:58:07 35 been - - - ?---No, it was Mr Kellam's report I was  
14:58:09 36 referring to.  
37  
14:58:10 38 I thought you talked about the Ombudsman, but in any event  
14:58:13 39 can I read to you what the Ombudsman said about the  
14:58:16 40 allegation that you had been - that a detrimental action  
14:58:26 41 had been taken against you?---Yes. Right, I'm back there  
14:58:29 42 now, yes.  
43  
14:58:29 44 "Mr Overland took some of the actions regarding Mr Jones  
14:58:32 45 that have been alleged"?---Yes.  
46  
14:58:34 47 "At least one of those actions was detrimental to Mr Jones

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1 and had an adverse effect on his professional  
2 reputation"?---Yes.

3  
14:58:40 4 "However I do not consider that the actions taken by  
14:58:42 5 Mr Overland were taken in reprisal for Mr Jones having made  
14:58:46 6 or believed to have made a disclosure but were taken for  
14:58:49 7 other reasons"?---Yes.

8  
14:58:52 9 And (d), "Accordingly, those actions do not constitute  
14:58:53 10 detrimental action as defined in the WPA"?---Yes.

11  
14:58:55 12 And do you accept those findings?---No.

13  
14:58:57 14 I see, thank you. In fact the reason that, that whole  
14:59:13 15 Ombudsman's report that I've just taken you to the  
14:59:16 16 conclusion of, the whole basis of that report was a claim,  
14:59:20 17 wasn't it?---Yes.

18  
14:59:21 19 That you had been - detrimental action had been taken from  
14:59:23 20 you, including your removal?---Yes.

21  
14:59:26 22 Because of, not for a proper purpose, but because of the  
14:59:29 23 fact that you were going to or had made a disclosure in  
14:59:32 24 respect to - - - ?---Yes, and it was at the suggestion of  
14:59:34 25 the Ombudsman that I make that complaint.

26  
14:59:36 27 But it was in respect of crime statistics, wasn't it?---And  
28 other matters as well.

29  
14:59:39 30 Well, we can read the report. It was in respect of crime  
14:59:41 31 statistics?---And the Ombudsman suggested to me I make a  
14:59:43 32 claim about detriment. I wasn't, I didn't initiate that.

33  
14:59:47 34 You now say, and Mr Woods took you to this morning, you now  
14:59:50 35 say, may I suggest conveniently, that it was the suspicions  
14:59:54 36 people might have had that you were going to say something  
14:59:57 37 about Nicola Gobbo that was the reason for your  
14:59:59 38 removal?---No, I think it was a number of issues. I think  
15:00:02 39 people had concerns that I was actually going to try to get  
15:00:06 40 some daylight on a number of concerns that people knew I  
15:00:09 41 had.

42  
15:00:10 43 But none of them get guernsey in the very report which is  
15:00:15 44 investigating the question of why you were removed?---I  
15:00:17 45 didn't write that report. I put in my complaint as  
15:00:21 46 suggested and I mentioned a range of issues.

47

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15:00:24 1 Did you mention Gobbo?---No, I mentioned a range of issues.  
2  
15:00:26 3 Did you mention Gobbo?---No.  
15:00:29 4  
15:00:29 5 And You know the answer is no?---No, I didn't.  
6  
15:00:31 7 Right. Now when you left Victoria Police you've indicated  
15:00:38 8 to this Commission that you - and this is at paragraph 110  
15:00:44 9 to 111 of your statement. You've noted that you were  
15:00:55 10 repeatedly asked to take your resignation back so as to  
15:00:59 11 allow the situation to calm down and you repeatedly and  
15:01:02 12 politely declined?---Correct.  
13  
15:01:04 14 That's just a work of fiction, isn't it, Mr Jones?---Sorry?  
15  
15:01:06 16 It's just a work of fiction?---No, it isn't. It's what  
15:01:08 17 happened.  
18  
15:01:08 19 Have you read the transcripts or the portion of transcript  
15:01:11 20 out of various reports of the conversations you have with  
15:01:14 21 Mr Weston at around that time?---If you're talking about  
15:01:16 22 the so-called deal, that wasn't, that didn't come out of my  
15:01:20 23 mouth.  
24  
15:01:21 25 My question was quite a straightforward one?---No, I have  
15:01:24 26 not read them, no.  
15:01:24 27  
15:01:25 28 You haven't read them. Well there's extracts of transcript  
15:01:27 29 between you and the Mr Weston set out in the Crossing the  
15:01:29 30 Line report, p.59 of the 9 May 2011 - sorry, relating to an  
15:01:35 31 intercepted conversation on 9 May 2011 where you're talking  
15:01:39 32 about discussions that Mr Weston might have with Mr Davies.  
15:01:45 33 Do you recall any of this?---No, I don't.  
34  
15:01:47 35 Mr Weston says, "They're trying to get the Police  
15:01:51 36 Association to tone down their rhetoric". And you say,  
15:01:53 37 "Right". And he says, "Now I think if Greg was to say to  
15:01:55 38 them well how about if you don't accept Sir Ken's  
15:01:58 39 resignation, we'll tone down our rhetoric?" You say,  
15:02:01 40 "Yeah, that's, that's a deal, I". Mr Weston says, "I  
15:02:04 41 think, I think that's a sensible compromise". You say,  
15:02:07 42 "And then I'd say, I'd agree to hang around on paid leave".  
15:02:10 43 He says, "Yep". You say, "Until this is resolved". You  
15:02:10 44 say, "That's fantastic". And he says, "Yeah, and you'd  
15:02:12 45 make no public complaint?" Answer, "Nope". He then it  
15:02:19 46 goes on for a conversation where, Mr Weston says, "How  
15:02:21 47 about this, because the other thing they're worried about

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1 is adverse reaction to the PSO powers bill". You say,  
15:02:24 2 "Right". He says, "How about we tie those things together  
15:02:27 3 and say - - - " You say, "Why not, that's a great idea".  
15:02:29 4 Mr Weston says, "The association won't adversely comment on  
15:02:33 5 police or". You say, "Yep". Mr Weston says, "What's  
15:02:35 6 occurring". What's going on there is you and Mr Weston  
15:02:40 7 discussing a way of doing a deal where the Police  
15:02:43 8 Association, through Mr Davies, are going to offer  
15:02:46 9 government effectively pulling back on some criticism if  
15:02:54 10 they won't accept your resignation?---That's not how I read  
15:02:57 11 it. That's not how I hear it. I was absolutely in bits  
15:03:00 12 after what had been done to us and here was government  
15:03:02 13 saying that "we can find a way through this" and I  
15:03:08 14 listened.  
15  
15:03:08 16 Your view is this was all proper process?---Absolutely.  
17  
15:03:11 18 In which case why is it set out at p.45 of that report, by  
15:03:15 19 reference to actual intercepted conversations, do you and  
15:03:18 20 Mr Weston discuss and agree to use computers where there  
15:03:23 21 will be no record of the document, of the resignation  
15:03:25 22 letter that you write?---I would say that that was to avoid  
15:03:29 23 embarrassment to all concerned, because by that point I  
15:03:32 24 realised that I wasn't actually dealing with government per  
15:03:36 25 se and that this proposal had not gone to the, at the right  
15:03:41 26 level.  
27  
15:03:42 28 This was before you faxed the letter. You hadn't realised  
15:03:45 29 anything. This was before you faxed the letter and you  
15:03:48 30 were talking to Mr Weston?---I didn't have a fax.  
31  
15:03:51 32 Well when you sent the letter. You're talking to Mr Weston  
15:03:54 33 about those things?---Yes.  
34  
15:03:55 35 And you're determining to do it on the basis of computers  
15:03:58 36 which cannot be searched by government?---No, I don't agree  
15:04:04 37 with that.  
38  
15:04:05 39 Excuse me, Commissioner. That's the cross-examination.  
15:04:10 40 I'm sorry, I should be clear, just for the record, that we  
15:04:13 41 have obviously limited matters that are of great scope. If  
15:04:17 42 we don't complete matters otherwise today, and there may be  
15:04:20 43 an opportunity for Mr Jones to give evidence by way of  
15:04:23 44 telephone, then we'd probably seek to ask questions on some  
15:04:25 45 other matters. But we understand the position we're in and  
15:04:28 46 we've tried to truncate matters today.  
47

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15:04:30 1 COMMISSIONER: Thanks.  
15:04:32 2  
15:04:33 3 MR WOODS: Commissioner, there's just one document I want  
15:04:34 4 to call for. There was a document that the witness was  
15:04:37 5 taken to that was Lardner to Bona and it indicated that the  
15:04:43 6 sender was saying, "This is the list who I send the updates  
15:04:47 7 to". I just want to call for the email that demonstrates  
15:04:53 8 that it was sent to the witness, because I think it might  
15:04:56 9 have been said there were other emails that demonstrated it  
15:04:59 10 was sent. So I just wanted to get a copy of that.  
15:05:03 11  
15:05:03 12 MR HOLT: Rather than guessing now, Commissioner, I'll make  
15:05:05 13 inquiries and we'll identify the position.  
15:05:07 14  
15:05:07 15 COMMISSIONER: Is that supposed to be part of the tendered  
15:05:09 16 document?  
15:05:09 17  
15:05:10 18 MR WOODS: It was an exhibit, yes.  
15:05:11 19  
15:05:11 20 COMMISSIONER: It's supposed to be part of that tendered  
15:05:13 21 document. So we just need to check - - -  
15:05:14 22  
15:05:14 23 MR HOLT: Exhibit 909.  
15:05:14 24  
15:05:14 25 COMMISSIONER: - - - have a look at that and check.  
15:05:14 26  
15:05:14 27 MR HOLT: We'll make inquiries, Commissioner.  
15:05:14 28  
15:05:16 29 COMMISSIONER: If it includes that. Mr Chettle, are you  
15:05:18 30 next?  
15:05:20 31  
15:05:20 32 <CROSS-EXAMINED BY MR CHETTLE:  
15:05:20 33  
15:05:21 34 Thank you, Commissioner. Mr Jones, I represent some of the  
15:05:22 35 handlers in this so that can you understand where I'm  
15:05:27 36 coming from. You describe in your statement the problems  
15:05:30 37 that occur when there are attempts by Command to cover up  
15:05:36 38 something. I'm referring to paragraph 20, under the  
15:05:42 39 heading, "Absolute loyalty to whoever your boss was at the  
15:05:46 40 time was demanded and rewarded in any public service such  
15:05:51 41 unquestioned loyalty of the hierarchy is toxic and  
15:05:51 42 dysfunctional, it sustains and nurtures corrupt cultures  
15:05:56 43 and cover up. This is especially true in law enforcement.  
15:05:59 44 I have reviewed many ESD files where following some  
15:06:03 45 critical incident or failure absolute loyalty has been  
15:06:06 46 demanded and a cover up has ensued. Occasionally such  
15:06:10 47 cover ups have unravelled and usually junior staff find

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15:06:14 1 themselves under investigation anyway"?---Yes.  
2  
15:06:19 3 The trouble with a cover up, as you're saying, is that  
15:06:22 4 those above who were seeking to protect themselves don't  
15:06:26 5 properly investigate the allegation in the first  
15:06:29 6 place?---Yes.  
7  
15:06:30 8 Because they're too busy looking after themselves and  
15:06:34 9 trying to put the blame on the troops?---If you get this,  
15:06:38 10 as I say, this type of culture where absolute loyalty is  
15:06:44 11 demanded, as I say, as this consequence.  
12  
15:06:46 13 And that might mean absolute loyalty means protecting the  
15:06:48 14 people at the top by distorting the facts?---Yes.  
15  
15:06:51 16 Distorting reality?---Yes.  
17  
15:06:54 18 You said that you didn't get told about Mr Pope's  
15:06:59 19 registration of Nicola Gobbo in 1999?---No, I didn't.  
20  
15:07:04 21 You found out about that, I assume, during the course of  
15:07:07 22 this Royal Commission?---Yes.  
23  
15:07:08 24 Okay. He was brought in by Simon Overland to Assistant  
15:07:15 25 Commissioner level, wasn't he?---Yes, to reform and revise  
15:07:17 26 our intelligence capability and I was supportive of that  
15:07:21 27 because of his expertise.  
28  
15:07:22 29 You were sitting effectively directly above him in line of  
15:07:26 30 control?---Yes, I was.  
31  
15:07:28 32 Did he ever tell you that he had had a prior relationship  
15:07:31 33 with her?---No, he didn't.  
15:07:32 34  
15:07:34 35 COMMISSIONER: Sorry, what was your answer?---No, he  
15:07:36 36 didn't, Commissioner.  
15:07:37 37  
15:07:38 38 MR CHETTLE: It would be important - let's assume she was a  
15:07:41 39 source, you know she was a source - it would be important  
15:07:43 40 for those managing her to know about her prior history with  
15:07:47 41 police, wouldn't it?---Absolutely.  
42  
15:07:49 43 Insofar as Mr Pope is concerned, were you aware that  
15:07:57 44 subsequent to your departure he in fact made, was the  
15:08:01 45 driving force behind closing down the SDU?---I know he was  
15:08:05 46 involved in a number of reforms and that may or may not  
15:08:09 47 have been ones I was aware of, because change often is

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15:08:13 1 pretty difficult for people. So I don't recall that  
15:08:16 2 specifically.  
3  
15:08:18 4 Certainly people making decisions about - the SDU was  
15:08:23 5 disbanded because it was said by a report by, the Comrie  
15:08:31 6 report, that they behaved in unethical and improper  
15:08:37 7 behaviour?---Right.  
8  
15:08:38 9 That was at least one of the reasons that was given for  
15:08:40 10 their disbandment. It would be inappropriate - assume for  
15:08:45 11 a moment that Mr Pope had had some prior involvement with  
15:08:49 12 her in the capacity, firstly, as handling her. Secondly,  
15:08:53 13 there was an allegation that he'd been involved in some  
15:08:56 14 sexual relationship with her, not offence, sexual  
15:09:00 15 relationship?---M'mm.  
16  
15:09:01 17 It would make it - he'd be hopelessly conflicted in  
15:09:05 18 relation to anything that related to her, wouldn't  
15:09:07 19 he?---Absolutely.  
20  
15:09:08 21 Indeed, if the Force obtained advice from the VGSO that he  
15:09:15 22 should not have anything to do with any matter relating to  
15:09:18 23 her because of the conflict, you would expect that that  
15:09:22 24 should have been followed?---Yes.  
25  
15:09:24 26 All right. On the topic of cover ups. Not only did the  
15:09:32 27 evidence disclose that Mr Pope had her registered as a  
15:09:34 28 source from 1999 onwards, to 2008, he had removed from the  
15:09:44 29 human source records the documents relating to that  
15:09:48 30 registration and effectively hid them in his office in the  
15:09:52 31 safe. Now that would be totally inappropriate, wouldn't  
15:09:56 32 it?---If that occurred, yes.  
33  
15:09:59 34 And if in the course - when the allegation against him was  
15:10:02 35 made that he'd been involved in offences - sorry, I keep  
15:10:06 36 saying offences - involved in a relationship with her, he  
15:10:11 37 caused searches of the human source database to be  
15:10:16 38 undertaken in order to ascertain whether he was mentioned  
15:10:19 39 in that database, that would exacerbate his conflict  
15:10:23 40 position, wouldn't it?---I repeat what I said, yes, if that  
15:10:25 41 indeed occurred that would be highly inappropriate.  
42  
15:10:28 43 The risk is, of course, that you end up with a position  
15:10:31 44 where an officer with his own interests is making decisions  
15:10:35 45 about a Unit that have managed and dealt with persons who  
15:10:40 46 he allegedly has been involved with sexually, but more  
15:10:44 47 importantly, he's concealed her involvement as a

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15:10:48 1 source?---Yes, but we keep going back to the same point, if  
15:10:52 2 it's established the things that you're saying, that would  
15:10:55 3 be inappropriate.  
4

15:10:55 5 All right. Your statement relies heavily on the  
15:11:05 6 proposition that there was industrial strength corruption  
15:11:07 7 going on here in the sense that legal professional  
15:11:11 8 privilege was being breached regularly, doesn't it?---Yes,  
15:11:14 9 that's what I believed.  
10

15:11:16 11 You come to that conclusion based on what people have told  
15:11:19 12 you, obviously?---Yes, and I saw some papers as well.  
13

15:11:23 14 Did you?---And obviously - yes, after Williams was  
15:11:26 15 murdered.  
16

15:11:27 17 What papers were they, Mr Jones?---I'm sorry, I can't  
15:11:30 18 recall. It's a long time ago and I've had no access to it  
15:11:34 19 since.  
20

15:11:34 21 You didn't undertake any search of the SDU records?---No, I  
15:11:41 22 did not, no.  
23

15:11:42 24 You didn't speak to any of the personnel?---No, because I  
15:11:45 25 didn't - if I was going to have some attention to this, an  
15:11:49 26 individual third party, everything needed to be left as is  
15:11:52 27 in my opinion. You may disagree with that but that's the  
15:11:54 28 way I wanted to handle it.  
29

15:11:54 30 I don't have a problem with that. Mr Woods suggested to  
15:11:56 31 you that in fact at least part of you'd be pleased to know,  
15:12:00 32 that there was a focus on legal professional privilege by  
15:12:02 33 the handlers?---Right.  
34

15:12:04 35 By the controller. And indeed, from the English  
15:12:06 36 perspective you'd know that human source management in  
15:12:11 37 England is in fact the subject of legislation?---Yes, it  
15:12:13 38 is, it's highly regulated.  
39

15:12:15 40 And there are manuals and guides which are available that  
15:12:21 41 help with the topic of source management?---There are.  
42

15:12:25 43 Have you looked at them?---I had a hand in them being  
15:12:27 44 developed many years ago.  
45

15:12:28 46 They have a definition of legal professional privilege for  
15:12:31 47 the assistance of those involved in that area, don't

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15:12:34 1 they?---Yes.  
2  
15:12:35 3 It's clear that, and you would understand, that not all  
15:12:39 4 communications between a client and a lawyer are protected  
15:12:44 5 by legal professional privilege?---Yes, I understand that.  
6  
15:12:48 7 And conversations that revolve around the furtherance of  
15:12:52 8 ongoing criminal activity of course would not be  
15:12:55 9 privileged?---They would not be covered, no.  
10  
15:12:58 11 Did you assume that what was happening was that Ms Gobbo  
15:13:04 12 was seeing clients, getting their instructions in relation  
15:13:06 13 to current matters, going along and then telling the police  
15:13:10 14 that and they were then using it against them, was that the  
15:13:16 15 basis of your belief?---That and other complications to the  
15:13:20 16 process, yes.  
17  
15:13:21 18 The other complication to the process is the issue of  
15:13:25 19 conflict that Mr Woods talked to you about?---M'hmm.  
20  
15:13:31 21 You were asked about, I think you were asked about some  
15:13:35 22 ongoing offending, but if you weren't I'll give you a  
15:13:38 23 factual scenario. She's acting for a gentleman who's  
15:13:41 24 charged with an importation?---Yes.  
25  
15:13:44 26 While that trial is running they provide her with documents  
15:13:47 27 to hold, rather than get caught with them. She copies them  
15:13:52 28 and gives them to her handlers. Those documents relate to  
15:13:58 29 the industrial size importation, all right?---Okay.  
30  
15:14:01 31 That clearly wouldn't be privileged, would it?---No, it  
15:14:04 32 wouldn't.  
33  
15:14:04 34 The problem arises when she goes on to act for those  
15:14:08 35 persons later, either in relation to that matter or any  
15:14:11 36 other matter for that matter?---M'hmm, yes.  
37  
15:14:14 38 But that sort of detail, and you weren't over it at the  
15:14:17 39 time?---No, and I was looking at fundamentally historical  
15:14:22 40 matters. My focus was really in the past.  
41  
15:14:25 42 This is the position: on the topic of cover ups and the  
15:14:28 43 problems with them, if the fact be that Simon Overland was  
15:14:35 44 aware at effectively all relevant times of what was  
15:14:40 45 occurring with Ms Gobbo, did he discuss that with  
15:14:43 46 you?---No, he did not.  
47

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15:14:45 1 That he'd had meetings himself with the handlers in  
15:14:47 2 relation to the way in which she was being managed?---No,  
15:14:50 3 he did not.  
4

15:14:52 5 Danye Moloney, you knew him?---Yes.  
6

15:14:57 7 Did he ever disclose to you that he'd received numerous  
15:15:03 8 briefings by the source handlers and the controllers in  
15:15:05 9 relation to their management of Ms Gobbo?---No, he did not.  
10

15:15:12 11 Nobody - - - ?---Getting back to Mr Holt's point, some of  
15:15:16 12 this may have been need to know at my initial period, so.  
15:15:18 13  
15:15:19 14 But when you take over Petra and Briars?---Yes.  
15

15:15:21 16 And all those things, you'd definitely need to know,  
15:15:24 17 wouldn't you?---Absolutely, yes.  
18

15:15:26 19 And you undoubtedly would have had to have known that she  
15:15:29 20 was a witness at that stage?---Yes, that's all I was aware  
15:15:32 21 of at that stage initially.  
22

15:15:35 23 In your statement you actually say that nobody at Briars  
15:15:37 24 knew she was a source?---Which - - -  
25

15:15:42 26 I think - - - ?---No, I think it was Petra.  
27

15:15:44 28 Petra, sorry. I apologise. Paragraph 7, "She did not  
15:15:46 29 disclose any of this to the Petra staff in 2008"?---This  
15:15:49 30 was relating to the meeting of Sol Solomon and Cameron  
15:15:52 31 Davey with her.  
32

15:15:54 33 Yeah?---Regarding offering to be a witness.  
34

15:15:57 35 Yes, yes. That's fine?---Okay.  
36

15:15:58 37 What you're saying is she was - - - ?---But they weren't  
15:16:02 38 aware that she was a source.  
39

15:16:03 40 And that she didn't disclose it to anyone at Petra?---No.  
15:16:07 41 Well not that I was told.  
42

15:16:10 43 Do you know Shane O'Connell?---The name rings a bell.  
44

15:16:13 45 He was at Petra and he looked after her and he knew she was  
15:16:17 46 a source?---Right.  
47

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15:16:18 1 In fact many people at Petra knew she was a source prior to  
15:16:21 2 her coming over to be a witness?---No, I didn't know about  
15:16:24 3 that.  
4

15:16:24 5 Simon Overland obviously knew and he was the one who made  
15:16:27 6 the decision to transition her into a witness despite being  
15:16:32 7 given a lot of advice that that was a very dangerous thing  
15:16:38 8 to do?---My understanding is she volunteered to be a  
15:16:41 9 witness to Solomon.  
10

15:16:42 11 That's correct, she did?---But she didn't disclose it, what  
15:16:45 12 I'd been told this, by the Chief.  
13

15:16:49 14 Who told you that?---No, I'm just saying that she didn't  
15:16:52 15 tag that on and say to Solomon, "The chief has sent me to  
15:16:56 16 see you and I want to be a witness".  
17

15:16:57 18 No, no, that's not the way I'm putting it to you?---Right.  
19

15:17:00 20 Mr Overland had been aware for some years that she'd been a  
15:17:03 21 source?---Right.  
22

15:17:06 23 He'd been having discussions with the SDU and the  
15:17:08 24 Superintendent in charge on numerous occasions, the  
15:17:11 25 Commander in charge?---Right. Well I was unaware of that.  
26

15:17:14 27 But he's on the steering committee, he was on the steering  
15:17:17 28 committee. I think you say in your statement you saw  
15:17:19 29 documents linking Command to her. He was on the steering  
15:17:25 30 committee?---No, I didn't say that. I said there was  
15:17:27 31 insufficient documentation to track decisions that had been  
15:17:33 32 taken by other people in the past.  
33

15:17:35 34 That's a different paragraph I'll come to?---Okay.  
35

15:17:37 36 But that's the problem, isn't it, if you don't document  
15:17:39 37 things, if you don't write it down, it leads for poor  
15:17:45 38 accountability?---You leave yourself open to these  
15:17:47 39 challenges.  
40

15:17:48 41 Plausible deniability gets created, doesn't it?---Yes, and  
15:17:52 42 sometimes it's just an innocent poor record keeping but it  
15:17:58 43 can lead to that ultimately, yes.  
44

15:18:00 45 Either deliberately or negligently you can wither forget  
15:18:03 46 something?---Yes.  
47

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15:18:04 1 Or you can have a basis for saying, "I didn't know about  
15:18:06 2 that"?---Absolutely.  
3

15:18:12 4 Did Mr Cornelius ever tell you that he knew she was a human  
15:18:16 5 source?---He didn't.  
6

15:18:17 7 Did Mr Ashton ever tell you that he knew at least from  
15:18:21 8 2007, if not before, she - - - ?---He did not.  
9

15:18:27 10 You would have expected to be told that when you took over  
15:18:30 11 - - - ?---Absolutely, because we were investigating a  
15:18:32 12 double homicide and a number of other issues that you  
15:18:35 13 fundamentally needed to know these things.  
14

15:18:38 15 It would be obvious that knowledge that Victoria Police  
15:18:43 16 were running a barrister as a registered informer in  
15:18:51 17 relation to her clients?---Yes.  
18

15:18:52 19 Would be something that should have, to any police officer,  
15:18:55 20 sparked a concern?---It would have been a massively risky  
15:19:01 21 thing to undertake, yes.  
22

15:19:03 23 Any police officer would query how that could be  
15:19:06 24 managed?---Yes.  
25

15:19:15 26 There were a couple of things I wanted to clarify in your  
15:19:19 27 statement. Can I take you to paragraph 38, please?---Okay.  
28

15:19:24 29 You're talking about Charlie Bezzina and Sol Solomon and  
15:19:27 30 the way they had their hands tied behind their back in  
15:19:31 31 relation to the investigation of the murder of the Hodsons,  
15:19:36 32 do you see that?---Yes, I see that, yes.  
33

15:19:38 34 That last sentence, "Serious crime investigations  
15:19:41 35 frequently stand or fall by what we're able to do inside  
15:19:45 36 the first hours and days. We send our people into these  
15:19:49 37 tragic incidents with their hands tied behind their  
15:19:52 38 backs"?---That's how it seems to me.  
39

15:19:55 40 You are assuming that she was a source at that stage;  
15:19:58 41 aren't you?---Well I'm assuming - yes, absolutely.  
42

15:19:59 43 She wasn't. And she wasn't for a couple of years?---But  
15:20:01 44 she'd been registered as a source, I understand, in the  
15:20:04 45 90s.  
46

15:20:05 47 By Jeff Pope but no one knew about it?---Right, okay. But

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15:20:11 1 there were links between it, so yes, but I take your point.  
2  
15:20:14 3 She joined SDU. She was signed on on 16 September 2005,  
15:20:18 4 which was a couple of years after the murders, isn't  
15:20:21 5 it?---Yes.  
6  
15:20:22 7 All right?---But Solomon's review is to do with 2008 and  
15:20:28 8 the witness issue. They were still trying to develop that  
15:20:31 9 case, yes. But they were unaware of the 2005 registration.  
10  
15:20:35 11 And he was told to stay away from her, is that - - -  
15:20:38 12 ?---Sorry?  
13  
15:20:39 14 He was told not to talk to her as a witness, not to use  
15:20:43 15 her?---Yes.  
16  
15:20:47 17 Your paragraph 61 sets out that you made discrete inquiries  
15:20:51 18 and learned the Force had been involved with Nicola Gobbo  
15:20:55 19 for possibly a decade, remember that paragraph?---Yes.  
20  
15:21:00 21 As I understand your evidence there can only be two people  
15:21:03 22 that that could have come from, the information you got,  
15:21:05 23 Fryer and maybe Pope?---Sorry, Fryer and - - -  
24  
15:21:09 25 Perhaps Pope?---No, it wouldn't be. It would have been  
15:21:13 26 Doug Fryer and maybe other people on the Driver team.  
27  
15:21:17 28 But see Mr Fryer says that he doesn't discover she's a  
15:21:21 29 source until after you've left?---Right.  
30  
15:21:24 31 If that's right it's not him?---Well, I think it was him.  
32  
15:21:28 33 All right. There's the quote I was looking for. At the  
15:21:34 34 end of that paragraph you say, "I found from documents I  
15:21:37 35 saw that her engagement had been sanctioned by senior  
15:21:41 36 people and that there was links to the steering committee I  
15:21:43 37 had taken over"?---Yes.  
38  
15:21:44 39 That's what I was asking you about before. What documents  
15:21:47 40 were you talking about?---I don't recall now but the team  
15:21:51 41 were developing this inquiry and they were coming up with  
15:21:54 42 connections and links and briefing me on it. And obviously  
15:21:57 43 I wouldn't just take a verbal, I need to see where you're  
15:22:01 44 basing that opinion on, that view on.  
45  
15:22:02 46 The steering committee for either Petra or Briars was  
15:22:06 47 Overland, Ashton?---Yes.

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1  
15:22:09 2 And Cornelius. Same three, and Cornelius. They're the  
15:22:12 3 people you're talking about?---Yes, the steering committee,  
15:22:15 4 yes.  
5  
15:22:27 6 Can you be given or shown Exhibit 81.  
7  
15:22:34 8 COMMISSIONER: Perhaps if you just tell - - -  
15:22:37 9  
15:22:37 10 MR CHETTLE: I can't mention the name.  
11  
15:22:39 12 COMMISSIONER: If you give us the number on the list, we  
15:22:45 13 can show the card. We haven't been given permission from  
15:22:49 14 Victoria Police to show this witness Exhibit 81.  
15:22:51 15  
15:22:52 16 MR CHETTLE: I apologise for that, Commissioner.  
17  
15:22:53 18 COMMISSIONER: No, no, that's all right.  
15:22:53 19  
15:22:54 20 MR CHETTLE: If he could be given the names for number 10  
15:22:57 21 and number 11, please.  
22  
15:22:59 23 COMMISSIONER: Yes.  
15:23:08 24  
15:23:09 25 MR CHETTLE: They've been given pseudonyms for the purposes  
15:23:11 26 of this hearing of Evans and Lloyd, do you follow?---Yes.  
27  
15:23:16 28 Do you know those officers?---No, I don't.  
29  
15:23:19 30 Do you recall that there were - as part of her role with  
15:23:22 31 Petra Ms Gobbo was given source managed handlers to look  
15:23:27 32 after her?---I was aware there were witness security issues  
15:23:30 33 and that they were involved with that, yes.  
34  
15:23:33 35 But you weren't told the names?---I don't recall the names.  
36  
15:23:37 37 Those two gentlemen, officers that I've just mentioned,  
15:23:41 38 were trained by the SDU?---Right.  
39  
15:23:45 40 At appropriate levels to manage her when she transitioned  
15:23:48 41 from a source to a witness?---Right.  
42  
15:23:51 43 Do you follow? None of those gentlemen told you that she  
15:23:54 44 in fact had been a source for a period of time?---No, they  
15:23:57 45 did not.  
46  
15:24:00 47 That very concept of transitioning, it's one that is

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15:24:06 1           fraught with risk?---Absolutely.  
2  
15:24:08 3           Did you ever see a - - - ?---In this case it shouldn't have  
15:24:11 4           happened.  
5  
15:24:12 6           Did you ever see a SWOT analysis by a member of the  
15:24:14 7           SDU?---No. I'm obviously aware of the public record but  
15:24:18 8           not until then, no.  
9  
15:24:20 10          Have you been shown it in preparation for this?---I've seen  
15:24:23 11          the public part of it, yes.  
12  
15:24:26 13          A comprehensive SWOT analysis, you know what that  
15:24:30 14          is?---Yes.  
15  
15:24:30 16          It's a form of risk assessment, isn't it?---Yes, it is.  
17  
15:24:36 18          And that would be an appropriate way to highlight the  
15:24:38 19          problems that arise in an issue like this?---Yes.  
20  
15:24:40 21          If that existed and were provided to the then Assistant  
15:24:46 22          Commissioner, you would expect it would be provided to the  
15:24:50 23          steering committee?---It would.  
24  
15:24:59 25          In paragraph 102 you describe the circumstances in which  
15:25:05 26          Mr Overland sacked you, all right?---Yes.  
27  
15:25:11 28          Is there any particular reason you don't - you've already  
15:25:14 29          named I think two of the people who were there. There were  
15:25:17 30          five I think you say?---Yes, there were.  
31  
15:25:19 32          One was Pope?---Yes.  
33  
15:25:22 34          One was a solicitor?---Yes.  
35  
15:25:24 36          Who were the other three, please?---I understand that -  
15:25:29 37          Mr Lay, Mr Walsh and Mr Overland.  
38  
15:25:34 39          Mr Lay was there?---I understand, yes. And I'm getting my  
15:25:44 40          information obviously from my numbers and the report.  
41  
15:25:48 42          Yes, all right. You were in the room with them though,  
15:25:51 43          weren't you?---Sorry?  
44  
15:25:52 45          Were they in the room with you as I understand it?---No.  
46  
15:25:55 47          It was just you and he?---And the lawyer.

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1  
15:25:59 2 Just you, he and the lawyer?---Yes. I thought you were  
15:26:01 3 talking about the preparatory meeting.  
4  
15:26:05 5 So they were there earlier?---Yes.  
6  
15:26:13 7 It's apparent from your statement that you're opposed to  
15:26:16 8 hierarchical style of management?---Yes.  
9  
15:26:22 10 You said I think in your evidence that you were very much  
15:26:26 11 in favour of an open door sort of policy?---Yes.  
12  
15:26:29 13 And that people are encouraged to express their views and  
15:26:32 14 opinions?---Yes, at all times.  
15  
15:26:34 16 At all levels I assume?---At all levels.  
17  
15:26:37 18 You would expect that if a highly trained specialist in  
15:26:42 19 source management?---Yes.  
20  
15:26:43 21 Was told to do something which in his view was dangerous,  
15:26:47 22 he should point out to the person asking him to do the  
15:26:52 23 risks?---Yes, the culture should allow that and for people  
15:26:56 24 to feel safe to express a view like that.  
25  
15:26:59 26 If management are giving directions about what should occur  
15:27:02 27 in relation to management of the Unit which the people  
15:27:04 28 believe represent risks to the Force, to themselves and to  
15:27:08 29 the sources, they should voice their concerns?---Yes, I  
15:27:11 30 agree.  
31  
15:27:12 32 And they certainly shouldn't be punished because they do  
15:27:15 33 voice those concerns?---Absolutely.  
34  
15:27:25 35 Ultimately you said when you were the Chief the buck  
15:27:30 36 stopped with you?---Yes.  
37  
15:27:31 38 That's the essence of responsibility, if they're under your  
15:27:35 39 command you're ultimately responsible for what occurs?---I  
15:27:38 40 agree, yes.  
41  
15:27:39 42 Yes, thank you.  
43  
15:27:40 44 COMMISSIONER: We'll just have a ten minute break and then  
15:27:43 45 we'll resume.  
46  
47 (Short adjournment.)

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1  
15:38:53 2 MR WOODS: Commissioner, there's just one very brief thing  
15:38:55 3 to deal with it. I just mentioned it to Mr Chettle  
15:38:58 4 beforehand. I think it was put to the witness that  
15:39:02 5 Mr Fryer found out about Ms Gobbo's informing after  
15:39:06 6 Mr Jones left. Certainly there is a paragraph in  
15:39:12 7 Mr Fryer's statement that says something like the extent to  
15:39:16 8 which, but earlier in his statement he says it was on 27  
15:39:20 9 April 2010 that he became aware that she'd been used as a  
15:39:25 10 human source and that's before Mr Jones left in May 2011,  
15:39:30 11 and if there's arising from it Mr Chettle can deal with it,  
15:39:35 12 but I just wanted to make sure the evidence in Mr Fryer's  
15:39:38 13 statement was clear.  
15:39:40 14  
15 15 MR CHETTLE: Commissioner, I concede that and my point  
15:39:40 16 wasn't that. What Mr Fryer says is he didn't become aware  
15:39:44 17 of the extent of her informing until after Mr Jones left.  
15:39:46 18 That's what he says, so that was what I was putting. I  
15:39:48 19 wasn't trying to mislead.  
20  
15:39:49 21 COMMISSIONER: Okay, that's fine. So who's next?  
15:39:51 22  
15:39:52 23 MR COLLINSON: Me.  
24  
15:39:52 25 COMMISSIONER: Yes Mr Collinson.  
15:39:54 26  
27 <CROSS-EXAMINED BY MR COLLINSON:  
28  
15:39:55 29 My name's Collinson, Mr Jones, I'm one of the counsel for  
15:40:00 30 Ms Gobbo. I want to ask you some questions about paragraph  
15:40:03 31 67 of your statement. Just to contextualise this, you're  
15:40:11 32 addressing here a point in time I think a little after  
15:40:15 33 April 2010 when Mr Williams has been murdered in gaol and  
15:40:24 34 you're in charge of the Driver investigation to investigate  
15:40:28 35 the murder of Carl Williams?---Yes.  
36  
15:40:29 37 Yes?---Yes.  
38  
15:40:32 39 You identify in paragraph 67 that the murder of Mr Williams  
15:40:36 40 led to the collapse of the prosecution of Paul Dale. I  
15:40:42 41 just want to take you down a few lines. You say at the end  
15:40:46 42 of line 3, "I recall being briefed on a 2008 offer by  
15:40:53 43 Nicola Gobbo to assist by covertly recording her  
15:40:57 44 conversations with Paul Dale. I was assured that her offer  
15:41:01 45 had been genuine and that she was ethically motivated and  
15:41:06 46 that there were no legally privileged communications. Also  
15:41:11 47 that it was she who initiated the idea of a covert

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15:41:16 1 recording". In those sentences I've read out you have said  
15:41:20 2 that, you refer to it as an offer by Nicola Gobbo in line 4  
15:41:25 3 and you relay what you were told, Mr Jones, that you were  
15:41:32 4 being told that it was Ms Gobbo who initiated the idea of a  
15:41:35 5 covert recording, do you see that?---Yes.  
6  
15:41:39 7 You don't say who gave you that information, and I take it  
15:41:45 8 we're in the second half of 2010, are we, if Mr Williams -  
15:41:50 9 - - ?---I think so, post Williams' murder.  
10  
15:41:53 11 Are you able to recall who gave you the information you  
15:41:57 12 identify there?---No, obviously I was taking an interest in  
15:42:00 13 the Dale matter.  
14  
15:42:01 15 Yes?---And it would have come around because of that.  
16  
15:42:03 17 Would it have likely been Mr Cameron Davey or Mr Sol  
15:42:08 18 Solomon?---It could have been, but I'm sorry, I don't  
15:42:10 19 recall.  
20  
15:42:13 21 When you were writing your statement - how long ago did you  
15:42:17 22 start writing this?---Weeks.  
23  
15:42:21 24 Weeks ago. So when you refer to this information that was  
15:42:28 25 given to you, you didn't have any mental recollection of  
15:42:31 26 someone giving this to you?---No, I didn't, because one of  
15:42:34 27 the issues of contention here is that it didn't square for  
15:42:39 28 me that she was being told she had to become a witness.  
29  
15:42:43 30 Yes?---With what I'd read, possibly on the Dale file, that  
15:42:46 31 this was an open offer.  
32  
15:42:48 33 You then say in about line 8 of this same paragraph, you  
15:42:52 34 continue, "I did not know that she had a parallel and  
15:42:56 35 secret life with other Victoria Police officers, one where  
15:43:00 36 she was an active informer", and you go on to say that.  
15:43:06 37 You've said though in paragraph 61, haven't you, a little  
15:43:14 38 earlier?---Yes.  
39  
15:43:16 40 In your investigation of the Carl Williams' murder that you  
15:43:20 41 became aware that she was an informer?---Yes.  
42  
15:43:23 43 So I don't quite understand what - - - ?---I see where  
15:43:26 44 you're coming from. The sequencing isn't right but I think  
15:43:30 45 I was trying to recall things from many years ago.  
46  
15:43:33 47 Okay. But anyway, you obviously knew when you were being

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15:43:37 1 given this information about the 2008 offer by Ms Gobbo to  
15:43:43 2 undertake a covert recording of Mr Dale, you were aware  
15:43:48 3 when you were being given that information?---Yes.  
4  
15:43:50 5 That she was an informer?---That's my recollection.  
6  
15:43:54 7 Then a little further down do you see you say, "She did not  
15:43:57 8 disclose any of this to the Petra staff in 2008"?---What I  
15:44:04 9 didn't get a sense from the file that that had been  
15:44:07 10 disclosed.  
11  
15:44:09 12 It would be unwise for her to do that, wouldn't it, because  
15:44:12 13 the whole idea of being an informer is you have a  
15:44:15 14 relationship with your handlers but you don't tell just  
15:44:18 15 anybody in the Police Force whom you deal with that you're  
15:44:23 16 an informer?---Yes, that's a point of view, yes.  
17  
15:44:26 18 You then identify the critical component of the recording,  
15:44:31 19 being that it was the confirmation by Mr Williams that  
15:44:37 20 evidence given by Mr Williams in a statement was  
15:44:41 21 accurate?---Yes.  
22  
15:44:42 23 It was that startling confirmation from Mr Dale, wasn't  
15:44:45 24 it?---Yes.  
25  
15:44:49 26 What jumped out at me, for reasons I'll come to in a  
15:44:54 27 moment, Mr Jones, is you are positing here that you were  
15:44:59 28 being told that it was Miss Gobbo who volunteered this idea  
15:45:04 29 of wearing a recording?---Essentially, yes.  
30  
15:45:09 31 You pick up this idea of it being volunteered by Ms Gobbo  
15:45:13 32 in a couple of places. Can you go to paragraph 73,  
15:45:23 33 please?---Yes.  
34  
15:45:24 35 In the last sentence of paragraph 73 you say, "The brief  
15:45:27 36 relied in a partial sense on us being able to produce the  
15:45:38 37 covert tape recording voluntarily made by Ms Gobbo when she  
15:45:42 38 spoke with Paul Dale"?---Correct.  
39  
15:45:44 40 At this point you're talking about the brief that was being  
15:45:47 41 prepared for the prosecution of Mr Dale for giving false  
15:45:50 42 evidence at an ACC hearing?---Yes.  
43  
15:45:53 44 Down in paragraph 75 you then talk about your engagement  
15:45:59 45 with the DPP in relation to this brief, which as I  
15:46:04 46 understand it you've authorised to go forward?---Only after  
15:46:07 47 this meeting, yes.

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1  
15:46:08 2 I suppose I just - you might have been asked this but just  
15:46:12 3 to clarify this. You seem to be saying in that paragraph  
15:46:15 4 75 that all that the evidence be would be from Ms Gobbo for  
15:46:21 5 the purpose of the ACC prosecution?---Yes.  
6  
15:46:25 7 Would be that she effectively undertook the tape  
15:46:30 8 recording?---Yes.  
9  
15:46:35 10 You have earlier referred to it as being voluntary.  
15:46:43 11 Putting it bluntly, if you thought it was important that  
15:46:48 12 prosecution authorities be alerted to Ms Gobbo's role and  
15:46:54 13 were planning that she be utilised as a witness under the  
15:46:57 14 brief, why didn't you tell the DPP?---I'm sorry, I don't  
15:47:02 15 understand the point you're making.  
16  
15:47:03 17 You've said elsewhere, throughout your statement - - -  
15:47:07 18 ?---I wouldn't have wanted to broaden out my concerns at  
15:47:10 19 that point. I was then focusing on the process with the  
15:47:14 20 Commonwealth DPP about going forward. I'd already  
15:47:18 21 conceded, and I had in that Lardner call that he gave to  
15:47:24 22 me, that she wasn't a witness in my opinion of truth and  
15:47:27 23 couldn't be relied upon. But that's not the same as saying  
15:47:30 24 that she couldn't produce the tape and it wouldn't be an  
15:47:32 25 issue of character.  
26  
15:47:34 27 And was that your reason not to tell the - - - ?---Yes, I  
15:47:37 28 thought I'd told them - - -  
29  
15:47:40 30 Hold on, you need to not jump in too early?---Sorry.  
31  
15:47:44 32 Was that your reason for not telling the DPP that Ms Gobbo  
15:47:47 33 was a police informer?---That's my reason.  
34  
15:47:49 35 And that was your thinking processes at the time?---Yes,  
15:47:52 36 because I knew that this would then trawl on for months  
15:47:55 37 while other things may or may not have caught up with it.  
15:47:59 38 Obviously when it came to discovery and disclosure. But I  
15:48:03 39 didn't see that as the huge issue that we've gone through  
15:48:07 40 earlier today.  
41  
15:48:08 42 Can you see perhaps with the benefit of hindsight that if  
15:48:11 43 defence counsel appearing for Mr Dale might well regard it  
15:48:14 44 as useful information for them to have?---Well they would  
15:48:17 45 get the, I think in disclosure - - -  
46  
15:48:18 47 Hang on?---I'm sorry, I'm sorry.

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1  
15:48:21 2 The defence counsel for Mr Dale on an ACC prosecution would  
15:48:25 3 find it useful information to have that Ms Gobbo - - -  
15:48:28 4 ?---Yes.  
5  
15:48:30 6 - - - who would be a witness against Mr Dale, was a police  
15:48:33 7 informer?---Yes, at some point. But it wouldn't reduce her  
15:48:36 8 value as a person to produce the tape and its content.  
9  
15:48:39 10 When you say at some point, are you saying that you  
15:48:43 11 envisage that at some point the DPP would be told by the  
15:48:47 12 police - - - ?---Well at some point - - -  
13  
15:48:50 14 Hang on - of Ms Gobbo being an informer?---At some point I  
15:48:54 15 would have assumed - I must have thought that I was trying  
15:48:57 16 to get some attention to this, the Ombudsman or whoever,  
15:49:00 17 and I felt I was doing it in the proper way. So, yes, that  
15:49:04 18 would have emerged at that point.  
19  
15:49:06 20 Then if you could go to paragraph 79. You again repeat  
15:49:09 21 that your belief was that in 2008 she'd freely volunteered  
15:49:13 22 to assist in gathering information?---Yes.  
23  
15:49:16 24 By wearing the covert recording device?---Yes, I see that,  
15:49:19 25 yes.  
15:49:19 26  
15:49:19 27 And tracing back to this paragraph 67 that I first took you  
15:49:22 28 to?---Yes.  
29  
15:49:23 30 And then you seem to conclude in paragraph 83 where you  
15:49:30 31 suggest that seemingly the settlement between the State of  
15:49:36 32 Victoria and Ms Gobbo amounted to a covering up of  
15:49:41 33 information?---I thought it was irregular, yes.  
34  
15:49:45 35 The reason you do is, as I would understand it, you say in  
15:49:50 36 the second sentence in paragraph 83, "By selectively using  
15:49:54 37 information to suggest that she had been essentially forced  
15:49:58 38 to become a witness against Paul Dale by Petra, that she  
15:50:01 39 had been beyond reluctant and that damage to her standing  
15:50:05 40 and lethal risk to her had resulted". So you're suggesting  
15:50:11 41 there, aren't you, that part of the cover up was that it  
15:50:17 42 was just misleading to suggest that Ms Gobbo had been  
15:50:22 43 forced to become a witness against Mr Dale?---It appeared  
15:50:25 44 that way to me, yes.  
45  
15:50:29 46 And when you say that she'd been beyond reluctant, you're  
15:50:32 47 understanding was that she was not merely willing but that

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15:50:36 1 she'd volunteered to be a witness?---Yes, that's my  
15:50:40 2 understanding.  
3  
15:50:41 4 I suppose I should draw a distinction, there's a  
15:50:43 5 distinction between of course being a witness and wearing  
15:50:46 6 the covert recording, but was it your understanding that  
15:50:49 7 she was willing - - - ?---Yes, it was.  
8  
15:50:51 9 - - - in respect of both activities?---It was, yes.  
10  
15:50:57 11 You have never seen the information contact reports, have  
15:51:01 12 you?---No. Yes.  
13  
15:51:02 14 Do you know what that means?---Yes, yes. I do know what it  
15:51:05 15 means but, no, I haven't seen them.  
16  
15:51:07 17 These are the records of the communications that took place  
15:51:11 18 between Ms Gobbo and her handlers represented by  
15:51:15 19 Mr Chettle?---Yes.  
20  
15:51:16 21 Over the years that she was a police informer, up until  
15:51:20 22 early 2009. I just wanted to show you, please, when  
15:51:25 23 Ms Gobbo was 2958 as a registration number p.708. I think  
15:51:31 24 that can be brought up on the screen. If one scrolls to  
15:51:40 25 the lower half of the screen. You'll see it says - I think  
15:51:57 26 you might need to go - oh no. Here it is. Yes, do you see  
15:52:04 27 on your screen in the third paragraph it says "HS"?---Yes.  
28  
15:52:10 29 That's human source?---Yes.  
30  
15:52:18 31 Just to give you context, this is what Ms Gobbo is telling  
15:52:21 32 her handlers after a meeting with members of the Petra Task  
15:52:26 33 Force in, just to give you a date, this is 17 November  
15:52:30 34 2008?---Yes.  
35  
15:52:31 36 And again to give you another contextual date, she ends up  
15:52:36 37 wearing the covert recording device on 6 December 2008, so  
15:52:41 38 it's about three weeks beforehand?---Right.  
39  
15:52:44 40 You'll see it says there, "Human source advised then that  
15:52:47 41 if HS was to make a statement, work is finished. They then  
15:52:53 42 suggested using PII [REDACTED] in assumed name. HS says this  
15:52:57 43 wouldn't work. Handler agrees". When it says "they then  
15:53:00 44 suggested", that's a reference to Petra personnel. And  
15:53:04 45 then it says, "They also hinted at HS recording Paul Dale.  
15:53:08 46 Told them no". Now, of course, you don't know whether  
15:53:12 47 Ms Gobbo's information that she was giving to her handlers

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15:53:16 1 at this time was accurate or not, you've got no means of  
15:53:19 2 knowing that, do you?---No.  
3  
15:53:20 4 But you can see though that she does seem to, or she is  
15:53:25 5 recorded contemporaneously as telling her handlers on 17  
15:53:30 6 November 2008 that it was Petra personnel who suggested her  
15:53:37 7 recording Paul Dale and her initial response was to say  
15:53:40 8 no?---I see that.  
9  
15:53:42 10 That's inconsistent, isn't it, with your  
15:53:46 11 understanding?---Yes.  
12  
15:53:48 13 I won't take you to the references but there's various  
15:53:51 14 other indications or statements in the ICRs around this  
15:54:00 15 period that Ms Gobbo described herself as being in a  
15:54:06 16 depressed state?---Yes.  
17  
15:54:07 18 And touched on the topic of suicide?---Yes.  
19  
15:54:12 20 I suppose this is difficult because you can't remember the  
15:54:15 21 sources of your information for what you said in paragraph  
15:54:17 22 67 but you don't remember anything like that being said to  
15:54:21 23 you?---That wasn't communicated to me, no. I wouldn't put  
15:54:24 24 anyone under that kind of pressure to deliver if I knew  
15:54:28 25 they were thinking about self-harm, of course I wouldn't.  
26  
15:54:31 27 I understand that. But when you approach, as you do in  
15:54:40 28 paragraph 83, the view you had about the settlement and the  
15:54:44 29 statement you make that - I think where you cast doubt on  
15:54:48 30 Ms Gobbo being essentially forced to become a witness  
15:54:51 31 against Mr Dale, would you alter your view if it were the  
15:54:56 32 case that Ms Gobbo was in a suicidal or depressed state at  
15:55:01 33 the time she was being asked to wear a  
15:55:04 34 device?---Absolutely, yes.  
35  
15:55:07 36 I won't take you to all of these, of course, but if the  
15:55:13 37 operator could go, please, to p.749. You'll see if we  
15:55:26 38 scroll down a little - - -  
39  
15:55:27 40 MR HOLT: Sorry, Commissioner, this has names on it, this  
15:55:28 41 particular page.  
42  
15:55:32 43 COMMISSIONER: Perhaps it could be limited to the three  
15:55:34 44 screens.  
45  
15:55:35 46 MR COLLINSON: For the witness only. You'll see this is an  
15:55:42 47 entry for 3 December 2008, Mr Jones?---Yes, I see it.

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1  
15:55:45 2 And it's a call, you can see, that Ms Gobbo made at  
15:55:55 3 9.16 am, she's 2958?---Yes.  
4  
15:55:57 5 It then continues under the heading "Operation Petra",  
15:56:01 6 "Just come from seeing Petra", and she refers to two  
15:56:05 7 officers there, and you'd recognise - well I don't know  
15:56:06 8 that you remembered Mr O'Connell, did you?---No, I remember  
15:56:11 9 Mr Davey.  
10  
15:56:12 11 Mr Davey, yes. Ms Gobbo is here describing what the Petra  
15:56:15 12 personnel are telling her three days before she wears the  
15:56:19 13 wire?---Right.  
14  
15:56:21 15 Do you see that?---Yes, I see that.  
16  
15:56:22 17 She says that they told her that what Ms Gobbo has told  
15:56:27 18 them thus far is crucial and extremely important?---M'hmm.  
19  
15:56:31 20 This is just what she's been telling them she recollects in  
15:56:35 21 terms of her dealings with Mr Dale and Mr Williams and it  
15:56:40 22 continues in Ms Gobbo's recollection, "They", that is the  
15:56:45 23 Petra people, "said will doing everything in their power to  
15:56:49 24 use Ms Gobbo as a witness. Discussed recording Gobbo  
15:56:53 25 conversation with Paul Dale next weekend. Gobbo brought up  
15:56:57 26 implications of Gobbo being a witness. Gobbo will not be  
15:57:01 27 able to work as barrister again. Won't be able to live in  
15:57:04 28 Victoria, let alone threats of death, therefore cannot give  
15:57:08 29 evidence. They said there is nothing that Assistant  
15:57:13 30 Commissioner Overland would not do to help Ms Gobbo re this  
15:57:16 31 matter. Ms Gobbo asked if does not want to be a witness  
15:57:20 32 will Ms Gobbo be forced to give evidence at some type of  
15:57:24 33 hearing? Answer yes. This caused Ms Gobbo to cry.  
15:57:28 34 O'Connell said that there are two reasons why they want  
15:57:31 35 Ms Gobbo to give evidence. One, because she is credible  
15:57:34 36 compared to Carl Williams. And, two, there is an  
15:57:36 37 evidentiary gap and Ms Gobbo can confirm corrupt  
15:57:40 38 relationship between Williams and Dale". Now, that's, of  
15:57:45 39 course - you again don't know whether this actually  
15:57:47 40 happened, but if that is accurate information would you  
15:57:51 41 reconsider your view that you held I think as described to  
15:57:57 42 you by somebody and recorded in paragraph 67, that Ms Gobbo  
15:58:01 43 was acting voluntarily?---I think I would say to that that  
15:58:05 44 the witnesses who have generated the information should  
15:58:10 45 come and sit here and have that view tested here, not on  
15:58:14 46 the basis of what I see written here.  
47

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15:58:16 1 Are you saying Ms Gobbo should come and sit - - - ?---No, I  
15:58:21 2 mean the people who drew up this record and have their  
15:58:22 3 accounts tested on oath, as mine has been. And having seen  
15:58:25 4 the consequence of that, I might be prepared to look at  
15:58:29 5 things in a different way.  
6  
15:58:30 7 I'm just putting to you a different question  
15:58:33 8 though?---Right.  
9  
15:58:34 10 If you just assume that that information is  
15:58:36 11 accurate?---Yes.  
12  
15:58:36 13 Does that cause you to revise your view that her  
15:58:40 14 participation in recording Mr Dale was voluntary?---As a  
15:58:44 15 hypothetical issue, yes, it does. I accept - - -  
16  
15:58:49 17 I don't ask you do anything more than what you read there  
15:58:50 18 and I don't ask you to admit that its accurate, I'm simply  
15:58:57 19 saying if it is accurate would that cause you to revise  
15:58:57 20 your view?---Yes, and I think these are important witnesses  
15:58:59 21 who should be examined.  
22  
15:59:07 23 Yes. I'll take to one more I think. Page 757. I'll make  
15:59:26 24 this very quick. Do you see under the heading, "Op Petra"  
15:59:30 25 it says, "Advised Ms Gobbo to deal with Petra"?---Yes, yes  
15:59:34 26  
15:59:34 27 "Gobbo reaction 'I'll kill myself now'"?---Right, yes, I  
15:59:39 28 see that.  
29  
15:59:41 30 Again, if that is a true reflection of Ms Gobbo's emotional  
15:59:49 31 reaction to what's being suggested to her that she should  
15:59:53 32 do, that would cause you to revise your view?---It would.  
15:59:58 33 As I say, there's a huge conflict of view here about how  
16:00:01 34 she was deployed as a witness, did she volunteer, and I  
16:00:05 35 think that just needs to be bottomed out, but I really  
16:00:08 36 can't help beyond confirming, yes, hypothetically if this  
16:00:13 37 is proven to be correct, it would alter my view.  
38  
16:00:16 39 COMMISSIONER: Now we're running out of time, Mr Collinson.  
16:00:18 40  
16:00:19 41 MR COLLINSON: Yes, I think I'll leave it at that.  
42  
16:00:21 43 COMMISSIONER: Yes, you're next, Mr Coleman.  
44  
45 <CROSS-EXAMINED BY MR COLEMAN:  
46  
16:00:26 47 Thank YOU, Commissioner. Mr Jones, my name is Coleman and

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16:00:29 1 I act for Mr Graham Ashton. I want to ask you on one  
16:00:34 2 topic, I've narrowed it down from two to one you'll be  
16:00:38 3 pleased to hear, Commissioner, I want to ask some questions  
16:00:41 4 about the evidence you gave to counsel assisting about the  
16:00:43 5 keeping of diaries, do you remember that?---Yes. Yes, I  
16:00:47 6 do.  
7

16:00:47 8 By the way, if you don't find in your statement, did you  
16:00:47 9 have a discussion with counsel assisting prior to giving  
16:00:49 10 evidence that he was going to ask you questions about that  
16:00:54 11 topic?---No.  
12

16:00:55 13 You gave evidence in answer to Mr Woods' questions that he  
16:00:58 14 told you that counsel assisting, Mr Winneke, had challenged  
16:01:02 15 both Mr Ashton and Mr Cornelius on this topic and - on the  
16:01:07 16 basis of stopping keeping diaries - and Mr Woods said one  
16:01:11 17 of them being, that's the reason for stopping, being a  
16:01:18 18 diary is kept to record the truth of events and if one  
16:01:21 19 isn't keeping a diary then they are seeking to obscure the  
20 truth of what occurred, that's one of the reasons that one  
16:01:26 21 could stop keeping a diary, do you remember that?---Yes.  
22

16:01:27 23 Then you gave evidence with respect to - I objected to a  
16:01:41 24 question and then Mr Woods asked you a question about  
16:01:43 25 Mr Ashton and his role at the OPI. Do you remember those  
16:01:45 26 questions?---I remember, yes.  
27

16:01:46 28 And you said that as a member of the public you wouldn't  
16:01:49 29 find it acceptable that Mr Ashton stopped keeping a diary  
16:01:52 30 and he should keep a diary and take sufficient measures to  
16:01:55 31 keep it in a secure way, do you remember that?---Yes, keep  
16:01:59 32 records.  
33

16:01:59 34 Keep records?---Yes.  
35

16:02:01 36 So that you make a distinction, do you, between keeping a  
16:02:05 37 diary and keeping records?---Yes, because as I explained  
16:02:08 38 and as I observed, the diary was more or less an  
16:02:11 39 administrative device at that point and where I came from  
16:02:16 40 that would have been acceptable, but you would use it for  
16:02:19 41 recording evidence and then the traditional, the custom and  
16:02:22 42 practice, forgive me, my voice is getting a bit croaky,  
16:02:26 43 would be to keep day books, so I did make that point. So  
16:02:29 44 you need to keep some sort of record.  
45

16:02:33 46 That's right. And Mr Holt took to you to the requirement  
16:02:37 47 at least for members of VicPol?---Yes, he did.

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1  
16:02:38 2 That's the ranks, in order to keep diaries?---He did.  
3  
16:02:41 4 There's no evidence that the OPI had a similar requirement.  
16:02:45 5 But do you understand that Mr Ashton did in fact keep a  
16:02:46 6 diary when he was at the OPI?---I wouldn't know.  
7  
16:02:49 8 Right. Let me tell you - we'll go to some of the evidence.  
16:02:52 9 Would you accept from me that Mr Ashton was at the OPI from  
16:02:55 10 2004 to 2009?---Yes.  
11  
16:02:58 12 And the evidence indicates that he did keep a diary from  
16:03:02 13 the time he started at the OPI and he kept making entries  
16:03:07 14 in that diary until 21 February 2006, would you accept that  
16:03:12 15 from me?---Yes, I would.  
16  
16:03:14 17 And then the evidence is that he recommenced taking a diary  
16:03:19 18 on 2 July 2008, do you understand?---Yes, I understand.  
19  
16:03:24 20 A relatively shorter period in which he stopped taking a  
16:03:29 21 diary whilst he was there?---Right.  
22  
16:03:31 23 The evidence is that in his diary, that is the OPI diary  
16:03:35 24 that he kept which is before the Commission, he records the  
16:03:37 25 reason as to why stopped. And can I tell you what that  
16:03:40 26 was?---Yes, please.  
27  
16:03:41 28 He says, "In light of recognition of weakness in OPI  
16:03:45 29 subpoena provisions I took a decision not to retain an  
16:03:48 30 official diary until the matter was clarified. That was  
16:03:51 31 done on 1 July 2008. Now that the OPI has adequate  
16:03:55 32 subpoena protection I will resume my official diary". And  
16:04:01 33 he says, "For matters in the intervening period I refer to  
16:04:07 34 correspondence and my electronic diary". That's what he  
16:04:11 35 wrote in his diary?---Yes.  
36  
16:04:12 37 Do you understand that?---Yes.  
38  
16:04:13 39 So you can see that he referred to the fact that he was  
16:04:16 40 still keeping records in the intervening period, being the  
16:04:19 41 correspondence?---Yes.  
42  
16:04:20 43 And his electronic diary, which there was some debate about  
16:04:23 44 that, but that's in fact his electronic calendar, you  
16:04:26 45 understand that?---I understand that, yes.  
46  
16:04:28 47 Which recorded meetings and who attended the

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16:04:30 1 meetings?---Yes.  
2  
16:04:31 3 So as far as you could see then, in accordance with what  
16:04:34 4 you said to the Commissioner before, Mr Ashton was keeping  
16:04:37 5 records of what had occurred during that intervening  
16:04:41 6 period?---Yes.  
7  
16:04:42 8 He was cross-examined by Mr Winneke about this topic and he  
16:04:49 9 explained several times why he made the decision in  
16:04:57 10 reference to that note in his diary. And he was asked by  
16:05:00 11 Mr Winneke, "What possible basis is there for you not to  
16:05:02 12 record your actions?" This is at transcript 10716. And he  
16:05:07 13 says, "I've just explained that in the diary note", that's  
16:05:10 14 the one we just looked at. Mr Winneke says, "Can you  
16:05:15 15 explain it again, please?" Mr Ashton says, "The  
16:05:18 16 legislation in regards to the establishment of the OPI was  
16:05:21 17 deficient in a whole range of areas when it was set up and  
16:05:24 18 it became apparent that the ability for the OPI to protect  
16:05:29 19 its information was seriously suspect and the OPI had to  
16:05:32 20 start working to get legal amendments to try and strengthen  
16:05:33 21 the provisions of the OPI to allow it to retain its  
16:05:36 22 information with more confidence and I believe that  
16:05:39 23 ultimately happened". That was Mr Ashton's  
16:05:43 24 evidence?---Yes.  
25  
16:05:44 26 Can I tell you that on 1 July 2008 an Act called the Office  
16:05:49 27 of Police Integrity Act was given Royal assent in  
16:05:52 28 Victoria?---Yes.  
29  
16:05:53 30 And it contained provisions in ss.22 and 24, if you take it  
16:05:57 31 from me, which dealt with protection of information held by  
16:06:00 32 the OPI and who could access it?---Yes.  
33  
16:06:03 34 And we know from the evidence that Mr Ashton recommenced  
16:06:06 35 taking and keeping his diary at the OPI on 2 July, the day  
16:06:10 36 after that Act received assent. I want to suggest to you  
16:06:15 37 that doesn't sound like - I should also say, the evidence  
16:06:18 38 is that when Mr Ashton ceased taking his diary in 2006 he  
16:06:23 39 went and spoke to the Director of the OPI and told him he  
16:06:25 40 was going to do that, do you accept that?---Yes.  
41  
16:06:28 42 And he also went to the legal department of the OPI and  
16:06:31 43 told them that's what he was going to do?---Yes.  
44  
16:06:34 45 And told them why, would you accept that, that's the  
16:06:37 46 evidence?---Yes.  
47

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16:06:38 1 I want to suggest to you that in all of those circumstances  
16:06:41 2 that's not the actions of a person who's trying to obscure  
16:06:44 3 the truth, would you agree with that?---I've not suggested  
16:06:47 4 that.  
5  
16:06:48 6 But insofar as that someone else would suggest that - - -  
7 ?---Yes, I mean - - -  
8  
16:06:51 9 You would accept, wouldn't you, that it's not the actions  
16:06:52 10 of someone trying to obscure the truth?---Fundamentally the  
16:06:55 11 point is are sufficient and adequate records being kept of  
16:06:59 12 actions and decisions and if the answer to that is yes, it  
16:07:02 13 doesn't matter how they're recorded, provided they are.  
14  
16:07:04 15 You would accept, wouldn't you, that the circumstances I've  
16:07:05 16 just described to you would indicate that there was a  
16:07:08 17 legitimate reason for Mr Ashton to take the step that he  
16:07:10 18 did in the period when he stopped keeping a diary - - -  
16:07:14 19 ?---The way you've laid it out, yes.  
20  
16:07:16 21 Yes, thank you. That's the questioning.  
22  
16:07:18 23 COMMISSIONER: Thank you. Yes Ms Coleman.  
24  
25 <CROSS-EXAMINED BY MS COLEMAN:  
26  
16:07:26 27 My name is Georgie Coleman and I have questions for you on  
16:07:31 28 behalf of Mr Overland. Would you prefer I address you as  
16:07:34 29 Sir Ken or Mr Jones?---No, Mr Jones will be fine, thank  
30 you.  
31  
16:07:37 32 Thanks Mr Jones. Now I won't duplicate your examination  
16:07:40 33 but you'll recall Mr Woods and Mr Holt both examined you on  
16:07:43 34 the topic you raised in your witness statement of  
16:07:45 35 Mr Overland contacting you by telephone proposing to move  
16:07:49 36 you physically to the St Kilda Road headquarters?---Yes.  
37  
16:07:53 38 I'm going to refer to this as the proposal, if that's  
16:07:57 39 fine?---Okay.  
40  
16:07:57 41 Your evidence is this was a sidelining of you by  
16:08:00 42 Mr Overland and this morning Mr Woods asked you whether  
16:08:07 43 Mr Overland was sidelining you because of the Gobbo issue  
16:08:11 44 and you answered, "It was a number of issues"?---Yes.  
45  
16:08:14 46 And just to clarify, by that answer you meant that Gobbo  
16:08:17 47 was one of the issues?---No

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1  
16:08:21 2 No?---I said it was a number of issues, I didn't - I wasn't  
16:08:25 3 necessarily bracketing that with it.  
4  
16:08:27 5 Was Gobbo one of the issues?---No.  
6  
16:08:29 7 Thank you?---That predated the era when this was all  
16:08:33 8 discovered.  
9  
16:08:34 10 Yes, thank you Mr Jones. As it turns out you were never  
16:08:40 11 relocated to St Kilda Road?---No.  
12  
16:08:41 13 No. That was because Mr Overland on hearing your adverse  
16:08:45 14 reaction to the proposal withdrew the idea?---He did, he  
16:08:51 15 did.  
16  
16:08:51 17 So contrary to your evidence I suggest that Mr Overland was  
16:08:54 18 very professional about this interaction, he listened to  
16:08:56 19 what you had to say about his proposal and based on your  
16:08:59 20 views he didn't put the proposal into effect?---Yes, that's  
16:09:02 21 correct.  
22  
16:09:02 23 Thank you. Mr Jones, I believe you have your statement  
16:09:05 24 there?---Yes.  
25  
16:09:06 26 Yes, could you please turn to paragraph 24 of your  
16:09:09 27 statement. Please let me know when you're there?---Okay.  
16:09:21 28 Yes, I'm there.  
29  
16:09:23 30 Thanks Mr Jones. Now you say at 24 that, "After speaking  
16:09:27 31 to a senior official the following Monday the Chief told me  
16:09:31 32 I ought not to have advised Government"?---Yes.  
33  
16:09:36 34 Yes. I suggest Mr Overland never told you that you ought  
16:09:40 35 not advise Government, did he? That's not what happened.  
16:09:43 36 Instead, as you just affirmatively answered, he withdrew  
16:09:47 37 the proposal because he had listened to your feedback that  
16:09:50 38 you did not want to be moved?---That's not my recall.  
39  
16:09:53 40 Okay. You'll remember Mr Woods this morning asked you if  
16:09:59 41 Victoria Police were involved in briefing the media around  
16:10:02 42 the time of your dismissal?---Yes.  
43  
16:10:03 44 Sorry, if you don't mind just staying with me rather than  
16:10:07 45 flicking through your papers, Mr Jones?---Okay.  
46  
16:10:09 47 Thanks. So you mentioned this morning that you did not

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16:10:14 1 know whether the Victoria Police were involved in briefing  
16:10:18 2 the media about your dismissal, do you recall giving that  
16:10:21 3 evidence?---No, I don't. If you could just repeat the  
16:10:25 4 words, it's been a long day.  
5  
16:10:27 6 Of course. Mr Woods asked you if the Victoria Police were  
16:10:30 7 involved in briefing the media around the time of your  
16:10:33 8 dismissal?---Right.  
9  
16:10:36 10 What you refer to as your dismissal, it is an executive  
16:10:40 11 appointment so you couldn't be dismissed. The constructive  
16:10:46 12 dismissal?---Constructive dismissal.  
13  
16:10:48 14 You said you don't know if they were involved?---Correct.  
15  
16:10:51 16 Mr Jones, that's because in your significant policing  
16:10:54 17 experience when you say you don't know that's because  
16:10:56 18 you're not aware of any facts from which an inference can  
16:11:00 19 be drawn that the Victoria Police were involved?---Correct.  
20  
16:11:01 21 Correct, sorry?---Correct, yes.  
22  
16:11:02 23 Yes, thank you. So it's a fiction in your statement in  
16:11:06 24 paragraph 101 where you say that the head of media and  
16:11:08 25 communications told you she'd been asked to brief the media  
16:11:13 26 against you, isn't it?---No, it's not a fiction.  
27  
16:11:15 28 Okay?---Can I just refer to that paragraph again, please?  
29  
16:11:18 30 You've given your answer, Mr Jones?---Okay.  
31  
16:11:20 32 Mr Woods asked you this morning about your evidence in  
16:11:23 33 relation to lack of integrity at Victoria Police and you  
16:11:26 34 mentioned you were given an example of that, a human  
16:11:30 35 resources example in your statement. That's at paragraphs  
16:11:32 36 18 to 19, Mr Jones, and I'll ask you to have that in front  
16:11:37 37 of you?---Okay. Yes.  
38  
16:11:39 39 Thanks. Now, Mr Jones, I think - it's there at 19?---Yes.  
40  
16:11:52 41 Can you tell the Commissioner the names of the five  
16:11:55 42 Assistant Commissioners that you refer to there at 19?---I  
16:12:00 43 could possibly remember four of them.  
44  
16:12:02 45 Was one of them Mr Moloney?---Yes, he was.  
46  
16:12:06 47 Yes, thanks. To clarify your evidence it's that all five

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16:12:09 1 of them were to be fired by Mr Overland?---That was the  
16:12:13 2 proposal.  
3  
4 But it never eventuated?---Sorry?  
5  
16:12:13 6 That was a proposal you say - - - ?---I can't remember if  
16:12:18 7 any people were let go but I was just more concerned about  
16:12:21 8 the process.  
9  
16:12:22 10 The process. But what was the process if it didn't involve  
16:12:30 11 people being let go?---The process was as it's set out  
16:12:32 12 here.  
13  
16:12:33 14 With all respect to you, Mr Jones, and it's a lengthy  
16:12:35 15 statement, it's quite confusing what you say here. For  
16:12:38 16 example, if you look at the last two sentences of paragraph  
16:12:45 17 19?---Yes.  
18  
16:12:48 19 You say, "I told him I wouldn't go along with it. This may  
16:12:51 20 appear of little significance now but for the officers and  
16:12:54 21 their families it was devastating, even life  
16:12:57 22 changing"?---Yes.  
23  
16:12:58 24 That suggests it actually occurred?---No, if people were  
16:13:02 25 aggrieved about that there was change to the office that  
16:13:06 26 was made to them. There was some negotiation and  
16:13:08 27 discussion and some adjustment to that, but yes.  
28  
16:13:10 29 So what is the precise event that for the officers and  
16:13:15 30 their families was devastating, even life changing?---That  
16:13:19 31 there was in fact discussions and negotiations which went  
16:13:21 32 contrary to letters they'd received saying they were going  
16:13:24 33 to get a new job in the new future we were creating.  
34  
16:13:29 35 Discussions and negotiations?---Took place.  
36  
16:13:33 37 Took place between the officers and Mr Overland?---And  
16:13:34 38 other people, yes.  
16:13:34 39  
16:13:34 40 Who were these other people?---I can't recall.  
41  
16:13:36 42 Were you present for any of these discussions and  
16:13:39 43 negotiations?---No.  
44  
16:13:40 45 So how are you aware that they occurred?---I was there.  
46  
16:13:44 47 You just told me you weren't there, you weren't in the

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16:13:46 1 room?---No, I was in the organisation, I was here.  
2  
16:13:49 3 So someone told you?---For example, I recall being involved  
16:13:52 4 with discussions for example about Mr Moloney and he had -  
16:13:56 5 sorry, go on.  
6  
16:13:57 7 Please continue, I didn't mean to cut you off there?---The  
16:13:59 8 negotiation that took place with him was that he would have  
16:14:03 9 the period he was going to be retained would be extended.  
10  
16:14:06 11 The period he was going to stay would be extended?---Yes.  
12  
16:14:09 13 So he was going to stay as an Assistant  
16:14:13 14 Commissioner?---Yes.  
15  
16:14:13 16 So that's completely contrary to what you've said here  
16:14:15 17 about the plan being to make them all think that they were  
16:14:18 18 getting fired?---I'm just relaying what happened in a  
16:14:22 19 particular meeting, not what happened afterwards.  
20  
16:14:25 21 Right, okay. This particular meeting and you say the other  
16:14:29 22 three Deputy Commissioners were there as well?---Two, yes.  
23  
16:14:34 24 Two, you're quite right, thanks Mr Jones. You say you told  
16:14:37 25 Mr Overland you wouldn't go along with it?---No, I thought  
16:14:40 26 it was a bad idea to do it that way.  
27  
16:14:41 28 And what other steps did you take other than telling  
16:14:46 29 Mr Overland you wouldn't go on with it?---None .  
30  
16:14:50 31 Did you raise it with the Government?---No.  
32  
16:14:52 33 You raised with the Government Mr Overland's proposal to  
16:14:58 34 physically move you to St Kilda Road?---Yes.  
35  
16:15:00 36 But you didn't raise with the Government concerns about  
16:15:04 37 five Assistant Commissioners and plans being put in  
16:15:05 38 place?---No, I didn't.  
39  
16:15:07 40 That's because it didn't occur?---Sorry?  
41  
16:15:09 42 I suggest because it's a fiction, this meeting?---No, it  
16:15:12 43 happened.  
44  
16:15:12 45 Okay, thank you. This is my final topic, Mr Jones. You've  
16:15:17 46 referred a number of times to a report of The Honourable  
16:15:20 47 Murray Kellam of February 2014 to support your evidence,

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16:15:26 1 you're very familiar with that report?---I wouldn't say  
16:15:29 2 familiar.  
3  
16:15:30 4 Okay. Kellam concludes in this report by reference to your  
16:15:36 5 OPI examination in 2001 that you made no secret of your  
16:15:41 6 antipathy to Mr Overland, that's a fair conclusion, isn't  
16:15:44 7 it?---No, because I was never examined by the OPI.  
8  
16:15:46 9 Well, is it a fair conclusion to say that your animus  
16:15:53 10 towards Mr Overland?---Sorry, I was - - -  
11  
16:15:54 12 That you animosity towards Mr Overland?---No, not that's  
16:15:55 13 fair. We didn't get along. I'd worked with and for some  
16:15:59 14 people I wouldn't go on holiday with but they were still  
16:16:03 15 terrific leaders. We just didn't gel.  
16  
16:16:06 17 You didn't gel?---No.  
18  
16:16:09 19 There was no love lost by the time you left?---No, that's  
16:16:12 20 fair to say.  
21  
16:16:13 22 Much of your evidence before this Commission is based on  
16:16:16 23 the fact that there was no love lost between you and  
16:16:18 24 Mr Overland?---No, it's not.  
25  
16:16:19 26 No?---I've already said to you I've worked for and with  
16:16:21 27 people I wouldn't go to dying with but they were terrific  
16:16:24 28 people.  
29  
16:16:25 30 So you haven't revised history to suit your personal view  
16:16:29 31 of Mr Overland in your statement?---No, this is consistent  
16:16:32 32 with submissions to various bodies over the years,  
16:16:34 33 particularly around that era.  
34  
16:16:37 35 Nothing further, thank you.  
16:16:38 36  
16:16:39 37 COMMISSIONER: Thanks very much Ms Coleman. Now there's an  
16:16:41 38 application for leave to cross-examine by Ms Condon for  
16:16:46 39 Mullett and Ashby.  
40  
16:16:51 41 MS CONDON: Yes, Commissioner.  
42  
43 COMMISSIONER: I've read the application. I understand it  
44 relates to paragraphs 25, 26 and 27 of the witness's  
45 statement.  
46  
47 MS CONDON: Yes.

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1  
16:16:52 2 COMMISSIONER: I'll see what counsel assisting says but I  
16:16:54 3 have to say it doesn't immediately appear to me to be  
16:16:59 4 terribly relevant to the Terms of Reference. What do you  
16:17:01 5 say, Mr Woods?  
16:17:02 6  
16:17:02 7 MR WOODS: Look, it's of only peripheral relevance. If it  
16:17:07 8 could be kept quite brief I wouldn't take an issue with it  
16:17:12 9 because I've got some reasons I need to re-examination that  
16:17:16 10 will take about ten minutes.  
11  
16:17:17 12 COMMISSIONER: I'll give you five minutes.  
13  
14 <CROSS-EXAMINED BY MS CONDON:  
15  
16:17:21 16 Thank you Commissioner. Mr Jones, my name is Ms Condon and  
16:17:24 17 I act on behalf of Mr Ashby and Mr Mullett. I want to ask  
16:17:28 18 you some questions about Operation Diana you were asked by  
16:17:32 19 Mr Holt?---Yes.  
20  
16:17:33 21 About your assessment of that operation. Just briefly,  
16:17:36 22 that was an operation that began in May of 2007?---Yes.  
23  
16:17:40 24 And before your time?---A long time before my time.  
25  
16:17:43 26 Because you arrived in March of 2009?---Yes.  
27  
16:17:46 28 That was an operation that arose out of Operation Briars,  
16:17:50 29 you're aware of that; aren't you?---Yes, I'm aware of that.  
30  
16:17:54 31 There were two planks to the operation, so to speak, the  
16:17:57 32 first was that it was directed to concerns relating to  
16:18:03 33 leaks that had alleged to have occurred in relation to  
16:18:07 34 Briars?---Yes.  
35  
16:18:07 36 And the second was that it was directed to an alleged  
16:18:12 37 improper association between Mr Ashby and  
16:18:18 38 Mr Mullett?---Yes.  
39  
16:18:19 40 You're aware of that; aren't you?---Yes, I'm aware of that  
16:18:22 41  
16:18:22 42 You were asked some questions by Mr Holt about your  
16:18:26 43 assumption that that was a joint operation?---Yes.  
44  
16:18:28 45 Not as was put to you that it was an own motion OPI  
16:18:32 46 investigation?---But I'd also stimulated many own motion  
16:18:36 47 OPI investigations so that in itself doesn't mean much.

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1  
16:18:39 2 That didn't indicate anything to you?---No.  
3  
16:18:42 4 May I ask, you told the Commissioner that the basis for  
16:18:46 5 that assumption lay in the fact that you'd seen some  
16:18:49 6 files?---Yes, I'd seen the paperwork.  
7  
16:18:51 8 Yes?---And we were working very closely with them.  
9  
16:18:54 10 Yes. Well may I ask, can I ask you specifically to recall  
16:18:58 11 if you can, what was it about the specific material that  
16:19:03 12 you'd seen that led you to that assumption?---There were  
16:19:12 13 files with the names of OPI people, VicPol people  
16:19:14 14 discussing and agreeing, moving forward in that way.  
15  
16:19:18 16 Yes, with VicPol people?---It looked to me like a joint  
16:19:22 17 operation.  
18  
16:19:22 19 Yes. Well in particular in relation to VicPol people, was  
16:19:25 20 there anything from ESD, Luke Cornelius was the head at the  
16:19:31 21 time, I'm sorry, anything in particular?---I don't recall.  
22  
16:19:34 23 You can't assist me?---Sorry.  
24  
16:19:36 25 I want to take you, please, to some assertions that you've  
16:19:40 26 made at paragraph 27 of your statement, thank you?---Right.  
27  
16:19:46 28 What you say there is that there'd been some criticisms of  
16:19:50 29 the then Chief, well that's Christine Nixon, the new Chief,  
16:19:55 30 Overland, had been picked up on the phone and listening  
16:19:59 31 devices deployed?---Yes.  
32  
16:20:00 33 Just so it's clear, the listening devices that you refer to  
16:20:03 34 there are those that had been obtained in relation to  
16:20:06 35 Operation Diana, correct?---Yes, correct.  
36  
16:20:09 37 "The OPI came up very late on in the investigation with the  
16:20:12 38 tenuous post op theory about individuals conspiring to  
39 destabilise the then Chief and install a puppet Chief Mr  
40 Ashby. In my view having seen the evidence this theory was  
16:20:25 41 fanciful to say the least and smacked more of convenience".  
16:20:27 42 Now it's the next aspect of your statement I'd like to ask  
16:20:30 43 you a little bit more about if I may?---Okay.  
16:20:32 44  
16:20:33 45 "I was also concerned over the strength of the many  
16:20:35 46 warrants that had been obtained to intercept many  
16:20:38 47 telephones." So that aspect of it?---Yes.

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1  
16:20:43 2 It's clear obviously to the Commissioner from your  
16:20:47 3 extensive investigative history and the wealth of  
16:20:50 4 experience that you brought to the role in March of 2009,  
16:20:56 5 that concern that you had, is it fair to say that's a  
16:21:01 6 reflection of many, many years of intuitive judgment, that  
16:21:05 7 concern?---Yes, and I felt this was fundamentally, apart  
16:21:10 8 from one issue, an employment matter and that personalities  
16:21:15 9 had clouded judgments, and quite frankly I was taken aback  
16:21:18 10 by the willingness of the State to go to these lengths over  
16:21:22 11 such matters.  
12  
16:21:23 13 Yes?---When we were confronted with some very serious  
16:21:27 14 criminality in other issues.  
15  
16:21:28 16 Yes?---It didn't seem proportionate to me at all.  
17  
16:21:30 18 Yes. In particular you noted or you became aware there was  
16:21:36 19 a telephone intercept that was taken out in relation to  
16:21:43 20 Mr Ashby's phone, correct?---Yes.  
21  
16:21:45 22 And in fact other members of his family?---Yes.  
23  
16:21:49 24 Just drawing your attention again to this concern that you  
16:21:52 25 had, was that concern specifically in relation to whether  
16:21:56 26 or not there had been a legitimate and proper basis?---Yes,  
16:22:00 27 that's exactly what it was.  
28  
16:22:02 29 For the telephone intercept in relation to Mr Ashby?---Yes,  
16:22:04 30 I agree. I was beginning to understand there was a reflex  
16:22:09 31 to go down that route for intrusive techniques, which we  
16:22:14 32 all know now has trickled off.  
33  
16:22:17 34 Can I ask you this: when you became involved in Operation  
16:22:20 35 Driver?---Yes.  
36  
16:22:21 37 And you became apprised of the full extent obviously of  
16:22:26 38 Gobbo's conduct?---Yes.  
39  
16:22:33 40 Did you ever become aware or was any assertion ever made to  
16:22:40 41 you that there had been an assertion made in the warrant,  
16:22:46 42 in the affidavit in support of the Ashby warrant that in  
16:22:49 43 fact Nicola Gobbo was the source of the information?---No,  
16:22:52 44 I've never heard that until today.  
45  
16:22:57 46 COMMISSIONER: One last question if you've got one.  
47

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16:23:01 1 MS CONDON: Yes, thank you, Commissioner. You ultimately,  
16:23:06 2 would you agree with this proposition, the tool - the use  
16:23:13 3 of the OPI as a suspect tool to marginalise Mr Ashby and  
16:23:22 4 Mr Mullett reflected in your view in many ways the way in  
16:23:27 5 which you'd been treated by the OPI, is that a fair  
16:23:30 6 assessment?---That seemed to me exactly what happened to  
16:23:34 7 me, that I was subjected to the same strength of intrusive  
16:23:37 8 surveillance and the same risible theories about puppet  
16:23:41 9 Commissioners. So, yes, I'd recognised it. But I  
16:23:44 10 mentioned this to Mr Strong back when I first joined, it  
16:23:48 11 did appear to me a sledgehammer to crack a nut.  
12  
13 The modus operandi was the same?---Yes.  
14  
16:23:53 15 Thank you, Commissioner.  
16  
16:23:55 17 COMMISSIONER: Thank you Ms Condon. Yes Mr Woods.  
16:23:57 18  
19 <RE-EXAMINED BY MR WOODS:  
20  
16:23:58 21 Just a couple of issues. In fact I might pare it back to  
16:23:59 22 one issue. Both Mr Holt and myself earlier in the day  
16:24:03 23 challenged you about your own, the discharge of your own  
16:24:07 24 obligations of disclosure once you became aware?---Yes.  
25  
16:24:13 26 Of Ms Gobbo's role as a human source, you recall both of  
16:24:16 27 those - - - ?---Yes, I recall that.  
28  
16:24:18 29 Your answer to that was that well, you reported to the  
16:24:22 30 Ombudsman and you essentially asked a retired judge what to  
16:24:27 31 do; is that right?---That's correct.  
32  
16:24:28 33 And you did that outside the organisation rather than  
16:24:32 34 internally for what reason?---Because you wouldn't want to  
16:24:36 35 signal to the people concerned that there were suspicions  
16:24:39 36 around what had been going on. The other thing it would be  
16:24:41 37 unfair to them, because the hindsight brigade would say  
16:24:47 38 you've challenged them and they've got rid of material and  
16:24:50 39 what have you. It isn't the way it's done.  
40  
16:24:54 41 You accept that disclosure to an accused person of matters  
16:24:58 42 that sit behind their charges which might indicate that the  
16:25:01 43 process has been abused in relation to the investigation  
16:25:03 44 and prosecution are important things to disclose to an  
16:25:06 45 accused person?---Absolutely, yes.  
46  
16:25:09 47 What was suggested to you on behalf of Victoria Police that

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16:25:12 1 disclosure in those Dale charges, the CDPP matters, in fact  
16:25:18 2 happened quite swiftly, do you recall him - after this all  
16:25:22 3 came out, it happened quite swiftly in that matter to the  
16:25:27 4 CDPP, that's something that he suggested to you?---Yes.  
5  
16:25:30 6 Now what in fact happened ultimately in relation to those,  
16:25:34 7 the charges that relied on Ms Gobbo was that, following  
16:25:39 8 that disclosure, was that the conversation that she had,  
16:25:42 9 the evidence that would be relied on was going to be led in  
16:25:45 10 her absence and she wouldn't be required as a witness, do  
16:25:48 11 you understand that?---Yes, I do.  
12  
16:25:49 13 So disclosure of her role as a human source would thus be  
16:25:53 14 protected?---Yes.  
15  
16:25:55 16 And I want to explain a couple of elements about what  
16:25:59 17 happened next and given your experience get your view on  
16:26:04 18 them. What seems to have happened, so on 3 November 2011  
16:26:08 19 there was a note that I took you through the contents of  
16:26:13 20 where it's discussed in a meeting that the now Chief  
16:26:16 21 Commissioner was at about Mr Karam's matter which hadn't  
16:26:21 22 come up for trial yet?---Right.  
23  
16:26:23 24 Where it was clear that those there discussed that the  
16:26:26 25 source of the information was Nicola Gobbo and it was  
16:26:28 26 apparently unclear to those at the table whether or not  
16:26:31 27 Ms Gobbo had been acting for the accused at that time. Now  
16:26:34 28 in that situation it would be a perfectly simple thing for  
16:26:36 29 the members at that table to find out?---Yes.  
30  
16:26:40 31 Whether or not Ms Gobbo had been acting for the person at  
16:26:42 32 the time?---Yes.  
33  
16:26:43 34 A couple of phone calls?---A phone call.  
35  
16:26:45 36 Okay. That trial was a year off happening at that stage  
16:26:49 37 and there was no disclosure in that trial?---Right.  
38  
16:26:52 39 Is that an unacceptable situation?---Totally unacceptable.  
40  
16:26:55 41 Then on July 2012 the Comrie report, which is essentially  
16:26:59 42 an internal desk top analysis of the SDU's documents  
16:27:05 43 concerning Ms Gobbo, identified serious issues with the use  
16:27:08 44 of Ms Gobbo and no disclosure happened as a result of that,  
16:27:12 45 is that an unacceptable situation?---Absolutely. I think,  
16:27:15 46 yes, absolutely.  
47

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16:27:17 1 Then a full two years later, on 31 March 2014, Mr Dowsley  
16:27:23 2 was publishing an article revealing this relationship  
16:27:31 3 between Victoria Police and Lawyer X?---Yes.  
4  
16:27:32 5 And in the intervening time there'd been no  
16:27:36 6 disclosure?---Right.  
7  
16:27:37 8 As a result of that article - - -  
9  
16:27:39 10 MR HOLT: I hesitate to interrupt, I know how tight for  
16:27:42 11 time we are, but with respect that's an extraordinary  
16:27:47 12 simplification of the evidence that was given. The  
16:27:49 13 evidence has been the disclosures took place over that  
16:27:52 14 period of time, including to prosecuting authorities, and  
16:27:53 15 if a scenario is to be put it ought with respect be put  
16:27:58 16 accurately.  
16:27:58 17  
16:27:59 18 MR WOODS: Let's restrict the disclosure then to the seven  
16:28:01 19 individuals that Justice Ginnane, the Court of Appeal and  
16:28:04 20 the High Court were dealing with. You're aware of those  
16:28:08 21 decisions?---Yes, I am ,yes.  
22  
16:28:10 23 Let's just restrict it to those then. All right. On 31  
16:28:16 24 March the Dowsley article occurs and it seems to be the  
16:28:23 25 case that at that stage there is a sudden flurry of  
16:28:26 26 activity the next day, being 1 April 2014. What does that  
16:28:32 27 indicate to you about the impetus or the motivations of  
16:28:36 28 those who took those sudden actions after the article?---I  
16:28:41 29 can only give an opinion that the game was up and it was  
16:28:44 30 time to sort of open up and actually sort this out.  
31  
16:28:47 32 Focusing on those seven individuals again, at that stage  
16:28:51 33 there is no disclosure. Then there's the report to IBAC on  
16:28:54 34 the basis of leaks that are made to Mr Dowsley on 2 April  
16:29:00 35 2014. Then there's the IBAC consideration of the matter  
16:29:05 36 and the ultimate handing down of Mr Kellam's report which  
16:29:11 37 recommended that the DPP be advised of the findings of the  
16:29:18 38 Kellam report for the purposes of disclosure?---Yes.  
39  
16:29:22 40 Now, rather than that occurring Victoria Police prevented  
16:29:28 41 that disclosure from occurring. Appropriate or  
16:29:33 42 inappropriate given your experience?---I think it's  
16:29:35 43 inappropriate, my view is they're in the bottom of a hole  
16:29:39 44 and they just keep on digging.  
45  
16:29:40 46 They went to Justice Ginnane, a very long running trial of  
16:29:49 47 the matter which they then lost requiring them to disclose.

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1 Again no disclosure, rather an appeal to the Court of  
16:29:49 2 Appeal. Appropriate or inappropriate given your  
16:29:53 3 experience?---Inappropriate. As I said before, the time  
16:29:55 4 had come to open this matter up and have some scrutiny and  
16:29:58 5 daylight into it years and years ago.  
6

16:30:01 7 Then they lost in front of the Court of Appeal and again  
16:30:04 8 took that loss to the High Court without disclosing the  
16:30:08 9 material?---Yes.

10  
16:30:09 11 Lost before the High Court as it is now known and to this  
16:30:15 12 day there are complaints from many individuals about the  
16:30:19 13 disclosure or lack thereof?---Yes.  
14

16:30:21 15 Is that appropriate or inappropriate?---I think it's  
16:30:23 16 inappropriate because it will feed into this narrative for  
16:30:30 17 years to come, and it will affect the justice process in  
16:30:34 18 the State, views of the police and that's so unfortunate.  
19

20 Thank you Mr Jones.  
21

16:30:39 22 COMMISSIONER: Thanks very much Mr Jones. Hopefully we  
16:30:42 23 won't need to trouble you again. If we do we'll be in  
16:30:45 24 touch. In the meantime you can enjoy the rest of your  
16:30:48 25 holiday?---Thank you.  
26

16:30:49 27 Could I thank counsel for being so concise in their  
16:30:52 28 cross-examination. We'll adjourn until 9.30 on Monday.  
29

16:31:20 29  
16:31:21 30 <(THE WITNESS WITHDREW)  
16:31:22 31

16:31:37 32 ADJOURNED UNTIL MONDAY 16 DECEMBER 2019  
33  
34  
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