

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 Tuesday, 3 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 N. McAteer Ms C. McCudden
Counsel for Nicola Gobbo	Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDP	Mr D. Holding
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for John Higgs	Ms C. Dwyer
Counsel for Pasquale Barbaro	Ms G. Connelly
Counsel for AFP	Ms I. Minnett
Counsel for Chief Commissioner of Police	Mr A. Coleman

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09:36:55 1 COMMISSIONER: Yes, appearances are largely as they were
09:36:57 2 yesterday but we have Mr McAteer for the State, Mr Holding
09:37:03 3 for the CDPP, otherwise they're the same. And we're in
09:37:07 4 open hearing. Yes, Mr Woods.
09:37:12 5
09:37:13 6 MR WOODS: Thank you, Commissioner. Just before I continue
09:37:14 7 with Mr Blayney, there's just an issue. Mr Glow is to give
09:37:18 8 evidence this week. His statement was signed on 21
09:37:20 9 November 2019. The issues that I'm about to identify are
09:37:26 10 peculiar to him but they have broader application in
09:37:28 11 relation to some other witnesses who are coming up. The
09:37:33 12 Commission's followed up a number of times, we still don't
09:37:36 13 have his diaries produced. The documents referred to in
09:37:41 14 his statement aren't in production. We've looked through
09:37:44 15 the system this morning. As we understand it the proper
09:37:47 16 course to take would be that once the documents are
09:37:50 17 identified, which obviously occurs to some degree in the
09:37:53 18 statement taking process, they should be produced to the
09:38:02 19 Commission, and perhaps then the statement taken. But in
09:38:04 20 any event it makes things unnecessarily difficult in
09:38:06 21 preparing the witnesses when we just don't have the
09:38:09 22 documents that sit behind it. So if we could ask that,
09:38:12 23 firstly, Mr Glow's documents be produced if they haven't
09:38:17 24 been produced in the last little while. And, secondly,
09:38:21 25 that that process is adopted for other statements into the
09:38:25 26 future, i.e. the documents are provided once they're
09:38:28 27 identified rather than afterwards.
28
09:38:32 29 COMMISSIONER: Yes. Ms Argiropoulos, it isn't
09:38:34 30 satisfactory. The documents I would expect probably should
09:38:36 31 have been produced long ago under the Notices to Produce.
09:38:39 32
09:38:39 33 MS ARGIROPOULOS: Yes, Commissioner. Can I just indicate
09:38:41 34 that's the first I've heard about this issue and I'll make
09:38:44 35 inquiries about that immediately. But certainly the usual
09:38:48 36 practice is that diaries and documents referred to in the
09:38:51 37 statements are put into production process as soon as
09:38:54 38 statements are finalised. So I'll follow that up urgently.
39
09:38:58 40 COMMISSIONER: Apparently it hasn't been happening is what
09:38:58 41 I'm told, and not only in case - this case is urgent
09:39:02 42 because he's going to be called as a witness shortly - but
09:39:02 43 other statements received too, documents aren't in
09:39:07 44 possession of the Commission.
09:39:08 45
09:39:09 46 MS ARGIROPOULOS: I'm surprised to hear that and I'll make
09:39:11 47 some inquiries separately with counsel assisting about

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09:39:13 1 where else the issue arises.
2
09:39:15 3 COMMISSIONER: Thanks Ms Argiropoulos. If you could let me
09:39:18 4 know perhaps at lunchtime what the position is.
09:39:20 5
09:39:21 6 MS ARGIROPOULOS: Yes, thank you.
7
09:39:21 8 COMMISSIONER: After lunch.
09:39:21 9
09:39:21 10 MR WOODS: And if it's possible - I mean the documents are
09:39:23 11 identified in the process of getting the statement
09:39:27 12 together. It might be that once they're identified as
09:39:29 13 relevant to the statement they're produced, not waiting for
09:39:31 14 the statement to be drafted but rather the documents are
09:39:33 15 produced immediately. That just makes things a bit more
09:39:36 16 efficient when the witnesses are being led. Thank you.
09:39:40 17
09:39:41 18 <JOHN JOSEPH BLAYNEY, recalled:
09:39:44 19
09:39:44 20 MR WOODS: I'm sorry to delay your evidence there,
09:39:46 21 Mr Blayney. We were discussing some issues in 2006 and I
09:39:49 22 think we finished yesterday going through some of your
09:39:53 23 particular experience in the development of policy for
09:39:56 24 management of human sources. I think we only just touched
09:40:00 25 on it briefly. What I wanted to ask you about now is the
09:40:05 26 way rewards were structured and in fact how the Rewards
09:40:12 27 Committee itself operated. Now when I'm talking about the
09:40:15 28 Rewards Committee I'm obviously talking about rewards to be
09:40:18 29 made on application by the SDU members to particular human
09:40:23 30 sources. That's a correct description of how the reward
09:40:26 31 system works?---M'hmm, yes.
32
09:40:29 33 And did you sit on the committee from time to time?---From
09:40:32 34 time to time, yes. The Assistant Commissioner Intelligence
09:40:39 35 and Covert Support Command chaired the committee.
36
09:40:39 37 Yes?---And was supported by his command, the Human Source
09:40:44 38 Management Unit in the development of the documentation in
09:40:47 39 support of the claims.
40
09:40:49 41 Yes?---And I believe there was a rotation system in regards
09:40:56 42 to a range of senior officers across the organisation were
09:41:01 43 utilised to sit on that committee, so you weren't there as
09:41:05 44 a permanent committee member.
45
09:41:06 46 Yes?---From time to time you'd be invited there to
09:41:08 47 participate and play a role in determining the merits or

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09:41:13 1 otherwise of applications.
2
09:41:15 3 So that person who held that role at the time we're talking
09:41:19 4 about was the Assistant Commissioner Intelligence Covert
09:41:22 5 Support Command, Mr Moloney; is that right?---Yes, I
09:41:27 6 believe so, yes.
7
09:41:29 8 I can see from the documents about the Reward Committee
09:41:32 9 that there seem to have been, perhaps not ad hoc members,
09:41:36 10 but people, it seems to have been those permanent members
09:41:41 11 you've identified and every now and then someone would be
09:41:44 12 asked essentially to sit on the committee; is that
09:41:50 13 right?---I can't recall exactly what process that
09:41:54 14 Mr Moloney had in place but my more general experience I
09:41:59 15 suppose was more around a rotation.
16
09:42:01 17 Yes?---And with a lack of permanency other than the
09:42:07 18 Assistant Commissioner for Intelligence and Covert Support
09:42:09 19 being the Chair of the committee.
20
09:42:11 21 Mr Overland certainly in the couple of examples that we've
09:42:13 22 seen to date in the Commission sat on that committee from
09:42:16 23 time to time. Was he a permanent member in your time or
09:42:19 24 was he someone who sat from time to time?---Look, I can't
09:42:23 25 recall Mr Overland being on the committee as such.
26
09:42:25 27 Okay?---I can recall myself being on the committee from
09:42:30 28 time to time, invited to participate both as a
09:42:34 29 Superintendent and as an Assistant Commissioner.
30
09:42:36 31 Yes. Who was it, to the best of your recollection, who was
09:42:41 32 it who would invite you to be a member from time to
09:42:44 33 time?---The Assistant Commissioner through the secretariat
09:42:47 34 for the committee would simply give you an invitation to
09:42:49 35 come along and participate and it was almost like an
09:42:53 36 obligation for senior officers to actually participate and
09:42:56 37 assist in that process.
38
09:42:58 39 I see. That was the Assistant Commissioner of Intelligence
09:43:00 40 Covert Support Command?---That's correct.
41
09:43:02 42 Okay, all right. There's a particular meeting that I'm
09:43:08 43 interested in that occurred in April 2006. I think some of
09:43:13 44 the diary entries and meetings that I took you through
09:43:16 45 yesterday began in January 2006 so I'm really working
09:43:22 46 chronologically up to these later - this later period of
09:43:28 47 time. Now there's a meeting that occurred and I'll take

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09:43:33 1 you to the details of it, but is it correct that you - or
09:43:38 2 do you have any recollection of being a member of the
09:43:40 3 Rewards Committee in April 2006?---Not independently, no.
4
09:43:47 5 At that time - so other evidence before the Commission has
09:43:50 6 indicated that Ms Gobbo had a couple of speeding fines that
09:43:54 7 she'd explained to the SDU members who were dealing with
09:44:00 8 her that she'd incurred as part of the work that she was
09:44:03 9 doing for the SDU and what appears to have happened is she
09:44:09 10 asked, from early 2006 and continuing up, up until April
09:44:15 11 2006, to see if they could be withdrawn, or whatever the
09:44:20 12 mechanism is, and that that eventually came before the
09:44:26 13 Rewards Committee in April 2006 and the meeting, or those
09:44:30 14 chairing the meeting comprised, or chairing the committee,
09:44:34 15 sorry, comprised Overland, yourself and Moloney. You don't
09:44:41 16 have any recollection of speeding fines coming up before
09:44:45 17 the committee?---No.
18
09:44:47 19 I just want to take you to some things that happened not to
09:44:51 20 your knowledge prior to that meeting and just to see
09:44:54 21 whether they came to your knowledge after these
09:44:57 22 communications happened. In the days prior to the
09:45:00 23 meeting - in fact I'll tell you the date because then you
09:45:03 24 can have a look at your diary. It's 26 April 2006. Do you
09:45:18 25 have any note of attending a meeting?---Yeah, at 1 pm I've
09:45:24 26 got "Informer Payments Committee as per minutes".
27
09:45:27 28 Yes. Does it say who the other members were?---No.
29
09:45:31 30 Okay. The day prior to that meeting Sandy White - you
09:45:39 31 understand who Sandy White is when I say that name?---Yes.
32
09:45:42 33 He had discovered that you were to be a member of the
09:45:47 34 Rewards Committee sitting on the 26th and apparently
09:45:51 35 expressed concern about that fact. Now I want to bring up
09:45:55 36 Mr White's diary, this is VPL.0100.0096.0157. This is at
09:46:06 37 p.0199. This can only I think go up on the witness's
09:46:13 38 screen. It should be able to go up on everyone's screen at
09:46:18 39 the Bar table I think. Once it comes up. You'll see over
09:46:27 40 on the left-hand side, the Tuesday in April 2006 and he
09:46:33 41 says - if you go down - "Re rewards payment committee
09:46:40 42 tomorrow. Advised I was INF"?---Informed I'd imagine.
43
09:46:51 44 Yes. He was informed it was going to be on Friday the 29th
09:46:55 45 of the 5th. Can you go to the top of the next page. He's
09:47:01 46 then told it's been changed from Fridays to Wednesdays. He
09:47:08 47 says, "Cannot process" - sorry, that's a different one. A

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09:47:12 1 couple of lines down. "3838 reward application will go
09:47:16 2 before committee tomorrow", and it says who the members of
09:47:23 3 that committee are going to be, which is Overland, Moloney
09:47:27 4 and yourself. He's made a query of why you would be
09:47:31 5 included re 3838. There are arrangements made via Porter
09:47:39 6 and discussion with McLean re two man committee, Overland
09:47:44 7 and Moloney. He's queried why the reward application -
09:47:51 8 sorry, that's a different one down there. Now it appears,
09:47:55 9 and I think you'll agree from that, he's got some concern
09:47:59 10 about you being a member of that committee. Do you agree
09:48:02 11 that's reflected in his diary note?---It could be inferred,
09:48:04 12 yes.

13
09:48:05 14 Was that something that was ever explained to you, that
09:48:08 15 there was any concern about you being a member of a Rewards
09:48:12 16 Committee determining rewards to be made to 3838?---Not
09:48:16 17 that I can recall.

18
09:48:17 19 Okay. I want to bring up the rewards - the documents.
09:48:25 20 These are - I tender that - that will be already be
09:48:28 21 tendered. Sorry, Commissioner. The next document I want
09:48:33 22 to bring up is the application form. This is
09:48:40 23 VPL.0100.0120.0001. It's at p.0067. That's the document
09:48:46 24 on the screen. This is the usual form to your recollection
09:48:51 25 that was used for informer rewards?---I can't recall but I
09:48:56 26 wouldn't question it.

27
09:48:57 28 I want to go - so you can see there that the pseudonyms for
09:49:02 29 those individuals are Officer Peter Smith is the first one
09:49:08 30 as the handler, the second, the controller, is officer
09:49:11 31 Sandy White, the OIC is Dean McWhirter, and the LIR is Mark
09:49:18 32 Porter. I want to scroll down to p.81 of that document.
09:49:20 33 You'll see there this is on 11 May and it's to Assistant
09:49:27 34 Commissioner Ashby who's Traffic and Transport and it's
09:49:30 35 from Paul Walshe. You'll see there it's entitled "Request
09:49:36 36 withdrawal of penalty notices". One, "On 26 April 2006 the
09:49:41 37 Human Source Payments Committee convened to determine the
09:49:43 38 application". The committee - it talks about the three
09:49:48 39 members I've identified before. It says that it was heard
09:49:51 40 and determined and essentially that there was a request
09:49:57 41 that those infringement notices be withdrawn, do you see
09:50:03 42 that?---Yes.

43
09:50:05 44 Just pausing there. I'm not so interested in the propriety
09:50:09 45 or otherwise of withdrawal of speeding notices but was that
09:50:14 46 the sort of thing that came up before the committee from
09:50:18 47 time to time or is that an unusual request?---I would

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09:50:21 1 consider it unusual. I can't recall this incident, nor any
09:50:24 2 other time that that sort of thing has occurred.
3
09:50:26 4 Okay?---From time to time there might be out of Informer
09:50:32 5 Rewards Fund things like parking fines, et cetera, paid.
09:50:36 6 But not - I can't recall being involved in a case where
09:50:41 7 penalty notices are withdrawn.
8
09:50:43 9 In other words the financial impost from the fine might be
09:50:47 10 covered by the Rewards Committee but certainly not the
09:50:51 11 withdrawal of?---That's correct.
12
09:50:54 13 Okay, I understand. There's evidence that what Ms Gobbo
09:50:59 14 was saying to her handlers was that there was a potential
09:51:04 15 effect, that these demerit points might affect her having a
09:51:09 16 licence and might effect her being able to actually work as
09:51:12 17 a source into the future and that's part of the application
09:51:15 18 documents, so that doesn't trigger any memory?---I can't
09:51:17 19 recall that.
20
09:51:18 21 Okay. Now I want to go down to pp.98 and 99 of that
09:51:23 22 document. You'll see there there's - these are the two
09:51:31 23 fines that were being considered by the Rewards Committee
09:51:35 24 and they have the name Gobbo, Nicola Maree and the thing
09:51:45 25 that interests me is whether or not the documents in this
09:51:48 26 particular form were provided to the Rewards Committee. I
09:51:54 27 should say in the bundle of documents that have been
09:51:57 28 provided to the Commission, including these, there are
09:52:01 29 versions with Ms Gobbo's name on them and then there are
09:52:06 30 versions with Ms Gobbo's name with a texta, a black texta
09:52:11 31 through them. At this stage you would have known who
09:52:13 32 Ms Gobbo was I take it?---This meeting was when?
33
09:52:19 34 April 2006?---No, I wouldn't have.
35
09:52:22 36 Okay, you wouldn't have recognised her name even if it was
09:52:26 37 in the document?---I can't recall whether I would have
09:52:29 38 known of Nicola Gobbo. Certainly back in 1996 I had a
09:52:34 39 conversation about Nicola Gobbo but I would not have
09:52:37 40 recalled that later on obviously in 2006.
41
09:52:40 42 Okay?---So, look, if what we're getting to in terms of
09:52:49 43 whether or not this was presented to the Informer Payments
09:52:53 44 Committee, I can't recall.
45
09:52:53 46 Sure?---But I will say that if it was, it was basically not
09:52:56 47 the practice for the committee to have any documentation

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09:53:00 1 that identifies an informer.
2
09:53:03 3 And indeed you, the evidence you gave yesterday is that you
09:53:07 4 would have taken a very dim view of anyone identifying an
09:53:11 5 informer's real name in this type of setting; is that
09:53:15 6 right?---Yes, whenever any documentation is produced for an
09:53:20 7 audience that is not privy to the identity and the Informer
09:53:25 8 Payments Committee, generally the members of the committee
09:53:27 9 are not aware of the identity of the human source.
10
09:53:30 11 Yes?---Always a code number would be used and never
09:53:34 12 anything included in the documentation that would identify
09:53:36 13 the actual source.
14
09:53:37 15 And the next document I'll take you to might assist in that
09:53:41 16 regard. So this is a document - I'm not sure whether
09:53:47 17 that's been tendered. I don't believe it has. It's a very
09:53:50 18 long document and what I'd seek to tender as part of it are
09:53:56 19 the bits that I've referred to, which are the application
09:54:00 20 form, the letter, the two infringement notices with the
09:54:04 21 name and then, as I say, there are two other infringement
09:54:08 22 notices without the name, with the name redacted I should
09:54:11 23 say. I seek to tender those as a bundle if that's - - -
24
09:54:15 25 COMMISSIONER: Are they part of another document?
09:54:18 26
09:54:19 27 MR WOODS: Yes, they're a much larger document.
28
09:54:21 29 COMMISSIONER: What is the document they're part of?
09:54:24 30
09:54:24 31 MR WOODS: The document that they're part of comprises all
09:54:32 32 sorts of different things. They're not just about Informer
33 Rewards Committee.
34
09:54:36 35 COMMISSIONER: What's its name?
09:54:37 36
09:54:38 37 MR WOODS: It's the IMU file.
09:54:40 38
09:54:46 39 COMMISSIONER: We'll make it 818. I suppose they might have
09:54:48 40 to be redacted, is that right?
09:54:50 41
09:54:50 42 MS ARGIROPOULOS: I would think so, Commissioner.
43
09:55:01 44 COMMISSIONER: If you just help me with this because I want
09:55:03 45 to make sure we can identify the documents.
09:55:06 46
09:55:06 47 MR WOODS: Yes.

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09:55:07 1
09:55:08 2 #EXHIBIT RC818A - (Confidential) Application form for a
09:55:11 3 reward.
09:55:13 4
09:55:14 5 #EXHIBIT RC818B - (Redacted version.)
09:55:18 6
09:55:18 7 MR WOODS: For the record that's at p.0067.
8
09:55:22 9 COMMISSIONER: Yes.
09:55:22 10
09:55:23 11 MR WOODS: The next is at p.0081, which is the letter
09:55:27 12 reporting about the outcome of the meeting.
09:55:31 13
09:55:32 14 #EXHIBIT RC818C - (Confidential) Letter re outcome of
09:55:35 15 meeting dated 11/5/2006.
09:55:41 16
09:55:44 17 #EXHIBIT RC818D - (Redacted version.)
09:55:46 18
09:55:47 19 MR WOODS: Then the fines themselves which are at pp.0098
09:55:54 20 and 0099.
09:55:55 21
09:55:57 22 COMMISSIONER: Presumably there'd be nothing to be redacted
09:55:59 23 in those.
09:55:59 24
09:56:01 25 MR WOODS: I don't think so, other than the names of the
09:56:03 26 controller and the handler.
27
09:56:04 28 COMMISSIONER: We'll do E and F then.
09:56:06 29
09:56:07 30 #EXHIBIT RC 818E - (Confidential) Fines issued to Ms Gobbo.
09:56:11 31
09:56:12 32 #EXHIBIT RC 818F - (Redacted version.)
33
09:56:32 34 COMMISSIONER: Is there more?
09:56:33 35
09:56:33 36 MR WOODS: Yes, there's then the two copies with the name
09:56:37 37 redacted. Unfortunately I don't have the page number for
09:56:40 38 those but if you can scroll through - - -
39
09:56:41 40 COMMISSIONER: That's the redacted copies of the fines?
09:56:44 41
09:56:45 42 MR WOODS: Yes, that's right.
43
09:56:46 44 COMMISSIONER: There might be two. Yes, all right.
09:56:48 45
09:56:49 46 #EXHIBIT RC818G - (Confidential) Redacted copies of the
09:56:56 47 fines issued to Nicola Gobbo.

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09:56:58 1
09:56:58 2 #EXHIBIT RC818H - (Redacted version.)
09:57:09 3
09:57:10 4 MR WOODS: Thank you, Commissioner. What I'd like to
09:57:13 5 take - - -
6
09:57:13 7 COMMISSIONER: That's the end of that exhibit. Those
09:57:16 8 extracts from the IMU file will be 818A to H.
09:57:23 9
09:57:24 10 MR WOODS: Yes, thank you, Commissioner. There's a note
09:57:25 11 that is recording - in fact it's relevant to the exchange
09:57:30 12 we had just a moment ago, Mr Blayney. This is at
09:57:37 13 VPL.2000.0002.0892 and it's at p.896. You'll see here this
09:57:46 14 appears to have formatting removed from the document. I
09:57:50 15 think it might be because it was something that was put
09:57:54 16 into the Loricated database. Do you know what the
09:57:56 17 Loricated database is? Or perhaps into Interpose? Do you
09:58:06 18 know - in any event, do you see at the bottom of the page
09:58:09 19 there there's a note there, "Comment made by AC Overland
09:58:15 20 that when a highly sensitive source reward request is to be
09:58:17 21 presented to the HSPC the name of the source should be left
09:58:22 22 off the reward"?---I note that, yes.
23
09:58:27 24 Keep going down. "The reward applications issued to the
09:58:32 25 committee members and only noted on a single document
09:58:36 26 provided by the HSMU at the time of the HSPC if required",
09:58:42 27 do you see that note there?---Yes.
28
09:58:44 29 That's in relation to the particular reward application
09:58:49 30 that we've just been through being the withdrawal of the
09:58:52 31 two speeding fines. Do you recall any conversation with
09:58:59 32 Mr Overland or any consternation from him about informer
09:59:03 33 names being left on documents at any stage that came before
09:59:07 34 the Rewards Committee?---No.
35
09:59:10 36 No. But you accept on the basis of what Mr Overland is
09:59:14 37 saying in that document, that he has received documents
09:59:20 38 that in fact contained highly sensitive source reward -
09:59:26 39 sorry, the name of the source in the application documents,
09:59:30 40 do you accept that that's what he's complaining
09:59:33 41 about?---That appears to be the case, yes.
42
09:59:36 43 As I said a moment ago, there are two versions of the
09:59:39 44 documents, it's not entirely clear which one came before
09:59:42 45 the actual committee, but there was clearly some concern
09:59:45 46 from Sandy White about your involvement in the committee
09:59:46 47 and then there is both a redacted and an unredacted form

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09:59:51 1 and this comment from Mr Overland. I'm going to take you
09:59:55 2 to another document. If the document that I had up a
10:00:17 3 moment ago - I think there's a couple of versions of this.
10:00:20 4 There might be some confusion about which version is to
10:00:25 5 come up on the screen. It might be easiest if you bring up
10:00:28 6 the application form document that those exhibits were
10:00:33 7 tendered through a moment ago which finishes in 0001. If
10:00:39 8 you could just scroll down through that document. Was it
10:00:46 9 the case that the Request for Informer Reward - it seems to
10:00:51 10 have been a fairly detailed document that the Rewards
10:00:54 11 Committee would receive. Would you be told, for example,
10:00:58 12 the value of the information the source was giving at a
10:01:00 13 particular time so you could actually understand the
10:01:03 14 relevance and whether or not the reward was
10:01:07 15 deserved?---Certainly, yes.
16
10:01:10 17 What I'd like to do is, firstly, I'd like to understand the
10:01:16 18 process at the committee meeting. It seems that from the
10:01:20 19 diary notes of Sandy White dealing with not just this
10:01:24 20 reward application, but others, there seems to have been
10:01:27 21 some real formality to the process. He talks about when
10:01:33 22 applications come on at short notice he might need to "seek
10:01:37 23 an adjournment". He seems to be using the sort of language
10:01:41 24 that it was quite a formal setting that the SDU member was
10:01:45 25 required to appear in front of this committee. Was that
10:01:48 26 your recollection, was it formal or informal?---It was
10:01:51 27 quite formal. I suppose the formality is set by the
10:01:57 28 Assistant Commissioner Intelligence and Covert Support
10:01:59 29 Command, but the committee would form in the room and the
10:02:03 30 Human Source Management Unit or whoever else was addressing
10:02:06 31 any of the reward applications would be required to present
10:02:12 32 their case.
33
10:02:13 34 Yes?---And the supporting evidence to the committee and
10:02:16 35 then answers questions that the committee might have in
10:02:19 36 regards to the merits or otherwise of their claim. So it
10:02:24 37 was quite, yeah, quite a formal meeting.
38
10:02:27 39 And there were minutes taken of those meetings?---I believe
10:02:32 40 so. I can't recall back from 2006 but certainly in more
10:02:39 41 recent years when I sat on that committee there were
10:02:44 42 extensive notes in regards to the application itself.
10:02:50 43 There were forms that needed to be filled out relating to
10:02:53 44 approval or non-approval, and there was also a commentary
10:03:00 45 if we had any recommendations or views that we agreed upon
10:03:04 46 would also be incorporated within that file. But I can't
10:03:08 47 recall within 2006 - it comes down to probably the

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10:03:12 1 Assistant Commissioner running the process as to the level
10:03:15 2 of detail that he or she might want in that process.
3
10:03:17 4 I see. But certainly in the application form, and we'll go
10:03:20 5 through some details of it now, it seems to be - as we
10:03:25 6 discussed a moment ago, there seems to have been a
10:03:28 7 requirement to state the case by the person, whether it was
10:03:32 8 an SDU member or otherwise, as to why the reward should be
10:03:36 9 approved. That's the case?---In more recent years it's
10:03:40 10 been the Human Source Management Unit who would do the
10:03:44 11 assessment and the recommendation to the committee and the
10:03:48 12 applicant as such, it might be the handler who might come
10:03:53 13 from Crime Department or another area in the organisation,
10:03:56 14 would not necessarily be present unless the committee would
10:04:00 15 like to hear from that person. So it was the Human Source
10:04:05 16 Management Unit's assessment that was I suppose the
10:04:08 17 critical thing that the committee was focusing on.
18
10:04:12 19 Okay. It might be that I need a slightly different version
10:04:16 20 of that document brought up. So what I need is
10:04:35 21 VPL.0100.0121.0155. The confusion here is there are a
10:04:45 22 number of different versions of this file and I just want
10:04:48 23 to go to the application document. I apologise for the
10:04:50 24 late notice of that number. It's the second page of that
10:04:55 25 document when it comes up. Essentially would the usual
10:04:59 26 process then be that the application documents that set out
10:05:05 27 the basis of the application and then why that application
10:05:11 28 should be accepted, is that a document that was spoken to
10:05:14 29 by the - if it was an SDU member, they would speak to that
10:05:23 30 document and explain the basis of the application?---Look,
10:05:25 31 I can't recall back then but I'd assume probably that would
10:05:28 32 be the case, they're part of that division in that Command.
33
10:05:33 34 So here, if we scroll down through to the next page you'll
10:05:38 35 see there it's approved by McWhirter there. Just bringing
10:05:43 36 that up. You'll see "provide a detailed summary of the
10:05:49 37 assistance provided by the RI", and it says there, "This
10:05:52 38 human source is providing extremely sensitive information
10:05:56 39 on a number of very high level drug manufacturers and
10:05:59 40 traffickers and has been doing so for several months. This
10:06:03 41 large volume of information has been found to be
10:06:06 42 exceptionally accurate and timely and is being disseminated
10:06:10 43 to Operation Purana for current operations. It is expected
10:06:15 44 that the source will continue to provide vital intelligence
10:06:18 45 in the foreseeable future". You'll see there that there's
10:06:24 46 a large number by that stage, 107 information reports have
10:06:32 47 been generated and it talks about where they've been

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10:06:36 1 disseminated to, which is broadly throughout the force, you
10:06:39 2 agree with that?---Yes.
10:06:40 3
10:06:47 4 And it says, "Due to the status of this source she is seen
10:06:50 5 as extremely valuable and is committed to assisting police
10:06:53 6 which is occurring on a daily basis", and her motivation is
10:06:55 7 listed there to be a moral motivation, do you see that
10:06:56 8 that?---Yes.
9
10:06:57 10 Just pausing there, it would be usual that this form,
10:06:57 11 albeit not identifying Nicola Gobbo, this form would be the
10:07:02 12 form that was provided to the committee for their
10:07:04 13 deliberation?---Yes.
14
10:07:05 15 Keep scrolling down. "IMU will include relevant criminal
10:07:13 16 history and prior convictions", and there's that traffick
10:07:21 17 amphetamine charge which is listed there. There's no
10:07:24 18 charges pending against her at the time. Keep scrolling
10:07:27 19 down. Sorry, traffick amphetamine is what she'd been
10:07:36 20 assisting on rather than the historical charge that the
10:07:40 21 Commission's heard about in previous hearings. So you'll
10:07:45 22 then see, "Without the assistance of the human source
10:07:48 23 certain investigative arms of Operation Purana would not be
10:07:52 24 supported with relevant intelligence" and, "This human
10:07:56 25 source is placing their personal safety at extreme risk by
10:07:59 26 supplying this information". Now I want to go down to -
10:08:05 27 you can see the high quality of the information. The next
10:08:11 28 part is the recommendation for reward. Now you'll see that
10:08:17 29 what I suggested to you a moment ago about the possibility
10:08:21 30 of her licence being suspended is something that's
10:08:25 31 identified here. It talks about the two traffic camera
10:08:29 32 penalty notices and the date they were received. They were
10:08:33 33 received close in time. She was acting directly on
10:08:37 34 instructions from the handlers to meet and ascertain
10:08:48 35 movements of primary targets of Purana, that there was
36 relevant intelligence obtained on the day. "If the fines
10:08:51 37 are processed the human source is likely to have their
10:08:53 38 driver's licence suspended or will be very close to having
10:08:56 39 this occur. This would cause great difficulty to the
10:08:59 40 source in achieving future results of handler being able to
10:09:03 41 task the source", and so again that's - you would have
10:09:08 42 known, and as with the others on the committee, that there
10:09:12 43 was very significant intelligence that was being received
10:09:15 44 by this particular source at this time?---Yes.
45
10:09:21 46 Scroll down. Then you'll see there that it's got the
10:09:31 47 informer details and it says, "IM use only". Can you

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10:09:37 1 explain what that means?---Not knowing the practice back in
10:09:40 2 2006 but I would assume that that would only be an internal
10:09:45 3 document utilised by the Informer Management Unit which is
10:09:48 4 now the Human Source Management Unit.
5
10:09:52 6 Given the fact that Overland a couple of days later is
10:09:57 7 saying that he's concerned that the name of the source
10:10:01 8 should be left off the reward applications, what I'm
10:10:07 9 interested in is whether or not there was some prospect
10:10:09 10 that in fact Ms Gobbo's name did appear on this document as
10:10:16 11 it came before - - - ?---I don't know. It's possible that
10:10:18 12 the dissemination at some stage to Mr Overland included the
10:10:23 13 IMU copy, rather than the committee's copy.
14
10:10:27 15 I see?---Which would have that - not that information
10:10:30 16 included.
17
10:10:31 18 Okay. If we can just scroll down a bit further. You'll
10:10:38 19 see there there's the approval. Do you see that?---M'hmm.
20
10:10:43 21 And you'll see the signatures of Overland, Moloney and
10:10:46 22 yourself?---Yes.
23
10:10:48 24 And it says, "Withdrawal of P/N as requested". Do you
10:10:58 25 recognise the handwriting under "Type of reward
10:11:03 26 approved"?---No.
27
10:11:04 28 No. Given what you've seen of the document is it the case
10:11:09 29 that this was likely, this entire document was put before
10:11:13 30 you even including Ms Gobbo's name?---It was contrary to
10:11:18 31 practice, that's all I can say. I can't recall the meeting
10:11:21 32 specifically.
33
10:11:22 34 All right. Do you know who it was who took the minutes or
10:11:25 35 the notes of these meetings?---The meeting would be
10:11:31 36 supported by the, back then the Informer Management Unit,
10:11:35 37 but I don't know the identity of the person who may have
10:11:38 38 been compiling the minutes.
39
10:11:40 40 Just to get an understanding of the lay-out of the room.
10:11:43 41 You had the members of the committee, in this case three
10:11:46 42 members of the committee, you had the SDU member who was
10:11:50 43 stating the case for the reward applicant or the person who
10:11:56 44 would receive the reward, the source. Were there other
10:12:00 45 people in the room generally?---Yes, there'd be the
10:12:02 46 secretariat support to the actual committee.
47

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10:12:05 1 Okay. Was it that person's role to minute?---To ensure
10:12:09 2 that the records for the meeting were obviously accurate
10:12:13 3 and compiled.
4

10:12:16 5 Is that the role that you believe was fulfilled by someone
10:12:20 6 from - where did that person come from?---I assume the
10:12:25 7 Informer Management Unit.
8

10:12:26 9 Okay?---Of recent years it's been the Human Source
10:12:30 10 Management Unit. They would administer the processes for
10:12:33 11 the committee and they'd be responsible for the
10:12:41 12 documentation pre and post meeting.
13

10:12:43 14 This is obviously some time ago but do you have any
10:12:45 15 recollection of where the minutes of those or the records
10:12:46 16 of those meetings were kept when they were minuted?---They
10:12:50 17 would be kept - my view, I never saw them. I assume
10:12:56 18 they're kept at the Human Source Management Unit.
19

10:12:58 20 Okay. The timing of this - you can see the significance of
10:13:10 21 the information that's being received and utilised by the
10:13:15 22 source in the application document, you accept that it was
10:13:18 23 very significant information that was being
10:13:20 24 received?---Yes.
25

10:13:21 26 The timing of this particular application was a number of
10:13:25 27 days after a very significant arrest of an individual. I
10:13:30 28 might ask that the witness be shown cards.
29

10:13:38 30 COMMISSIONER: Yes.
31

10:13:39 32 MR WOODS: The problem is communicating the names to your
10:13:43 33 associate. I'll just circle it on the list for you.
34

10:13:51 35 COMMISSIONER: We can give him Exhibit 81 if would help, if
10:13:55 36 there are other names to be used, or otherwise we can give
10:13:56 37 him the particular number that you're interested in.
38

10:13:59 39 MR WOODS: If I can find the person's name. You've got it.
10:14:04 40 The arrest of the person in front of you had occurred [REDACTED]
10:14:08 41 [REDACTED] before this meeting sat. You see that person's name
10:14:13 42 there?
43

10:14:46 44 I might just say a number of days. That's a person that
10:14:58 45 you've come to know about - - - ?---Through briefings from
10:15:04 46 Purana, yes.
47

.03/12/19

10225

BLAYNEY XXN

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10:15:05 1 That's right. In fact he was a person that was discussed
10:15:09 2 in those morning and the weekly updates quite regularly in
10:15:13 3 early 2006?---I wouldn't say quite regularly, but yes, the
10:15:18 4 reference to "weak link" from yesterday, that's PII .
5
10:15:22 6 And some of the other diary entries of others who were at
10:15:25 7 meetings that you were at, as we went through yesterday,
10:15:28 8 identify that that person was of particular interest,
10:15:31 9 PII ?---That's correct.
10
10:15:34 11 That might be the easier way to do it. That's something
10:15:37 12 that had happened in the day - there was an investigation
10:15:43 13 plan, just going back to that issue briefly, an
10:15:46 14 investigation plan for the Posse part of Purana. It was
10:15:53 15 quite a detailed document where the focus of the
10:15:55 16 investigation would be. Given your role and the
10:15:59 17 significance of your role as to resourcing, I assume that
10:16:02 18 would be a document that would have been provided to you at
10:16:05 19 the time, the Posse investigation plan? Is that the sort
10:16:09 20 of thing that you would get so that you could consider
10:16:11 21 resourcing?---Possibly but I can't recall it. I do know at
10:16:14 22 some stage I was concerned that Operation Posse was such a
10:16:22 23 large investigation that had a lot of sub-investigations
10:16:27 24 being conducted within it.
25
10:16:28 26 Yes?---And that I asked that there was more specific
10:16:33 27 investigation about those sub-investigations so that
10:16:37 28 Operation Posse is not used to explain everything, the
10:16:40 29 elements of it or the arms of it have a different operation
10:16:43 30 name so I could be more specific in regards to what they
10:16:47 31 were about.
32
10:16:48 33 Yes. Suffice to say it was your understanding that Posse
10:16:51 34 as an overall part of Purana, it's focus was on bringing
10:16:56 35 down the Mokbel cartel?---That's correct.
36
10:16:58 37 That was something that was openly discussed?---Yes.
38
10:17:04 39 Then underneath that umbrella of Posse, I take it what
10:17:07 40 you're explaining is that there were a number of offshoots
10:17:10 41 that were - - - ?---The numerous investigations that were
10:17:14 42 in fact operations in their own right, and it became a
10:17:16 43 difficult thing to map when Posse was used as the operation
10:17:19 44 name for any particular application that was coming to me,
10:17:22 45 I wanted it to be more specific around those particular
10:17:25 46 investigations that should have operation names.
47

.03/12/19

10226

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10:17:27 1 Yes, I see. All right. Now, there were some proposals put
10:17:39 2 to you about elements of the arrest of that person, and
10:17:45 3 this was in the IBAC, Justice Kellam's hearing in IBAC,
10:17:52 4 when the elements of the arrest of that particular person
10:17:55 5 were put to you and I want to bring up just on yours and my
10:17:59 6 screen - I'll read out the text so that others can hear
10:18:01 7 it - it's an IBAC transcript which is
10:18:15 8 IBAC.0002.0001.0001_0661 and the page is 0173. Counsel
10:18:26 9 assisting the Commissioner in that IBAC inquiry put to you,
10:18:28 10 "And on a number of occasions she was involved in the
10:18:33 11 actual arrest of her client when the client was arrested,
10:18:37 12 essentially she having participated in everything leading
10:18:40 13 up to the arrest, provision of information and she's
10:18:43 14 present at the arrest and giving advice at the time of the
10:18:46 15 arrest of the client. Just, that's the background that
10:18:52 16 they're inquiring after. I'll suppose I'll just ask you
10:18:55 17 for the record, you can see, can't you, the potential for
10:18:59 18 contamination of the criminal justice system if that was
10:19:03 19 allowed to continue?" That's a question from Mr Kirkham, I
10:19:07 20 should say, rather than Mr Hevey. Your answer to that
10:19:10 21 question was, "If that occurred I'd be very shocked and
10:19:13 22 disappointed on the basis of my understanding of what the
10:19:16 23 management of the source was", do you see that?---Yes.
24
10:19:25 25 You stand by that evidence?---Yes.
26
10:19:27 27 That was the first that it was explained to you that the
10:19:30 28 process that I've just gone through was the process
10:19:33 29 employed by Victoria Police in relation to the arrest of
10:19:35 30 PII [REDACTED], that's the first you knew about it?---Yes.
31
10:19:40 32 And that's why you express your shock and
10:19:43 33 disappointment?---Yes.
34
10:19:45 35 I take it you've learnt more about that night and the way
10:19:50 36 that that arrest came about since; is that correct?---Not
10:19:53 37 specifically other than it was put to me that - and I
10:19:59 38 obviously took it as fact, is that Gobbo had a role in
10:20:03 39 regards to PII [REDACTED]'s arrest.
40
10:20:07 41 Yes?---And subsequent to that she had a role in regards to
10:20:11 42 counselling him or advising him on what he would do around
10:20:15 43 the consequence of that.
44
10:20:17 45 Even more so, in the couple of days before that person's
10:20:23 46 arrest, PII [REDACTED]'s arrest, she said to the police, "He
10:20:28 47 will call no one but me", and that the evidence is clear

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10:20:32 1 that on the night of the arrest it wasn't in fact the
10:20:35 2 investigators who called Ms Gobbo first, it was the SDU
10:20:39 3 members to say that the person had been arrested?--M'mm.
4

10:20:42 5 Indeed, as she had told them a couple of days before the
10:20:45 6 arrest, she did indeed attend and the person has given
10:20:49 7 evidence that the reason that they rolled was because of
10:20:52 8 advice that Nicola Gobbo gave them. I take it that your
10:20:56 9 shock and disappointment persists hearing that that was the
10:20:59 10 case?--Well my understanding of the way that Gobbo was
10:21:05 11 being managed was that those things, those issues around
10:21:11 12 clients and confidentiality and obviously the criminal
10:21:15 13 justice process were being managed.
14

10:21:19 15 We will get to that too because I think that comes up in
10:21:22 16 2007 when you're discussing the potential of legal advice,
10:21:25 17 but my question though is that hearing those elements, and
10:21:31 18 I might say they are correctly stated based on the evidence
10:21:35 19 the Commission has received, you expressed your shock and
10:21:38 20 disappointment then. I've now explained to you that not
10:21:41 21 only was that the situation but that the plan was gone
10:21:43 22 through a couple of days before with the Victoria Police
10:21:46 23 members who were handling Ms Gobbo, that would cause you
10:21:49 24 serious concerns about the contamination of the criminal
10:21:53 25 justice system I take it?--Yes.
26

10:21:56 27 All right. Now moving slightly forward in time. 11
10:22:01 28 December 2006, I just want to take you to your diary. This
10:22:06 29 is relevant to some threats that were received. I don't
10:22:13 30 want to go through all of this in great detail but the
10:22:17 31 situation was that as, especially towards the end of 2006,
10:22:23 32 some text messages started to be received from Ms Gobbo
10:22:28 33 from a particular phone box and there are officers assigned
10:22:33 34 to investigating where they'd come and trying to work out
10:22:39 35 the source of these threats, is that something you have a
10:22:41 36 memory of?--I have a memory of threats, not the specifics
10:22:43 37 of them and what was done to mitigate the threats.
38

10:22:48 39 From a resourcing point of view, so Gosford seems to have
10:22:53 40 had - Gosford, as I mentioned yesterday, was the operation
10:23:00 41 that was set up essentially to investigate these
10:23:02 42 threats?--Yes.
43

10:23:02 44 From a resourcing point of view would they need to come to
10:23:04 45 you to talk about that or was there a requirement to do so
10:23:07 46 or if they could spare some people they could just set up
10:23:09 47 an operation and put the people into it?--The process was

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10:23:13 1 that if an investigation was able to actually deal with the
10:23:16 2 resource requirements for any particular thing they wanted
10:23:18 3 to do.
4

10:23:19 5 Yep?---Then that wasn't a matter that came to me. But if
10:23:22 6 it involved utilisation of resources outside that Squad or
10:23:27 7 that Task Force, then it would. And if it involved the use
10:23:33 8 of specialist support services, like surveillance,
10:23:36 9 electronic surveillance, telephone intercepts, human
10:23:40 10 sources, undercover operatives, those sorts of things, then
10:23:44 11 they would come to me because my role was partly to
10:23:48 12 prioritise all the investigative effort in the Crime
10:23:53 13 Command.
14

10:23:53 15 Yep?---Determine what resources, and sometimes they were
10:23:56 16 scarce resources, would be provided to which
10:23:59 17 investigations.
18

10:24:00 19 And do you have any - certainly your diary from time to
10:24:04 20 time talks about the threats that were received. Do you
10:24:07 21 know the context, or in fact we might bring up 11 December
10:24:15 22 2006, which is at, just for the record it's
10:24:20 23 VPL.0005.0157.0022, and it's at p.0024. Now I think what
10:24:26 24 happens here is that Mr Ryan provides a briefing about
10:24:32 25 threats, you see down at 16:00 it might be, or 16:07. It
10:24:42 26 might be your statement identifies that as being from
10:24:49 27 Mr Ryan, but in any event you'll see that there's the
10:24:52 28 threat to Gobbo that's been received and then reported.
10:24:58 29 Can you explain - just so we can understand your role in
10:25:03 30 it, why is this reported to you?---Look, I haven't looked
10:25:10 31 at my diary but I think his result of reverse CCR, call
10:25:18 32 summary doesn't - I can't - it would generally be the case
10:25:22 33 that I'd be briefed if, it may not have even been at that
10:25:29 34 time in terms of direct request, that a request for
10:25:33 35 additional resources would come or specialist support would
10:25:44 36 be required at some point.
37

10:25:45 38 So your statement about that particular issue says that on
10:25:48 39 11 December 2006 you attended a Purana briefing. If you
10:25:53 40 could just move up to the entry above, I might just have
10:25:56 41 the wrong entry. That certainly talks about the threats to
10:25:59 42 Gobbo. I'm just interested in how it is - the detail that
10:26:05 43 you have in your statement talks about the Purana briefing
10:26:08 44 conducted by Ryan.
45

10:26:13 46 MR CHETTLE: This is 30 January.
10:26:16 47

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10:26:20 1 MR WOODS: There's the problem, 30 January. I'm after 11
10:26:24 2 December. Have you got your hard copy diary in front of
10:26:26 3 you there?---I'm looking at 11 December now. If it's an 11
10:26:30 4 o'clock briefing I've got, "Purana briefing, Gavan Ryan.
10:26:31 5 3838 approached by" - I don't know if I can use that next
10:26:33 6 name.
7
10:26:34 8 Perhaps not. [REDACTED]?---No.
9
10:26:37 10 No. Well, don't use it out of an abundance of caution.
10:26:43 11 Unfortunately the longer production of your diaries haven't
10:26:46 12 come through in the system yet so I can't bring it up on
10:26:49 13 the screen. But keep going. So Ryan's briefing you about
10:26:55 14 that?---Yeah, it says approached by that name, "re hit
10:27:00 15 client, possible set up, death threats SMS".
16
10:27:04 17 Yes?---"HS to ACC seeking corrupt member at SFSC".
18
10:27:10 19 Is it moving on to different issues after that?---Yes.
20
10:27:13 21 Yeah, okay. All right. The reason that I was interested
10:27:17 22 in that entry in the statement and in the diary is that
10:27:22 23 short of that having an impact on resourcing or there being
10:27:29 24 a requirement to find resources for it, I'm just interested
10:27:33 25 in why you'd receive a briefing like that?---Often I would
10:27:39 26 receive a briefing in the context of having a general
10:27:42 27 understanding of the issues that are at play in any
10:27:45 28 particular investigation.
29
10:27:47 30 Yes?---In order for me to be across the issues around
10:27:51 31 prioritisation of resources when the request comes.
32
10:27:56 33 Okay. Mr Ryan's diary at - what time was that in your
10:28:04 34 diary, it was 11 am?---11 am on 11 December.
35
10:28:08 36 Okay. Mr Ryan's diary of the same date contains, I don't
10:28:14 37 need to bring it up on the screen, but at 11 am, "Briefing
10:28:19 38 of Overland, advised him of threats to 3838. He asked me
10:28:25 39 to contact SDU. Can 3838 be eased out?" It appears to be
10:28:33 40 the same meeting because it's the same day and it's at
10:28:35 41 11 am, which is the same time as the Purana briefing in
10:28:39 42 your - - - ?---I'd say that's the case then, yes.
10:28:42 43
10:28:43 44 Okay. Overland at that stage is asking you to contact -
10:28:52 45 sorry, is asking Ryan to contact the SDU to see if 3838 can
10:29:00 46 be eased out. You gave evidence yesterday that 3838 was a
10:29:04 47 topic of conversation fairly regularly in the Purana

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10:29:08 1 briefings, that's correct so far?--When it got to this
10:29:12 2 time, yes.
3
10:29:13 4 When it got to this time. What I'm asking is was there
10:29:16 5 some possibility that in fact what was being discussed here
10:29:20 6 was the identity of Ms Gobbo in that these were specific
10:29:25 7 threats that were coming to Ms Gobbo, Ms Gobbo was a
10:29:28 8 criminal barrister and the boss, Overland, was saying, "Can
10:29:34 9 we ease 3838 out?" What I'm inviting you to consider is
10:29:38 10 whether or not at this stage they were discussing who it
10:29:40 11 was, who 3838 was?---I can't recall. I can't see a reason
10:29:45 12 why that would change for this meeting.
13
10:29:48 14 Do you have a recollection of there being discussion about
10:29:53 15 3838 being eased out prior to the mid-2007 meetings?---Not
10:30:03 16 specifically but it would not surprise me that once you got
10:30:06 17 a situation where there were threats made against a human
10:30:12 18 source, that would be one of the options you would
10:30:14 19 naturally move yourself towards in regards to what we need
10:30:18 20 to do to mitigate that risk.
21
10:30:21 22 There's been a fair bit of evidence to date about the
10:30:24 23 nature of the threats and the fact that Ms Gobbo was being
10:30:29 24 called a dog in text messages that were being received by
10:30:39 25 her at this time and telling her essentially to stop
10:30:42 26 talking. There's been some suggestion from others at the
10:30:46 27 Bar table that that might have been based on the fact that
10:30:48 28 she was representing rival criminal factions rather than
10:30:54 29 actually speaking to the police. But with your, what is
10:30:58 30 clearly significant experience in human source policy, a
10:31:04 31 human source receiving text messages calling them a dog and
10:31:07 32 telling them to stop talking is a very significant threat,
10:31:10 33 isn't it?---Yes, but it's not uncommon.
34
10:31:13 35 Not uncommon?---Not uncommon for those sorts of things to
10:31:19 36 occur in order to test her reaction. That may assist in
10:31:26 37 determining whether or not she is a source.
38
10:31:30 39 I see. What the Commission's seen is a very large number
10:31:33 40 of these text messages beginning in the mid-2000s and then
10:31:39 41 increasing in time and you'd know about that now at
10:31:42 42 least?---Yes.
43
10:31:46 44 That rapidity of threats, is that something that is
10:31:51 45 uncommon? When you say it might be a criminal testing out
10:31:54 46 their reaction, it seems to me it was a very common
10:31:59 47 occurrence through this period of time, that Ms Gobbo was

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10:32:01 1 receiving these sorts of threats. Would that be
10:32:05 2 unusual?---If it was repeated, yes.
3
10:32:08 4 And if it was repeated and unusual in that regard then it
10:32:13 5 would ring some pretty significant alarm bells about their
10:32:17 6 continued use as a human source?---Yes, and what might need
10:32:20 7 to be done to mitigate that.
8
10:32:21 9 Yeah, okay. On 17 July 2007, I want to bring up your diary
10:32:28 10 entry of that date, so it's another Purana Task Force
10:32:30 11 briefing. For the record this is VPL.0005.0156.0029 and
10:32:40 12 it's at 0031. You identify this in your statement and we
10:32:49 13 spoke a little bit about it yesterday, but you see that
10:32:52 14 there's another Purana Task Force briefing to Simon
10:32:57 15 Overland at 14:00 that day, do you see that? Page 187 I
10:33:06 16 think it should be of the - - - ?---Sorry, wrong diary.
17
10:33:12 18 It might be the next diary I think. There's a version of
10:33:16 19 it on the screen but it's got redactions around it so it
10:33:19 20 might be you're better off with the hard copy?---Sorry.
21
10:33:33 22 That's all right, take your time. 187 is the page, I think
10:33:38 23 it is, of the hard copy diary?---Right. The time, sorry?
24
10:33:49 25 14:00, top of the page?---"Purana Task Force briefing to
10:33:53 26 Simon Overland, 3838 change of registration number", or reg
10:34:02 27 number. "Hypothetical legal opinion", that's what I've
10:34:06 28 written.
29
10:34:07 30 The first part of that, we were talking about the threats
10:34:09 31 that had been received over, by this stage about 12 months,
10:34:13 32 and seemed to be increasing. Was that one of the reasons
10:34:20 33 why it was being discussed to change the source's
10:34:22 34 registration number?---I believe that was the case. Look,
10:34:25 35 I can't be sure, it's a fair while ago. But I believe that
10:34:28 36 the discussion at that meeting was as a mitigation for the
10:34:37 37 increasing complexity around the range of things that
10:34:40 38 Ms Gobbo was involved in and the risks that too many people
10:34:47 39 were becoming aware or suspected that she might be
10:34:51 40 informing.
41
10:34:51 42 Yes?---That the code number 3838 is being linked to her and
10:34:58 43 so if a code number change would take place that might be
10:35:03 44 one aspect of mitigation of that risk because any further
10:35:09 45 information reports referenced to Ms Gobbo would not be
10:35:14 46 utilising that 3838 number.
47

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10:35:16 1 I see. So it's a matter of prudence and safety. Obviously
10:35:19 2 the particular significance in the entry is the phrase
10:35:23 3 "hypothetical legal opinion". What's your recollection of
10:35:28 4 why those words appear in the diary there?---Leading up to
10:35:33 5 that meeting I was becoming more concerned about the legal
10:35:40 6 complexities around utilising Ms Gobbo as a human source.
7
10:35:46 8 Just pausing there. It's the case that at first - tell me
10:35:52 9 if I'm wrong - at first you didn't know 3838 was a
10:35:56 10 lawyer?---That's right.
11
10:35:58 12 Then you understood her to be a lawyer - well, the source
10:36:03 13 3838 to be a lawyer?---Yes.
14
10:36:04 15 But didn't know what area?---Sorry, what area?
16
10:36:07 17 What area of law they were practising in. You said
10:36:09 18 yesterday you didn't know whether they were tax law or - -
10:36:12 19 - ?---I said over time I became more aware of narrowing
10:36:17 20 down the human source in terms of not a deliberate exercise
10:36:21 21 but simply, you know, through intuitively saying, "Okay,
10:36:28 22 from what I'm hearing it's a lawyer. I don't know what
10:36:30 23 they're practice in. Eventually it's a female and then
10:36:34 24 criminal barrister and then at some stage I think prior to
10:36:37 25 this meeting I learnt the true identity.
26
10:36:41 27 Do you know who it was that you told the true
10:36:44 28 identity?---No, I can't recall.
29
10:36:45 30 Right. Doing the best you can, was it days, weeks, months
10:36:51 31 before this meeting?---Look, I don't know. It could be a
10:36:55 32 matter of weeks but it could be months. I can't be sure.
33
10:37:02 34 Do you remember discussing the fact of Ms Gobbo, in
10:37:07 35 particular Ms Gobbo being a human source with anyone prior
10:37:10 36 to this meeting?---I recollect having some conversations
10:37:15 37 with people in the weeks leading up to this around my
10:37:19 38 concern about the legal situation.
39
10:37:23 40 Do you know who you spoke to?---Look, I can't say
10:37:28 41 specifically but I assume it would be people certainly in
10:37:33 42 the Purana field, potentially Ryan and O'Brien, possibly
10:37:37 43 Superintendent Hollowood who was overseeing Task Force
10:37:43 44 Purana.
45
10:37:43 46 You don't have a specific memory of talking to any of those
10:37:48 47 individuals?---Not specifically. I was having a number of

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10:37:50 1 conversations with people, I suppose to establish, you
10:37:53 2 know, what is our situation in regards to understanding
10:37:55 3 what the legal complications might be, and it included
10:38:00 4 Superintendent Biggin as well.
5
10:38:01 6 Yes?---To get a sense of whether or not that's something
10:38:04 7 that needed some work.
8
10:38:07 9 Just prior to this meeting do you have any recollection of
10:38:10 10 those concerns of yours getting any traction with any other
10:38:15 11 individuals or you being responded to in any way about
10:38:18 12 these concerns?---I couldn't, people weren't responding to
10:38:21 13 me. I suppose one thing was said that was - that the
10:38:25 14 information that was being obtained from Gobbo related to
10:38:33 15 her social relationships and not her professional
10:38:36 16 relationships.
17
10:38:37 18 That's something you were told by someone prior to the
10:38:39 19 meeting?---That was from very early on.
20
10:38:42 21 Yes?---In the management of 3838.
22
10:38:44 23 This is potentially at the time when you knew that the
10:38:47 24 source was a lawyer but didn't know what area of law they
10:38:53 25 practised in?---That's right, and as time progressed it
10:38:57 26 became more specific around who that person might be and
10:39:02 27 with that knowledge around this time, that knowledge that
10:39:04 28 she was acting for a range of clients that were targets of
10:39:07 29 Purana, had been charged by Purana and others.
30
10:39:09 31 Yes?---It became more of an issue for me in regards to the
10:39:13 32 complexities that that involved.
33
10:39:15 34 And the more of an issue was because you thought that there
10:39:19 35 was at least some risk that she was acting for some of
10:39:22 36 those individuals?---Yes.
37
10:39:24 38 Were you told by anyone that she wasn't acting for the
10:39:27 39 individuals?---I don't think so. I can't recall.
40
10:39:32 41 We're going to go through some of the things you were told
10:39:36 42 subsequent to this meeting, but what I'm interested in, it
10:39:43 43 appears, albeit with the benefit of hindsight, that someone
10:39:47 44 with your background and experience and the obvious care
10:39:51 45 that you took in relation to these sorts of issues with
10:39:53 46 human sources and identification of human sources, there
10:39:56 47 would have been a very significant penny drop moment when

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10:39:59 1 you suddenly realised that 3838 was a practising criminal
10:40:03 2 barrister?---Yes.
3
10:40:06 4 You're not able to say when that particular moment
10:40:09 5 was?---No, but it would have been in the weeks leading up
10:40:12 6 to this 17 July meeting. I can't recall when the penny
10:40:16 7 dropped. I think it was - it was more likes drips than
10:40:22 8 drop.
9
10:40:23 10 Okay?---And my concern intensified as it got closer to this
10:40:31 11 meeting, that's why I raised the issue around working
10:40:35 12 through scenarios, I suppose, or hypothetical situations
10:40:40 13 that could occur or may have occurred during the management
10:40:46 14 of the source to test what that might mean in the context
10:40:52 15 of legality.
16
10:40:56 17 Now it's clear in evidence that, I won't go through all of
10:41:01 18 the individuals, but a number of individuals have given
10:41:04 19 evidence that they knew that Gobbo was acting for specific
10:41:09 20 Purana targets. Do you know when that was explained to you
10:41:13 21 or who explained it to you, that in fact the fears and the
10:41:18 22 risk were actually being realised in relation to a number
10:41:21 23 of Purana individuals?---I think at the meeting subsequent
10:41:26 24 to this when I had the opportunity to talk to the Source
10:41:32 25 Development Unit.
26
10:41:32 27 That's the 24th of - - - ?---July.
28
10:41:34 29 July, yes. We'll go to that in a moment. A number of
10:41:38 30 things, just focusing on this particular meeting, a number
10:41:40 31 of things were happening around this time. So, firstly,
10:41:46 32 around about a year before there'd been the arrest of
10:41:49 33 **PI** and Mr Sandy White has given evidence to the
10:41:55 34 Commission that when - despite what I was saying to you a
10:42:00 35 moment ago about Ms Gobbo being perfectly clear to the SDU
10:42:05 36 member she was going to turn up when he was arrested, his
10:42:09 37 evidence to the Commission a number of months ago was when
10:42:11 38 she did actually turn up he thought about having her
10:42:14 39 arrested. Is that something you've heard since?---No, I
10:42:17 40 haven't.
10:42:17 41
10:42:18 42 There was discussion, even at this stage, about Ms Gobbo
10:42:21 43 being made a witness. You understand that's something that
10:42:25 44 ultimately, that decision was made. Do you recall those
10:42:29 45 discussions in 2007?---No.
46
10:42:32 47 There were also some very significant - - - ?---Sorry, in

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10:42:38 1 2007?
2
10:42:39 3 Mid-2007?---Yeah, in, I think, the meeting of the 24th of
10:42:43 4 July.
5
10:42:45 6 Yes?---That was one of the considerations that was
10:42:49 7 discussed but dismissed in regards to the future and how to
10:42:55 8 mitigate some risks was, one was cease utilising Ms Gobbo
10:42:59 9 as a human source, one was using her as a witness, or the
10:43:04 10 other was continuing to use her as an information source
10:43:09 11 and whether or not she would be tasked. Those things were
10:43:12 12 discussed on 24 July in the context of the future.
13
10:43:16 14 Around about the same time there was also some real hand
10:43:24 15 wringing going on amongst members of Victoria Police about
10:43:27 16 Ms Gobbo appearing in front of - before an OPI hearing. Is
10:43:32 17 that something you knew about at the time?---On reading my
10:43:36 18 diaries, that that's in the diaries. I can't specifically
10:43:40 19 remember it but I rely on my diary in terms of my
10:43:43 20 involvement in that.
21
10:43:43 22 Sure, okay. In fact what was - the real concern is what,
10:43:50 23 if anything, the Examiner should be told about Ms Gobbo's
10:43:52 24 role as a human source. Have you seen any of your diary
10:43:59 25 notes identifying that issue?---I can't recall that but I
10:44:01 26 think more my diary was reflecting the challenge of Gobbo
10:44:10 27 being disclosed, I suppose, as a human source in an
10:44:16 28 external situation and how, you know, within your own
10:44:21 29 organisation you can manage things.
30
10:44:24 31 Right?---But when these sorts of things become knowledge
10:44:27 32 outside your organisation you cannot manage them and so the
10:44:30 33 risk was about the OPI's involvement as to how we can
10:44:34 34 ensure that the security of Gobbo was understood in that
10:44:40 35 context. That was - I think I made reference to
10:44:45 36 approaching Mr Overland with that concern.
37
10:44:48 38 Yes?---And to have that discussion with OPI around the
10:44:53 39 sensitivity and security implications of Ms Gobbo appearing
10:44:57 40 before OPI.
41
10:44:59 42 Focusing on those hypothetical legal opinion words, was it
10:45:04 43 your suggestion that a hypothetical legal opinion should be
10:45:08 44 obtained?---Yes.
45
10:45:10 46 And can you just explain - on one view it might be obvious
10:45:14 47 but can you explain why that is?---My view was if it hasn't

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10:45:18 1 been gone through, the issues.
2
10:45:20 3 Yes?---Then it should be.
4
10:45:22 5 At that stage you didn't know whether or not it had been
10:45:24 6 because that was something that was discussed the following
10:45:29 7 week?---That's right.
8
10:45:30 9 Why, as I say it might be obvious but if you could explain
10:45:34 10 why was it that a hypothetical legal opinion might
10:45:38 11 assist?---The circumstance in regards to utilising Ms Gobbo
10:45:43 12 as a human source involved a lot of complexities,
10:45:47 13 particularly arising from her profession and her acting for
10:45:53 14 a range of criminals, and potentially it would mean that
10:46:01 15 the system, I suppose, in some ways was open to being
10:46:04 16 corrupted around evidence being tainted, unfairness being
10:46:12 17 an issue for us to manage, and the whole issue of, I
10:46:18 18 suppose, the discredit that would occur should we not be
10:46:22 19 attuned to the types of risks that either have been or
10:46:27 20 potentially may occur in that context. It was around - you
10:46:31 21 know, a hypothetical might be if a certain, if she's acting
10:46:36 22 for a particular client and the client tells her things,
10:46:40 23 under what circumstances can she actually pass information
10:46:43 24 on to Victoria Police ?
10:46:44 25
10:46:44 26 Yes?---In what circumstances can she not do that? It's not
10:46:49 27 black and white in that context because if it's around the
10:46:54 28 - if she's representing a client in regards to a range of
10:46:57 29 charges or whatever, then she needs to act in the best
10:47:01 30 interests of that client and act to instructions, however
10:47:05 31 if the client divulges something that may be planned to
10:47:10 32 happen in the future that is of a significant, you know,
10:47:14 33 serious nature then, you know, what does that mean? Can
10:47:19 34 she disclose that someone is planning to murder someone or
10:47:22 35 someone's planning to commit some other serious crime?
36
10:47:26 37 Indeed, because of the way you've spoken about it now and
10:47:29 38 the fact that you raised this possibility at this
10:47:31 39 particular meeting, those risks were very obvious risks to
10:47:36 40 you?---Yes, they were things that I think were clearly - if
10:47:40 41 they weren't at play then, they would potentially be at
10:47:43 42 play in the future.
43
10:47:44 44 Do you remember receiving any kickback from the others at
10:47:47 45 this meeting or - well, we won't talk about the next
10:47:51 46 meeting because that was specifically dealt with there, but
10:47:59 47 at this meeting do you remember receiving any comment from

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10:48:02 1 others that there were no risks, that these things didn't
10:48:05 2 need to be considered?---No, I can't recall that. I can't
10:48:07 3 recall who exactly was there. Obviously Purana were
10:48:10 4 represented. Mr Overland was there. I don't know if any
10:48:14 5 representative of the SDU was there but that would be
10:48:16 6 uncommon if they were present at those sorts of meetings.
7
10:48:19 8 And the risks, of course, were that if she continued to act
10:48:26 9 on behalf of a person whilst also informing on them, there
10:48:32 10 would be a very obvious conflict of interest?---Yes.
11
10:48:37 12 And a risk of breach of privilege as well?---Well there was
10:48:41 13 potential for conflict of interest. Could she still
10:48:45 14 perform her responsibilities as a barrister but still be a
10:48:48 15 human source?
16
10:48:50 17 With respect, the reason why you were saying, "We need
10:48:54 18 legal advice on this" is that the people in this meeting
10:48:57 19 weren't capable of making that determination themselves,
10:49:00 20 you would have been assisted by external legal
10:49:04 21 advice?---The people that needed to answer those questions
10:49:07 22 were the SDU people and their management, and as to how
10:49:11 23 they're managing the source in that context.
24
10:49:13 25 The very fact that you were saying "hypothetical legal
10:49:18 26 opinion" can I suggest means that at this stage you knew or
10:49:20 27 suspected that a legal opinion hadn't been obtained?---No,
10:49:22 28 I didn't know whether a legal opinion had been obtained. I
10:49:25 29 was saying this was getting so complex I believe that we
10:49:29 30 should consider whether or not it should be obtained if it
10:49:33 31 hadn't been.
32
10:49:34 33 Given what the Commission now knows, that Purana
10:49:37 34 investigators were dealing with her as a lawyer and at the
10:49:40 35 same time knowing that she was a human source, that would
10:49:43 36 be a very - for the exact same people that she was dealing
10:49:46 37 with as a lawyer?---M'mm.
38
10:49:48 39 That would be a cause of very significant concern to
10:49:50 40 you?---Well, in terms of how that's being managed, yes.
41
10:49:58 42 There's a diary entry of Mr O'Brien, who apparently
10:50:05 43 attended the same meeting, where he simply says that he's
10:50:10 44 at the meeting, Overland's there, Brown is there, you're
10:50:15 45 there, and it just says "re Purana briefing" and talks
10:50:21 46 about Karam and 3838 issues. There's no mention in his
10:50:26 47 diary of "hypothetical legal opinion". Can you remember

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10:50:30 1 whether you put particular emphasis on the need for a
10:50:36 2 hypothetical legal opinion at the meeting?---Well I think I
10:50:40 3 did because I noted it but it was something of - from my
10:50:45 4 perspective that would be addressed through the latter
10:50:48 5 meeting.
6

10:50:49 7 Yes?---Hence the people who would provide or could provide
10:50:54 8 hopefully the advice in regards to how this issue was being
10:50:58 9 managed were not at that meeting on the 17th.
10

10:51:00 11 Now I want to talk about the meeting on 24 July. Firstly,
10:51:05 12 before I get there, at paragraph 20 of your statement you
10:51:09 13 say you don't recall how the issues of changing the
10:51:14 14 registration arose, and I think we've dealt with that. You
10:51:18 15 say that you recall that, "Overland asked a team, including
10:51:21 16 me and the SDU, to consider Ms Gobbo's ongoing use as a
10:51:26 17 human source because of concerns about protecting her
10:51:30 18 safety". This is talking about the 17 July meeting; is
10:51:34 19 that right?---Yes.
20

10:51:39 21 You say, and this is what you've just given evidence about,
10:51:44 22 "I also recall at some point likely during this meeting I
10:51:48 23 raised the issue that there needed to be measures in place
10:51:53 24 to ensure that the information she supplied could be used
10:51:53 25 given that Ms Gobbo was a practising lawyer. I recall the
10:51:55 26 note 'hypothetical legal opinion' in my diary refers to
10:51:58 27 discussions about providing a set of scenarios that could
10:52:02 28 occur in managing Ms Gobbo, such as information provided in
10:52:07 29 personal versus professional capacity and obtaining legal
10:52:11 30 advice on how Ms Gobbo and the information might be managed
10:52:13 31 in those scenarios". That was expanded on in those terms
10:52:19 32 in the meeting?---Yes.
33

10:52:21 34 Do you remember any acceptance or rejection or "let's talk
10:52:27 35 about it more" or anything like that that came up in that
10:52:30 36 meeting?---No, not at the 17 July meeting. I can't recall
10:52:34 37 the meeting at all really other than what's in my notes.
38

10:52:37 39 I understand?---Other than I do know that I was concerned
10:52:40 40 about the issue and it was intensifying leading up to that
10:52:44 41 17 July meeting.
42

10:52:45 43 Okay. The reason it's of particular interest is it might
10:52:52 44 well be on the basis of the material before the Commission
10:52:54 45 that was the first time someone thought about getting a
10:52:58 46 hypothetical legal opinion in this kind of situation to
10:53:02 47 work out whether the evidence could be or the information

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10:53:05 1 could be obtained with any integrity, so that's why I'm
10:53:08 2 putting a particular focus on it. What happened next, the
10:53:16 3 evidence before the Commission shows that the following day
10:53:20 4 that Sandy White and O'Brien agree to the need for legal
10:53:27 5 advice "(regarding the fall out)". Are you aware that a
10:53:35 6 discussion took place after the meeting about whether this
10:53:39 7 invitation or this suggestion about getting legal advice
10:53:43 8 should be pursued?---No, I'm not.
9
10:53:45 10 Then a week later on 24 July 2007, and I want to bring up
10:53:50 11 your diary for this date. This is the one I think
10:53:56 12 Ms Argiropoulos at the beginning of your evidence led you
10:53:58 13 through what you thought might have been two different
10:54:01 14 meetings but in fact the first might just simply be some
10:54:05 15 notes of yours?---Look, I can't be sure. If at 2 o'clock
10:54:11 16 others did record that I met with them around Purana work.
17
10:54:15 18 Yes?---Then those notes might reflect that.
19
10:54:20 20 Yes?---However at the 4.30 meeting it clearly obviously was
10:54:25 21 the one involving the SDU members.
22
10:54:29 23 Yes?---So potentially the 2 o'clock meeting was a Purana
10:54:31 24 meeting, not with the SDU present, where we discussed what
10:54:35 25 we might be doing at the 4.30 meeting.
26
10:54:39 27 Yes?---Or the 2 o'clock note is my own notes in preparation
10:54:43 28 for that 4.30 meeting.
29
10:54:45 30 We're not able to bring up the earlier meeting because
10:54:47 31 that's come in the last production but I can certainly
10:54:50 32 bring up the 4.30 pm meeting. Now that's at - I shouldn't
10:54:56 33 say meeting, whatever happened at 8.30, whether they were
10:54:59 34 notes or a meeting, but at 4.30 pm there was a Purana
10:55:04 35 meeting with Biggin, Sandy White, O'Brien, Ryan, Brown,
10:55:11 36 O'Connell and yourself; is that right?---Yes, my diary
10:55:16 37 reflects that.
38
10:55:17 39 If I could bring that up. For the record that's
10:55:22 40 VPL.0005.0156.0014 and it's at p.0019 of that document. If
10:55:31 41 you could expand that 16:30 entry, please. It's different,
10:55:38 42 a different number. I think - sorry, this is the more
10:55:44 43 recent production. If you could scroll down to the next -
10:55:48 44 yeah, just expand on that entry, sorry. Thank you. So we
10:55:53 45 see the attendees at the top of that and you see what's
10:55:59 46 discussed is, "Ongoing management issues and risk according
10:56:02 47 to information and circumstances surrounding it". Can you

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10:56:08 1 explain what that note might mean?---Probably this was the
10:56:13 2 first time that the actual SDU was in the room.
3
10:56:20 4 Yes?---Around this issue and I think a good deal of the
10:56:27 5 start of the meeting involved Sandy White and
10:56:32 6 Superintendent Biggin briefing myself and others on the
10:56:38 7 history of utilisation of Ms Gobbo.
8
10:56:42 9 Just pausing there. It's clear that O'Brien and Ryan had a
10:56:46 10 pretty detailed knowledge of it at that stage, so might it
10:56:49 11 have been that they were briefing the others in the
10:56:52 12 room?---Yeah, it was primarily I would say for my benefit,
10:56:57 13 Mr Brown's benefit.
14
10:56:59 15 Yes?---In regards to understanding the history of the
10:57:08 16 utilisation of Ms Gobbo as a human source and the issues
10:57:11 17 and risks that are at play, or have been at play.
18
10:57:15 19 The next note in your diary says, "Legal issues considered
10:57:18 20 not appropriate at this stage". Do you understand what
10:57:21 21 that's recording?---As part of the discussion I explored
10:57:27 22 that legal issue and I got advice in regards to how they're
10:57:29 23 managing the potential conflict of interest.
24
10:57:34 25 Yes?---From a perspective of professional privilege and it
10:57:39 26 was very clear that they had steps in place to manage that.
27
10:57:48 28 There's two issues there though, one is - they might have a
10:57:51 29 cross-over to some degree but, firstly, conflict of
10:57:53 30 interest on one hand and, secondly, legal professional
10:57:56 31 privilege on the other hand?---Yes.
32
10:57:58 33 They were both issues that you would have identified I take
10:58:00 34 it at this meeting as being potential problems?---Yes.
35
10:58:04 36 What were you told about those as potential problems?---A
10:58:09 37 range of things. I'm going on memory here, which is
10:58:12 38 difficult. Sandy White talked to this issue around the
10:58:25 39 understanding, I suppose, and delineation between the legal
10:58:30 40 professional privilege issue, understanding the clients
10:58:34 41 that the human source was acting for, and that any
10:58:40 42 information that she provided that arose from that
10:58:45 43 circumstance was not being disseminated.
44
10:58:48 45 Yes?---And that Ms Gobbo had been briefed and continually
10:58:55 46 briefed around ensuring that she does not breach that
10:58:58 47 confidentiality. He did refer to the challenge in regards

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10:59:03 1 to how she can be managed in that context because just of
10:59:08 2 the very nature that she was, of the type of person she
10:59:11 3 was. But certainly they were attuned to the risks and how
10:59:16 4 they should be managing that going forward.
5
10:59:19 6 You say they were attuned to - I take it that means they
10:59:23 7 indicated to you that they were well aware of the
10:59:26 8 risks?---Yes.
9
10:59:27 10 The week before, I mentioned, and it wasn't reported back
10:59:32 11 to you you've said, but just after the meeting on the 17th,
10:59:35 12 the next day Sandy White meets with O'Brien and they
10:59:38 13 actually question whether or not this issue of Gobbo being
10:59:44 14 a criminal barrister, and indeed having acted for
10:59:49 15 PII [REDACTED], whether or not that's going to impact on his
10:59:53 16 conviction and other convictions. Now that was something
10:59:55 17 that was identified between those individuals on 18 July,
10:59:58 18 so prior to this, and they agreed, when I said they agreed
11:00:01 19 to get legal advice regarding the fall-out, the note
11:00:05 20 indicates that they agreed that they would get legal advice
11:00:09 21 about that particular issue. Now do you understand what
11:00:12 22 I'm saying?---Yes.
23
11:00:13 24 What I want to understand here is when this part of the
11:00:16 25 discussion, albeit many years ago, occurred, do you recall
11:00:21 26 them talking about a specific example or specific
11:00:27 27 individuals that might be problematic, it might raise
11:00:31 28 particular problems with the legal process that Ms Gobbo
11:00:33 29 had been involved in?---No, I don't.
30
11:00:36 31 The words you use after "legal issues considered not
11:00:40 32 appropriate at this stage", I still don't quite have a
11:00:43 33 grasp on what those words might mean. It seems to be the
11:00:46 34 case that legal advice - you were told something specific
11:00:51 35 about legal advice at this meeting that we'll go to, but
11:00:54 36 what do the words "not considered appropriate at this
11:00:58 37 stage" mean?---I've thought about that. I don't know
11:01:01 38 whether it was an appropriate word to use.
39
11:01:03 40 Yes?---I don't know exactly what I meant by that comment.
11:01:07 41 It was whether or not it was needed at this stage.
42
11:01:13 43 Yes?---Because advice had been received which was
11:01:17 44 erroneous.
45
11:01:18 46 Yes?---So, you know, I've reflected on those words as to
11:01:22 47 what I meant by "not appropriate". I'm unable to determine

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11:01:27 1 what I meant.
2
11:01:28 3 One of the other things you raised at the meeting is the
11:01:31 4 possibility of exploring precedents. Do I understand that
11:01:35 5 to mean other times that this issue might have arisen,
11:01:39 6 being information obtained by a lawyer, whether in social
11:01:42 7 or professional settings that they gleaned the information;
11:01:46 8 is that right?---Look, and I couldn't sort of refer to any
11:01:49 9 specific precedents that I knew existed but I just thought,
11:01:53 10 well, you know, there probably have been occasions in the
11:01:55 11 past where lawyers have been involved in providing
11:01:59 12 information to police.
13
11:02:00 14 Yes?---I'm sure there have been, and what the commentary
11:02:05 15 might be around that that may guide us around, precedents
11:02:10 16 around this sort of thing.
17
11:02:11 18 Because you really needed guidance in relation to this
11:02:14 19 relationship between Victoria Police and Nicola Gobbo?---I
11:02:17 20 believed it was complex, it was probably going to get more
11:02:19 21 complicated.
22
11:02:20 23 The OPI issue that we touched on a moment ago, as I said,
11:02:24 24 that was in the background at this stage and it was
11:02:27 25 obviously discussed there that she was going to be
11:02:29 26 appearing in front of the OPI and there was a need to
11:02:32 27 ensure that that appearance didn't risk, appearance before
11:02:37 28 the OPI didn't risk her safety and Mr Overland was to
11:02:40 29 manage that?---Yes.
30
11:02:43 31 Then your final note there, "Careful management of
11:02:47 32 involvement in Ops, info source with tasking only in
11:02:53 33 exceptional cases". So it was discussed here that tasking
11:02:58 34 should be only in extreme situations and otherwise she
11:03:01 35 would be eyes and ears; is that right?---That's correct.
11:03:08 36 There was also - it's not there, I believe, but it was
11:03:11 37 referred to in a later meeting when we briefed Mr Overland
11:03:14 38 around dissemination of information.
39
11:03:17 40 Yes, and we'll come to that and how that would be managed
11:03:20 41 in the future and overseen by people sitting above the
11:03:24 42 SDU?---That's correct.
43
11:03:26 44 You were asked about this diary note when you appeared
11:03:32 45 before IBAC a few years ago. What was asked - and the
11:03:38 46 transcript can be brought up, it's IBAC.0002.0001.0001_0161
11:03:49 47 and it's at p.0170. You make a reference in your statement

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11:03:56 1 to having refreshed your memory with the IBAC reference in
11:04:05 2 the past, as you were in the statement taking process for
11:04:07 3 this Commission?---Yes.
4
11:04:08 5 Page 172 I'm being told. You say here, "It was a meeting,
11:04:18 6 sir, that was called to test these, I suppose, issues that
11:04:20 7 were emerging in this investigation or investigations at
11:04:24 8 the time, and that the role within that meeting was to test
11:04:27 9 these assertions around security, safety, legality, ethical
11:04:33 10 which are main considerations for organising human
11:04:38 11 sources". Now they're your words?---Yes.
12
11:04:41 13 It's the case that this meeting was specifically called for
11:04:46 14 that reason, it wasn't one of the regular meetings, is that
11:04:50 15 the correct understanding of those words?---Yes.
16
11:04:53 17 That's your memory of it?---Yes.
18
11:04:56 19 That's why Sandy White actually attended the meeting which
11:04:59 20 was otherwise pretty unusual?---That's right.
21
11:05:04 22 Mr Kirkham then asks you, "Can you give us your best
11:05:08 23 recollection of what you were told the legal advice was,
11:05:12 24 there's no document extant". Just pausing there. Your
11:05:18 25 evidence to IBAC was that in the week between 17 July where
11:05:26 26 the "hypothetical legal opinion" was mentioned in your
11:05:29 27 diary and this particular meeting, or perhaps at this
11:05:33 28 meeting, you were told that legal advice had in fact been
11:05:36 29 received, that's the situation?---I can't recall being told
11:05:44 30 specifically.
31
11:05:45 32 Yes?---But I recall that during that meeting and subsequent
11:05:54 33 to it I believe the context of the conversation that the
11:05:58 34 management of Gobbo had been assisted through legal advice
11:06:04 35 provided to the SDU.
36
11:06:05 37 Can you just scroll up a little bit in that entry, please.
11:06:11 38 Just a little bit more. You'll see Mr Hevey says, "In
11:06:18 39 relation to the legal advice that you thought existed did
11:06:20 40 you have any idea as to who might have sought that advice,
11:06:24 41 whether it was the SDU or one of the investigative
11:06:27 42 authorities such as Purana or Posse or whichever group was
11:06:33 43 going through?" You say, "I believed it would have been
11:06:38 44 the Source Development Unit but in the passage of time I
11:06:41 45 can't recall who would have made that statement at the time
11:06:43 46 that the legal advice was such it might have been
11:06:46 47 obtained". At that stage it was your understanding,

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11:06:52 1 because you'd been told that legal advice in fact had been
11:06:55 2 obtained, you'd been told that in that meeting, hadn't
11:06:58 3 you?---I inferred that it had been.
4

11:07:01 5 Well - - - ?---I can't recall anything specific around that
11:07:04 6 other than I came away from the meeting with the view that
11:07:07 7 legal advice had been obtained and they were acting on that
11:07:11 8 legal advice in regards to how they were managing the
11:07:13 9 source in the context of information.
10

11:07:17 11 The purpose of this meeting was to test some of those
11:07:20 12 issues, as we've seen you've said to IBAC, as well. And
11:07:25 13 you came out of that meeting satisfied that the issues were
11:07:29 14 properly being dealt with, do you agree?---I believe so but
11:07:32 15 I still had that comment there around the precedents, it
11:07:37 16 was I suppose a reflection of I still had some uneasiness
11:07:43 17 about the future.
18

11:07:45 19 I want to invite you to accept or reject the fact that in
11:07:50 20 fact what you were explaining to IBAC and the true
11:07:53 21 situation was that you were told that legal advice had been
11:07:57 22 obtained at this 24 July meeting, you were told
11:08:02 23 specifically that legal advice had been obtained?---I can't
11:08:05 24 recall if that was the case or I inferred it.
25

11:08:09 26 When you're talking about that legal advice in this
11:08:13 27 particular environment in front of IBAC, was it the
11:08:17 28 situation at that time that you didn't really know
11:08:20 29 either?---Yes.
30

11:08:23 31 If you could keep scrolling down a little bit. You'll see
11:08:32 32 at the bottom it says, Mr Kirkham says, "What were you
11:08:36 33 told?" He says, "Can you give us your best recollection of
11:08:40 34 what you were told the legal advice was? There's no
11:08:43 35 document extant but what were you told?" You say, "That
11:08:47 36 the, and it was something I focused on because I had
11:08:49 37 actually asked that in a preliminary meeting". Now pausing
11:08:53 38 there, this is what you'd asked about in a meeting the
11:08:58 39 before; is that right?---That's correct.
40

11:09:00 41 So this was a focus of yours in the 24 July meeting, that
11:09:03 42 legal advice had in fact been obtained?---It was to
11:09:07 43 establish whether or not that was the case, yes.
44

11:09:09 45 Yes, yes. "As to what was the legal status or the status
11:09:14 46 around legal privilege issue, because I believed if this
11:09:18 47 source was going to be used in this way that that had to be

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11:09:21 1 addressed from a technical point of view, so I was specific
11:09:24 2 at that meeting. I thought that was the key thing that
11:09:30 3 needed to be resolved as to the legality or ethical
11:09:34 4 consideration of the source learning things within a legal
11:09:37 5 privilege situation and passing that on as information to
11:09:41 6 the police, and I was assured that that was being managed
11:09:45 7 and they had a legal advice that if it was outside the
11:09:50 8 legal privilege binding then it was lawful". What I want
11:09:55 9 to suggest to you is considering those words, and albeit
11:09:58 10 only a few years closer to the time that it occurred this
11:10:01 11 was a few years closer to when this 2007 meeting occurred,
11:10:06 12 that you were indeed told that legal advice had been
11:10:11 13 obtained?---Look, I can't recall and I don't think I could
11:10:16 14 recall then either exactly what I'd been told or who told
11:10:19 15 me. What I can say is I came away from the meeting with
11:10:23 16 the view that legal advice had been obtained and they were
11:10:27 17 acting on that legal advice in a manner consistent with the
11:10:31 18 understanding of what they should do in regards to managing
11:10:35 19 information that Ms Gobbo come to them with.
20
11:10:40 21 I won't dwell on it too much longer but you'd raised it the
11:10:45 22 week before, you agree with that?---Yes.
23
11:10:47 24 This was a meeting to further process that issue?---Yes.
25
11:10:53 26 It was a focus of yours that there had been legal advice
11:10:56 27 obtained?---Yes.
28
11:10:57 29 You were specific at that meeting about the legality or the
11:10:59 30 ethical consideration of using Ms Gobbo?---Yes.
31
11:11:03 32 And you were assured that that was being managed and that
11:11:09 33 they had a legal advice. They're your words?---Yes.
34
11:11:14 35 You were assured that they had a legal advice?---Yes.
36
11:11:17 37 Do you accept or reject what that says there?---Yes, but
11:11:20 38 I'm saying I came away from the meeting with the view that
11:11:24 39 they had legal advice but I can't recall anyone
11:11:27 40 specifically telling me, whether it was Sandy White,
11:11:30 41 whether it was Superintendent Biggin or whatever, that
11:11:33 42 specifically there had been this particular advice
11:11:36 43 obtained.
44
11:11:37 45 The reason I ask is, firstly, the words, "I was assured ...
11:11:42 46 they had a legal advice", so that's a pretty direct
11:11:46 47 assertion I suggest. But, secondly, you had a real concern

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11:11:51 1 about this and it seems to me from the documents that you
11:11:55 2 would not have come away from that meeting relaxed -
11:11:59 3 probably not the right word - but satisfied about the
11:12:01 4 situation unless you were specifically told that there was
11:12:04 5 a legal advice that had been obtained, do you accept
11:12:09 6 that?---Well, told or inferred, yes.
7

11:12:14 8 All right. Is it the fact that you don't necessarily stand
11:12:18 9 by the words that you were assured that they had a legal
11:12:22 10 advice, because I mean that's what the sentence says?---In
11:12:25 11 the context of the conversation, or the briefing I suppose,
11:12:30 12 Sandy White was particular around the issue of how the
11:12:36 13 risks would present and how they were managing that risk
11:12:41 14 and in that context I don't know exactly what words were
11:12:47 15 used, whether he told me or whether I inferred on the basis
11:12:51 16 of what he was telling me that they were acting on legal
11:12:54 17 advice.
18

11:12:54 19 It must have been a pretty direct inference for a person
11:12:58 20 like you to be satisfied that you'd got an appropriate
11:13:02 21 answer from Sandy White, you accept that?---He was very
11:13:05 22 particular about what they were doing to manage it, yes.
23

11:13:08 24 You knew that Sandy White himself wasn't a lawyer?---Yes.
25

11:13:11 26 You knew that Mr Biggin wasn't a lawyer?---Yes.
27

11:13:15 28 You knew that they weren't capable of making these
11:13:18 29 decisions for themselves absent there being legal
11:13:21 30 advice?---They're highly experienced police officers and
11:13:26 31 investigators so they would have some understanding but not
11:13:28 32 the specifics.
33

11:13:29 34 No, I'm talking about legal professional privilege,
11:13:32 35 conflict of interest, issues like that?---Yes, far from
11:13:36 36 being experts in that area.
37

11:13:38 38 Yeah, sure. Had you ever heard of a lawyer acting as a
11:13:43 39 human source before?---I can't recall, no. Certainly over
11:13:49 40 the years, you know, information had been provided but not
11:13:53 41 as registered human sources.
42

11:13:57 43 Just scrolling down a bit. Mr Kirkham then says to you,
11:14:00 44 "Can you tell me who gave you that advice?" You say, "I
11:14:04 45 can't recall. My view would be it'd be the Source
11:14:07 46 Development Unit, whether it was Sandy White or Tony
11:14:10 47 Biggin. I cannot actually recall who actually told me that

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11:14:14 1 but that was my, my main consideration for that meeting was
11:14:17 2 to sort that issue out". Now, given that you say you can't
11:14:23 3 recall whether it was inferred or explained to you, you say
11:14:30 4 in any event you came away satisfied with the
11:14:36 5 situation?---Yes.
6
11:14:39 7 Do you accept the fact that if you weren't specifically
11:14:41 8 told about there being legal advice that had been obtained,
11:14:46 9 that you were deliberately led to believe that legal advice
11:14:49 10 had been obtained?---I believe that was the case, yes.
11
11:14:54 12 In that regard you were lied to by the person who
11:14:58 13 deliberately led you to believe that, you'd accept
11:14:59 14 that?---Well I can't recall the exact words so I can't say
11:15:02 15 I was lied to.
16
11:15:03 17 Well you were misled?---Misleading might not have been
11:15:07 18 intentional, it might have been something that was, you
11:15:10 19 know, a weakness of mine in regards to interpreting what
11:15:14 20 was said, I don't know.
21
11:15:15 22 Your main consideration, as you told IBAC, was to sort out
11:15:19 23 that issue of the risks to the integrity of the
11:15:21 24 information, you accept that was the purpose of the
11:15:24 25 meeting?---From my - it wasn't the whole purpose of the
11:15:26 26 meeting but from my perspective it was a main issue that
11:15:29 27 needed to be addressed.
28
11:15:30 29 All right. At around that time, just as an example of what
11:15:37 30 was occurring in the background - so that meeting's on the
11:15:42 31 24th of the 7th 2007 - on the 3rd of the 7th 2007 Sandy
11:15:55 32 White was discussing with Ms Gobbo her representation or
11:16:01 33 proposed representation of Mr Karam when he was arrested.
11:16:06 34 Now you understand perhaps now that Mr Karam was implicated
11:16:12 35 in the tomato tins matter, do you know about that?---Yes.
36
11:16:17 37 Do you know that in fact it was Ms Gobbo who handed over
11:16:19 38 the documents that implicated Mr Karam in circumstances
11:16:23 39 where she was in a trial representing Mr Karam at that very
11:16:27 40 time?---I do now know that.
41
11:16:29 42 You know that now, yes. On 3 July 2007 Sandy White and
11:16:36 43 Gobbo are discussing Mr Karam and Sandy White says, "All
11:16:39 44 right, it's really important for all of us that you don't
11:16:42 45 represent anyone". Ms Gobbo says, "M'mm". Sandy White
11:16:46 46 says, "I'd hate to think that ultimately a conviction could
11:16:51 47 be overturned because there was an allegation or suggestion

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11:16:54 1 or a bloody inquiry in relation to whether he got
11:16:58 2 completely unbiased, uncompromised defence". Ms Gobbo
11:17:02 3 says, "Who's ever going to know about that?" Sandy White
11:17:05 4 says, "Well". Ms Gobbo says, "And there's already 20
11:17:10 5 people in that category". Sandy White says, "I know, I
11:17:14 6 know". Ms Gobbo says, "Sorry". Sandy White says, "Don't
11:17:19 7 think we haven't thought about this day in and day out".
11:17:23 8 Ms Gobbo says, "I do". Sandy White says, "It's, and I
11:17:29 9 fully expect you would more so than that, it's an
11:17:32 10 opportunity for you to break up. I hear what you're
11:17:36 11 saying". Now, you understand on the basis of that that
11:17:39 12 these were live issues not just with you but with Sandy
11:17:44 13 White himself at that time?---On the basis of the briefing
11:17:47 14 on the 24th of July I certainly understood that Sandy White
11:17:53 15 made reference to the challenges that he was experiencing
11:17:58 16 in managing Ms Gobbo and the information she was providing,
11:18:02 17 yes.
18
11:18:03 19 When you eventually came to understand the situation that
11:18:08 20 indeed no legal advice had been obtained prior to the 24th
11:18:14 21 of July 2007 meeting, that would have been a matter of
11:18:19 22 significant disappointment?---Yes.
23
11:18:21 24 Did it cause you concern about the propriety of convictions
11:18:26 25 that had been obtained?---Well not knowing exactly what
11:18:32 26 occurred within that human source development and
11:18:37 27 investigation, you know, the tactical day-to-day stuff,
11:18:43 28 until obviously some of the issues that have been raised of
11:18:47 29 recent times, I wasn't aware of how those things were
11:18:49 30 actually coming to the service and obviously impacting on
11:18:56 31 how she should be managed. So I was not aware of that
11:19:00 32 level of detail.
33
11:19:01 34 All right. One of the things you were told as a result of
11:19:07 35 tackling these issues about the propriety of using Ms Gobbo
11:19:13 36 and whether or not legal advice had been obtained was that
11:19:18 37 going forward it would be Mr Biggin who would assess all of
11:19:22 38 the information that came from Ms Gobbo prior to
11:19:26 39 dissemination; is that right?---Yes.
40
11:19:29 41 You might have already given the evidence but you know that
11:19:32 42 Mr Biggin wasn't legally qualified at the time?---No,
11:19:36 43 certainly.
44
11:19:39 45 I just want to identify - there are many issues I could
11:19:45 46 take you to, I'll just take you to one of the issues that
11:19:48 47 arose after this date when Mr Biggin was apparently - the

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11:19:53 1 information was being filtered through Mr Biggin. Now this
11:19:57 2 is in the ICRs, ICR 104 and it's at p.2875 of the combined
11:20:06 3 ICRs. This is on 11 October 2007, so it's a few months
11:20:17 4 after that meeting and after you've been told that Biggin
11:20:22 5 would be responsible for checking the information, do you
11:20:25 6 understand that?---Yes.
7
11:20:28 8 You'll see it's at p.2875 of the ICRs. You'll see down the
11:20:41 9 bottom of that page, the bottom of p.2875, you'll see there
11:20:48 10 that she's talking about - to her handler about Faruk Orman
11:20:56 11 and Faruk Orman's brief, do you see that?---Yes.
12
11:21:00 13 And she still cannot believe why Gatto's trial transcript
11:21:04 14 is on the brief, it is not introduced by anyone and she
11:21:09 15 cannot see how it can be tendered as evidence. You accept
11:21:13 16 that what she's saying to the SDU members there is she's
11:21:17 17 commenting on a brief of evidence and why particular
11:21:20 18 information is in it, do you see that?---Yes.
19
11:21:22 20 You see that the next thing she says is what Mr Orman's
11:21:25 21 defence is going to be, see that? "Defence so far will be
11:21:30 22 simply we are not there"?---Yep.
23
11:21:32 24 Gobbo's acting for Orman at this time and this is her
11:21:39 25 chatting to her handlers at Victoria Police about what
11:21:44 26 Orman's defence would be. You accept that that's something
11:21:49 27 that shouldn't have been allowed to occur given that
11:21:51 28 relationship she had with Orman?---Well, yes. If she
11:21:58 29 started to talk about these sorts of things the handler
11:22:01 30 should have shut it down.
31
11:22:04 32 Do you think - given your significant understanding of
11:22:08 33 informer policy, one of the issues that's been identified
11:22:12 34 by the human source managers is, "Well, whether or not it
11:22:16 35 was information that we should or should not have been
11:22:19 36 hearing from her or she should or should not have been
11:22:22 37 sharing with us, our job was to write everything down in
11:22:26 38 the ICRs". You can see obviously Victoria Police got
11:22:30 39 themselves into a tangle with Ms Gobbo once she was
11:22:35 40 registered because it threw up all of these problems.
11:22:40 41 Firstly, you accept that's the case, there was a
11:22:43 42 significant - - - ?---Look I think the function of writing
11:22:46 43 everything down or recording everything is sound.
44
11:22:49 45 Yes?---It's what you do with it is that's the challenge.
46
11:22:53 47 Yes?---And clearly if that discussion was closed down and

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11:22:58 1 nipped in the bud when it was occurring.
2
11:23:01 3 Sure?---Then this information would not be either written
11:23:03 4 down or on tape.
5
11:23:05 6 Yes?---But simply if it does get itself into a situation
11:23:08 7 where it is written down or is on tape, the decision-making
11:23:13 8 then is what do you with it is the challenge.
9
11:23:15 10 She talks next about the star witness, who you can take it
11:23:22 11 from me was the star witness in the case, taking away his
11:23:27 12 statements there isn't really any other evidence to put her
11:23:32 13 client, Mr Orman - or to implicate her client, do you see
11:23:33 14 that?---Yes.
15
11:23:34 16 Scroll down further. You can see that there that is
11:23:37 17 verbally disseminated to Gavan Ryan of Purana Task
11:23:41 18 Force?---Yes.
19
11:23:43 20 And you understand that this is after the time when the
11:23:47 21 information was to be filtered through Tony Biggin, you
11:23:51 22 accept that?---That's correct.
23
11:23:52 24 I want to go to p.2967 of that ICR. This is dealing with -
11:24:02 25 2967, sorry. This is dealing with the star witness against
11:24:11 26 Mr Orman and what the entry says, you'll see at the top
11:24:18 27 there, and we've got to avoid using some names
11:24:24 28 there?---Yes.
29
11:24:24 30 But that that star witness, the first entry is, "Really
11:24:27 31 down and is seriously contemplating telling Purana to get
11:24:30 32 fucked", do you see that?---Yes.
33
11:24:32 34 Then a few dots points down, that person is talking about
11:24:36 35 going back to the court to get resentenced and not give
11:24:40 36 evidence against Faruk Orman, do you see that?---Yes.
37
11:24:43 38 And then another five or six dot points down, she thinks
11:24:47 39 that he, being that witness, needs a Purana visit to put
11:24:52 40 him straight, otherwise he is going to give it all in, do
11:24:56 41 you see that?---Yes.
42
11:24:56 43 And then down the bottom it says it's verbally disseminated
11:25:01 44 to Gavan Ryan of the Purana Task Force, do you see
11:25:05 45 that?---Yes.
46
11:25:05 47 The situation was that this was Victoria Police talking to

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11:25:12 1 Ms Gobbo about a current client of hers; you can take it
11:25:18 2 from me that the documents bear that out, she appeared for
11:25:22 3 him on a number of occasions around this time?---The person
11:25:25 4 who was the [REDACTED] - - -
5
11:25:28 6 Well - - - ?--- - - - in this one. So-called witness.
7
11:25:29 8 In fact it turns out both of them?---Righto.
9
11:25:32 10 Going back in time, Ms Gobbo had in fact acted for that
11:25:36 11 particular witness and had assisted that witness in the
11:25:40 12 decision of rolling, including on Faruk Orman?---Right.
13
11:25:44 14 You understand that?---Okay.
15
11:25:45 16 You understand that given that being the case she
11:25:48 17 immediately had a conflict of interest acting for the next
11:25:51 18 person, being Faruk Orman, you understand that?---Yes.
19
11:25:54 20 And you agree?---Yes.
21
11:25:58 22 As an aside, it turns out that the witness who came before
11:26:02 23 that witness there had been implicated by another witness
11:26:06 24 as well who she'd also acted on behalf of and assisted to
11:26:10 25 roll on the witness that we're talking about here?---You're
11:26:12 26 complicating me, sir.
11:26:13 27
11:26:13 28 It causes you, I assume, significant troubles hearing
11:26:16 29 that?---Well, yes. My thinking in regards to your
11:26:25 30 hypothetical scenario, advice sought, et cetera, probably
11:26:30 31 didn't take into account the extent to which these sorts of
11:26:37 32 scenarios played out in a short space of time.
33
11:26:43 34 And the scenarios that I've just talked you through, the
11:26:46 35 first witness represented by Gobbo, rolling on the second
11:26:49 36 witness represented by Gobbo, rolling on Mr Orman
11:26:52 37 represented by Gobbo, the documents make it very clear that
11:26:55 38 all of those elements were known to the people who were
11:26:58 39 handling Ms Gobbo at the time?---And my understanding
11:27:01 40 coming out of the 24 July meeting was these sorts of issues
11:27:05 41 were being managed.
42
11:27:06 43 Yes, all right. You know - - -
11:27:09 44
11:27:09 45 MS ARGIROPOULOS: Sorry, just before Mr Woods moved on,
11:27:11 46 there was just a couple of words mentioned a few moments
11:27:14 47 ago. If I could ask they be removed from the live stream.

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1
11:27:18 2 COMMISSIONER: Which line?
11:27:19 3
11:27:20 4 MS ARGIROPOULOS: Line 2, the two last words.
5
11:27:31 6 COMMISSIONER: All right, the last two words on line 2 on
11:27:34 7 the current page should be removed from the live stream and
11:27:37 8 the transcript.
11:27:39 9
11:27:39 10 MS ARGIROPOULOS: Thank you for that.
11:27:42 11
11:27:43 12 MR WOODS: That transcript can just be left on the
11:27:45 13 witness's - sorry, the display just on the witness's and
11:27:49 14 the Commission's screen, I've had a request for that.
15
11:27:53 16 COMMISSIONER: Sorry, what was that? I'm not with you.
11:27:59 17
11:27:59 18 MR WOODS: Because there's a name that apparently can be
11:28:03 19 seen by others in the - - -
20
11:28:05 21 COMMISSIONER: In the ICR?
11:28:06 22
11:28:06 23 MR WOODS: Yes, in the ICR I'm sorry. Commissioner, if we
24 could take - - -
25
11:28:08 26 COMMISSIONER: It's probably a good time to take the break.
11:28:10 27
11:28:11 28 MR WOODS: Thank you.
29
11:28:11 30 COMMISSIONER: We'll take the morning break now.
11:29:20 31
11:29:22 32 (Short adjournment.)
33
11:51:20 34 COMMISSIONER: Yes Mr Woods.
11:51:21 35
11:51:22 36 MR WOODS: Mr Blayney, just before the break I was taking
11:51:25 37 you through one example of what occurred regarding the
11:51:29 38 receipt and dissemination of information after that 24 July
11:51:33 39 meeting and it was, the focus was on Mr Orman's matter, do
11:51:39 40 you recall?---Yes.
11:51:39 41
11:51:41 42 The ICR that was on the screen, if that could just go up on
11:51:45 43 the Commissioner's and my screen and that's at p.2967 of
11:51:50 44 the combined ICRs. I don't know whether there's a way of
11:51:55 45 taking it off my screen, I think there's some sensitivity
11:51:59 46 about it being there. I can just lean forward - there we
11:52:03 47 go.

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11:52:06 1
11:52:07 2 MR CHETTLE: What page of the ICR?
11:52:09 3
11:52:10 4 MR WOODS: 2967 of the combined ICRs, it's ICR 9 November
11:52:17 5 2007. What I'd moved to just before the break was that
11:52:24 6 Ms Gobbo was telling Victoria Police that it needed to go
11:52:42 7 and essentially put a fire under, the phrase is she thinks
11:52:46 8 he, being the witness against Mr Orman, needs Purana to
11:52:51 9 visit, a Purana visit to put him straight otherwise he's
11:52:54 10 going to give it all in and you see those words
11:52:57 11 there?---Yes.
11:52:58 12
11:52:58 13 And you see that the handler has said that he will tell
11:53:03 14 Gavan Ryan at the last dot point?---Yes.
11:53:07 15
11:53:07 16 And then you see down the bottom that verbally disseminated
11:53:11 17 the above to Gavan Ryan, Purana Task Force, you see those
11:53:15 18 words there?---Yes.
11:53:15 19
11:53:16 20 Focusing on that, those particular events, you're aware
11:53:20 21 that recently the Court of Appeal allowed Mr Orman's appeal
11:53:26 22 in relation to the sentence he was serving at the time,
11:53:29 23 that's something you would have heard about in the
11:53:32 24 media?---Yes.
11:53:33 25
11:53:33 26 What the Court of Appeal said is that on those particular
11:53:37 27 facts, being what, the exchange that happened there, the
11:53:42 28 conduct subverted Mr Orman's right to a fair trial and went
11:53:47 29 to the very foundations of the system of criminal trial,
11:53:51 30 there was accordingly a substantial miscarriage of justice
11:53:56 31 and it then went on to allow the appeal. This is the very
11:54:01 32 sort of issue you were nervous about on 17 and 24 July
11:54:07 33 2007, is that right, the potential of something like this
11:54:10 34 happening?---Yes.
11:54:11 35
11:54:11 36 COMMISSIONER: Dismissed the appeal actually, dismissed the
11:54:15 37 application for special leave.
11:54:16 38
11:54:16 39 MR WOODS: Sorry. That might be the case, yes. And you
11:54:23 40 would agree on the basis of what I've explained to you
11:54:26 41 about the relationship - - -
11:54:27 42
11:54:27 43 COMMISSIONER: Sorry, I was talking at cross-purposes, I'm
11:54:32 44 sorry.
11:54:32 45
11:54:32 46 MR WOODS: I thought you being the Commissioner I should
11:54:34 47 agree anyway, I wasn't quite sure what you said but I'm

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11:54:38 1 sure it was right.
11:54:38 2
11:54:39 3 COMMISSIONER: I thought you were talking about the High
11:54:43 4 Court case but you were talking about the Court of Appeal
11:54:43 5 case, is that right?
11:54:46 6
11:54:46 7 MR WOODS: Yes, that's right. Given the relationships that
11:54:49 8 quite, the tangled relationships that I've gone through
11:54:53 9 being the first witness who rolled on the second witness
11:54:56 10 who then rolled on Mr Orman and Ms Gobbo representing all
11:55:00 11 three, you would agree just in that regard the use of
11:55:03 12 Ms Gobbo to receive information and disseminate it to
11:55:06 13 Purana was quite improper?---Yes.
11:55:08 14
11:55:10 15 And this occurred just a couple of months after you'd been
11:55:14 16 told that all information would go through Mr Biggin, do
11:55:18 17 you agree with that?---The meeting on the 24th.
11:55:22 18
11:55:22 19 24 July?---And then the briefing, a meeting with
11:55:25 20 Mr Overland, yes, that was understood that no
11:55:28 21 disseminations would occur without the approval of
11:55:33 22 Mr Biggin.
11:55:33 23
11:55:34 24 You would accept then I take it if it was the case that
11:55:36 25 this information was being filtered through Mr Biggin
11:55:39 26 before it was passed on to Mr Ryan, Mr Biggin wasn't doing
11:55:43 27 much of a job of filtering the information, you would
11:55:46 28 accept that?---Well he may not have been given the
11:55:49 29 opportunity.
11:55:49 30
11:55:49 31 If he wasn't given the opportunity then he should have been
11:55:53 32 based on the assurance that you were given on 24 July
11:55:56 33 2007?---Yes.
11:55:57 34
11:55:58 35 Certainly if you were the person that this information was
11:56:02 36 being filtered through and you knew each of those facts
11:56:06 37 that sat behind this, it might be an obvious question, but
11:56:10 38 what would you have done with the information? Would you
11:56:13 39 have allowed the SDU to disseminate it to Mr Ryan?---No.
11:56:20 40
11:56:20 41 I just want to go back very briefly to an issue we touched
11:56:23 42 on before. In the 24 July meeting, in fact firstly if we
11:56:27 43 go to the meeting before that, the hypothetical legal
11:56:31 44 opinion phrase, where was that used, 17 July 2007. Do I
11:56:39 45 understand, I mean despite there being significant time
11:56:42 46 that's passed since, the reason that you identified in that
11:56:47 47 meeting a hypothetical legal opinion might be needed was,

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11:56:53 1 firstly, it was known and discussed that Ms Gobbo was
11:56:56 2 acting for targets of Purana, was that something that was
11:57:01 3 known at that meeting, which is one of the reasons why you
11:57:03 4 wanted a hypothetical legal opinion to be obtained?---I
11:57:08 5 can't recall but I would have thought so, yes.
11:57:11 6
11:57:11 7 Yes, okay. And that in fact it was those very targets of
11:57:16 8 Purana that she was informing on who, she was also acting
11:57:23 9 on behalf of and that was why the social setting versus
11:57:26 10 professional setting was discussed, is that the
11:57:29 11 case?---Yes, to try and - in some ways how do you identify
11:57:38 12 what is a social setting, a conversation versus a
11:57:42 13 professional setting? And ensuring that it's segregated
11:57:48 14 and you're able to use the social setting information in
11:57:52 15 the way that we would normally use, but the professional
11:57:56 16 stuff is very much restricted and discouraged.
11:58:02 17
11:58:03 18 And the reason that that delineation occurred, when you
11:58:07 19 were discussing the need for a hypothetical legal opinion
11:58:10 20 in this meeting, was that it was known that she was in fact
11:58:13 21 acting on behalf of the targets she was informing on,
11:58:17 22 that's why you needed the hypothetical legal
11:58:21 23 opinion?---Yes, I believe so.
11:58:22 24
11:58:22 25 Just moving forward again to after that meeting, there's an
11:58:26 26 entry on 6 August 2007 in your diary. This is a diary
11:58:34 27 that's just been produced and it might not be able to be
11:58:39 28 brought up on the screen, but you should have a hard copy
11:58:41 29 in front of you there?---Yes.
11:58:43 30
11:58:46 31 I have been provided that through other means so I think
11:58:50 32 I've got that here. Does that have a purple Post-it Note
11:58:54 33 on the left-hand side?---No, pink.
11:58:56 34
11:58:57 35 Pink, it might have come through on the photocopier in a
11:59:01 36 slightly different colour. There we go, we do have it on
11:59:05 37 the screen. This is in your statement. I'll just turn to
11:59:10 38 the page, it's paragraph 27 of your statement. You say
11:59:16 39 that you met with Overland, Biggin, Sandy White, Ryan and
11:59:23 40 the reason for that meeting only two weeks or so after the
11:59:30 41 previous meeting where you were left with the understanding
11:59:33 42 that legal advice had been obtained, was to brief Overland
11:59:40 43 regarding Ms Gobbo, is that right?---That's correct.
11:59:42 44
11:59:43 45 Now, you don't now recall what was discussed in detail but
11:59:47 46 is that - I'm just not sure whether this entry that we have
11:59:51 47 in front of us here is the entry that you were looking at

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11:59:55 1 at the time of putting paragraph 27 in your statement. Is
11:59:59 2 it the same entry or - - - ?---No, not this one here, it's
12:00:03 3 the next page which is 215 of my diary, it's 10.40.
12:00:07 4
12:00:08 5 Can you scroll down to the next page please. Sorry, that's
12:00:11 6 my error. In any event can you read at 10.40, not using
12:00:18 7 Sandy White's real name, can you read the entry in your
12:00:23 8 diary?---"I left the Crime Department headquarters to the
12:00:28 9 Victoria Police Centre re meeting with Simon Overland, with
12:00:31 10 Tony Biggin, Gavan Ryan and Sandy. Briefing re human
12:00:38 11 source management and ops."
12:00:39 12
12:00:39 13 And that's all it says?---That's all my diary says, yes.
12:00:43 14
12:00:45 15 Then you've been shown the source management log I
12:00:48 16 believe?---That's correct.
12:00:48 17
12:00:49 18 If you haven't been I might take you to it. You
12:00:51 19 have?---Yes.
12:00:52 20
12:00:52 21 So the source management log, if that could be, I don't
12:00:56 22 know whether you need a number for the source management
12:00:59 23 log but it's the entry on 6 August 2007 and that might just
12:01:05 24 take a little bit to come up on the screen. But it says
12:01:08 25 there, "Meet with DC Overland, Superintendent Biggin,
12:01:13 26 Blayney, DDI Ryan re 3838 management update"?---And Sandy
12:01:19 27 White.
12:01:19 28
12:01:20 29 Yes, and I think it might be Sandy White who's recording it
12:01:23 30 which might be why it's written that way?---Yes.
12:01:26 31
12:01:27 32 "Three options available. Deactivate, ongoing management
12:01:31 33 with no tasking or witness. Agreed witness not an option
12:01:37 34 as source will be compromised. Deactivation not an option
12:01:41 35 by virtue of fact that ongoing communication will be
12:01:44 36 required re court issues re Mokbel trials. Agreed human
12:01:50 37 source to be managed with no tasking and any intel to be
12:01:54 38 risk assessed with Superintendent Tony Biggin prior to
12:01:58 39 dissemination or actioning", do you see those words
12:02:02 40 there?---Yes.
12:02:03 41
12:02:03 42 You accept that those were the options and that was the
12:02:06 43 outcome of that meeting?---That was the outcome of the 24th
12:02:10 44 of July meeting in regards to coming back to Mr Overland
12:02:17 45 with our views around how we should manage this going
12:02:21 46 forward.
12:02:21 47

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12:02:21 1 Yes?---So that's consistent with my understanding of the
12:02:25 2 meeting outcome on 24 July.
12:02:27 3
12:02:27 4 Again, although we've gone through it about previous
12:02:31 5 meetings, it's the case that each of the individuals at
12:02:34 6 this meeting knew that the real issue here was that she was
12:02:37 7 informing on people that she was acting for at that stage,
12:02:41 8 is that right?---That she was providing information to
12:02:44 9 Victoria Police and the likelihood, or she was, providing
12:02:47 10 information relating to people she was acting for.
12:02:51 11
12:02:51 12 Yes, I see. The next thing that was discussed was the
12:02:57 13 utilisation of her speak to targets re Petra and Briars to
12:02:57 14 [REDACTED] and it was
12:03:02 15 agreed any strategy to be risk assessed prior to
12:03:07 16 implementation. Do you know that since that entry indeed
12:03:11 17 she was tasked in relation to Briars to [REDACTED]
12:03:15 18 [REDACTED], is that
12:03:18 19 something you came to learn, Briars in particular? Do you
12:03:23 20 know about Operation Briars?---No, I didn't know the detail
12:03:25 21 of Operation Briars. I have a general understanding but I
12:03:28 22 don't know the specifics of that investigation and what she
12:03:31 23 may have done in that context.
12:03:32 24
12:03:33 25 Do you know generally that she was utilised to spread
12:03:36 26 information, to disseminate information in relation to
12:03:38 27 Briars or - - - ?---No.
12:03:40 28
12:03:40 29 Okay. And certainly Petra became well-known, that she was
12:03:44 30 utilised in relation to that investigation?---Petra was an
12:03:49 31 investigation conducted that involved Crime Command.
12:03:53 32 Briars was our Ethical Standards area at Victoria Police
12:03:57 33 was conducting that investigation.
12:03:58 34
12:03:59 35 Yes, all right. The entry there where it talks about, just
12:04:04 36 in the middle of that top section, "Deactivation not an
12:04:08 37 option by virtue of fact that ongoing communication will be
12:04:11 38 required re court issues re Mokbel trials", do you
12:04:15 39 understand what that, what the basis of that discussion
12:04:21 40 was?---No.
12:04:22 41
12:04:22 42 You understand now that Ms Gobbo had been integral in the
12:04:28 43 implication and arresting of a number of people by this
12:04:31 44 stage in 2007 associated with Mokbel, that's something you
12:04:35 45 know now?---Yes.
12:04:35 46
12:04:35 47 And it's something that you would have known at the time by

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12:04:39 1 virtue of the discussions and the sensitivity around
12:04:44 2 Ms Gobbo having acted for some significant Petra, sorry,
12:04:48 3 Purana targets?---Yes.
12:04:49 4
12:04:52 5 All right. And so what - it's an intriguing entry because
12:05:01 6 what the Commission knows is that she had been intimately
12:05:05 7 involved in implicating those people and rolling those
12:05:09 8 people, well, in having people roll and then people
12:05:14 9 implicated in crime, but she would need to be communicated
12:05:17 10 with in relation to the trials for those people despite
12:05:22 11 those things happening?---H'mm. I don't know what it
12:05:26 12 meant. Clearly Sandy White is the person who made that
12:05:29 13 note so I don't know how or what he meant by it and how it
12:05:34 14 was communicated in that meeting.
12:05:35 15
12:05:37 16 Now, I think I might have used the phrase Victoria Police
12:05:40 17 getting itself in a tangle a bit earlier, but this was
12:05:44 18 another, another example of that where the situation that
12:05:51 19 they'd found themselves in by using a practising criminal
12:05:55 20 barrister was posing some real problems about what to do
12:05:59 21 next, do you accept that?---There's no doubt and utilising
12:06:02 22 human sources can get complex, there are lots of risks
12:06:09 23 involved, but I think that utilising a criminal barrister
12:06:13 24 in that context brings another level of complexity to the
12:06:20 25 ongoing management.
12:06:21 26
12:06:22 27 Which makes it a fairly obvious thing that at the very
12:06:26 28 beginning of this relationship advice, the legal advice
12:06:30 29 that you later came to understand had been obtained, should
12:06:33 30 have been obtained at the very commencement of the
12:06:35 31 relationship, you'd accept that?---I believe so, yes.
12:06:38 32
12:06:39 33 Now, just on that issue, you don't have a memory of what
12:06:44 34 the middle note of Sandy White's means. It seems that one
12:06:51 35 of the issues that was being considered was that Ms Gobbo's
12:07:01 36 role in the background in relation to these trials that
12:07:05 37 were to come up in relation to Mokbel and his associates
12:07:08 38 might be disclosed by those investigators who needed to get
12:07:12 39 into the witness box, do you understand what I'm saying
12:07:14 40 there?---Yes.
12:07:15 41
12:07:16 42 And their notes might need to be disclosed, their diaries
12:07:20 43 might need to be disclosed and all of those sorts of
12:07:23 44 things. Do you recall there being particular sensitivity
12:07:26 45 about keeping Gobbo's name out of the trials that were to
12:07:30 46 be conducted?---No.
12:07:32 47

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12:07:38 1 The documents available to the Commission indicate and the
12:07:41 2 conversations that were being had with Ms Gobbo at the time
12:07:44 3 indicate there was an awful lot of effort being taken to
12:07:52 4 avoid that possibility. Hearing me say that, do you accept
12:07:55 5 that it was something that might have been discussed with
12:07:58 6 you from time to time as to how to keep her identity as a
12:08:01 7 source away from the legal process?---Not specifically
12:08:05 8 discussed with me. I can understand the difficulty that
12:08:11 9 might occur in regards to trying to protect the identity
12:08:16 10 and obviously the security related risks of Ms Gobbo on the
12:08:21 11 basis of matters going through the court, it's always a
12:08:25 12 challenge for investigators to actually, through the court
12:08:31 13 process, to protect the identity of informers because
12:08:37 14 obviously the risks that that might impose, but - and the
12:08:41 15 risk obviously from a court perspective is to ensure that,
12:08:45 16 you know, evidence that is produced is not tainted. So
12:08:50 17 there's that constant tension and I've been involved in a
12:08:54 18 few matters like that in the past whereby, you know, human
12:08:58 19 sources and protection of their identity have been critical
12:09:01 20 elements of a prosecution.

12:09:03 21
12:09:03 22 And here the conundrum became really acute because on the
12:09:11 23 one hand there was the real possibility that's been exposed
12:09:14 24 in this Commission, that the convictions had been tainted,
12:09:19 25 on the one hand requiring disclosure and on the other hand
12:09:21 26 the fact that a human source was involved meaning that it
12:09:25 27 could never be disclosed and that was one of the very
12:09:28 28 difficult issues that was posed to Victoria Police?---Yes.

12:09:31 29
12:09:32 30 What I was asking a moment ago about Ms Gobbo's role as a
12:09:38 31 human source not being disclosed in the Mokbel trials and
12:09:42 32 trials that were associated with Mr Mokbel, one of the
12:09:45 33 things the Commission's spent significant time hearing from
12:09:49 34 witnesses about is protecting from any disclosure
12:09:53 35 Ms Gobbo's role as a lawyer acting for a number of the
12:09:56 36 individuals who were involved in the background. So
12:10:00 37 putting her role as a source to one side, the fact that she
12:10:03 38 had been the particular lawyer advising particular people,
12:10:07 39 there was a concerted effort to keep that fact, it might be
12:10:11 40 said, away from the courts. Is that something that was
12:10:15 41 described to you at any time?---No.

12:10:17 42
12:10:19 43 You understand, given the discussion we've just had about
12:10:23 44 disclosure, that ultimately claims of public interest
12:10:28 45 immunity are not for Victoria Police to determine on its
12:10:32 46 own, but when matters of disclosure come up they're to
12:10:38 47 disclose the relevant information to a judicial officer,

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12:10:42 1 usually in a closed hearing in the absence of the accused,
12:10:46 2 you understand that process?---Yes.
12:10:47 3
12:10:47 4 And that it's for the court to determine whether or not
12:10:50 5 that balancing act falls in the favour of disclosure to the
12:10:55 6 accused person or not?---Yes.
12:10:56 7
12:10:56 8 It's not for Victoria Police itself to make that decision
12:11:00 9 unilaterally when it's been asked to disclose - well, when
12:11:05 10 the request for disclosure or subpoena attracts disclosure
12:11:08 11 of information that would identify a source, that needs to
12:11:13 12 be given to the court?---Police obviously should get legal
12:11:17 13 advice on that issue itself and follow that legal advice.
12:11:20 14
12:11:21 15 Yes, okay. But you don't move from the basic premise
12:11:25 16 though that it's the courts, it's the court's determination
12:11:28 17 on PII, not the police's determination?---That's right.
12:11:33 18 The police might have a view but where it's determined is
12:11:37 19 not within Victoria Police's remit.
12:11:39 20
12:11:39 21 They're the questions, thank you.
12:11:43 22
12:11:43 23 COMMISSIONER: Mr Nathwani.
12:11:44 24
12:11:44 25 <CROSS-EXAMINED BY MR NATHWANI:
12:11:46 26
12:11:46 27 Mr Blayney, just a few questions. Stating the obvious
12:11:49 28 rather than reading your statements but in both of your
12:11:52 29 statements you've confirmed that you never met with or had
12:11:56 30 any contact with Nicola Gobbo?---No.
12:11:58 31
12:11:58 32 And so any comments attributed to you as they have been
12:12:04 33 throughout the currency of this Commission are in fact
12:12:07 34 based upon what others have told you?---That's correct.
12:12:10 35
12:12:11 36 Can we now move to your second statement where the real
12:12:13 37 focus of my few questions are. It's apparent from reading
12:12:17 38 your statement your contact or your knowledge of Ms Gobbo,
12:12:19 39 this is paragraphs 2 to 15, arose by virtue of Purana
12:12:28 40 debriefings, or briefings?---Yes. Sorry, Purana Drug Task
12:12:38 41 Force and Petra.
12:12:39 42
12:12:39 43 Okay. So just to be clear about the people involved in
12:12:42 44 those, because I'm trying to do it in the chronology, Jim
12:12:48 45 O'Brien and Gavan Ryan are the two that you've mentioned
12:12:50 46 throughout your statement?---O'Brien was Purana and Ryan
12:12:54 47 was Purana and at other times was Petra.

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12:12:57 1
12:12:58 2 Absolutely. So what I'm getting at is looking at your
12:13:01 3 second statement, from 2006 through to about mid-2007 the
12:13:06 4 information you tended to receive in relation to 3838, as
12:13:09 5 she was then, all came from O'Brien and Gavan
12:13:13 6 Ryan?---Predominantly, yes.
12:13:15 7
12:13:15 8 It's in relation to Purana at that time, and they had an
12:13:18 9 acute knowledge of her use and information she was
12:13:22 10 providing?---I don't know the extent of their knowledge but
12:13:28 11 I assume they'd have an acute knowledge of the matters that
12:13:33 12 were under their responsibility, but they may not have had
12:13:37 13 a good understanding of other investigations, that
12:13:43 14 information that she was providing was being disseminated
12:13:46 15 to follow up. So not all - what I'm trying to say there,
12:13:51 16 not all information that would be disseminated from the
12:13:55 17 Source Development Unit's management of Gobbo would go to
12:13:59 18 Purana or Petra.
12:14:00 19
12:14:00 20 I understand?---It would go to other parts of the
12:14:03 21 organisation, or even outside the organisation if it
12:14:06 22 relates to an AFP investigation or whatever it might be.
12:14:10 23
12:14:11 24 Did anything either Gavan Ryan - I'm only focusing on them
12:14:14 25 because they're the ones reporting to you - or Jim O'Brien
12:14:15 26 would say, indicate they had been involved in the tasking
12:14:19 27 of Ms Gobbo at all?---No.
12:14:21 28
12:14:21 29 Moving on. So now we get up to paragraph 16 of your
12:14:25 30 statement. You meet with DC Overland and others and that's
12:14:28 31 the formation in your statement in relation to Petra.
12:14:32 32 We'll come back to it, but just pausing there, at that time
12:14:36 33 you had become aware of threats made to Ms Gobbo?---At that
12:14:40 34 time?
12:14:40 35
12:14:41 36 Yes. Looking at paragraph 15. So three months earlier,
12:14:45 37 December 2006, you're being made aware by DDI Ryan of
12:14:51 38 threats?---Yes.
12:14:52 39
12:14:52 40 That relate to Ms Gobbo. And then following it through,
12:14:56 41 and you've been asked a bit about this meeting, you have
12:14:58 42 the meeting with the Purana Task Force on 17 July, so this
12:15:02 43 is paragraph 17 of your statement?---Yes.
12:15:04 44
12:15:05 45 You attended Purana Task Force briefing with a view to
12:15:08 46 changing or discussion about changing the registration
12:15:12 47 number from 3838. So just to put it in context, you accept

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12:15:17 1 a few months earlier you're made aware of threats to her.
12:15:23 2 Do you agree that the use of Ms Gobbo at an OPI hearing
12:15:28 3 would increase the risk of threat to her?---Potentially. I
12:15:33 4 would not say that it would definitely, but I'd say it
12:15:36 5 potentially would.
12:15:37 6
12:15:37 7 And secondly, perhaps stating the obvious, turning her into
12:15:41 8 a witness would also increase the risk to her, where she's
12:15:46 9 been an informer?---Yes.
12:15:47 10
12:15:49 11 At this meeting then on 17 July, I understand it to be
12:15:54 12 Mr Overland who suggesting changing the 3838 number?---I
12:15:59 13 don't know who suggested that the number should be changed,
12:16:03 14 whether that had come from the SDU, Purana, Petra, I'm not
12:16:08 15 sure of the origins of the, of the notion that that should
12:16:12 16 occur.
12:16:13 17
12:16:13 18 It looks like a Purana Task Force briefing and you seem to
12:16:16 19 say the way the meetings developed was that the SDU weren't
12:16:20 20 there?---That's correct.
12:16:21 21
12:16:21 22 Because you had the meeting afterwards. What I'm getting
12:16:25 23 at was it Mr Overland who suggests - it looks like there
12:16:28 24 was no doubt because of the threats, because of her use and
12:16:31 25 no doubt because of what happened in relation to Mr Hodson
12:16:34 26 where his informer number became well-known, we've had
12:16:39 27 evidence about changing the number?---I can't recall who
12:16:43 28 suggested that take place.
12:16:44 29
12:16:44 30 At that meeting did Mr Overland say to you that he had been
12:16:49 31 involved days earlier, so six days earlier, in having
12:16:53 32 Ms Gobbo served with a summons to attend the OPI?---I can't
12:16:58 33 recall.
12:16:58 34
12:16:59 35 Do you agree, you've already agreed that her attending the
12:17:04 36 OPI could potentially increase risk to her. Were you
12:17:07 37 surprised it was not something that was mentioned,
12:17:10 38 certainly in your notes and therefore unlikely to be
12:17:12 39 mentioned at that meeting?---Sorry, I - - -
12:17:15 40
12:17:15 41 The meeting of 17 July, I've only seen your notes briefly
12:17:19 42 on the screen?---Yes.
12:17:20 43
12:17:20 44 They don't seem to refer at all to any discussion about her
12:17:24 45 attending the OPI?---My diary note didn't but it may have
12:17:28 46 been discussed. Certainly in my diary I don't include all
12:17:33 47 matters discussed at meetings, but from memory the issue

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12:17:38 1 arose on the meeting a week later on 24 July, and I think
12:17:45 2 the commentary in that meeting in my diary was around the
12:17:51 3 risk of Ms Gobbo going to OPI to be examined and whether
12:18:00 4 there should be steps taken to address any security
12:18:04 5 implications for her that might arise from that.
12:18:07 6
12:18:07 7 Which we'll come on to. Can I just ask you generally about
12:18:11 8 Mr Overland's attitude during this meeting and the later
12:18:17 9 ones. Would you accept that his primary concern as far as
12:18:19 10 Ms Gobbo was concerned was not her safety, it was to try
11 and do what he can to use her to benefit Victoria Police in
12:18:27 12 particular in relation to the Hodson murders?---Look, I
12:18:28 13 don't think that is the case. Certainly in discussions
12:18:34 14 with Mr Overland, particularly on the 17th of July meeting,
12:18:39 15 he was the one that asked for advice to come back in
12:18:42 16 regards to security issues that were obviously present and
12:18:49 17 obviously may be, continue to be, an issue going forward.
12:18:53 18 So he was the one that requested that piece of work get
12:18:57 19 done by the SDU in collaboration with the Crime Command.
12:19:01 20
12:19:02 21 Pausing there. So 17 July there's issues in relation to
12:19:04 22 risk, concerns you say Overland is raising. A simple
12:19:09 23 change would be to change her informer number. Can you
12:19:12 24 help us with why it then takes six months before that
12:19:16 25 happens?---Look, I don't know. I don't know what decisions
12:19:18 26 were made at what point to do that. It may have been
12:19:21 27 decided that wasn't necessary at the time. I didn't have
12:19:24 28 active management of this issue so I don't know why it took
12:19:28 29 that long to make that decision or even enact that
12:19:32 30 decision.
12:19:32 31
12:19:32 32 At the meeting of 24 July was there any discussion that
12:19:36 33 Ms Gobbo had in fact attended the OPI a few days
12:19:40 34 earlier?---No, I can't recall.
12:19:42 35
12:19:42 36 When you say that your notes, again I'm going off memory,
12:19:47 37 but your notes indicated "re OPI" and then there's a dash
12:19:52 38 Mr Overland. Mr Overland was responsible, wasn't he, for,
12:19:57 39 he was the liaison officer in many respects between the OPI
12:20:01 40 and Victoria Police?---At high level, yes.
12:20:04 41
12:20:04 42 Yes, of course?---Yes.
12:20:05 43
12:20:06 44 Then on the other side was Mr Ashton because he was at the
12:20:10 45 OPI at the time?---Yes.
12:20:11 46
12:20:11 47 And by control, were you aware that it was agreed that

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12:20:15 1 Mr Ryan was to attend the OPI hearings and to ensure
12:20:19 2 questions of a particular nature weren't asked?---I don't
12:20:23 3 know that that's the case.
12:20:24 4
12:20:30 5 We obviously see then in August, which Mr Woods has taken
12:20:34 6 you to, in fact both the 24th shown later and from 7
12:20:40 7 August, that the decision was made to carry on using her as
12:20:44 8 a human source?---Yes.
12:20:45 9
12:20:46 10 Would it then surprise you that not, about a year later
12:20:50 11 she's tasked with Mr Overland's approval to record Paul
12:20:56 12 Dale?---Well I wouldn't be, I'm not surprised as such but
12:21:02 13 clearly a decision of the 7th of August is not a decision
12:21:08 14 that is permanent and could never be changed in the context
12:21:14 15 of its implications and any decision around doing things
12:21:19 16 contrary to that meeting would be a situation that would be
12:21:23 17 carefully considered and a decision to do otherwise is a
12:21:28 18 decision for the Deputy Commissioner.
12:21:30 19
12:21:31 20 Because obviously the Commission has heard evidence in fact
12:21:33 21 he was provided information, that's Mr Overland, to say she
12:21:37 22 shouldn't be used as a witness against Paul Dale but he did
12:21:42 23 so nonetheless. I go back to the original question. Back
12:21:45 24 in July, 17 July 2007, was Mr Overland's attitude, "Use her
12:21:53 25 to the best of our benefit, i.e. VicPol and then the
12:21:58 26 collateral issue as to her health, safety and"
12:22:01 27 (indistinct)?---I would not say that, no. I saw no
12:22:03 28 evidence of that being the case. From my perspective there
12:22:10 29 was serious consideration by those involved around how we
12:22:16 30 could best manage the safety and security of Ms Gobbo
12:22:21 31 having regard to the value she was in regards to fighting
12:22:27 32 organised crime and very serious crime, and the
12:22:31 33 consideration that the very nature of the information she
12:22:35 34 was providing, how that could be best done to balance those
12:22:40 35 risks I suppose.
12:22:42 36
12:22:44 37 All right. Just a final question, were you aware certainly
12:22:47 38 at the time of the meeting that you were having the SDU
12:22:50 39 were indicating certainly to Jim O'Brien that it was not in
12:22:54 40 anyone's interests and certainly not in Ms Gobbo's safety
12:23:00 41 to use her as a witness, this is before the OPI
12:23:02 42 hearings?---At our meeting on the 24th of July there was
12:23:08 43 conversation around how she would be used going forward and
12:23:12 44 certainly the view was that use as a witness was not, was
12:23:18 45 not preferred, and there was strong agreement on that.
12:23:22 46
12:23:22 47 Can I just ask the rationale behind that, was that because

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12:23:26 1 of her safety or because of the revelation of use as an
12:23:31 2 informer, in other words were you more interested in
12:23:33 3 protecting her or protecting yourselves?---Primarily the
12:23:37 4 view was once she becomes a witness her safety
12:23:41 5 consideration goes to extreme levels and because it's very
12:23:44 6 clear to those who may be involved in the particular case
12:23:48 7 as to what her role is, was, and that would exponentially
12:23:55 8 increase the threat to her so serious considerations need
12:23:59 9 to be put in place around [REDACTED], [REDACTED],
12:24:03 10 all those sorts of things in order to attempt to guarantee
12:24:09 11 her ongoing safety.

12:24:10 12
12:24:11 13 So the answer is that her safety was the concern as far as
12:24:13 14 you were concerned?---Yes.

12:24:15 15
12:24:15 16 All right, thank you.

12:24:16 17
12:24:16 18 COMMISSIONER: I think you said it was the primary concern.
12:24:18 19 Was it also a concern of the reputational damage that could
12:24:23 20 be done to Victoria Police?---Not from my perspective,
12:24:26 21 Commissioner. I obviously didn't understand at that time
12:24:32 22 the issues that have been presented to me today in terms of
12:24:36 23 some of the information she was providing and how that was
12:24:39 24 being disseminated. That might have been playing on other
12:24:43 25 people's minds but it wasn't playing on mine.

12:24:45 26
12:24:46 27 I understand. Anything arising out of that?

12:24:48 28
12:24:48 29 MR NATHWANI: No, Commissioner.

12:24:50 30
12:24:50 31 COMMISSIONER: Mr Chettle, I think you're next unless there
12:24:54 32 are any other applications.

12:24:56 33
34 <CROSS-EXAMINED BY MR CHETTLE:

35
12:24:57 36 Mr Blayney, during 2006 to 2008 you were a Superintendent,
12:25:00 37 were you?---That's correct.

12:25:01 38
12:25:02 39 So you're a Superintendent in the Crime Department for that
12:25:05 40 period of time?---Yes.

12:25:06 41
12:25:06 42 Do you have a particular area of responsibility as
12:25:09 43 Superintendent in the Crime Department?---In the context of
12:25:13 44 my role at the time I was the, what they call a Major Crime
12:25:18 45 Tasking Coordination Manager which is a brand new role that
12:25:22 46 was created following a review. So my responsibility was
12:25:30 47 the prioritisation of the case load in the Command,

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12:25:35 1 ensuring that investigations are being adequately resourced
12:25:40 2 and prioritised, that they're being tracked to ensure that
12:25:43 3 they're progressing satisfactorily, all the requirements in
12:25:47 4 regards to how they're recorded, et cetera. So it was very
12:25:50 5 much around assessing prioritisation, ensuring compliance,
12:25:56 6 encouraging effectiveness and efficiency, reviewing
12:25:59 7 investigations, reviewing squads and task forces, as well
12:26:04 8 as other responsibilities, but primarily that was the role
12:26:08 9 around tasking coordination.
12:26:09 10
12:26:09 11 Your immediate superior was who, Dannye Moloney?---No, it
12:26:13 12 was initially Assistant Commissioner Simon Overland.
13
12:26:17 14 Right?---Then he was promoted, I don't know exactly when.
12:26:20 15
12:26:20 16 Okay. You don't have to report to a Commander, you
12:26:23 17 reported straight to the AC?---That's correct.
12:26:25 18
12:26:25 19 And then you, below you, do you oversee Purana and those
12:26:30 20 groups?---No, there was a Superintendent in charge of what
12:26:34 21 we call Crime Tasked Operations that had all the Task
12:26:39 22 Forces.
12:26:39 23
12:26:40 24 Who was that?---Initially I think in 2005/6 it was Richard
12:26:48 25 Grant.
12:26:48 26
12:26:48 27 Yep?---And at some stage, probably around the same time I
12:26:52 28 took on the Major Crime Tasking Coordination Manager role
12:26:56 29 or shortly thereafter Superintendent Paul Hollowood took
12:27:00 30 charge of Purana.
12:27:00 31
12:27:00 32 What I'm trying to get my head around, if you can help me,
12:27:04 33 is how you come to be having the meetings with covert
12:27:07 34 people like SDU and Purana people?---In the context of the
12:27:14 35 July meeting, and there was a couple of complications I
12:27:18 36 need to refer to, is I was tasked by Mr Overland to do
12:27:22 37 that. From a general sense I didn't have contact with the
12:27:27 38 SDU but I certainly had regular contact with Superintendent
12:27:33 39 Biggin. Superintendent Biggin managed the covert support
12:27:38 40 resources, Intelligence and Covert Support Command, a
12:27:42 41 different Command in Crime, and they were a critical
12:27:46 42 component of all of our major investigations. He provided
12:27:50 43 the resources to support those investigations.
12:27:52 44
12:27:53 45 So if you got an operation going that involved listening
12:27:59 46 devices?---Yes.
12:28:00 47

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12:28:00 1 Or surveillance, you might need to have him involved in the
12:28:03 2 operational issues?---Certainly. So I would, I would work
12:28:09 3 within Crime Command to determine what our priorities were.
12:28:12 4 I had conversations with Superintendent Biggin around our
12:28:14 5 priorities and the resources we'd like him to support us
12:28:18 6 with. He'd have to weigh that against all the other areas
12:28:22 7 of the organisation he had to support, I know Crime Command
12:28:25 8 was driving a lot of the demand for his service in those
9 years.
10
12:28:30 11 So he's the same rank as you?---Yes.
12:28:33 12
12:28:33 13 And we know what he did. You would have known him for some
12:28:34 14 time I take it?---Yes.
12:28:36 15
12:28:36 16 He worked incredibly hard over a lot of different
12:28:40 17 areas?---Yes, very earnest, hard working.
12:28:44 18
12:28:44 19 He told the Commissioner in his evidence a whole list of
12:28:47 20 committees and organisations that he represented on behalf
12:28:50 21 of Victoria Police to indicate that he had an incredibly
12:28:54 22 busy schedule, of which managing the SDU was just one part
12:28:58 23 of it?---That's correct.
12:28:58 24
12:28:59 25 You'd agree with that?---Yes.
12:29:00 26
12:29:01 27 As far as his integrity is concerned, do you have any -
12:29:07 28 what can you say about that?---I've never had any reason to
12:29:12 29 question his integrity. I held him in high regard in
12:29:16 30 regards to his honesty, his earnestness, his commitment.
12:29:20 31
12:29:21 32 It was being suggested to you by Mr Woods that he and Sandy
12:29:28 33 White were being dishonest and deceitful or trying to
12:29:31 34 mislead you. Did you see any evidence of that at
12:29:35 35 all?---I've had long relationships with both those
12:29:38 36 gentlemen and I would not think that that would be the
12:29:42 37 case.
12:29:42 38
12:29:43 39 So I want to come to this change of registration note that
12:29:50 40 you have in your diary. That's made on 17 July of 2007, is
12:29:56 41 that right?---That's correct.
12:29:57 42
12:29:57 43 And that occurs in the context of a meeting with, as you
12:30:01 44 just told Mr Nathwani, the Purana investigation, it's the
12:30:08 45 Purana update?---It seemed to be the Purana briefing. I
12:30:11 46 don't know how it got raised in the meeting, whether it was
12:30:14 47 raised by Purana itself or whether it was raised by

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12:30:17 1 Mr Overland, that issue.
12:30:18 2
12:30:19 3 If Mr Overland directed that there be a change of the
12:30:22 4 registration number it would happen, wouldn't it?---That's
12:30:24 5 correct.
12:30:24 6
12:30:25 7 Can I put up Exhibit 348, please. I suspect you haven't
12:30:34 8 ever seen this. You were aware in early 2008 her
12:30:38 9 registration number did change?---No.
12:30:40 10
12:30:40 11 This is an issue cover sheet that Sandy White completed in
12:30:45 12 order to bring about the change of her number, do you
12:30:50 13 follow?---Yes.
12:30:51 14
12:30:52 15 And basically he says what you said, too many people know
12:30:55 16 about her so it's time to change her number and change her
12:31:00 17 sex and all those sort of things with a view to concealing
12:31:05 18 or making it less exposed, a risk management thing?---In
12:31:10 19 addition to that, you know, people may not know Ms Gobbo
12:31:14 20 was a source, but just the regularity that the 3838 code
12:31:19 21 number was being used in a lot of investigations, that it
12:31:24 22 increased the chance that people would make that
12:31:27 23 connection.
12:31:27 24
12:31:27 25 Yes. Now, apparently you've had, when you answered
12:31:30 26 questions to Mr Woods you had some discussion with this
12:31:34 27 Purana meeting on 17 July about the number of people who
12:31:38 28 knew about her or words to that effect and it might be wise
12:31:42 29 to change her number. Is that a memory you have or a
12:31:45 30 conclusion?---No.
12:31:46 31
12:31:46 32 Not a memory?---Not specific, no.
12:31:49 33
12:31:49 34 All right. It turns out that it's 23 January that the
12:31:54 35 cover sheet is filed and completed and she changes
12:31:58 36 registration number on the 24th and becomes a different
12:32:01 37 number. Were you aware of that?---No.
12:32:03 38
12:32:03 39 Thank you, you can take that down. All right, now I want
12:32:12 40 to take you to, put up another - Exhibit 434 please.
12:32:19 41 You've been taken to your diary note of the meeting of 24
12:32:24 42 July. Sorry, before I go to 24 July I'll take you to 18
12:32:28 43 July. Mr Woods mentioned - - - ?---Sorry, Mr Woods?
12:32:36 44
12:32:36 45 COMMISSIONER: He's counsel assisting?---Sorry.
12:32:42 46
12:32:42 47 Another pseudonym, yes, it's a bit like that. It's his

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12:32:47 1 real name as far as I know.
12:32:51 2
12:32:52 3 WITNESS: 18 July.
12:32:52 4
12:32:53 5 MR CHETTLE: You won't have it in your diary?---Oh sorry,
12:32:56 6 yes.
7
12:32:56 8 What Mr Woods took you to was a conversation between
12:32:59 9 Mr O'Brien and Sandy White the day after the meeting you
12:33:04 10 had with, on the 17th, which I've just taken you to, but he
12:33:09 11 didn't give you the entirety of what was said. Can I have
12:33:12 12 that - if you can find it. It's the wrong one, sorry. 18
12:33:37 13 July, thank you. It is in fact, I think, Exhibit 434. I
12:33:46 14 see, you've got all the diary entries, I follow.
12:33:50 15
12:33:51 16 COMMISSIONER: But 434 is 18 July. Do we have a VicPol
12:33:58 17 number for it? We don't unfortunately.
12:33:58 18
12:34:01 19 MR CHETTLE: VPL.2000.0001.1243 I think. Yes, that's it,
12:34:18 20 thank you very much. Go down, thank you. You'll see on
12:34:31 21 that day Sandy White has a meeting with Mr O'Brien re 3838
12:34:35 22 issues?---H'mm.
12:34:37 23
12:34:37 24 "Discussed possibility of being a witness, advised against
12:34:41 25 same." That was certainly your view, wasn't it?---Yes.
12:34:44 26
12:34:45 27 "JOB suggested it's inevitable that HS will be compromised,
12:34:51 28 then we should utilise as a witness whilst we can." Now
12:34:55 29 did anyone ever mention that to you, "She's going to be a
12:34:59 30 witness, we should use her when we can"?---I can't recall
12:35:02 31 that.
12:35:02 32
12:35:05 33 Sandy White advised, I think, that he didn't believe that
12:35:08 34 she would be necessarily compromised and the value of her
12:35:13 35 as a witness needs to be - something - balanced against
12:35:27 36 political fall out from the legal fraternity. That was the
12:35:31 37 entry, the reference that Mr Woods took you to, remember
12:35:35 38 the possibility of fall out and how it will impact on a
12:35:40 39 particular person's conviction and others. Do you see
12:35:43 40 that?---Yes.
12:35:44 41
12:35:46 42 "Agreed need legal advice re fall out." Keep going down.
12:35:53 43 "Value as a witness limited to a particular person", that's
12:35:58 44 Rob Karam. "Tony Mokbel material" - I can't read that
12:36:06 45 word?---"Will make little difference" I think.
12:36:09 46
12:36:09 47 "Limited, and will make little difference." Then there's a

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12:36:14 1 meeting with Gavan Ryan. You'll see there's a reference
12:36:18 2 there prior to the meeting of the 24th about legal
12:36:21 3 advice?---H'mm.
12:36:22 4
12:36:22 5 And the circumstances in which that would occur. Did Jim
12:36:27 6 O'Brien attend the meeting on 24 July?---Yes.
12:36:32 7
12:36:34 8 Could you have obtained the belief that you had about legal
12:36:40 9 advice from him?---I'm not sure. It's possible but I'm not
12:36:45 10 sure.
12:36:45 11
12:36:47 12 Mr Woods tried I think on five or six occasions to get you
12:36:51 13 to refer to somebody telling you about legal advice. You
12:36:54 14 have no recollection of anyone telling you about legal
12:36:57 15 advice, that they had legal advice?---No one specific, no.
12:37:00 16
12:37:01 17 And if someone did, you don't know who it was?---That's
12:37:04 18 correct.
12:37:04 19
12:37:05 20 But you went away with an impression that there'd been
12:37:08 21 legal advice obtained that's for sure?---And they were
12:37:11 22 acting accordingly, yes.
12:37:12 23
12:37:12 24 On that issue, firstly, did - Mr Overland was
12:37:22 25 present?---24th, no.
12:37:23 26
12:37:23 27 Not on the 24th, he was present on the earlier
12:37:25 28 occasion?---The 17th, yes.
12:37:26 29
12:37:26 30 Did Mr Overland ever express to you any concerns about the
12:37:29 31 use of Ms Gobbo as a source?---I can't recall.
12:37:34 32
12:37:35 33 You have no recollection of him doing so. As far as the
12:37:41 34 issue - - - ?---There were certainly reservations from a
12:37:45 35 safety and security perspective. I was just assuming you
12:37:48 36 were on that point about professional privilege.
12:37:51 37
12:37:52 38 I am about to come straight to that. As far as legal
12:37:53 39 professional privilege is concerned you recall having
12:37:55 40 conversations about that with Sandy White?---Yes.
12:37:58 41
12:37:59 42 With Mr Biggin present?---Yes.
12:38:01 43
12:38:01 44 But you don't - and you don't recall Mr Overland ever
12:38:05 45 having conversations in relation to legal professional
12:38:08 46 privilege?---No.
12:38:10 47

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12:38:10 1 All right. Mr White made it clear that he was alert to the
12:38:29 2 issue of legal professional privilege?---Yes.
12:38:31 3
12:38:31 4 Can I have Exhibit 280 brought up if I could, please. All
12:38:45 5 right, can we go to paragraph 2.14, please, which is on -
12:38:53 6 it hasn't got a page number.
12:38:55 7
12:38:56 8 COMMISSIONER: Yes.
12:38:57 9
12:38:57 10 MR CHETTLE: Yes it does, p.19.
12:38:59 11
12:39:00 12 COMMISSIONER: Care needs to be taken with this report.
12:39:01 13 This is a confidential report. You need to be very
12:39:04 14 careful.
12:39:04 15
12:39:05 16 MR CHETTLE: I do, Commissioner. I just want to go to
12:39:08 17 p.19.
12:39:08 18
12:39:08 19 COMMISSIONER: All right.
12:39:09 20
12:39:12 21 MR CHETTLE: It says - it is p.19 of the document, please.
12:39:19 22 There's two - every section has a paragraph number. This
12:39:25 23 is not the document, I'm sorry.
12:39:28 24
12:39:29 25 MR WOODS: I think there's sensitivity about this document.
12:39:32 26
12:39:32 27 MR CHETTLE: It's the wrong one.
12:39:34 28
12:39:35 29 MR WOODS: From other authorities, yes.
12:39:37 30
12:39:37 31 MR CHETTLE: It is, it's so sensitive I haven't got it up.
12:39:41 32 I have a different document.
12:39:42 33
12:39:42 34 COMMISSIONER: We have the original in hard copy here if
12:39:44 35 you want to show that to the witness.
12:39:46 36
12:39:47 37 MR CHETTLE: Thank you very much. That's probably - I take
12:39:49 38 it you've never seen this document before? We've got some
12:39:56 39 issues in relation to describing or talking about what it
12:39:59 40 is, do you follow?
12:39:59 41
12:39:59 42 COMMISSIONER: It's a UK report and it's been provided
12:40:05 43 confidentially and so it can't be identified in evidence.
12:40:10 44
12:40:10 45 MR CHETTLE: Can you go to p.19 of the document?---The
12:40:13 46 pages aren't numbered. Do you have a section number?
12:40:20 47

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12:40:21 1 COMMISSIONER: Perhaps if you show the document to
12:40:22 2 Mr Chettle and he can find the page he wants.
12:40:25 3
12:40:26 4 MR CHETTLE: Yes, thank you. That's the simplest way. I'm
12:40:49 5 referring to paragraph 2.14, the heading, "Matters subject
12:40:54 6 to legal privilege". To put this in context, Mr Blayney,
12:41:00 7 this is a document that Mr Sandy White obtained from
12:41:04 8 England that was - you can see from the front of it what it
12:41:09 9 is and it has a section that relates to matters the subject
12:41:13 10 of legal privilege in the context of source management. Do
12:41:17 11 you follow?---Yep.
12:41:18 12
12:41:20 13 It sets out there the legislation in England that defines
12:41:27 14 the topic, it says, "This includes both oral and written
12:41:33 15 communications between a professional legal advisor and his
12:41:37 16 client or any person representing his client made in
12:41:38 17 connection with the giving of legal advice to the client or
12:41:40 18 in contemplation of legal proceedings and for the purpose
12:41:43 19 of such proceedings, as well as items enclosed with or
12:41:47 20 referred to in such communications. Privilege is
12:41:50 21 maintained where a professional legal advisor is properly
12:41:54 22 advising the person who is suspected of having committed a
12:41:56 23 criminal offence. Communications and items held with the
12:42:00 24 intention of furthering a criminal purpose are not matters
12:42:04 25 subject to legal privilege, whether the legal
12:42:08 26 representative is acting unwittingly or culpably", do you
12:42:12 27 see that?---Yes.
12:42:13 28
12:42:13 29 Did that accord, firstly, with your understanding of
12:42:16 30 matters that were legally professionally
12:42:19 31 privileged?---Generally, yes.
12:42:19 32
12:42:20 33 And did that accord with the content of what Mr Sandy White
12:42:24 34 was indicating he understood legal professional privilege
12:42:27 35 to be?---Partly, yes.
12:42:28 36
12:42:29 37 That if in relation to clients, you were taken to the pills
12:42:35 38 a moment ago, and the facts were these: Ms Gobbo was
12:42:42 39 acting for Robbie Karam doing a trial in the Supreme Court
12:42:45 40 for an importation. In the course of that trial she was
12:42:51 41 given by Karam some documents to pass on to another person
12:42:54 42 and he didn't want to take them into court. Those
12:42:57 43 documents were in fact the consignment note for the next
12:43:01 44 importation that they were doing whilst they were on trial
12:43:04 45 for an importation?---H'mm.
12:43:05 46
12:43:06 47 She copied those and passed them over to the handlers, do

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12:43:09 1 you follow, and they went on. Do you have a view that that
12:43:13 2 was legally professionally privileged?---My general view is
12:43:18 3 it shouldn't be.
12:43:18 4
12:43:19 5 It shouldn't be because it's in furtherance of crime, isn't
12:43:22 6 it?---That's right, and it's, from my perspective it's
12:43:25 7 about crime that is for future commission as such and I
12:43:30 8 would have thought any person, lawyer or whatever, on such
12:43:35 9 a serious matter would be duty-bound to protect the
12:43:40 10 community first.
12:43:40 11
12:43:41 12 Her problem then goes further. She goes on and continues
12:43:46 13 to act. If she goes on and acts for them she puts herself
12:43:50 14 in conflict with her client, doesn't she?---Potentially,
12:43:53 15 yes, and I understand Ms Gobbo as a practising lawyer and
12:43:57 16 also practising for a lot of those types of clients would
12:44:04 17 find it difficult to say no in some circumstances around
12:44:09 18 her services being requested.
12:44:12 19
12:44:12 20 If she didn't turn up it would light her up and cause a
12:44:18 21 risk to her?---Potentially, yes.
12:44:22 22
23 I understand that. But as far as the issues that you
12:44:23 24 understood being managed, it was clear to you that Sandy
12:44:24 25 White had an understanding of the principles of legal
12:44:27 26 professional privilege and indeed - you agree with that
12:44:30 27 half firstly?---Yes.
12:44:31 28
12:44:31 29 And that he also was telling you that he was aware of the
12:44:36 30 issues of conflict and trying to manage it?---Yes.
12:44:39 31
12:44:43 32 The records that are produced to the Commission indicate
12:44:46 33 that on numerous occasions Ms Gobbo was informed that she
12:44:52 34 couldn't act for particular individuals for whom she had
12:44:55 35 provided intelligence about, do you follow?---Yes.
12:45:00 36
12:45:00 37 And that again was consistent with what he was telling
12:45:04 38 you?---Yes.
12:45:05 39
12:45:07 40 Now, on the issue of - I've asked you about Mr Biggin. I
12:45:17 41 ask you about Sandy White. You've known him for a long
12:45:21 42 while?---Yes.
12:45:21 43
12:45:22 44 In his statement he actually, written to this Commission,
12:45:27 45 he actually lists you as one of the mentors he had in
12:45:31 46 relation to his whole approach to policing?---Yes.
12:45:33 47

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12:45:33 1 Were you aware of that?---Not officially but in my
12:45:36 2 relationship with him over the years he has sought my
12:45:43 3 counsel and I've sought to support him in what he's trying
12:45:47 4 to achieve.
12:45:48 5
12:45:48 6 You have a pretty fair idea of what sort of a bloke he
12:45:50 7 is?---Yes.
12:45:51 8
12:45:51 9 It's been suggested that he was someone who conspired with
12:45:56 10 Purana detectives to use Ms Gobbo against her clients, how
12:46:03 11 does that suggestion sit with the man you know?---I don't
12:46:09 12 see him in that way, no.
12:46:10 13
12:46:11 14 He's someone who would deliberately pervert the course of
12:46:16 15 justice?---I wouldn't see him as a person who would do
12:46:19 16 that.
12:46:19 17
12:46:19 18 He took his job seriously?---Yes.
12:46:22 19
12:46:22 20 And he was at that stage probably the leading expert in
12:46:26 21 source management in Victoria Police?---Yes.
12:46:28 22
12:46:29 23 He had been instrumental in setting up the DSU, SDU as it
12:46:36 24 became?---That's correct.
12:46:37 25
12:46:38 26 And were you aware that they were, the SDU were heavily
12:46:44 27 under resourced in relation to administrative
12:46:49 28 support?---No, I wasn't aware of that.
12:46:50 29
12:46:51 30 That would be a common cry in Victoria Police, the need for
12:46:54 31 more support and administrative support, wouldn't it?---We
12:46:57 32 haven't got endless resources for those sorts of things so
12:47:01 33 yes, it's a challenge. But certainly in the context of the
12:47:04 34 times, it was a very, very busy time in Crime Command and a
12:47:08 35 lot of the support or the work that was underway was coming
12:47:14 36 from SDU, Surveillance Unit, technical support, telephone
12:47:19 37 intercepts. I think it was the most busy time that the
12:47:22 38 Command had ever experienced or the organisation had ever
12:47:25 39 experienced.
12:47:25 40
12:47:25 41 COMMISSIONER: Mr Chettle, sorry to interrupt, have you
12:47:29 42 finished with [REDACTED]
12:47:31 43
12:47:31 44 MR CHETTLE: Yes.
12:47:31 45
12:47:32 46 COMMISSIONER: On 2 August when that was tendered I made an
12:47:35 47 order there were to be no publication or reference to the

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12:47:39 1 name of [REDACTED] or its contents and all such references
12:47:44 2 are to be removed from the published transcript. So in
12:47:44 3 light of your cross-examination I'll now amend that order,
12:47:48 4 paragraph 1 of that order to add the words, "Save for
12:47:51 5 Mr Chettle's cross-examination of Mr Blayney at transcript
12:47:55 6 10272 to 10273".
12:48:01 7
12:48:02 8 MR CHETTLE: Thank you Commissioner. I thought I complied
12:48:03 9 but obviously I didn't.
12:48:06 10
12:48:07 11 COMMISSIONER: No. They're very sensitive about it, I
12:48:10 12 don't want any more upset correspondence from them.
12:48:16 13
12:48:17 14 MR CHETTLE: Can I take you now to that meeting of 24 July.
12:48:21 15 You were taken to your diary note for that meeting. Can I
12:48:24 16 take you to Sandy White's?---Sure.
12:48:28 17
12:48:29 18 But before I do, the issue about whether there was one
12:48:32 19 meeting or two meetings on that day, that you raised at the
12:48:36 20 start, can I suggest to you there were two and I do that on
12:48:39 21 the basis of Mr Biggin's diaries?---Okay.
12:48:42 22
12:48:42 23 Who says, I'll just take you to what he says firstly.
12:49:05 24 According to the summary of his diaries that he produced to
12:49:14 25 the Commission at 4 o'clock he had, "Superintendent Jack
12:49:18 26 Blayney re 16:00 meeting at Purana with Sandy White", so
12:49:25 27 he's got him seeing you at 4 and then at 4.30, "Meeting
12:49:29 28 with re HS 3838, Witsec, witness, future deployments to
12:49:37 29 16:30, when Superintendent Blayney, Brown, Ryan, O'Brien,
12:49:41 30 O'Connell, Sandy White had a meeting in relation to Witsec,
12:49:47 31 Witsec future direction, verbal briefing to DC Overland",
12:49:52 32 and then something about Dick Joyce from DDA, I don't think
12:49:58 33 that has anything to do with him. As I read his diary he
12:50:01 34 has a meeting with you and Sandy White and then
12:50:04 35 subsequently a meeting with yourself, Gavin Brown I assume
12:50:07 36 it is, Ryan, O'Brien, O'Connell and Sandy White?---Graham
12:50:13 37 Brown I think it was.
12:50:14 38
12:50:14 39 Graham Brown, is it?---Yes. That could be the case, yes.
12:50:16 40
12:50:17 41 That would tend to suggest there were two meetings and
12:50:20 42 you've got your notes in relation to both?---Yes.
12:50:21 43
12:50:22 44 Now I'll take you to 435 if I can. All right, at 16:25 -
12:50:41 45 can you go back - just check something if I can. Go back
12:50:44 46 to the previous entry. It's been blacked out, thank you.
12:50:48 47 It would appear Sandy White only has one note of the

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12:50:52 1 conference with you but he does have himself talking to
12:50:57 2 Biggin earlier. At 16:25, "Crime Department meet with
12:51:03 3 Superintendent Tony Biggin. DDI's JOB and GR" that's
12:51:09 4 O'Brien and?---Ryan.
12:51:11 5
12:51:11 6 "Ryan, O'Connell, you and Graham Brown. Update re 3838.
12:51:16 7 It was agreed the value of Ms Gobbo as a source is
12:51:21 8 outweighed by repercussions and risk to same." Just
12:51:25 9 stopping there. Is that consistent with what you say
12:51:28 10 occurred?---Yes.
12:51:30 11
12:51:30 12 All right. So that means the senior members, I mean when
12:51:35 13 you say agreed, does that mean it was a consensus or the
12:51:41 14 superintendents came to a view?---No, I think it was a
12:51:46 15 general agreement of the group. Clearly my involvement,
12:51:54 16 Graham Brown's involvement was more of a questioning of
12:52:02 17 where we're at and what are the issues at play, because
12:52:06 18 Superintendent Biggin, O'Brien and Ryan and O'Connell, they
12:52:12 19 were leading the day-to-day on this stuff and certainly
12:52:17 20 Brown and myself were the ones that were probably applying
12:52:21 21 a level of questioning where we're at and what do we need
12:52:27 22 to do going forward.
12:52:29 23
12:52:32 24 You're the same rank as Biggin but, as you say, he's
12:52:36 25 clearly all over it, isn't he? He has a clear
12:52:39 26 understanding and overview of what was happening with
12:52:40 27 Ms Gobbo?---Yes.
12:52:41 28
12:52:42 29 "Agreed to continue deployment with no tasking. Intel
12:52:47 30 received to be assessed on an individual basis and risk
12:52:52 31 determination prior to any dissemination." That's slightly
12:52:56 32 different from your note, isn't it, because your note says
12:52:58 33 that it had to go through Biggin before it was
12:53:04 34 disseminated, this says there will be a risk determination
12:53:06 35 prior to any dissemination?---The risk determination would
12:53:10 36 be, I would assume, every piece of information would be
12:53:14 37 risk assessed as to its circumstance and ramifications if
12:53:19 38 it was disseminated. Certainly my recollection was that
12:53:24 39 that final step was that Superintendent Biggin had to
12:53:28 40 authorise dissemination and that's reflected in the
12:53:31 41 briefing to Mr Overland a week later.
12:53:34 42
12:53:34 43 Yes. And that was - I don't argue with that. I'm just
12:53:38 44 saying they're consistent but there are slight differences,
12:53:41 45 if you follow?---Yes.
12:53:42 46
12:53:42 47 And it was agreed that Biggin, Sandy White and Jim O'Brien

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12:53:47 1 would brief Overland about the very issues that were
12:53:50 2 discussed at the meeting?---No, JB was me.
12:53:53 3
12:53:54 4 JB, sorry, Jack Blayney. I apologise, there's no 0 in it.
12:54:00 5 And that was the agreement, wasn't it?---Yes.
12:54:02 6
12:54:06 7 My instructions are - and there's no reference in that
12:54:09 8 document to any legal advice being obtained, you
12:54:12 9 understand?---Yes.
12:54:13 10
12:54:14 11 My instructions are, I suggest to you, that there was no
12:54:18 12 discussion by Mr White or Mr Biggin about having obtained
12:54:24 13 legal advice. Now, they didn't tell you that because there
12:54:29 14 wasn't any and if that be the case it would be unlikely
12:54:34 15 they'd tell you, wouldn't it?---Well I'd hope so, yes.
12:54:38 16
12:54:38 17 I mean I can do no more than suggest to you - I don't doubt
12:54:42 18 you came away with the impression they might have, but they
12:54:45 19 didn't tell you they had, that's what I'm putting to you
12:54:49 20 and you couldn't argue with that?---I can't refute it.
12:54:52 21
12:54:52 22 Thank you. Now, you were asked about the threats that were
12:54:59 23 made to Ms Gobbo. You would imagine that any threats made
12:55:06 24 to Ms Gobbo would be carefully assessed by those handling
12:55:10 25 her to determine whether or not she had been compromised
12:55:13 26 and steps would be taken to manage any risks that arose
12:55:18 27 from those threats?---Yes.
12:55:19 28
12:55:19 29 That's what their job was, wasn't it, to do that?---Part of
12:55:25 30 the job, yes. A most serious aspect of it.
12:55:27 31
12:55:28 32 On that, a Police Force is a hierarchical organisation,
12:55:32 33 isn't it? You do what you're told effectively?---Yes.
12:55:34 34
12:55:35 35 But there's nothing wrong, and it may be career limiting,
12:55:37 36 but there's nothing wrong with [REDACTED] raising with
12:55:41 37 their superiors concerns about issues that the superiors
12:55:43 38 are asking them to implement?---That's correct.
12:55:46 39
12:55:46 40 In fact, the values - the opinions and values of [REDACTED]
12:55:51 41 [REDACTED] are valued, aren't they, by those above them when
12:55:55 42 they come to make their decisions?---Yes, relying on them.
12:55:59 43
12:56:00 44 Obviously Superintendents and higher ranking officers will
12:56:08 45 seek the advice of those around them - not superior, those
12:56:15 46 junior to them in the Force in order to inform their
12:56:19 47 decisions?---Yes.

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12:56:20 1
12:56:20 2 That's good management practice, isn't it?---Particularly
12:56:23 3 if they're considered specialists in their area.
12:56:27 4
12:56:29 5 All right. So as far as the SDU were concerned they don't
12:56:34 6 just go out and pluck Ms Gobbo off the street, they get
12:56:38 7 approval for her registration?---Yes.
12:56:41 8
12:56:41 9 They get approval for the way in which they manage her.
12:56:47 10 They report up, put it that way?---Obviously there might be
12:56:51 11 some instructions given by their superior in regards to
12:56:56 12 what he or she might demand in regards to the management of
12:56:59 13 the human source, and there's instructions that take place
12:57:02 14 around reporting, regular reporting, documentation, all
12:57:08 15 those sorts of things. There's a standard sort of approach
12:57:11 16 to ensuring things are reported that need to be reported.
12:57:14 17
12:57:15 18 There's Standard Operating Procedures?---Yes.
12:57:17 19
12:57:17 20 To try and ensure integrity and integrity of the handlers
12:57:23 21 and the security of the source?---Yes.
12:57:25 22
12:57:27 23 There were Chief Commissioner's policies in relation to the
12:57:31 24 way in which human sources are to be handled?---Yes.
12:57:34 25
12:57:35 26 And at the end of the day in these meetings that you
12:57:41 27 attended, 24 July being one of them, no one senior to Sandy
12:57:50 28 White said to him, "Hey, you shouldn't be doing this" or,
12:57:54 29 "What the heck are you doing"?---No, I don't believe so. I
12:58:01 30 don't know what you mean by "doing this"?
12:58:03 31
12:58:03 32 "You shouldn't have Ms Gobbo as a source." Sorry, that's
12:58:08 33 what I meant, "You shouldn't be using her as a source, you
12:58:11 34 shouldn't be running her on the books"?---No, certainly we
12:58:13 35 made - the record of the meeting documents the fact that
12:58:17 36 the benefits, the analysis and the balancing of the
12:58:20 37 benefits versus risk decision was she should continue to be
12:58:24 38 used as a source but with some controls around tasking and
12:58:29 39 dissemination.
12:58:29 40
12:58:30 41 To try and manage the risk?---Yes.
12:58:32 42
12:58:39 43 The Rewards Committee. You were taken to the document you
12:58:43 44 signed in relation to the speeding fines, remember going
12:58:47 45 through that?---Yes.
12:58:48 46
12:58:49 47 Mr Woods suggested to you that you had someone from the SDU

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12:58:52 1 there. You have no recollection of anyone from the SDU
12:58:55 2 being there, do you?---I've got no recollection of the
12:58:58 3 meeting.
12:58:58 4
12:58:58 5 No. Again, I suggest to you that the applications and the
12:59:05 6 documents were prepared and put before the committee by the
12:59:08 7 HSMU or its predecessor the IMU?---That's what I expect
12:59:13 8 would have occurred, yes.
12:59:14 9
12:59:15 10 My instructions are that no one from the SDU went and if
12:59:19 11 the committee had any further issues or inquiries they were
12:59:23 12 welcome to either ask for more information or ask for one
12:59:27 13 of the members to attend if you wanted to?---Certainly that
12:59:30 14 could have been the case, yes.
12:59:31 15
12:59:31 16 And you wouldn't argue with the proposition that nobody
12:59:34 17 from the SDU was there?---I can't recall it so I couldn't
12:59:38 18 argue.
12:59:38 19
12:59:39 20 You were taken to an entry in Sandy White's diary where he
12:59:42 21 raised issues about why it was that you were being involved
12:59:46 22 on the Rewards Committee and not just Overland and - -
12:59:53 23 -?---Moloney.
12:59:54 24
12:59:55 25 Moloney. Do you recall that entry?---Yes.
12:59:57 26
12:59:57 27 That is consistent with a source handler limiting as much
13:00:01 28 as he can the people who know about the identity of the
13:00:05 29 source, isn't it?---Well I don't know. The identity of the
13:00:11 30 source should not be disclosed at a - - -
13:00:16 31
13:00:16 32 Committee meeting?--- - - - committee meeting. So if
13:00:20 33 there was a risk that that might occur, then obviously the
13:00:23 34 handler or controller would be concerned that that adds
13:00:27 35 another one to the list that is aware of who this source
13:00:31 36 is.
13:00:32 37
13:00:33 38 From your relationship that you had with him, he had no
13:00:37 39 reason to be suspicious of you or worried about you, did
13:00:41 40 he?---I'm perplexed by the comment though.
13:00:43 41
13:00:44 42 It's only consistent with a man doing his best he can to
13:00:47 43 limit those who might find out about who she
13:00:51 44 is?---Possibly.
13:00:51 45
13:00:52 46 You certainly don't read anything nefarious into it?---I'd
13:00:56 47 like to think not.

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13:00:57 1
13:00:58 2 Thank you. Just a minor correction to your statement.
13:01:04 3 Could you be taken to paragraph 29 of your statement,
13:01:08 4 please. I think that may be - you refer there to being
13:01:17 5 shown an entry in the source management log?---Yes.
13:01:21 6
13:01:22 7 It's not in fact in the source management log. Can we put
13:01:26 8 up ICR p.1529 please. Is this the document you were shown?
13:01:51 9 If you look down the bottom you'll see reference to
13:01:56 10 Gustke?---Yes it is, yes.
13:01:58 11
13:02:00 12 And I don't want to take you through any of the content of
13:02:03 13 that because I'm not - but what you were shown was in fact
13:02:07 14 a section in the ICRs, not an SML report?---Okay.
13:02:13 15
13:02:13 16 You know what ICRs are?---Yes.
13:02:15 17
13:02:15 18 All right. While I think of that, I think you touched on
13:02:20 19 it in your evidence. The handler's obligation as far as
13:02:23 20 you understand it is to record everything that Ms Gobbo
13:02:26 21 says to them? I don't mean tape record, I mean - some of
13:02:32 22 them they can't tape record because they're not, they're on
13:02:35 23 the phone?---I don't know what the, what the instructions
13:02:39 24 were to the Source Development Unit handlers. There's a
13:02:48 25 lot of human source activity outside the Source Development
13:02:53 26 Unit that takes place within Victoria Police and any other
13:02:57 27 policing organisations. They deal with the high risk ones
13:02:59 28 and so their processes are probably more stringent than
13:03:05 29 what would be ordinarily throughout the organisation. I
13:03:08 30 would doubt that everything that is said in a normal not
13:03:12 31 high risk situation that the SDU's involved in, if it was
13:03:16 32 Detective Smith added - - -
13:03:18 33
13:03:18 34 I meant in high risk?---From a high risk perspective it
13:03:23 35 doesn't surprise me that's a practice of the SDU.
13:03:25 36
13:03:26 37 If the rules required them to not edit what she says but
13:03:31 38 write down what she says and then, as you say, what they do
13:03:35 39 with it is what's important?---That's the critical thing.
13:03:38 40 I would expect that if a human source was starting to talk
13:03:41 41 about things that, you know, a breach of confidentiality,
13:03:47 42 et cetera, conflicting issues, then the handler should help
13:03:52 43 them and say, "You shouldn't talk about those things",
13:03:55 44 however that doesn't mean that things that are said should
13:03:58 45 not be recorded. It's just the next I suppose step in
13:04:02 46 ensuring you do the right thing is that dissemination is
13:04:05 47 risk assessed.

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13:04:06 1
13:04:06 2 In relation to that you're dead right, the material shows
13:04:10 3 that she was told on a number of occasions not to give
13:04:13 4 information in relation to her current cases. But
13:04:16 5 nonetheless she blurts it out on occasions, either on tape
13:04:20 6 or on the telephone. You're aware of the organisation -
13:04:28 7 within the police organisation there's a Special Projects
13:04:32 8 Unit?---Yes.
13:04:33 9
13:04:33 10 And they record telephone calls pursuant to warrant?---Yes.
13:04:36 11
13:04:38 12 It occurs from time to time that they record calls which
13:04:42 13 they assess as being legally professionally
13:04:46 14 privileged?---H'mm.
13:04:46 15
13:04:46 16 And they therefore don't disseminate those. It's a similar
13:04:54 17 sort of analogy is what I'm putting to you?---Yes.
13:04:56 18
13:04:56 19 These covert units may come across material that is legally
20 professionally privileged, but if they don't disseminate it
13:05:02 21 and get it used by the Force, there is effectively a
13:05:03 22 corridor between receiving the material and the use of
13:05:08 23 it?---Okay, I wasn't aware of that but it wouldn't surprise
13:05:11 24 me.
13:05:11 25
13:05:12 26 You're not aware of SPU - - - ?---That practice.
13:05:16 27
13:05:16 28 Okay, all right. You were taken - can I put up ICRs 128,
13:05:28 29 p.1289/90, please. All right. This was one that you - can
13:05:41 30 you go down to the bottom of the page, please. You were
13:05:46 31 taken to this entry by Mr Woods about her telling the
13:05:53 32 handlers what she thinks about the briefs that she's been
13:05:58 33 given and why Gatto's transcript's on it and things of that
13:06:04 34 sort?---Yes.
13:06:04 35
13:06:05 36 His defence being, "We're not there". Firstly, that
13:06:08 37 wouldn't be stunning, would it? In a murder case it
13:06:11 38 wouldn't be a surprise. But having said that, it was put
13:06:14 39 to you on the basis that that was disseminated to Gavan
13:06:17 40 Ryan, do you remember that proposition being put to
13:06:20 41 you?---Yes.
13:06:20 42
13:06:20 43 What Mr Woods didn't put to you is that the particular
13:06:23 44 handler who managed that, and I don't know if you know him,
13:06:28 45 have you got the list of pseudonyms there?---No, I haven't.
13:06:30 46
13:06:30 47 Fox.

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13:06:33 1
13:06:34 2 COMMISSIONER: Can you give that to him?
13:06:37 3
13:06:38 4 MR CHETTLE: He's known to this Commission as Mr Fox. Do
13:06:43 5 you know him?---No.
13:06:44 6
13:06:44 7 You don't know?---No.
13:06:46 8
13:06:46 9 Thank you. What he said in evidence at p.6355 is that
13:06:52 10 despite that entry that particular piece of information was
13:06:56 11 not disseminated to Gavan Ryan, do you follow, that there
13:07:00 12 was an error in the documentation?---Okay.
13:07:02 13
13:07:04 14 Clearly you would agree, wouldn't you, that - I think
13:07:08 15 you've already said it, if it wasn't disseminated the
13:07:13 16 problem is being dealt with or managed?---Yes.
13:07:15 17
13:07:32 18 Excuse me, Mr Blayney, I've got a note that I don't
13:07:35 19 understand. Can I have the source management log - yes.
13:07:50 20 Can I have the source management log for 6 August 07
13:07:53 21 brought up, please. This was an entry you were asked
13:07:56 22 whether you saw and could you understand it about a meeting
13:08:00 23 you had on 6 August?---H'mm.
13:08:04 24
13:08:12 25 This is the meeting with Mr Overland, yourself, Biggin and
13:08:16 26 Ryan, is that Graham Ryan again, is it?---No, Ryan is Gavan
13:08:23 27 Ryan.
13:08:23 28
13:08:24 29 Gavan Ryan, sorry, I'm getting my Ryans and Browns wrong, I
13:08:29 30 apologise. "Three options available. Deactivate, ongoing
13:08:33 31 management with no tasking a witness, not an option. And
13:08:35 32 source will be compromised, deactivation not an option by
13:08:39 33 virtue of the fact that ongoing communication will be
13:08:42 34 required re court issue re Mokbel trials", do you see
13:08:46 35 that?---Yes.
13:08:46 36
13:08:47 37 And you said you didn't know what it means?---That's
13:08:49 38 correct.
13:08:49 39
13:08:50 40 Counsel assisting asked Sandy White about that at p.5422 of
13:08:57 41 the transcript and he said this, "Ultimately" - I'll just
13:09:09 42 read the transcript to you, "Ultimately after all the
13:09:12 43 matters were considered we can see that three options were
13:09:15 44 put up and it was agreed the witness, not an option, so
13:09:18 45 clearly her role as a witness would have been discussed and
13:09:21 46 the ramifications of that? Yes. And that would have led
13:09:25 47 to the same ramifications fall out, if you like, that you

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13:09:29 1 discussed with Mr O'Brien on 18 July, would that be fair to
13:09:32 2 say?" And Sandy White said, "Yes. Same consideration?
13:09:34 3 Yes. Deactivation", then Mr Winneke quotes, "Deactivation
13:09:39 4 not an option by virtue of the fact of ongoing
13:09:42 5 communication required with respect to court issues
13:09:44 6 regarding Mokbel trials and she's to be managed with no
13:09:48 7 tasking, et cetera, et cetera, do you see that?" And he
13:09:51 8 says, "Yes". So he's been taken to that entry. Next
13:09:54 9 question, "One of the things that Mr Chettle raised with
13:09:57 10 you yesterday was that this ongoing management involved
13:09:59 11 what the purpose of it was, I think what you were saying,
13:10:04 12 is, 'Look, we need to manage the potential consequences
13:10:08 13 with ongoing court proceedings were it to be the case that
13:10:17 14 she were exposed by legitimate legal disclosure, is that
13:10:22 15 effectively what you were saying? Yes." What he explains
13:10:25 16 is, "Look, there are cases coming up where the discovery
13:10:29 17 process, legitimate discovery process is likely to out her
13:10:34 18 and expose her and we need to manage that risk to her",
19 does that make sense to you now in relation to what that
13:10:42 20 entry meant?---Yes.

13:10:42 21
13:10:43 22 And the proposition would be right, wouldn't it, if she has
13:10:45 23 to be - cases are coming up where the discovery process is
13:10:48 24 likely to expose her as being involved, there would be a
13:10:51 25 need to protect her?---Yes.

13:10:52 26
13:10:56 27 Thank you. They're all the matters I had for you.

13:10:58 28
13:10:58 29 COMMISSIONER: Thank you. Yes Ms Argiropoulos.

13:11:01 30
13:11:01 31 MS ARGIROPOULOS: I have no re-examination, Commissioner.

13:11:03 32
13:11:03 33 MR WOODS: I do have a few matters to put, Commissioner.

13:11:06 34
13:11:06 35 <RE-EXAMINED BY MR WOODS:
36

13:11:08 37 I just wanted to ask a couple of questions in relation to
13:11:12 38 the Petra Task Force. The name - it appears from the
13:11:19 39 records that in a similar way with Purana you were involved
13:11:24 40 in some of the Task Force meetings to identify, for the
13:11:29 41 purpose of identifying what resources might be needed for
13:11:32 42 Petra, is that right?---Yes.

13:11:34 43
13:11:34 44 Prior to your move into another role in 2008, is that
13:11:38 45 right?---Yes, I think so, yes.

13:11:39 46
13:11:41 47 Now, did you attend those Petra meetings with the same

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13:11:47 1 regularity as the Purana meetings?---I can't recall but
13:11:52 2 there were many Petra briefings. It probably - it was the
13:11:57 3 same process of a weekly meeting but I can't be sure.
13:12:00 4
13:12:01 5 At the time you were involved in some of these meetings
13:12:04 6 it's clear that there was concern, I'm not clear, it's not
13:12:09 7 certain whether it was made to you which is why I want to
13:12:12 8 ask, there was concern about Ms Gobbo as potentially being
13:12:15 9 a suspect in that she was an intermediary between Mr Dale
13:12:20 10 and Mr Williams. Do you recall that issue being discussed
13:12:24 11 at Petra meetings?---No, not particularly.
13:12:27 12
13:12:30 13 On a similar issue, the OPI hearings that we've discussed
13:12:35 14 in some detail in 2007 were in relation to - Ms Gobbo's
13:12:41 15 attendance before them was in relation to her knowledge of
13:12:45 16 matters concerning Mr Dale, do you understand that?---Yes.
13:12:48 17
13:12:51 18 Now, were you aware - Mr Ashton has given a statement to
13:12:59 19 the Commission about his discussions with Mr Ryan on 17
13:13:03 20 July which is, sorry, 19 July, which was the first of
13:13:08 21 Ms Gobbo's two appearances before the OPI, there was one a
13:13:11 22 few weeks later, it was potentially the same evidence but
13:13:16 23 broken up over two days. Were you aware, or did you deal
13:13:19 24 with Mr Ashton at all about Ms Gobbo's appearance before
13:13:23 25 the OPI?---No.
13:13:24 26
13:13:26 27 Do you recall there being concern expressed in the meetings
13:13:30 28 that you attended that we've seen diary entries of that if
13:13:33 29 the OPI found out that Victoria Police were using a
13:13:38 30 practising criminal barrister as a human source that the
13:13:42 31 OPI might have some concerns about the propriety of that
13:13:45 32 situation, do you recall those conversations?---No, I don't
13:13:48 33 recall any conversation in that context.
13:13:50 34
13:13:52 35 Do you recall the relationship between Mr Overland and
13:13:56 36 Mr Ashton at the time in mid-2007 when these discussions
13:14:01 37 that you were having about Ms Gobbo's involvement were
13:14:05 38 being had, do you recall them having a relationship?---I
13:14:09 39 have no knowledge of what relationship Mr Overland and
13:14:12 40 Ashton had, only that I assumed they knew each other
13:14:15 41 because they both worked in the Australian Federal Police
13:14:18 42 together and the view was that Mr Overland and Mr Ashton
13:14:23 43 had had some conversation, obviously, or a relationship
13:14:27 44 around discussing issues of mutual interest around fighting
13:14:36 45 police corruption.
46
13:14:37 47 Yes?---So Simon Overland was the lead in regards to that in

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13:14:41 1 regards to talking to Ashton at OPI.
13:14:43 2
13:14:43 3 I see?---And how he would collaborate and work together. A
13:14:48 4 lot of that work was coming via Petra and other
13:14:52 5 investigations.
13:14:52 6
13:14:55 7 Are you aware of any conversations that were reported to
13:14:56 8 you about the two of those individuals discussing
13:14:57 9 Ms Gobbo's role as a source and the potential for it being
13:15:00 10 revealed in the OPI hearings?---No.
13:15:03 11
13:15:04 12 The Purana meetings that we've touched on, I've taken you
13:15:07 13 to a few examples from your diaries and Mr Overland was
13:15:14 14 often an attendee at those meetings but not always, is that
13:15:18 15 right?---That was the case, yes, I believe so.
13:15:21 16
13:15:21 17 You were often there but not always?---You're talking about
13:15:25 18 the steering committee meetings?
13:15:26 19
13:15:27 20 Yes?---That's right. It was generally the Superintendent
13:15:31 21 in charge of the Crime Task Operations, rather than myself.
13:15:36 22 And sometimes if there were resourcing issues that I was
13:15:42 23 told are going to be considered then I would attend, and I
13:15:44 24 think sometimes possibly I attended because the relevant
13:15:51 25 Crime Task Operations Superintendent was unavailable.
13:15:53 26
13:15:54 27 I see. Now it's clear that a real focus of Operation Posse
13:16:00 28 under the umbrella of Purana was dismantling the Mokbel
13:16:06 29 cartel and I think you've accepted that that was something
13:16:09 30 that was identified and discussed from time to time in the
13:16:12 31 steering committee meetings?---Yes.
13:16:13 32
13:16:16 33 Had you have known that Ms Gobbo was, firstly, an integral
13:16:26 34 part of that investigation as a source, but was also acting
13:16:29 35 for the primary target of that source at the time that she
13:16:32 36 was engaged as a source, what would you have done about
13:16:36 37 it?---I would have raised it firstly with the people who
13:16:40 38 were involved in managing the source and asking the
13:16:44 39 questions to find out what was really going on, and if
13:16:48 40 there were concerns I believed that should have been
13:16:52 41 addressed further then it was a matter of determining what
13:16:55 42 that might require, whether that was a discussion at a
13:17:00 43 higher level or whether that was a matter that I would
13:17:04 44 refer to others to address because really we're talking
13:17:09 45 about activity that was occurring in another Command.
13:17:12 46
13:17:12 47 Yes?---So whether I'd approach Mr Moloney about it,

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13:17:16 1 probably initially I would speak to Mr Biggin. If I wasn't
13:17:19 2 satisfied I might talk to Mr Moloney. But look, it's very
13:17:22 3 difficult to sort of assume what I might do, it just
13:17:27 4 depends on what the circumstances are and what the
13:17:29 5 responses are.

13:17:30 6
13:17:30 7 In a sense it's difficult to assume, in another sense it's
13:17:34 8 not, because when you did find out later on you immediately
13:17:37 9 said legal advice was required. So can I suggest to you
13:17:41 10 that's what you would have done had you known those
13:17:41 11 things?---Yes, but that was done by, I suppose, a gradual
13:17:45 12 illumination over time.

13 13
13:17:47 14 Yes?---If it was to occur in circumstances where I was
13:17:51 15 confronted with an issue - - -

13:17:53 16
13:17:53 17 This is at the outset I'm talking about, this was the very
13:17:57 18 commencement of the relationship between the SDU and
13:18:00 19 Gobbo?---Oh, sorry.

13:18:00 20
13:18:01 21 One of the first things they asked her was, "Tell us
13:18:05 22 everything you know about Tony Mokbel"?---That's right.
13:18:06 23 And the issue is from the outset, knowing her status, and
13:18:11 24 the status being she was practising in the criminal law, it
13:18:15 25 would have been most beneficial if they would have got
13:18:17 26 advice then.

13:18:18 27
13:18:18 28 Commissioner, unfortunately I do have a bit more to go.

13:18:22 29
13:18:23 30 COMMISSIONER: Sure. We'll take the lunch break now.
13:18:26 31 We'll resume at 2 o'clock.

32
13:18:43 33 <(THE WITNESS WITHDREW)

13:18:46 34
13:18:46 35 LUNCHEON ADJOURNMENT

36
37
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13:18:47 1 UPON RESUMING AT 2.00 PM:
14:07:46 2
14:07:47 3 <JOHN JOSEPH BLAYNEY, recalled:
4
14:07:52 5 COMMISSIONER: Yes Mr Woods.
14:07:52 6
14:07:53 7 MR WOODS: Mr Blayney, just before the break I was asking
14:07:56 8 you some questions about the situation that presented in
14:07:58 9 relation to Ms Gobbo acting for Tony Mokbel at the time
14:08:02 10 that she was approached to assist for Operation Posse and I
14:08:06 11 asked you what you would have done had you have known those
14:08:10 12 things at the time. If you had have known that Gobbo was
14:08:15 13 being used to inform on her clients and then once those
14:08:23 14 clients were arrested assist the police in rolling those
14:08:29 15 clients, to motivate them to give evidence against Mokbel
14:08:34 16 and his associates, what you would have done in that
14:08:37 17 situation?---Well initially if I'd learnt that I would have
14:08:43 18 put a stop to it and then ascertained the circumstances to
14:08:49 19 determine whether or not that was a situation where
14:08:54 20 Ms Gobbo was, I suppose, persuading her clients to
14:09:02 21 cooperate or her clients were actually, which is a
14:09:06 22 difficult proposition, her clients were willingly going
14:09:09 23 through that process because of the engagement they'd had
14:09:13 24 with Victoria Police members and the investigators.
25
14:09:15 26 Primarily you'd stop it?---Generally speaking I'd be very
14:09:20 27 concerned about the consequences of that.
28
14:09:22 29 Okay. And you would accept that in those circumstances
14:09:27 30 were the members of the SDU to be acting in that particular
14:09:30 31 way they certainly couldn't have been acting on - sorry, I
14:09:36 32 withdraw that. You would understand that the individual
14:09:42 33 that believed Ms Gobbo was acting on their behalf couldn't
14:09:47 34 have been getting independent advice if she was playing
14:09:51 35 that role for Victoria Police at the same time?---Certainly
14:09:53 36 if her motive from the outset was to actually have them
14:10:00 37 provide statements basically to support the police
14:10:05 38 investigation, if she was actively pursuing that, that
14:10:10 39 would be inappropriate and the police shouldn't be party to
14:10:12 40 that.
41
14:10:13 42 Speaking of police being party to that, the evidence before
14:10:16 43 the Commission is not only the members of the SDU knew
14:10:18 44 about that but also the investigators, a number of the
14:10:21 45 investigators and those in Purana Task Force knew about
14:10:24 46 that, that would be a cause for concern for you if those
14:10:29 47 elements existed?---Yes. Ultimately I saw the Source

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14:10:33 1 Development Unit's responsibility is to manage the source
14:10:35 2 and the information coming from the source, but obviously
14:10:37 3 doing that in an appropriate way. Secondary to that the
14:10:43 4 investigators are responsible to ensure that the evidence
14:10:46 5 that they are collecting is something that is not tainted
14:10:53 6 and they could rely on.
7

14:10:55 8 Do you think that there's some prospect, given the
14:10:58 9 scenarios that I've just gone through actually occurred
14:11:01 10 here, that the officers, the investigators and the SDU
14:11:04 11 members were blinded by what's been described as a
14:11:07 12 glittering prize of Ms Gobbo being presented to them and
14:11:14 13 simply ignored the risks?---Look, I wouldn't be able to
14:11:18 14 comment. I think more the focus of those involved was
14:11:21 15 around combatting organised crime and bringing them before
14:11:24 16 the courts.
17

14:11:25 18 Yeah?---And so if you're talking about glittering prize,
14:11:29 19 it's not Nicola Gobbo, it's the Tony Mokbels and the Robert
14:11:35 20 Karams, et cetera.
21

14:11:36 22 But the way to get them though was through using the
14:11:39 23 criminal defence lawyer who was representing, Nicola
14:11:42 24 Gobbo?---She had a part role in that. But certainly she
14:11:45 25 would seen as immensely valuable in that process.
26

14:11:50 27 Yes, and I think that's the point. There were some
14:11:53 28 questions asked of you a little bit earlier about, or some
14:11:55 29 propositions put about simply how busy the individuals at
14:11:59 30 the SDU were at the time. Do you recall being asked those
14:12:02 31 questions?---Yes.
32

14:12:03 33 Do I understand that no matter how - in your view no matter
14:12:09 34 how busy a police officer might be in the circumstances
14:12:14 35 that are presented to the SDU members who were dealing with
14:12:18 36 Ms Gobbo, once they became aware or knew that she was
14:12:25 37 informing on her own clients, that it wouldn't matter how
14:12:29 38 busy they were, they should have done something about
14:12:31 39 it?---I think it's fundamental, yes.
40

14:12:36 41 You were asked some questions focusing on whether Sandy
14:12:42 42 White was alert to the risk of legal professional privilege
14:12:46 43 and it was suggested to you that he was well alert to the
14:12:51 44 risks of privileged information being disclosed and he was
14:12:53 45 also aware of conflicts, the potential of conflicts of
14:12:57 46 interest and trying to manage those. You recall Mr Chettle
14:13:00 47 asking you those questions?---Yes.

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1
14:13:04 2 On 28 July 2006 Ms Gobbo told that particular officer that
14:13:12 3 she'd chucked ethics out the window, she'd chucked LPP out
14:13:16 4 the window and she'd chucked her career out the window if
14:13:21 5 any of this comes out. I take it those words are of
14:13:25 6 particular concern to you?---Knowing that now?
7
14:13:27 8 Yes?---It would certainly raise alarms if I was aware of
14:13:32 9 that at the time, yes.
10
14:13:33 11 And that Ms Gobbo herself was in a much better position to
14:13:37 12 understand what was breaching legal professional privilege
14:13:40 13 than Sandy White was able to understand?---From a technical
14:13:43 14 point of view, yes.
15
14:13:46 16 You were asked some questions about LPP and the bill of
14:13:52 17 lading, the Rob Karam situation. I understand you weren't
14:13:55 18 involved in those events yourself but you understand the
14:14:00 19 situation, I think I might have asked you in your chief
14:14:03 20 evidence, that she was - she provided the bill of lading in
14:14:08 21 circumstances where she was acting, in the middle of acting
14:14:13 22 for Mr Karam in a trial in the County Court, you understand
14:14:15 23 that?---I do now, yes.
24
14:14:20 25 You understand now also that the police knew that she was
14:14:26 26 continuing to act on behalf of Mr Karam, and if you didn't,
14:14:31 27 I'll explain it to you. She hands over the bill of lading
14:14:34 28 that evening in the middle of the trial where she's
14:14:36 29 representing Mr Karam. Now, firstly, that demonstrates a
14:14:39 30 conflict of interest immediately in continuing to act for
14:14:43 31 Mr Karam?---Potentially, yes. Obviously it's a very
14:14:48 32 difficult circumstance for her to be in because in copying
14:14:55 33 that bill of lading and then passing it on to the police,
14:14:59 34 that's something obviously she would not want Karam to
14:15:03 35 know, nor I suppose she would find it difficult to withdraw
14:15:09 36 from participating in representing him at that time
14:15:12 37 mid-trial.
38
14:15:13 39 And you also understand that it would cause her significant
14:15:15 40 problems in attempting to act in his best interests after
14:15:20 41 she's handed that over to the police?---Oh, I suppose -
14:15:24 42 she's the person who can answer that, I can't. She could
14:15:27 43 have had a mind-set that perfectly was okay in that
14:15:31 44 context.
45
14:15:31 46 The focus isn't so much on Ms Gobbo in the questions I'm
14:15:37 47 asking because it was clear to the Victoria Police officers

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14:15:40 1 who were dealing with Ms Gobbo that she was acting in that
14:15:45 2 matter and continued to act in that matter and what I'm
14:15:48 3 wanting to understand from you is your view about the
14:15:50 4 propriety of those officers allowing that situation to
14:15:53 5 persist, rather than Ms Gobbo herself allowing that
14:15:57 6 situation to persist?---It would be a difficult proposition
14:15:59 7 for them as well to intervene on that behalf maybe, at
14:16:02 8 first having a conversation about how she might be able to
14:16:05 9 extricate herself from it without obviously drawing
14:16:08 10 attention to herself from a safety perspective.
11
14:16:12 12 But that would be the first port though, wouldn't it, port
14:16:13 13 of call would be to say to her, "Now you've got to
14:16:16 14 extricate yourself from this"?---There would have to be
14:16:21 15 discussion around that as to the compromise you're in.
16
14:16:25 17 The ability or otherwise of her to hand over the bill of
14:16:30 18 lading, we might be moving on to some technical legal
14:16:32 19 issues here, but you accept that whether or not she was
14:16:34 20 able to hand the document over in good faith might be
14:16:42 21 determined somewhat by what she knew at the time about the
14:16:46 22 contents of the document and what it was indicating was
14:16:50 23 being brought into Australia, do you think that might have
14:16:53 24 come into her - - - ?---I'm only assuming that she was
14:16:55 25 aware of what it related to and the seriousness of that and
14:17:02 26 so therefore acted in that way.
27
14:17:03 28 Okay. Are you aware of a separate category of information,
14:17:09 29 putting LPP to one side, of confidential information and
14:17:12 30 there being some restriction on information from a lawyer
14:17:15 31 that's otherwise confidential and not necessarily
14:17:17 32 privileged, is that something that you've heard of
14:17:20 33 before?---I'm not aware of the technical issues around
14:17:23 34 that, no.
35
14:17:24 36 I don't want to go through the IBAC transcript again in any
14:17:28 37 detail but just simply to say it's the case, as I
14:17:32 38 understand it, that you gave truthful answers to IBAC when
14:17:37 39 you were asked the questions that I took you to earlier in
14:17:40 40 the day?---Yes.
41
14:17:44 42 There's an ICR of 24th of the 7th 2007. This is the day of
14:17:54 43 the meeting where you left with the understanding that
14:17:57 44 legal advice had been obtained and that Mr Biggin was now
14:18:01 45 to vet information. That's correct, isn't it?---Yes.
46
14:18:06 47 I might have done the operator a disservice by not reading

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14:18:09 1 out the number, not recording the number of that ICR but
14:18:13 2 it's the 24th of the 7th 2007.
3
14:18:17 4 COMMISSIONER: 2644 I think.
14:18:20 5
14:18:21 6 MR WOODS: 2644.
7
14:18:22 8 COMMISSIONER: I think that's the last four numbers.
14:18:24 9
14:18:24 10 MR WOODS: It might be 1508 of the consolidated document,
14:18:27 11 sorry. Just setting this in time. 1058 I'm sorry.
12
14:18:38 13 COMMISSIONER: 1058 is at the bottom, the page number.
14:18:42 14
14:18:54 15 MR WOODS: Keep going to the next page. 24/7/07 and I'm
14:19:02 16 looking for an entry that evening. 1719, keep going.
14:19:10 17 1856. Here we go. 21:02. It's the next page I want but I
14:19:17 18 just want to focus on that time and date, 24/7/07 and it's
14:19:23 19 9.02 pm, do you see that?---Yes.
20
14:19:25 21 This is the evening of the meeting that we've just spoken
14:19:27 22 about?---Yes.
23
14:19:28 24 Go to the next page, please. At this stage - keep going
14:19:35 25 down, sorry. Keep going. Sorry, keep going, keep going.
14:19:42 26 It might be 21:21. That might have been the problem.
14:19:45 27 There's been a number of phone calls on this date. Go back
14:19:49 28 up. Just there. It's the "Karl's brief" section that I'm
14:19:53 29 after, down on the next page. What she's telling Officer
14:20:04 30 Fox, who I think is one of the handlers whose name you
14:20:07 31 didn't recognise?---Yep.
32
14:20:10 33 That evening is that her client, Mr Khoder's brief, she's
14:20:15 34 talking about the brief and she says - well what she does
14:20:18 35 is she talks about the holes she sees in the fraud brief,
14:20:22 36 she talks about the legal issues re his fraud case. She's
14:20:26 37 going down the track of witnesses not being credible and
14:20:31 38 "get cash in hand for work as well as getting gold", et
14:20:35 39 cetera. "They are just as shifty", it might be there, "if
14:20:40 40 not worse than Karl"?---Yep.
41
14:20:44 42 "Human source said Karl is lucky in that the Fraud Squad
14:20:49 43 did not do the brief, then he would have been stuffed.
14:20:52 44 Purana are not fraud experts", apparently says Ms Gobbo,
14:20:54 45 "but do jobs like this on the side therefore it is not as
14:20:58 46 good quality, but she still tells him that he has a lot of
14:21:02 47 problems at the same time. The human source states that

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14:21:06 1 don't get her wrong, she is not on his side, but just
14:21:11 2 highlighting flaws in the brief. She's confident that he
14:21:15 3 will eventually plead to these charges. Why have the
14:21:17 4 police not gone to the solicitor? He is a common
14:21:22 5 denominator for documents". That person's a witness, a
14:21:27 6 potential witness in the case and she's asking why the
14:21:30 7 police haven't gone to them. "The police should not" -
14:21:33 8 sorry, "should have done search warrants on him also for
14:21:38 9 evidence", and there'd be a police officer who is a member
14:21:42 10 of the SDU has that solicitor's details to go and get a
14:21:48 11 witness statement from him against her client, Mr Khoder.
14:21:52 12 The action is, "Verbally disseminated above to Jim O'Brien
14:21:57 13 and Jim Coghlan". Given the fact that at a meeting a few
14:22:01 14 hours before it was explained, or your understanding was
14:22:05 15 that (a) legal advice had been obtained, and (b) from that
14:22:09 16 moment on information would be filtered through Tony
14:22:16 17 Biggin, that is a cause for concern that that very evening
14:22:18 18 these things occurred?---It's of concern that it occurred.
14:22:22 19 I don't know whether the efficiency in regards to the
14:22:24 20 decision on the 24th of July, having regard to the fact we
14:22:28 21 were going to go to Mr Overland to actually brief him and
14:22:31 22 then get the final decision.
23
14:22:33 24 Yes?---And that was - this meeting, this took place between
14:22:38 25 those dates.
14:22:39 26
14:22:39 27 I understand that. And I took you through the Orman matter
14:22:42 28 which happened a couple of months afterwards though, there
14:22:45 29 was a matter of concern that came up there?---Irrespective
14:22:49 30 of that, the general issue there is clearly around, you
14:22:52 31 know, whether or not Ms Gobbo is actually properly
14:22:56 32 representing her client or clients.
33
14:22:58 34 Yes?---And assisting the police in regards to fixing some
14:23:03 35 issues around briefs.
36
14:23:05 37 Moreover - that's true, but also the fact that this has
14:23:09 38 been readily accepted and passed on to Purana?---At the
14:23:11 39 time, yes.
40
14:23:14 41 COMMISSIONER: It doesn't seem consistent with the
14:23:16 42 understanding that you had that legal professional
14:23:19 43 privilege information wasn't being passed on?---On that 24
14:23:22 44 July meeting the expectation would be that Jim O'Brien was
14:23:25 45 there, so I don't know what response he gave to that
14:23:31 46 dissemination.
47

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BLAYNEY RE-XN

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14:23:32 1 No, but what I'm saying to you is I thought you said your
14:23:36 2 understanding from that meeting was that already in place
14:23:38 3 was a system where legal professional privilege was not
14:23:42 4 passed on?---Yes.
14:23:43 5
14:23:43 6 On 24 July?---Yes, that's correct.
7
14:23:45 8 And that very evening it was being passed on?---H'mm
14:23:49 9
14:23:49 10 MR WOODS: I think the point being that you understand that
14:23:50 11 mechanisms were in place that predated that meeting?---Yes.
14:23:54 12 The meeting on the 24th went through the detail of how they
14:23:56 13 were being managed.
14
14:23:57 15 Yes, I see?---Whether or not that was actually being
14:24:00 16 practised was outside my knowledge.
17
14:24:04 18 In fact you can see if this note is correct then it
14:24:08 19 demonstrably wasn't being practised?---Yes.
20
14:24:10 21 Finally, there was a question that was put to you by
14:24:15 22 Mr Chettle about whether or not something was disseminated
14:24:19 23 to Mr Ryan. You may or may not remember that when I was
14:24:24 24 taking you through your evidence I gave you the example of
14:24:28 25 Mr Orman and I took you two entries, the first of which
14:24:34 26 Mr Chettle then took you to later on and said, "But the
14:24:39 27 actual SDU member's evidence to the Commission was that
14:24:45 28 that bit of information wasn't passed on"?---Yes.
29
14:24:48 30 The second entry I took you to was the bit about the
14:24:50 31 witness getting cold feet?---M'mm.
32
14:24:53 33 And there being a potential that he wouldn't give evidence
14:24:57 34 against Mr Orman. Now when Mr Ryan was taken through that
14:25:03 35 he accepted the correctness of the record, that he was in
14:25:07 36 fact told that particular entry. Again, that being the
14:25:12 37 case, that would be another demonstration that the
14:25:17 38 mechanisms that were meant to be in place either weren't in
14:25:21 39 place or were failing?---Yes, definitely.
40
14:25:24 41 Thank you, they're the questions, Commissioner.
42
14:25:26 43 COMMISSIONER: Thanks very much, Mr Blayney. You're free
14:25:28 44 to go.
14:25:29 45
14:25:32 46 (Witness excused.)
47

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14:25:34 1 <(THE WITNESS WITHDREW)
14:25:34 2
14:25:34 3 COMMISSIONER: The next witness I think is Mr Cowlshaw.
14:25:38 4
14:25:38 5 MR HOLT: Yes, and I appear for Mr Cowlshaw, Commissioner.
6
14:25:41 7 COMMISSIONER: Yes. Thanks Mr Holt.
14:26:11 8
14:26:11 9 MR HOLT: The witness will take the oath, Commissioner.
10
14:26:13 11 COMMISSIONER: Yes, swear the witness.
14:26:15 12
14:26:16 13 <DOUGLAS COWLISHAW, sworn and examined:
14:26:46 14
14:26:50 15 MR HOLT: Your full name is Douglas Cowlshaw?---Yes.
16
14:26:53 17 You're a retired former member of Victoria Police?---Yes.
18
14:26:56 19 I think you retired in 2018?---I did.
20
14:26:59 21 Have you prepared for the purposes of this Royal Commission
14:27:02 22 a statement, a copy of which you have there in front of
14:27:06 23 you?---Yes.
24
14:27:07 25 And it's dated 26 July 2019?---Yes.
26
14:27:14 27 Before I just get you to confirm the content of that
14:27:17 28 statement can I ask you to have a look, please, at
14:27:21 29 paragraph 18 of that statement. Mr Cowlshaw, that
14:27:30 30 confirms that in the course of preparing your statement you
14:27:33 31 were told that the, what's called in your statement the DSU
14:27:38 32 log, what we refer to as the source management log or the
14:27:41 33 SML, records that on 22 and 23 November 2005 the
14:27:45 34 registration form and risk assessment were completed for
14:27:48 35 transmission by hand to you and you go on to note you have
14:27:51 36 no diary note of this or recollection of receiving the
14:27:54 37 registration form or risk assessment. You then note that
14:27:57 38 your diary records that you were on leave from 18 to 23
14:28:01 39 November 2005. I've read that correctly?---Yes.
40
14:28:03 41 Just a couple of things about that, please. Firstly, is it
14:28:09 42 still the position that you have no recollection of
14:28:11 43 receiving or reviewing a risk assessment or registration in
14:28:14 44 relation to Ms Gobbo?---That's correct.
45
14:28:16 46 But in terms of the question of being on leave or not, have
14:28:23 47 you more recently had an opportunity to go again through

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14:28:27 1 what was in fact your day book for this period to look at
14:28:30 2 the question of whether or not you were on leave on 23
14:28:32 3 November?---I have.
4
14:28:34 5 Can we pull up, please, and I've given this number to the
14:28:37 6 operator, VPL.0005.0225.0002. Would you look there on the
14:28:56 7 screen. Is that the front cover of what was your day book
14:28:58 8 at this period of time?---That's correct.
9
14:29:01 10 In case it's of assistance, the original of your day book
14:29:04 11 is to your right here in the Commission room?---Yes.
12
14:29:07 13 Thank you. Am I right that at this point in time you were
14:29:13 14 keeping a day book in lieu of a diary because you'd tried
14:29:16 15 to get a new diary and none of the official diaries were in
14:29:20 16 stock at the time?---Yes, I'd been working overseas and
14:29:23 17 when I returned they were out of stock so I used a day book
14:29:26 18 for about four months I think until they came back into
14:29:29 19 stock.
20
14:29:32 21 If we can just scroll down, please, to the next page and
14:29:35 22 through to the bottom of that page. We can see a series of
14:29:38 23 entries relating to November 2011, 19, 20, 21, 22, with
14:29:44 24 notes next to them in your hand, "RD, RD", then "AC, AC";
14:29:54 25 is that correct?---Yes.
26
14:29:55 27 RD were rostered days off?---Yes.
28
14:29:58 29 AC was - it may in fact be AL, accumulated leave, is that -
14:30:00 30 - - ?---Accrued time off.
31
14:30:02 32 Accrued time off?---Accrued.
33
14:30:03 34 Then if we go over the page, which obviously appears as the
14:30:07 35 next page in your day book, we can just see a note with the
14:30:09 36 letters WED and then the date 23/11/05 and then nothing
14:30:16 37 below that on that day?---Correct.
38
14:30:17 39 When you prepared your statement and you noted that your
14:30:20 40 diary recorded you as being on leave, what was your
14:30:23 41 reasoning about that entry that we can see there for
14:30:26 42 Wednesday 23/11/05 and why at that stage you thought that
14:30:32 43 meant you were on leave?---When I originally viewed and was
14:30:35 44 making the statement on looking at it I saw that I was on
14:30:39 45 leave for five days and included the Wednesday the 23rd of
14:30:43 46 the 11th as in those five days. So I assumed from that
14:30:46 47 that I wasn't there. And also because I - whilst it's not

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14:30:51 1 unheared of, and sometimes I won't have anything there, I
14:30:54 2 didn't have anything there so I thought I wasn't there. I
14:30:57 3 thought it was part of the five days' leave.
4
14:31:01 5 Having looked at it again and understanding the date of 23
14:31:05 6 November 2005, are you now certain or not certain as to
14:31:09 7 whether you were in fact on leave on the 23rd of the 11th,
14:31:12 8 looking at those entries?---No, I'm not, not certain. The
14:31:15 9 reasons for that is that I've actually written it in a
14:31:19 10 different way, but I certainly - I don't recall whether I
14:31:23 11 was on leave or I wasn't on leave that day.
12
14:31:26 13 Had you received and reviewed a risk assessment of the kind
14:31:31 14 that's in issue in this case for Ms Gobbo would you have
14:31:36 15 expected to make a note of it your day book or diary?---I
14:31:39 16 would say so, yes.
17
14:31:40 18 Other than that correction are the contents of your
14:31:43 19 statement true and correct to the best of your knowledge
14:31:45 20 and belief?---Yes.
21
14:31:47 22 I tender that statement, Commissioner.
23
14:31:49 24 #EXHIBIT RC819A - (Confidential) Statement of Douglas
14:31:51 25 Cowlshaw.
26
14:31:51 27 #EXHIBIT RC819B - (Redacted version.)
28
14:31:53 29 MR HOLT: And I should tender that day book entry,
14:31:56 30 Commissioner, for 23 November 2005.
31
14:32:01 32 #EXHIBIT RC820 - Day book entry of Douglas Cowlshaw
14:32:05 33 23/11/05.
34
14:32:06 35 COMMISSIONER: I don't think it's necessary for an A and B
14:32:08 36 there, is it?
37
14:32:09 38 MR HOLT: No, Commissioner. It can be produced as is.
14:32:12 39 Thank you, Commissioner, that's the evidence-in-chief.
40
14:32:15 41 COMMISSIONER: Yes Ms Tittensor.
14:32:17 42
43 <CROSS-EXAMINED BY MS TITTENSOR:
44
14:32:19 45 Mr Cowlshaw, back in 1998 you were an Inspector at the
14:32:23 46 Crime Department; is that right?---Yes.
47

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14:32:24 1 Following that, 1999 until 2008, you were an Inspector at
14:32:29 2 the Intelligence and Covert Support Department or
14:32:32 3 Division?---Yes.
4

14:32:33 5 And sometimes in that location you were acting up as
14:32:37 6 Superintendent; is that right?---Yes.
7

14:32:41 8 Just to go through a quick potted history in terms of
14:32:45 9 informer management policy. Do you recall that there was a
14:32:49 10 Purton review back in 2000?---Yes, I do.
11

14:32:54 12 Following that came the informer management policy which
14:32:57 13 was issued as a Chief Commissioner's instruction in
14:33:03 14 2003?---Yes.
15

14:33:03 16 And then updated yearly after that?---Yes.
17

14:33:06 18 That policy defined particular roles of handler,
14:33:10 19 controller, officer-in-charge, Local Informer Registrar,
14:33:13 20 Central Informer Registrar; is that right?---It's a long
14:33:15 21 time since I've seen it but I believe so.
22

14:33:20 23 Following that or around the same time that that
14:33:23 24 instruction was issued there was some further - do you
14:33:28 25 recall the Dublin Street burglary occurring, is that
14:33:33 26 something that was known to you when - - - ?---Is this the
14:33:37 27 Drug Squad break in?
28

14:33:39 29 Yes?---Yes.
30

14:33:39 31 And there was some allegations, at least initially
14:33:46 32 allegations, it became more substantiated?---Yes.
33

14:33:49 34 Of MDID member involvement with an informer in that
14:33:52 35 burglary?---Yes.
36

14:33:54 37 So there's significant concern within Victoria Police about
14:33:58 38 informer issues?---There was, yes.
39

14:34:02 40 And significant concern within Victoria Police that
14:34:04 41 informer management policies would be complied
14:34:08 42 with?---Sorry, I missed the last part of that.
43

14:34:10 44 There was significant concern within Victoria Police that
14:34:12 45 informer management policy should be complied with?---That
14:34:16 46 is correct.
47

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14:34:19 1 If I can ask Mr Skim to bring up VPL.0100.0279.0205.
14:34:29 2 You'll see that's a gazette of 22 September 2003?---Yes.
3
14:34:35 4 You'll see there that it indicates that there's a new
14:34:39 5 policy on registering and managing informers, so this was
14:34:43 6 something that was issued Force wide, the Chief
14:34:49 7 Commissioner's instructions, and it's put in the gazette so
14:34:51 8 no one can miss it, front page?---I presume so. The CCI
14:34:55 9 was a preliminary fruit to becoming policy to notify
14:34:59 10 members it was there.
11
14:35:01 12 You'll see there it indicates that there's a new policy on
14:35:05 13 the registration and management of informers, and if we go
14:35:08 14 down the column you'll see some dot points and it expresses
14:35:12 15 simply when a person must be registered as an informer,
14:35:17 16 including - and that includes situations where a person is
14:35:21 17 making a practise of providing information, where there's
14:35:29 18 an organisational or personal risk involved, or the person
14:35:35 19 has to be operationally tasked, do you see that? Those are
14:35:38 20 a number of the reasons why a person must be registered as
14:35:41 21 an informer according to that new policy?---Yes.
22
14:35:47 23 It notes the establishment of the Informer Management Unit
14:35:50 24 within the SID, the State Intelligence Division?---Yes.
25
14:35:57 26 If we look further down it indicates - well, down the
14:36:01 27 bottom of that column, that Acting Commander Ian Thomas of
14:36:05 28 Intelligence and Covert Support had overall responsibility
14:36:08 29 for informers?---Yes.
30
14:36:10 31 It notes that he himself reported to Deputy Commissioner
14:36:16 32 Nancarrow and that the IMU was headed by Detective
14:36:24 33 Inspector Doug Cowlshaw there?---Yes.
34
14:36:25 35 With Senior Detective Sergeant Jeff McLean having
14:36:30 36 day-to-day operational control. That was the
14:36:33 37 situation?---Yeah, when it first came in, yeah.
38
14:36:38 39 You'll see there that article includes a quote by you.
14:36:44 40 Sorry, it indicates a quote by you that not all informers
14:36:49 41 are required to be registered and it gives an example
14:36:54 42 because, as you will recall, there might have been some
14:36:57 43 concern within some parts of Victoria Police about the need
14:37:00 44 to register everyone and you're indicating well that's not
14:37:04 45 the case?---They're mainly talking there, the other side of
14:37:11 46 that was community sources. So if you're a community
14:37:14 47 source you didn't necessarily have to be registered.

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1
14:37:17 2 It goes on to indicate that the IMU staff are available to
14:37:20 3 assist all members with registration considerations, risk
14:37:23 4 assessments and operational assistance with individual
14:37:27 5 informers and members are encouraged to seek assistance
14:37:30 6 with any query and the PII [REDACTED] attached to the
14:37:33 7 Unit are available at all hours for informer related
14:37:36 8 assistance?---That's correct.
9
14:37:37 10 Further down, Acting Commander Thomas describes the
14:37:43 11 procedure, that the policy gives a more efficient way of
14:37:48 12 informer management and he notes that it's needed
14:37:51 13 particularly in view of the criticism earlier this year by
14:37:54 14 the Police Ombudsman following the Drug Squad review. Very
14:37:59 15 clear that this is a policy that had to be complied with
14:38:03 16 and there was significant concerns and reasons for
14:38:06 17 that?---That's correct.
18
14:38:08 19 If we can go to the Chief Commissioner's instruction,
14:38:14 20 VPL.0002.0001.2232. Do you recognise this document? You
14:38:34 21 might have seen it a number of years ago, probably read
14:38:38 22 over it a few times?---I may have.
23
14:38:40 24 Back in the day?---I can't recall, but I may have.
25
14:38:43 26 If we can go to p.4 of that document. This part of the
14:38:48 27 document talks about general responsibilities and
14:38:54 28 functions. At item 10 it talks about the responsibilities
14:38:57 29 and functions of the handler and then from item 12 the
14:39:01 30 controller. Then if you go down to item 13 it's the
14:39:08 31 officer-in-charge, the officer-in-charge is responsible for
14:39:12 32 the supervision of the handler and controller, including to
14:39:15 33 provide advice and guidance to the handler and controller,
14:39:18 34 evaluate information provided to the Local Informer
14:39:21 35 Registrar and acting as a point of contact between the
14:39:24 36 handler and controller and the Local Informer
14:39:29 37 Registrar?---That was the original plan, yes.
38
14:39:31 39 Sorry?---That was the original plan, yes.
40
14:39:33 41 That was in the Chief Commissioner's policy that was set
14:39:43 42 out in 2003 and readopted in 2004 and 2005?---Yeah.
43
14:39:50 44 Do you accept that?---I do, but that actual position was
14:39:53 45 never actually resourced or funded.
46
14:39:56 47 This is a Force-wide policy, this policy?---Yeah, I

.03/12/19

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COWLISHAW XXN

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14:40:00 1 understand that.
2
14:40:01 3 All right. The Force-wide indicates that that's an
14:40:07 4 acknowledged position. Do you say that there never was in
14:40:10 5 any informer management, any officer-in-charge?---No, I'm
14:40:14 6 not saying that. What was supposed to happen and what the
14:40:18 7 plan was when the policy was put out, or the CCI was put
14:40:21 8 out, that there'd be two additional Inspectors' positions
14:40:26 9 resourced. One of them was going - that the DSU
14:40:34 10 particularly would have its own Inspector and it was going
14:40:39 11 to be that one.
12
14:40:40 13 I'll take you to DSU issues in a minute, but do you say
14:40:45 14 there was going to be one for the DSU and one
14:40:49 15 generally?---Yeah, the other one was supposed to be an
14:40:51 16 independent Inspector to do some monthly checks on
14:40:56 17 informers, and particularly high risk ones, which was never
14:40:59 18 funded as well. That was to further ensure a sterile
14:41:04 19 corridor.
20
14:41:05 21 When you say in your statement that you were the
14:41:10 22 officer-in-charge on a strict reading of the management
14:41:13 23 policy?---Yes.
24
14:41:15 25 You don't mean to say that you weren't the
14:41:18 26 officer-in-charge?---No, no, I'm not trying to avoid that.
14:41:21 27 Yes, I was. However, what I suppose I'm getting at is that
14:41:28 28 there was supposed to be a dedicated Inspector in charge of
14:41:34 29 it. I had about eight other units at the time, I was also
14:41:38 30 the Commander of the Join Intelligence Group for the
14:41:41 31 Commonwealth Games. So whilst I was notionally, it wasn't
14:41:45 32 my day-to-day number one priority to do it.
33
14:41:48 34 Aside from your officer-in-charge responsibilities under
14:41:51 35 this policy you were also the line supervisor of Sandy
14:41:54 36 White?---Yes, I was.
37
14:41:57 38 So generally responsible for his overall
14:42:00 39 supervision?---Yes.
40
14:42:04 41 If we can just further go through you'll see paragraphs 14
14:42:10 42 and 15 outlines the responsibilities and functions of the
14:42:13 43 Local Informer Registrar and the Central Informer
14:42:17 44 Registrar. If we can continue through to 21. You'll see
14:42:24 45 it outlines the initial process where a potential informer
14:42:27 46 is identified and that involves, amongst other things,
14:42:36 47 conducting an initial assessment and it refers to a part C

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14:42:39 1 informer registration and reactivation application?---Yes.
2
14:42:42 3 That informer assessment is to include an assessment of a
14:42:48 4 number of outlined risks and you'll see the risk to
14:42:51 5 informer, risk to information, risk to handler and
14:42:54 6 controller, risk to Victoria Police and risk to public, do
14:42:57 7 you see that?---Yes.
8
14:43:00 9 The risk to Victoria Police includes embarrassment to
14:43:03 10 Victoria Police, loss of credibility, amongst other risks;
14:43:09 11 is that right?---Yes.
12
14:43:11 13 The risk to public includes the impact on the community,
14:43:14 14 the harm to the public and confidence issues. Now if we
14:43:19 15 follow that through, the submission of the application goes
14:43:23 16 to the officer-in-charge, accompanied by other material,
14:43:27 17 including the initial risk assessment. That's the accepted
14:43:33 18 process; is that right?---Not at that time, no. There was
14:43:37 19 some - this was all pretty new stuff and it was - the
14:43:44 20 officer-in-charge role, as I said, hadn't been resourced or
14:43:48 21 filled. Whilst I was notionally that person, they weren't
14:43:50 22 coming to me.
23
14:43:52 24 You'll see there the fourth dot point says, "Submit
14:43:56 25 informer registration reactivation application to the
14:43:58 26 officer-in-charge accompanied by" other documents, which
14:44:01 27 includes the initial risk assessment?---Yes.
28
14:44:06 29 So do you accept that that was the process to be adopted
14:44:12 30 from - during that period of time?---Because they hadn't
14:44:17 31 resourced a different Inspector as what was intended under
14:44:21 32 the policy, I would have thought that Sandy White would
14:44:23 33 have been the officer-in-charge.
34
14:44:25 35 Well, no, Sandy White was the controller?---Yeah, I knew
14:44:29 36 that.
37
14:44:30 38 And the process, if you see the forms, is that a handler
14:44:34 39 fills out the forms, there's a location for the name of the
14:44:40 40 controller, there's a location for the name of the
14:44:42 41 officer-in-charge and for the Local Informer
14:44:46 42 Registrar?---Yes, I understand that.
43
14:44:47 44 Okay. You understand that your name appears as the
14:44:50 45 officer-in-charge in the documentation?---Yes.
46
14:44:53 47 And Sandy White or Officer Black appears as the

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14:44:59 1 controller?---Yes.
2
14:45:08 3 If we can go to item - keep scrolling through to item 24.
14:45:16 4 You'll see there it goes on about responsibilities, further
14:45:22 5 responsibilities of the officer-in-charge in terms of the
14:45:25 6 registration process. Once the officer-in-charge gets the
14:45:30 7 document they need to assess the suitability of the
14:45:34 8 informer, evaluate identified risks, consider potential
14:45:37 9 risks and so forth, and you understand sitting a [REDACTED]
14:45:41 10 [REDACTED] the controller and a [REDACTED] [REDACTED] the controller, and
14:45:45 11 [REDACTED] at least the handler, this is to add an
14:45:54 12 additional level of supervision and an additional
14:45:58 13 experience level in terms of an assessment of risk?---Yes.
14
14:46:13 15 If we have a look at 27 there's the opportunity for the
14:46:17 16 officer-in-charge if they're not satisfied of the
14:46:19 17 registration to proceed to identify that?---Yes, that's
14:46:24 18 what it says.
19
14:46:28 20 Then if we go to paragraph 29. If the registration is
14:46:31 21 approved ultimately the Local Informer Registrar authorises
14:46:39 22 the informer registration reactivation application, then
14:46:43 23 certain procedures are adopted. There's a
14:46:46 24 computer-generated code unique to the informer and so forth
14:46:52 25 and an informer management file I take it is created; is
14:46:57 26 that right?---Yes.
27
14:46:58 28 It seems as though in this case, on evidence before the
14:47:02 29 Commission, that prior to that formal documentation being
14:47:06 30 created, that is the risk assessment at least, that seems
14:47:10 31 to have been - as you've been taken through with Mr Holt -
14:47:15 32 finalised by the SDU on about 22 or 23 November 2005?---Is
14:47:23 33 that the risk assessment we're talking about?
34
14:47:26 35 The risk assessment?---Yes.
36
14:47:27 37 If we have a look at this policy, Part C, the application
14:47:32 38 or reactivation has to go along with the risk assessment
14:47:37 39 for the creation of the informer file or the approval of
14:47:44 40 the informer file?---Yes.
41
14:47:45 42 It seems to be the case that that document, or at least the
14:47:49 43 risk assessment part of that document, was finalised around
14:47:54 44 about 22 or 23 November 2005, and I'll come back to that in
14:48:02 45 a minute?---Yeah.
46
14:48:03 47 But Ms Gobbo was given a human source file number much

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14:48:07 1 earlier than that?---That's correct.
2
14:48:09 3 And I'll say earlier in time that it seems you became aware
14:48:14 4 of her as a source?---Yeah, that would be right.
5
14:48:17 6 I just want to understand. There appears to be some
14:48:20 7 mechanism for use of an informer informally before this
14:48:27 8 formal process takes place in some cases?---Sorry, I didn't
14:48:31 9 quite follow.
10
14:48:32 11 She hasn't been formally approved, the documentation's not
14:48:36 12 formally gone in with the risk assessment, but it seems to
14:48:39 13 be the case that she's been given a number?---Yes.
14
14:48:44 15 Debriefs are taking place and use is being made of
14:48:47 16 information and disseminations are being made to
14:48:49 17 investigators of her information?---Yes, because as far as
14:48:52 18 I can remember she was registered prior to that and the
14:48:58 19 process of - and remembering this is a completely new
14:49:05 20 process and we're feeling our way with it, that - and from
14:49:09 21 memory we made a decision that all the new, all the
14:49:14 22 registrations that were coming in, because they were held
14:49:17 23 locally, they were held by the Drug Squad, they were held
14:49:20 24 by Crime Department and different areas, were coming to -
14:49:22 25 would be re-registered. That was what we decided to do.
14:49:27 26 So it's quite possible that she already had a designation
14:49:32 27 because she was already registered.
28
14:49:33 29 It seems - - -
30
14:49:34 31 COMMISSIONER: I'm just wondering if you could perhaps push
14:49:36 32 the microphone closer?---Yes, sorry, Commissioner.
33
14:49:42 34 You're quietly spoken. Thank you.
14:49:46 35
14:49:46 36 MS TITTENSOR: It seems to be the case that she has an
14:49:48 37 initial assessment on 16 September. Then there's a process
14:49:51 38 following that where there's perhaps four or five sessions
14:49:54 39 that she has that are debriefing sessions with the SDU and
14:49:59 40 in amongst that period she starts within other people's
14:50:03 41 diary entries to be recorded as 3838?---Right. I have no
14:50:08 42 knowledge of that.
43
14:50:09 44 I just wanted to know if you could shed light on someone
14:50:13 45 before the formal written application has gone through to
14:50:18 46 HSMU or IMU, as it was then known, that there is this
14:50:23 47 formal acceptance that someone's going to be registered in

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14:50:27 1 any case before we have this formal risk assessment being
14:50:30 2 done?---Look, possibly but I really don't recall what we
14:50:34 3 did. You know, whether that's true or it's not, I'd only
14:50:38 4 be speculating.
5
14:50:44 6 Beyond the Force-wide informer management policy that I've
14:50:48 7 just taken you through there was the pilot and the
14:50:51 8 establishment of the SDU?---Yes.
9
14:50:53 10 Which had occurred prior to this period of time?---Yes.
11
14:50:55 12 When Ms Gobbo was registered?---That's correct, yep.
13
14:50:59 14 If I can take you to VPL.0005.0108.0001. This is the
14:51:14 15 findings of the DSU pilot, do you see that?---Yes.
16
14:51:21 17 If we go to p.11 of that document. You'll see that's
14:51:25 18 headed "Operational management of high risk sources", do
14:51:29 19 you see that?---Yes.
20
14:51:36 21 It indicates that the project, the DHST project,
14:51:41 22 recommended that the DSU be staffed by a number of teams
14:51:46 23 which were headed by an Inspector, and I think I'm just
14:51:49 24 coming to the area of concern that you were raising
14:51:51 25 before?---Yes.
26
14:51:52 27 All right. And the pilot commenced on 1 November with one
14:51:58 28 team and there was a part-time Detective Inspector, there's
14:52:06 29 one controller, there's an acting PII [REDACTED] project
14:52:10 30 officer, there's a number of handlers and an
14:52:14 31 analyst?---Yes.
32
14:52:16 33 We have under the heading "Inspector officer-in-charge" and
14:52:20 34 it's noted there that the Inspector was allocated to the
14:52:23 35 pilot and shared part-time between the Security
14:52:26 36 Intelligence Group and the DSU?---That's what I was
14:52:31 37 alluding to, yes.
38
14:52:32 39 If we go through that document you see there it says, "Not
14:52:35 40 having a full-time Inspector within the DSU ultimately
14:52:40 41 proved detrimental to the pilot. The PII [REDACTED] or PII [REDACTED]
14:52:46 42 PII [REDACTED]'s duties as controller were impeded by the
14:52:48 43 need to set up and administer the office on a day-to-day
14:52:51 44 basis and they needed to market the DSU across the Force".
14:53:02 45 Was there some hesitancy in adopting this new procedure,
14:53:06 46 people wanted to keep it the way it was?---Yes. If I can
14:53:11 47 explain at the time. The previous system that we'd had,

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14:53:15 1 which was in my view inadequate, had belonged to
14:53:22 2 individuals and individual units, such as the Drug Squad or
14:53:25 3 regionally within the districts and the regions. The
14:53:32 4 informants had basically belonged to them. There were also
14:53:36 5 differing systems in registering them which meant that the
14:53:38 6 intelligence and the information that was coming from these
14:53:42 7 informers wasn't being shared as it should have been.

8
14:53:44 9 Yes?---So the idea was to bring the system, the world's
14:53:51 10 best practice system and bring it centrally so that, the
14:53:56 11 one I've mentioned, the sterile corridor, before, that we
14:54:00 12 could establish a sterile corridor between the information
14:54:05 13 and the investigators and also ensure that the information
14:54:07 14 that was being collected was shared where appropriate.

15
14:54:11 16 And there was some need to market the services, if you
14:54:16 17 like, of what the DSU could offer?---Yeah.

18
14:54:20 19 Is that right?---There was resistance to the changes. It's
14:54:24 20 not unusual for that to occur. There was strong
14:54:27 21 resistance, particularly from the Crime Department and to a
14:54:32 22 lesser degree the district regions, because we were taking
14:54:38 23 something that they believed they were running well and
14:54:42 24 that was theirs and taking the control of these informants
14:54:46 25 away from the investigators. That was how they saw it so
14:54:50 26 it was a big sell there and it was a hard sell.

27
14:54:52 28 If the DSU could market itself or say, "Look how successful
14:54:58 29 we've been based on a number of running of sources" or
14:55:02 30 whatever, that was going to be a good thing for them and
14:55:06 31 for that Unit's continuance?---Yeah, you have to - two
14:55:10 32 things that had to be established was credibility that
14:55:14 33 these people could do it, and trust, that we would do it
14:55:17 34 well. That was what we were trying to sell.

35
14:55:20 36 And results with the successful - - - ?---That would be the
14:55:25 37 third thing, that's correct.

38
14:55:27 39 - - - successful results we're getting this information out
14:55:29 40 of these sources and look what you investigators can do
14:55:33 41 with it?---Yes.

42
14:55:35 43 If we continue on. It notes that it's important to note
14:55:41 44 that the role of the [REDACTED] should be very much
14:55:44 45 operational?---Yes.

14:55:45 46
14:55:45 47 The officer-in-charge is significantly more involved in

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14:55:50 1 managing the day-to-day operations than would normally be
14:55:54 2 the case?---Excuse me, when you say the officer-in-charge
14:55:57 3 there you mean the Senior Sergeant?
4
14:56:00 5 No, I'm referring to the officer-in-charge?---The Inspector
14:56:03 6 ?
14:56:03 7
14:56:04 8 The Inspector?---Okay.
9
14:56:07 10 To allow the [REDACTED] to be very much operational,
14:56:13 11 the officer-in-charge would be significantly more involved
14:56:20 12 - - - ?---Yeah, I wouldn't have thought, and from my memory
14:56:24 13 I wouldn't have thought the Inspector, describing his role,
14:56:28 14 even if they'd funded the full dedicated position, would
14:56:32 15 have been operationally involved.
16
14:56:34 17 Right. You see there it goes on. "If the [REDACTED]
14:56:38 18 are to be dedicated to the role of controller and have
14:56:41 19 sufficient time and opportunity to intrusively supervise
14:56:44 20 the handler/source relationship, the Inspector as the
14:56:49 21 officer-in-charge will, in addition to setting the ethical
14:56:52 22 benchmark and driving the innovation and change necessary
14:56:56 23 for source management practices to advance, also be
14:56:58 24 responsible for the day-to-day management and
14:57:00 25 administration of high risk and highly accountable office",
14:57:04 26 right?---And I refer back to what I was saying, is that was
14:57:06 27 supposed to be a dedicated position, yes. That was the
14:57:08 28 idea of it, yes.
29
14:57:09 30 And the officer-in-charge, the Inspector sitting above all
14:57:12 31 of that, was there also to ensure the maintenance of an
14:57:20 32 ethical benchmark?---Yes.
33
14:57:21 34 Because you have the controller and the handlers having
14:57:25 35 contact with sources and that's traditionally been the
14:57:29 36 falling down of informer relationships in the past?---Yes.
37
14:57:43 38 I'm told, Commissioner, I should have tendered the gazette
14:57:48 39 article earlier, the 22 September 2003 gazette article.
40
14:57:54 41 COMMISSIONER: Right.
14:57:55 42
14:57:55 43 #EXHIBIT RC821A - (Confidential) Gazette article 22/09/03.
14:57:56 44
14:57:57 45 #EXHIBIT RC821B - (Redacted version.)
14:58:03 46
14:58:03 47 COMMISSIONER: For the record the findings of the DSU pilot

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14:58:07 1 in 2004 was Exhibit 278.
14:58:10 2
14:58:10 3 MS TITTENSOR: Thanks Commissioner. Mr Cowlshaw, the
14:58:23 4 documents indicate that the registration of Ms Gobbo seems
14:58:27 5 to have occurred on 16 September 2005. If we can have a
14:58:33 6 look at the IMU file, VPL.0100.0121.0155, it's Exhibit 514
14:58:45 7 I think. You'll see that document indicates that the Local
14:58:55 8 Informer Registrar's details there as Mr Thomas and the
14:59:01 9 handler as Officer Smith, the controller as Sandy White and
14:59:06 10 the officer-in-charge details are your own?---Yes.
11
14:59:14 12 It's unclear exactly when that form was filled out but that
14:59:17 13 seems to be the date that Ms Gobbo was assessed by the SDU.
14:59:24 14 You're unsure if you were told about that at the time?---I
14:59:27 15 can't - until I was shown this document this year I had no
14:59:31 16 memory of ever seeing it before. I also note that it's
14:59:35 17 unsigned.
18
14:59:36 19 It's unsigned it seems by - there's a location there where
14:59:44 20 the Local Informer Registrar might sign it. There doesn't
14:59:49 21 seem to be any location where each of the other officers
14:59:53 22 would sign; is that right?---That's correct.
23
15:00:05 24 As you say, you don't recall seeing that document before
15:00:08 25 this process?---No.
26
15:00:09 27 You think you might have been on leave during that period
15:00:13 28 of time, from the 15th of September to the 13th of October,
15:00:17 29 or you're not sure about that either?---No, no, my day book
15:00:21 30 has a gap for that period and I'd been, I'd spent four
15:00:27 31 months working at the Met in London and I would have
15:00:34 32 accrued an amount of leave, so it would have been logical
15:00:37 33 that I would have taken leave about that time and it's
15:00:41 34 about a three week gap. So I assume that I was on leave.
15:00:44 35 I don't always record it as such.
36
15:00:46 37 Is there any other mechanism within Victoria Police to tell
15:00:49 38 when someone's been on leave other than the day book?---We
15:00:53 39 have our pay sheets and personnel should have those
15:00:56 40 records.
41
15:00:57 42 So personnel should be able to say whether a particular
15:01:00 43 person was at work on a particular day?---Absolutely, yes.
15:01:04 44 But whether I was actually on leave or not I simply don't
15:01:07 45 recall. I'm relying on what's in my day book.
46
15:01:09 47 As I say, if we make our way through some of the diaries

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15:01:15 1 and day books and material in relation to other people it
15:01:19 2 appears that subsequently there's a number of debriefs that
15:01:22 3 occur?---Yes.
4

15:01:23 5 It appears as though she's been assessed as suitable at
15:01:26 6 least to be an informer on the 16th and then debriefs occur
15:01:31 7 on the 21st of September, 26 September and so on?---Yeah,
15:01:40 8 I - - -
9

15:01:40 10 Following that. None of the material in that period of
15:01:45 11 time indicates that you're present at any of those meetings
15:01:49 12 but it does indicate that she starts to be referred to as
15:01:52 13 3838, as I indicated?---Around that time, yes.
14

15:01:55 15 It seems as though something's gone off to the appropriate
15:02:02 16 powers or the powers that be and she's been allocated a
15:02:05 17 number?---Yeah, my diary's record at that time, it's the
15:02:10 18 first time in my diary she's referred to as that number.
15:02:17 19 So that may well indicate that that happened at that time.
20

15:02:20 21 As you indicate in your statement, you didn't have a diary
15:02:25 22 until perhaps December 2005?---About four months' gap until
15:02:30 23 I got my - - -
24

15:02:32 25 But you had a day book that you may or may not write
15:02:35 26 in?---Yeah, in between.
27

15:02:36 28 On particular days. At paragraph 16 of your statement you
15:02:40 29 indicate that you met with Sandy White for three hours on
15:02:43 30 26 October 2005?---Yes.
31

15:02:47 32 He was, I take it, briefing you because you were his
15:02:52 33 officer-in-charge?---Yeah, I'm not sure if he was - I can't
15:02:59 34 remember whether he was briefing me because of that or
15:03:01 35 because I'd been upgraded at that time, or I was about to
15:03:05 36 be upgraded.
37

15:03:06 38 All right?---It would have been either one of the two.
39

15:03:09 40 If you have a look at your day book notes,
15:03:17 41 VPL.0100.0001.5942. See your day book notes, you meet with
15:03:22 42 Sandy White and the first thing that you're discussing with
15:03:27 43 him is the briefing - - - ?---I definitely had the
15:03:31 44 briefing. I point I'm making is I wasn't too sure whether
15:03:34 45 that was just before I was upgraded and whether it was
15:03:37 46 because of that or he was just giving me - I don't remember
15:03:39 47 any briefings prior to that.

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1
15:03:41 2 No?---So whether it was because I'd been elevated to the
15:03:44 3 next rank, I'm not too sure. It occurred, yes.
4
15:03:50 5 Nevertheless at this point in time you're briefed by Sandy
15:03:51 6 White in relation to 3838?---Correct, yes.
7
15:03:56 8 Do you expect at that period of time you're told that
15:04:00 9 Ms Gobbo was a source and, "We've debriefed her and she's
15:04:08 10 to be used by Mr O'Brien and his crew"?---Yes.
11
15:04:15 12 Do you recall being surprised when you learned that
15:04:18 13 Ms Gobbo was a source, a human source?---I don't recall
15:04:24 14 being surprised.
15
15:04:27 16 Did you know Ms Gobbo before that point in time?---No.
17
15:04:30 18 As a defence barrister, she had rather a large profile in
15:04:34 19 terms of barristers?---Yeah, I knew of her because of the
15:04:38 20 position that her uncle I think held, he was a judge.
21
15:04:44 22 Yes?---Yeah, so I knew the name and I had heard of her, you
15:04:48 23 know, passing, as I was at the courts all the time, as most
15:04:52 24 detectives are.
25
15:04:53 26 You would have seen her around the courts?---No, I can't
15:04:56 27 even remember meeting her or seeing her.
28
15:05:00 29 Had you seen media in relation to her?---I can't recall
15:05:04 30 ever seeing her.
31
15:05:05 32 Had you associated her with underworld figures in terms of
15:05:09 33 her representation of them?---At this time?
34
15:05:11 35 Yes?---No.
36
15:05:14 37 Presumably at this time during this briefing by Sandy White
15:05:18 38 he was telling you the type of information that she was
15:05:23 39 supplying, or at least that it was relevant to what Purana
15:05:26 40 were doing?---According to my diary, yes, some, but it was
15:05:32 41 limited, very limited.
42
15:05:34 43 What do you mean by that?---Well I have a note - I think I
15:05:37 44 have one notation in my diary where he told me about some
15:05:41 45 information she was providing, but that's the only time.
15:05:45 46 And I can remember it at the moment because it's in my day
15:05:49 47 book, otherwise I don't recall.

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1
15:05:50 2 Presumably on this occasion where you're getting a briefing
15:05:52 3 re 3838 you're being told the value of her to the
15:05:57 4 organisation?---Well I can only assume that because I
15:06:01 5 really don't recall the meeting itself. It's in my diary.
15:06:04 6 We had the meeting but I can't, it's 14 years ago, I can't
15:06:08 7 recall what the detail and what he exactly told me. I've
15:06:12 8 obviously made some notes of some stuff he's told me but
15:06:15 9 that's all I can sort of refer to. I have no actual memory
15:06:19 10 of it.
11
15:06:21 12 At that same meeting immediately upon receiving a briefing
15:06:25 13 of 3838 you're discussing supergrass sources with Sandy
15:06:33 14 White. Do you see the next line down, "Discussed
15:06:37 15 supergrass sources. Need to know at IMU. Agreed to have
15:06:42 16 [REDACTED] write policy for same"?---Yeah, well that's what it
15:06:46 17 says.
18
15:06:47 19 Do you recall the discussion about the supergrass sources
15:06:50 20 and a policy being written?---No, I don't.
21
15:06:52 22 For supergrass sources. Do you know who that [REDACTED] might
15:06:55 23 be?---No, I have been shown this before earlier in the year
15:07:00 24 and no, there was a number of [REDACTED]. I'd be guessing. I
15:07:05 25 really can't remember who it was. I've tried to - there
15:07:09 26 was no [REDACTED] immediately working with me so I really don't
15:07:14 27 know who it is.
28
15:07:15 29 Is there a [REDACTED] who's name has come up in the - - -
15:07:21 30 ?---Yes, you're right, he worked in the IMU, that's
15:07:23 31 correct.
32
15:07:24 33 Might that have been the [REDACTED]?---It's possible. I hadn't
15:07:30 34 even recorded that was his first name. That's possible.
35
15:07:33 36 Some years later after the deactivation of Ms Gobbo there
15:07:37 37 was a workshop that the DSU had at [REDACTED]. I'm not
15:07:53 38 suggesting you were present at the workshop?---No, I didn't
15:07:55 39 go.
40
41
15:08:00 42 But if we have a look at the minutes of the meeting at the
workshop, VPL.0100.0120.0008 at p.8?---I - - -
43
15:08:07 44 I'll tender that diary entry, Commissioner.
45
15:08:12 46 COMMISSIONER: It was a day book on the - what was the
15:08:15 47 date?

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These claims are not yet resolved.

15:08:20 1
15:08:21 2 MS TITTENSOR: It was 26 October 2005.
15:08:24 3
15:08:25 4 #EXHIBIT RC822A - (Confidential) Doug Cowlshaw's day book
15:08:29 5 entry 26/10/05.
15:08:29 6
15:08:29 7 #EXHIBIT RC822B - (Redacted version.)
8
15:08:50 9 COMMISSIONER: This current exhibit that's up on the screen
15:08:52 10 is Exhibit 525.
15:09:02 11
15:09:02 12 MS TITTENSOR: If we can move up the page, please. Sorry,
15:09:14 13 keep going. Keep going. Keep going. See there under item
15:09:34 14 9, just there, it's the second one down, there's a debrief
15:09:39 15 essentially in relation to Ms Gobbo. It notes there that
15:09:45 16 she had commenced in September of 2005. It says with HSMU
15:09:53 17 she was allocated supergrass status and was not on the HSMU
15:09:58 18 database and there was an envelope registration, do you see
15:10:02 19 that?---Yes.
20
15:10:05 21 Following that, "Discussed the flawed decision to isolate
15:10:10 22 3838 from the registration process. Thought of and treated
15:10:14 23 as special", do you see that?---Yes, I do.
24
15:10:20 25 Can you recall there being any occasion where an informer
15:10:25 26 or Ms Gobbo or another informer was separated from the herd
15:10:29 27 in terms of their treatment at HSMU?---No.
28
15:10:33 29 Do you recall that happening on this occasion at all?---No.
30
15:10:40 31 I'm only taking you to this, it may explain why we haven't
15:10:45 32 been able to locate signed versions of some documents,
15:10:49 33 perhaps they're sitting in an envelope somewhere?---To me
15:10:54 34 the envelope process was the previous process.
35
15:10:57 36 Yes?---But it wasn't done in this process.
37
15:11:01 38 As you see, I've taken you to an entry in your diary that
15:11:04 39 indicates that "we need some supergrass policy" and a
15:11:08 40 number of years later after Ms Gobbo's deactivated they're
15:11:13 41 talking about a flawed supergrass policy that applied that
15:11:16 42 seemed to be different than the usual?---Yeah, I just can't
15:11:22 43 recall, I'm sorry.
44
15:11:23 45 That's all right. Do you recall a document which was a
15:11:35 46 change of participant's form that occurred whenever one of
15:11:41 47 the participants involved in the handling or management of

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15:11:44 1 an informer was lodged with HSMU?---No, I don't.
2
15:11:53 3 Probably no need to take you to the document. It's another
15:11:58 4 document that indicates that you continued to act as
15:12:00 5 officer in charge whilst one of the other participants
15:12:03 6 changed a controller perhaps from Sandy White to Officer
15:12:09 7 Black at some point in time and I take it you wouldn't
15:12:12 8 dispute that technically or in fact you remained
15:12:15 9 officer-in-charge at various points in time?---I certainly
15:12:18 10 had at the IMU, the administrative areas. And under what
15:12:25 11 we'd imagined would happen with the policy was that there's
15:12:28 12 no way known that the officer-in-charge of the DSU and the
15:12:33 13 officer-in-charge of the IMU should be the same person, for
15:12:36 14 obvious reasons.
15
15:12:38 16 If I can - - - ?---But I should say at the time it was,
15:12:41 17 yes.
18
15:12:42 19 Perhaps I'll take you to this one. It's the IMU file,
15:12:48 20 VPL.0100.0121.0155 at p.35 of that document. You see there
15:13:16 21 that's what we understand is a change of participant's
15:13:22 22 document and you'll see there the participant that is being
15:13:27 23 changed is the controller from Mr White to Mr Black and the
15:13:35 24 other participants as of that date, 6 November, remain the
15:13:39 25 same, do you see that?---I can see that.
26
15:13:44 27 You remain in there as the officer-in-charge?---Yes, I see
15:13:48 28 that.
29
15:14:04 30 Mr Holt took you before to your day book entries and you
15:14:08 31 had a blank day book entry for 23 November?---Yes.
32
15:14:15 33 There's a number of other documents that the Commission has
15:14:18 34 seen, for example, if we go to RCMPI.0090.0001.0001 at
15:14:39 35 p.16. This is the diary of Officer Black. Do you see
15:14:47 36 there, this is 23 November, he says, he records in his
15:14:52 37 diary at 9 am that the review risk assessment for source
15:14:59 38 3838 where the handler is Smith, the update the risk
15:15:04 39 assessment completed and controller comments inserted and
15:15:08 40 prep for C-22 to IMU, to Cowlshaw direct by hand. Do you
15:15:15 41 see that?---Yes.
42
15:15:16 43 And if you note further down the diary at 15:45?---Yes.
44
15:15:35 45 You'll see at 15:45 that it records that you're handed a
15:15:40 46 report by hand via PII Green at the St Kilda
15:15:49 47 Road Police Complex?---Yes.

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1
15:15:52 2 We see you're authorising as a Detective Acting
15:15:57 3 Superintendent down the bottom in terms of someone taking a
15:16:00 4 vehicle home?---Correct.
5
15:16:05 6 I tender that document, Commissioner, if it's not already -
15:16:10 7 it's already tendered. If Mr Green's diary for that date
15:16:22 8 can be put up VPL.0005.0244.0001.
9
15:16:25 10 COMMISSIONER: Officer Black's diary as a bundle are
15:16:28 11 Exhibit 591.
12
15:16:30 13 MS TITTENSOR: Thank you, Commissioner.
14
15:16:31 15 COMMISSIONER: We'll just note that that's a particular
15:16:34 16 entry of interest.
17
15:16:45 17
15:16:46 18 MS TITTENSOR: VPL.0005.0244.0001. If we can - this is
15:17:04 19 probably only going to be - if we can go up to the 23rd.
15:17:15 20 If you see there this is Officer Green's diary entry for
15:17:18 21 the same date, Wednesday the 23rd, and that's of November.
15:17:22 22 You'll see on the bottom of the next page that it's
15:17:25 23 November and he likewise records handing you a document,
15:17:35 24 and if you looked at the corro number of the document it
15:17:38 25 will match the one that's in Officer Black's diary.
15:17:46 26 There's two separate diaries that indicate that they've
15:17:50 27 delivered documents to you on that date, one of which is
15:17:53 28 the risk assessment. Do you accept that you received the
15:17:56 29 risk assessment from Officer Black on that day?---I have, I
15:18:00 30 just have no recollection of ever seeing it. I just don't
15:18:03 31 remember.
32
15:18:04 33 Do you accept on the basis of those diary entries that you
15:18:07 34 were handed it on that day?---Yeah, the only - yeah, I do.
15:18:10 35 The only strange thing there is that I haven't noted it in
15:18:14 36 mine. I don't know why that is if I received them. It's
15:18:17 37 something I would do, so I can't explain that.
38
15:18:21 39 You've not recorded anything that day in your diary?---No.
40
15:18:24 41 Save for the date at the top of the page; is that
15:18:27 42 right?---Yeah, and I don't know why that is.
43
15:18:29 44 Assuming that you got the document it's something that you
15:18:33 45 would have read at the time?---If I got it, yes.
46
15:18:39 47 And complying with the policy, if you had have noted any

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15:18:45 1 risks that you noted hadn't been attended to you would have
15:18:50 2 done something about that I take it?---It's hypothetical,
15:18:56 3 the point that I don't recall it, but yeah, I would.
4
15:18:58 5 Have you read that risk assessment since?---No.
6
15:19:00 7 In the course of preparing for these proceedings?---No.
8
15:19:04 9 To see if any of that document rang a bell with you?---No.
10
15:19:08 11 You're aware that that document indicated that Ms Gobbo
15:19:16 12 acted for significant gangland figures, including
15:19:20 13 Mr Mokbel?---I haven't seen the document, so.
14
15:19:26 15 You're not aware of - - - ?---I can't recall. I can't
15:19:29 16 recall the document and I can't recall having that
15:19:35 17 knowledge.
18
15:19:41 19 Assuming you got the document, what would you have done
15:19:45 20 with the document? We know ultimately it ends up on an IMU
15:19:51 21 file somewhere?---Yeah, it probably - what normally would
15:19:56 22 happen is that document, well, it would have been processed
15:20:02 23 because in the position I was in as the Acting
15:20:05 24 Superintendent I'm the Central Registrar, so he would have
15:20:08 25 read the document and I would have put a report on the
15:20:11 26 front of it.
27
15:20:12 28 So there should be a report of yours on the front of - - -
15:20:15 29 ?---I would think so, yes, if I assessed it, and I would
15:20:19 30 probably - I would have probably conferred with - I'm not
15:20:27 31 even too sure who was there then. I think Ian Thomas was
15:20:31 32 still there, because he'd been my boss for the previous
15:20:34 33 three and a half years and I'd gone. He was still there
15:20:36 34 then so I probably would have conferred with him.
35
15:20:39 36 Who's position were you acting in at the time?---Ian
15:20:43 37 Thomas' but he was - - -
38
15:20:45 39 He was acting in some - so he'd gone up himself, had
15:20:48 40 he?---Yeah. They created a Commander's position there and
15:20:51 41 never filled it, so he was actually acting in that position
15:20:54 42 for about three and a half to four years and there were
15:20:58 43 various people that filled in for that Superintendent's
15:21:02 44 position.
45
15:21:02 46 We understand that Commander Moloney took up that position
15:21:06 47 earlier that year?---Yeah.

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1
15:21:09 2 Around the middle of the year?---Yep.
3
15:21:11 4 Was it the case that when he went on leave - - - ?---Yeah,
15:21:15 5 you just go up. But it wasn't always me.
6
15:21:18 7 Mr Thomas would fill in for him?---There were other
15:21:21 8 Inspectors, it wasn't always me. It was on this occasion.
9
15:21:27 10 So if you were the Acting Superintendent at this stage,
15:21:27 11 effectively when that risk assessment came in you were the
15:21:28 12 Local Informer Registrar?---Yeah, yeah. The only thing
15:21:31 13 that is not clear to me, Dannye Moloney was there as a
15:21:38 14 Commander but Ian Thomas was still there. He'd been
15:21:42 15 selected in a role as a Commander with the AFP but he was
15:21:49 16 still there and he was there as a Superintendent. So we
15:21:52 17 were doing - he was doing some other roles and I was doing
15:21:57 18 some other ones and to be honest I don't remember which
15:21:59 19 ones we were doing, or in fact that he was doing this or I
15:22:03 20 was. I really can't remember.
21
15:22:07 22 It doesn't seem as though he's acting necessarily in
15:22:16 23 Commander Maloney's place, because the very next day
15:22:18 24 according to your day book, if we go to it,
15:22:24 25 VPL.0100.0001.5942 at p.11, this is the very next day after
15:22:27 26 that you go to the DSU PII [REDACTED] with Mr Moloney for
15:22:33 27 a visit; is that right?---That's correct, yeah, to meet the
15:22:36 28 - a greet and meet basically.
29
15:22:39 30 Does that say - so you're there for two hours or you're
15:22:44 31 away from the office for a couple of hours?---Yeah, away
15:22:47 32 from the office for a couple of hours.
33
15:22:51 34 It says, is it "visit and advise", is that what that
15:22:54 35 says?---No, "admin.", administration. Sorry, my atrocious
15:22:59 36 writing.
37
15:22:59 38 That's all right, that's all right. Do you have any
15:23:02 39 recollection of what went on on that day, whether there was
15:23:06 40 any further briefings or any discussion about - I take it
15:23:09 41 you can't recall whether there was discussion about that
15:23:13 42 risk assessment from the day before?---Strangely enough the
15:23:16 43 only thing I remember of that day was having breakfast
15:23:19 44 there. They put on a barbecue breakfast or lunch but I
15:23:25 45 don't remember any other conversation.
46
15:23:26 47 I didn't tender Mr Green's diary, Commissioner. I tender

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15:23:31 1 Mr Green's diary which is dated 23 - - -
2
15:23:35 3 COMMISSIONER: The consolidated diaries are 591.
15:23:37 4
15:23:38 5 MR HOLT: That's outside of that consolidated range,
15:23:42 6 Commissioner. It was provided as a separate document.
7
15:23:45 8 COMMISSIONER: Oh, is it?
15:23:46 9
15:23:47 10 #EXHIBIT RC823A - (Confidential) Mr Green's diary 23/11/05.
15:24:00 11
15:24:01 12 #EXHIBIT RC823B - (Redacted version.)
13
15:24:10 14 COMMISSIONER: The consolidated diaries were 567 I think.
15:24:16 15
15:24:16 16 MS TITTENSOR: On 2 December 2005 you've got, paragraph 20
15:24:25 17 of your statement indicates that you recalled speaking with
15:24:32 18 Karl Feltham from the ESD?---Yes.
19
15:24:35 20 You recall that because it involved discussion about
15:24:39 21 conduct of a particular police member?---That's correct,
15:24:41 22 yes.
23
15:24:42 24 That was a police member that was later, he was suspended
15:24:47 25 from - - - ?---He was sacked I think.
26
15:24:50 27 Suspended and then either resigned or was - - - ?---Yeah, I
15:24:55 28 can't remember whether he was actually dismissed or he
15:24:58 29 resigned.
30
15:24:59 31 That was Mr Shields?---Yes.
32
15:25:06 33 Your day book records, if we go to - if we were to have a
15:25:11 34 look at your day book, that Detective Inspector Feltham was
15:25:14 35 making inquiries of you "re person of interest
15:25:17 36 Gobbo"?---Yes.
37
15:25:21 38 That was because Ms Gobbo had some association with
15:25:24 39 Mr Shields at the time?---I believe so.
40
15:25:27 41 If we go to the SMLs at p.8. It's recorded by the
15:25:37 42 controller there that on 2 December they were informed by
15:25:42 43 you, you're Acting Superintendent, that Mr Feltham of the
15:25:49 44 ESD had inquired about the human source, being Ms Gobbo.
15:25:53 45 They wanted to do an investigation on her in relation to
15:25:55 46 her relationship with Mr Shields and you told them not to
15:26:02 47 investigate her and you believed as a result that

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15:26:08 1 Mr Feltham may now be aware of Ms Gobbo's identity as a
15:26:12 2 source?---No, it's not in that context. The context was
15:26:19 3 that I believed that Ms Gobbo was not involved in a - that
15:26:32 4 Ms Gobbo should not be investigated in the terms of wasn't
15:26:35 5 involved in the investigations that Carl Feltham was
15:26:42 6 making. That was what I was getting at. I believe his
15:26:47 7 visit was about fishing to find out whether she was in fact
15:26:52 8 an informant and it was only a person of interest. From my
15:26:55 9 memory of that, I think that was the purpose of his visit
15:26:58 10 and I wasn't going to tell him that.
11
15:27:01 12 Might he have been visiting thinking that the HMSU might
15:27:06 13 have some information or intelligence in relation to
15:27:09 14 Ms Gobbo and that's why he was visiting?---I don't know.
15
15:27:13 16 Given her associations with police and other people, that
15:27:18 17 the HSMU might have some intelligence about her that they
15:27:22 18 could share before he started his investigation?---He may
15:27:28 19 well have thought that but I can't recall him expressing
15:27:31 20 that to me.
21
15:27:32 22 Where it records there that the controller has recorded
15:27:35 23 "Cowlshaw believes Feltham is aware of human source
15:27:40 24 identity", it suggests, doesn't it, that you now believe
15:27:43 25 that Feltham was aware that Ms Gobbo was a human
15:27:48 26 source?---Without him directly saying it that's the
15:27:50 27 impression that I got.
28
15:27:51 29 He was aware that she was a human source?---Yeah.
15:27:53 30
15:27:59 31 COMMISSIONER: Is this a convenient time we'll have the
15:28:02 32 afternoon break now.
15:28:03 33
15:28:03 34 MS TITTENSOR: Yes, Commissioner.
35
36 (Short adjournment.)
37
15:46:58 38 COMMISSIONER: Yes Ms Tittensor.
15:46:59 39
15:47:00 40 MS TITTENSOR: Thanks Commissioner. Now, Mr Cowlshaw, it
15:47:05 41 seems as though, according to the SMLs and your day book,
15:47:11 42 that three times in December, aside from the matter that
15:47:13 43 I've just taken you to, you've had some communications or
15:47:18 44 disseminations from the SDU in relation to a number of
15:47:21 45 matters, do you accept that?---I don't recall it but I
15:47:26 46 accept what you're saying.
15:47:27 47

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15:47:27 1 It seems as though there's, there's one IR that seems to
15:47:37 2 come your way, according to the source management log. It
15:47:43 3 contains information relating to Tony Mokbel that two or
15:47:46 4 three days prior to his arrest in June of 2005 that he'd
15:47:50 5 received information that his arrest was imminent?---I
15:47:53 6 don't recall that.
15:47:54 7
15:47:54 8 And I just wonder if it's something that was disseminated
15:47:58 9 perhaps to you because you had some interest or connection
15:48:03 10 or liaison with the Ethical Standards Department because it
15:48:06 11 related to some sort of potential police leak?---I have no
15:48:11 12 knowledge of it.
15:48:12 13
15:48:13 14 And similarly there was another one later in December where
15:48:17 15 there was a dissemination in relation to [REDACTED]
15:48:28 16 [REDACTED] Mr Bickley, who was, had been a client of
15:48:36 17 Ms Gobbo's and he potentially had a claim that someone had
15:48:44 18 a connection to a corrupt Drug Squad member and he might be
15:48:48 19 able to get his charges dropped?---No.
15:48:50 20
15:48:51 21 And another dissemination to yourself referred to an IR
15:48:58 22 where Milad Mokbel received information that he was about
15:49:01 23 to be raided by police prior to it happening. So it seems
15:49:04 24 as though a number of disseminations that you were
15:49:08 25 receiving related to in some way leaks by police?---Yeah, I
15:49:15 26 don't recall at all those.
15:49:17 27
15:49:18 28 May it have been the case they disseminated those things to
15:49:21 29 you because they needed to go off to ESD in some
15:49:25 30 way?---Possibly but I have no recollection of that at all.
15:49:28 31
15:49:28 32 All right. You address one matter in your statement on 19
15:49:34 33 December 2005, receiving an update from Sandy White in
15:49:38 34 relation to ten different - - - ?---Yes.
15:49:42 35
15:49:42 36 - - - active high risk sources, is that right?---That's
15:49:45 37 correct.
15:49:45 38
15:49:45 39 Included in your diary is the quote, "3838, she gave mail
15:49:49 40 last week re PII [REDACTED] for Mokbel" and you refer to
15:49:54 41 Operation Posse, which is part of Purana?---Correct.
15:49:58 42
15:49:59 43 So it appears from that that you had some understanding of
15:50:02 44 the type of information that Ms Gobbo was
15:50:04 45 providing?---Possibly. If it wasn't in my diary I wouldn't
15:50:08 46 recall it, so.
15:50:09 47

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COWLISHAW XXN

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15:50:09 1 But you accept from having made that entry in your diary
15:50:13 2 that you had that, would have had that understanding at the
15:50:15 3 time?---On this occasion, yes.
15:50:17 4
15:50:22 5 I just want to ask you about a couple of entries in
15:50:25 6 Mr White's diaries late in May the following year and then
15:50:30 7 I'll sit down you'll be happy to know?---2006?
15:50:33 8
15:50:34 9 May of 2006?---Yes.
15:50:35 10
15:50:36 11 If we can just put this up on the screen
15:50:44 12 VPL.0100.0096.0238. It's an entry on 23 May 2006. Just by
15:50:54 13 way of a little bit of background, in April of 2006 it
15:50:58 14 seems as though Commander Moloney had instructed through
15:51:03 15 Mr Porter that Mr Biggin should do an audit of the 3838
15:51:08 16 file. Do you have any recollection of there being an audit
15:51:11 17 of Ms Gobbo's file?---No.
15:51:12 18
15:51:14 19 Then following that there was to be an audit, a general
15:51:18 20 audit of SDU files that was going to be conducted by
15:51:24 21 Superintendent Nolan, Lucinda Nolan?---I knew that she was
15:51:29 22 there. She'd come there at that stage to perform the
15:51:33 23 Superintendent's role, I remember her being there but I
15:51:37 24 don't remember her doing an audit.
15:51:39 25
15:51:39 26 That's just by way of background to what I'll ask
15:51:42 27 you?---Okay.
15:51:42 28
15:51:43 29 So you'll see on 23 May at 11.30 and then just under
15:51:56 30 halfway down the page, down the bottom you'll see there's a
15:52:00 31 call from [REDACTED] at HSMU, do you see that?---Yes.
15:52:04 32
15:52:05 33 And then the second paragraph below that, "Instructed by
15:52:11 34 Calishaw to refer Superintendent Nolan to Commander if
15:52:20 35 asked ID of human source, particularly 3838"?---Yeah,
15:52:28 36 because I think she was the Central Registrar at that
15:52:33 37 stage. It looks like I was back in my Inspector's role
15:52:37 38 then.
15:52:37 39
15:52:38 40 Do you recall why that was or any explanation for that, if
15:52:45 41 - there seemed to be some particular concern that 3838's
15:52:49 42 identity might be disclosed, as opposed to other human
15:52:53 43 sources?---I can't, can't remember why that, what that
15:52:57 44 would be referring to. I don't deny its accuracy but I
15:53:02 45 just can't remember it.
15:53:03 46
15:53:03 47 If we can go to 16:25 of that day, you'll see there

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15:53:08 1 further. A call from Walshe again, "Have message from
15:53:14 2 Calishaw from TB", which we understand is Tony Biggin,
15:53:18 3 "That AC Overland is willing to speak to human source 3838
15:53:22 4 re assistance given". Following that there's "meeting
15:53:29 5 issues for TB" recorded by Sandy White. The first one
15:53:34 6 being, "Assistant Commissioner of Crime to meet with 3838"
15:53:39 7 and the third one down is, "Superintendent Nolan knowledge
15:53:44 8 of 3838", do you see that?---Yeah, again I don't deny that
15:53:53 9 but I don't recall it, sorry.
15:53:55 10
15:53:55 11 Do you recall discussions about whether Assistant
15:53:59 12 Commissioner Overland might meet with Ms Gobbo in relation
15:54:02 13 to her assistance?---No.
15:54:03 14
15:54:06 15 If we can go to p.245 of that diary, which is 25 May there.
15:54:13 16 At 13:55, see there's a meet with Acting Commander Biggin
15:54:25 17 at some point and "advised re", and if we, there's a number
15:54:33 18 of points there that aren't relevant. If we continue up,
15:54:39 19 continue over to the next page. And it says, "Request
15:54:48 20 instructions re what to tell Superintendent Nolan re files
15:54:53 21 of human source IDs. Informed had been instructed by DC",
15:54:59 22 that appears to be you, "Via [REDACTED]", which is [REDACTED],
15:55:03 23 "Not to tell her and refer to Commander. Instructed to
15:55:07 24 advise same if asked"?---No, I have no knowledge of that.
15:55:09 25
15:55:09 26 It goes on, "Advised re upcoming audit and discussed
15:55:13 27 process, i.e. bring files to Superintendent instead of
15:55:17 28 exposing PII [REDACTED] to same", because it appears she's
15:55:23 29 in a temporary position. "No instructions from Assistant
15:55:28 30 Commissioner to meet with human source." It seems there
15:55:30 31 has been some incorrect information from yourself and Tony
15:55:34 32 Biggin had instructed you to prepare a reward file for the
15:55:39 33 IPC if the Assistant Commissioner wants to meet. So do you
15:55:44 34 recall that, that you had been instructed to prepare a
15:55:47 35 reward file for Ms Gobbo?---Yeah, I wasn't on the Rewards
15:55:52 36 Committee, nor did I ever attend it. One of the Senior
15:55:56 37 Sergeants at the time, Glen Owen, was the one that did all
15:56:00 38 the reward stuff so it's possible that I was asked, but he
15:56:03 39 would have done it, not me. I never went to the rewards
15:56:07 40 meetings.
15:56:07 41
15:56:09 42 You might prepare documentation as opposed to going to a
15:56:14 43 meeting?---No. No, I never did that. Glen Owen prepared
15:56:19 44 all those documentations, he was the secretariat for it.
15:56:23 45
15:56:24 46 This appears to indicate that Mr White is being told by
15:56:26 47 Mr Biggin that that's what he had instructed you. Do you

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15:56:30 1 say he wouldn't have instructed you along those lines, or
15:56:33 2 you would have just perhaps delegated down the line
15:56:35 3 yourself?---That's possible, but I reiterate I can't recall
15:56:38 4 it. If I had have been asked that, that's what I would
15:56:45 5 have done, because he was the secretariat of it.

15:56:47 6
15:56:48 7 To do that you'd need access to the information to
15:56:52 8 determine the value of information and assistance you'd be
15:56:57 9 provided, I take it?---As the position that I held, there
15:57:05 10 were only a small handful of people that ever got access
15:57:08 11 into the IMU, I was one of those, where all the records
15:57:13 12 were held and all that information was held.

15:57:15 13
15:57:16 14 It seems as though Mr Biggin had anticipated that perhaps
15:57:22 15 at some stage the Assistant Commissioner might meet
15:57:25 16 Ms Gobbo and for that to occur he'd want to be armed with
15:57:31 17 the information as to the assistance that she'd given, the
15:57:35 18 type of information that would go before a Rewards
15:57:39 19 Committee?---I can only speculate as to that, I can't
15:57:43 20 recall it.

15:57:44 21
15:57:45 22 Thanks Mr Cowlshaw.

23

24 COMMISSIONER: Any questions, Mr Nathwani?

25

26 MR NATHWANI: No, Commissioner.

27

15:57:46 28 COMMISSIONER: Yes Mr Chettle.

15:57:46 29

30 <CROSS-EXAMINED BY MR CHETTLE:

31

15:57:47 32 Those last two matters - Mr Cowlshaw, I act for the
15:57:50 33 handlers, do you understand?---I do, sir, yes.

15:57:53 34

15:57:54 35 Lucinda Nolan, you were just asked some questions about
15:57:59 36 showing some entries in Mr White's diaries bout whether or
15:58:02 37 not she would be told the identity of sources and things of
15:58:04 38 that nature. You remember you were just taken to those
15:58:07 39 entries there?---Yes.

15:58:08 40

15:58:08 41 You gave some evidence about her being appointed as a
15:58:14 42 CSR?---No, she was temporary there. They were rolling
15:58:19 43 Superintendents in and out of that position while they were
15:58:24 44 going to fill it.

45

15:58:24 46 Okay?---She was actually occupying that position which made
15:58:29 47 here the Central Registrar simply by occupying that role.

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15:58:29 1
15:58:29 2 That may in fact be right. What the evidence shows is that
15:58:32 3 she was commissioned by Dannye Moloney, the CMRD report was
15:58:37 4 going to be done in relation to the SDU. You have no
15:58:41 5 recollection of it?---No, I don't, no.
15:58:42 6
15:58:43 7 Are you prepared to accept there was an audit being
15:58:45 8 conducted by CMRD, they're the auditors, aren't
15:58:50 9 they?---Yes.
15:58:50 10
15:58:50 11 And that Lucinda Nolan was given the job of doing it and
15:58:54 12 looking at the individual files with the exception of 3838,
15:58:57 13 she wasn't to look at that file. That's in fact what the
15:59:01 14 evidence was?---I can't confirm that. There was an audit
15:59:04 15 done but I can't confirm whether it was an exception for
15:59:08 16 3838.
15:59:08 17
15:59:08 18 There's a lot of diary entries that you have been taken to
15:59:12 19 where assertions of fact have been made that you have no
15:59:14 20 recollection of?---Correct.
15:59:16 21
15:59:16 22 You don't dispute what those diaries say?---No.
15:59:19 23
15:59:21 24 All you're simply saying is, "After all these years I
15:59:25 25 haven't got a clue"?---That's correct.
15:59:26 26
15:59:26 27 Your note-taking might have been better, would that be a
15:59:30 28 fair criticism?---I think you could nearly point that at
15:59:35 29 anyone. Yes, I'll accept that.
15:59:36 30
31 I'm not trying to?---No, no, I'll accept that.
32
15:59:36 33 Consequently you haven't got - - - ?---Sitting here now,
15:59:39 34 yes.
15:59:39 35
15:59:39 36 You wished you had have?---Yes.
15:59:42 37
15:59:42 38 Can you put up the day book, I've forgotten, that was
15:59:46 39 tendered at the start of your evidence, your day book.
15:59:50 40
15:59:50 41 COMMISSIONER: I think it was 820.
15:59:52 42
15:59:52 43 MR CHETTLE: Thank you.
15:59:55 44
15:59:55 45 COMMISSIONER: The one from November 2005.
15:59:57 46
15:59:58 47 MR CHETTLE: Thank you Commissioner. Remember you went

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16:00:00 1 through those pages with Mr Holt of your day book?---Yes.
16:00:03 2
16:00:04 3 There it is. That's the 23rd?---Yes.
16:00:06 4
16:00:06 5 Clearly you could be at work on the 23rd but you've got
16:00:10 6 nothing, you haven't written anything down about what you
16:00:13 7 did that day?---Correct.
16:00:14 8
16:00:14 9 Go back a page if you would. I think you did this before.
16:00:18 10 You were on leave and having a rest day for those four days
16:00:24 11 at the bottom?---Yes.
16:00:25 12
16:00:25 13 But on Friday, is it Friday the 18th, or whatever date it
16:00:29 14 is?---The 18th it looks like.
16:00:30 15
16:00:31 16 It looks like the 18th. You go on duty at 7.30 and you go
16:00:37 17 off at 17:30 and you don't fill anything in in relation to
16:00:42 18 what you did that day?---It appears so, yes.
16:00:44 19
16:00:44 20 Again, were you on duty that day?---I don't know, I can't
16:00:47 21 recall.
16:00:47 22
16:00:49 23 All right. Just for the example, can you flip back one
16:00:53 24 more page. There we are. Backwards. We don't go
16:01:01 25 backwards, all right.
16:01:02 26
16:01:04 27 COMMISSIONER: O/D, what does that mean?---Pardon?
16:01:08 28
16:01:08 29 O/D which is what you had there?---On duty.
16:01:12 30
16:01:13 31 MR CHETTLE: Keep going forward then to the next entry, the
16:01:16 32 23rd, is it? Do we have an entry for the next day or is
16:01:20 33 that as far as we go? You haven't produced any of the
16:01:23 34 other entries for the other days. You've been taken to
16:01:27 35 entries on 23 November that show that on that day,
16:01:30 36 according firstly to the diaries of Mr Black, he caused two
16:01:35 37 documents to be delivered to you, one personally by him and
16:01:39 38 one at the hands of another handler, you've seen those
16:01:42 39 before?---I have, yes.
16:01:44 40
16:01:44 41 The source management log for the unit, do you know what
16:01:46 42 that is?---Yes.
16:01:47 43
16:01:47 44 Records that on 23 November you were handed the risk
16:01:50 45 assessment, that's a separate document maintained - -
16:01:54 46 -?---Yes, it does record that, yes.
16:01:55 47

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16:01:56 1 You've seen that, have you?---I've seen the registration
16:02:00 2 document that's been shown to me.
16:02:01 3
16:02:02 4 The source management log I meant?---Yes, I think - yes, I
16:02:06 5 have.
16:02:06 6
16:02:06 7 Do you accept that there is no doubt whatsoever that you
16:02:09 8 were given the risk assessment and you simply don't
16:02:12 9 remember it?---I simply don't remember.
16:02:16 10
16:02:16 11 Do you accept you got it?---No, I don't accept I got it. I
16:02:20 12 just simply don't - - -
16:02:20 13
16:02:20 14 You won't accept you've got it if you don't have an entry
16:02:24 15 in your diary?---No. No, I don't accept that I got it
16:02:27 16 simply because I can't remember it.
16:02:28 17
16:02:28 18 You aren't prepared to accept the accuracy of the records
16:02:31 19 maintained by the SDU and the handlers and the controller
16:02:36 20 in respect of that document?---The only query I would make
16:02:40 21 there is the log, who made the log entry and whether it was
16:02:46 22 made before it was delivered or after it was delivered.
16:02:48 23
16:02:48 24 What about the diary?---Because I was occupying a position,
16:02:52 25 there was two of us occupying it. There's also a VPS2 who
16:02:56 26 sits outside the Superintendent's office. That would have
16:02:59 27 gone into my tray and I would have got it at another time,
16:03:04 28 I concede that, but I have no memory of receiving it.
16:03:04 29
16:03:04 30 I understand you've got no memory, what I'm struggling to
16:03:08 31 understand is why you say you didn't get it or you're not
16:03:10 32 prepared - - - ?---Because I can't remember.
16:03:12 33
16:03:12 34 That's it, is it?---Yes.
16:03:14 35
16:03:15 36 Separately and independent, two handlers have diary entries
16:03:19 37 which show Mr Black says he gave a document to Mr Green to
16:03:23 38 provide to you?---Yes.
16:03:24 39
16:03:24 40 Mr Green says he took it and went to St Kilda Road which is
16:03:28 41 where you would have been?---Yes.
16:03:29 42
16:03:29 43 And he says he gave it to you, all right. Had you received
16:03:33 44 that document you would no doubt have read it?---Yes.
16:03:37 45
16:03:37 46 Can we put up Exhibit 285, please. Has someone shown you
16:03:47 47 the risk assessment in your preparation for this

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16:03:50 1 Commission?---No.
16:03:50 2
16:03:51 3 Okay. Were you familiar - I take it you were familiar with
16:03:57 4 the general standard and the way risk assessments were
16:04:03 5 prepared?---Yes.
16:04:03 6
16:04:04 7 Risk assessments were an evolving and developing process
16:04:08 8 for the SDU at that stage, weren't they?---Yes.
16:04:10 9
16:04:11 10 Being a new organisation they were developing policies to
16:04:13 11 try and ensure best practice and prepare the best risk
16:04:17 12 assessments?---Yes.
16:04:18 13
16:04:19 14 I'll go through this with you because there's things in it
16:04:22 15 I want to take you to?---Yes.
16:04:23 16
16:04:24 17 Then I'll ask you about the standard of it at the
16:04:27 18 conclusion of it?---Yes.
16:04:28 19
16:04:28 20 If you look at the very first line of what it says, is
16:04:31 21 that, "The source is a criminal barrister who is extremely
16:04:33 22 well-known within the legal fraternity, a member of the
16:04:36 23 Executive of the Victorian Criminal Bar and Treasurer of
16:04:40 24 that organisation for a period of time. She's well-known
16:04:42 25 within the police and criminal community", all right? So
16:04:45 26 the opening line alerts you immediately to what she does,
16:04:50 27 what her job is, doesn't it?---Yes.
16:04:52 28
16:04:53 29 "The source has been depicted in various media high profile
16:04:57 30 criminal matters over the past years. Because of this she
16:05:01 31 attends at major Melbourne courts and she has an easily
16:05:05 32 identified physical appearance." You'd be aware of that I
16:05:08 33 take it from your own knowledge?---Through the media and
16:05:13 34 what I've seen of her, yes.
16:05:15 35
16:05:15 36 She has been described as a blonde beacon, is that a term
16:05:19 37 you've heard?---No.
16:05:20 38
16:05:21 39 "Any meetings between the source and handlers presents a
16:05:23 40 risk of compromise. She's currently acting for several
16:05:25 41 members of Mokbel criminal cartel, including Tony Mokbel",
16:05:29 42 with his details. "They have been known to employ extreme
16:05:33 43 violence in pursuit of their enterprise and intelligence
16:05:38 44 holdings, indicate that this group regards breaches of
16:05:38 45 their criminal code of silence as a matter of extreme
16:05:41 46 concern. It's very well resourced, obvious access to very
16:05:46 47 large amounts of money, greatest risk to the source would

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16:05:50 1 be compromises of her role to anyone connected with this
16:05:52 2 group. Again it points out who she's acting for in
16:05:56 3 relation to her current clients, doesn't it?---Yes.
16:05:59 4
16:06:00 5 She's had conversations with several police members,
16:06:03 6 including Purana and the Major Drug Investigation Division
16:06:07 7 regarding the possibility of assisting police. They point
16:06:10 8 out" - thank you. "The handler believes it is highly
16:06:18 9 likely that unidentified close work associates of these
16:06:19 10 members are aware of the fact. Current members of the AFP
16:06:21 11 and ACC may be aware that she's considering the possibility
16:06:25 12 of assisting. The threat of compromise through casual
16:06:30 13 conversation or otherwise by these or other unknown members
16:06:34 14 must be considered as a high risk", right?
16:06:36 15
16:06:36 16 Then there's her prior history set out about her being
16:06:40 17 arrested and charged in 1993 and recreational drugs and
16:06:45 18 whether or not she still uses them may be a risk, do you
16:06:48 19 see that?---Yes.
16:06:49 20
16:06:49 21 She has intimate relationships with a number of police
16:06:52 22 officers and she might breach - effectively out herself
16:06:58 23 with those relationships, I'm trying to paraphrase it, do
16:07:01 24 you see that?---Yes.
16:07:02 25
16:07:02 26 The next page, please. She has a very small group of
16:07:07 27 friends, who they are, and including some solicitors, who
16:07:10 28 are named or a solicitor who is named and there's a risk
16:07:13 29 that she might, he might become aware she is acting as a
16:07:18 30 source. There's issues about her family and her motivation
16:07:22 31 is then set out. That is she has a strong desire to be
16:07:26 32 free of clients who consume a large proportion of her time
16:07:30 33 and resources. Great deal of stress. Her motivation for
16:07:33 34 acting as a source is to rid the clients of this category,
16:07:37 35 specifically being those who belong to the Mokbel criminal
16:07:41 36 cartel. Clearly that makes it perfectly plain she's a
16:07:46 37 criminal barrister and she's going to inform on her clients
16:07:50 38 in order to get rid of them effectively?---That's what the
16:07:54 39 document says, yes.
16:07:55 40
16:07:55 41 That would be apparent to you if you read it?---Correct.
16:07:58 42
16:08:00 43 It talks about the psychological pressure she's under. Her
16:08:04 44 physical health in relation to her stroke. She might have
16:08:09 45 unknown agendas and motivations. That's always a problem
16:08:13 46 with a source, working out exactly what their motive is,
16:08:17 47 isn't it?---Yes.

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16:08:18 1
16:08:18 2 Usually it's self-interest but in her case it's something
16:08:21 3 different, isn't it?---Sometimes, yes.
16:08:22 4
16:08:23 5 She's intelligent. Then she's entrenched in the Melbourne
16:08:27 6 legal community, connection to various barristers and
16:08:31 7 solicitors, all of which represent potential compromise.
16:08:37 8 They go on to talk about the risk of other law enforcement
16:08:41 9 agencies being informed by her, which could compromise.
16:08:45 10 Then we keep going. She might compromise herself by
16:08:52 11 divulging information that was known only to her. These
16:08:55 12 risks will be minimised by - now I'm not going to go
16:08:58 13 through those, but they set out a number of factors
16:09:01 14 designed to manage the risks that were set out above.
16:09:07 15 That's standard form, isn't it?---Pretty much.
16:09:08 16
16:09:08 17 There's trade craft and methodology, I won't go through
16:09:12 18 those. They're matters dealing with risks that have been
16:09:15 19 identified?---Correct.
16:09:15 20
16:09:16 21 And then there's a heading of "Risk to Handlers". There's
16:09:22 22 a risk that they might be physically harmed if the people
16:09:25 23 she hangs out with work out who they are, that's the first
16:09:29 24 paragraph?---Yes.
16:09:29 25
16:09:30 26 That she is involved with legal - within some police
16:09:38 27 circles she is commonly regarded as a legal practitioner of
16:09:43 28 questionable integrity in her dealings with criminals. Any
16:09:47 29 perceived association with the source may bring suspicions
16:09:48 30 or allegations or corruption or worse, compromise of the
16:09:51 31 handler/source relationship. There's a reference to a
16:09:54 32 large group of friends. No history of violence, there's no
16:09:59 33 violent nature from her to the handlers. But then this,
16:10:04 34 "The source is a barrister working exclusively in criminal
16:10:07 35 law and has represented many high profile criminals. If
16:10:10 36 the source is motivated to divulge source handling
16:10:15 37 methodology this could cause extreme danger to compromise
16:10:19 38 to handlers. That is she's effectively a double agent and
16:10:22 39 trying to get information from the police for the benefit
16:10:27 40 of her clients, right?---Yes.
16:10:28 41
16:10:28 42 If we can go to personal relationships - sorry, I'm quickly
16:10:32 43 summarising what I'd suggest to you is a very comprehensive
16:10:36 44 report. Personal relationships with criminals. She's
16:10:41 45 represented individuals who have made allegations against
16:10:45 46 police. She could learn about methodology, I touched on
16:10:48 47 that before. Keep going down. Her intimate relationship

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16:10:52 1 with police is again mentioned and again further control
16:10:57 2 measures to deal with those risks. Then there's a section
16:11:01 3 that deals with risk to the integrity of the information.
16:11:04 4 What a risk assessment does is it deals with different
16:11:08 5 areas of risk separately and puts in the control measures
16:11:11 6 in relation to them, does it not?--As a general rule, yes.
16:11:14 7
16:11:15 8 "She made the initial approach to police to supply
16:11:18 9 information. She stated a clear motivation for acting as a
16:11:22 10 source. If other unidentified motivations exist integrity
16:11:27 11 of the information may be jeopardised, that's a significant
16:11:30 12 risk. She's provided credible and valuable intelligence to
16:11:34 13 police. She's well positioned to obtain tactical viable
16:11:41 14 intelligence in relation to the criminal activities of the
16:11:41 15 of the Mokbel cartel." Do you see that?--Yes.
16:11:44 16
16:11:44 17 Making it perfectly clear that what she is informing on is
16:11:48 18 the criminal activities of people who have previously been
16:11:52 19 described as her clients, doesn't it?--It appears so.
16:11:55 20
16:11:55 21 If you read that, that's what would be clear to you,
16:11:58 22 wouldn't it, Mr Cowlshaw?--I haven't read the whole
16:12:02 23 document, I don't disagree with you.
16:12:04 24
16:12:05 25 If you read it at the time this would have been the sort of
16:12:08 26 thing you would have looked at it, wouldn't it?--Yes, but
16:12:11 27 I might add that I have no recollection of this document.
16:12:13 28
16:12:13 29 I understand you say that. I'm not querying you don't have
16:12:16 30 a recollection but at the end of the day I'm going to
16:12:19 31 suggest to you you got it, you just don't remember and you
16:12:22 32 can't dispute that, can you?--No, because I don't
16:12:24 33 remember.
16:12:25 34
16:12:25 35 Yes, okay. "She's provided intelligence on major organised
16:12:31 36 criminal figures, has not yet been developed to its full
16:12:34 37 potential. She's not always included in the inner circle
16:12:39 38 of criminals upon whom she's able to provide intelligence",
16:12:44 39 information gaps might exist and she might make it up, is
16:12:50 40 what they're worried about. "She's had a history of
41 providing credible and valuable intelligence to police.
42 She could have been misinformed. There's a risk in that.
43 There's issues in relation to the Crime Department
44 dissemination of intelligence and breaches of security
16:13:10 45 information have occurred, such as MDID". Keep going down.
16:13:11 46 She's got sympathy for some criminals and then again, a
16:13:15 47 number of control measures set out in order to deal with

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16:13:18 1 those identified risks. Then we come to another heading,
16:13:21 2 "Risk to Victoria Police of exposure. It's possible that
16:13:25 3 the source enjoys acting as a police agent. Although this
16:13:28 4 does not seem to be her main motivation for assisting
16:13:34 5 police. Risk exists if the source becomes over
16:13:38 6 enthusiastic about this role. She's extremely confident
16:13:40 7 with a strong personality, who might be of assistance in
16:13:44 8 helping her maintain cover stories, it might make her less
16:13:47 9 likely to detect signs of suspicion by people with whom she
16:13:49 10 has contact. The source has been involved as a defence
16:13:53 11 barrister in numerous County and Supreme Court trials
16:13:58 12 having well-known criminal identities and as a result is
16:14:00 13 extremely well-versed in police methodology, however it's
16:14:03 14 likely that the source is not totally au fait", et cetera,
16:14:07 15 and there's a risk that that could backfire on police.
16:14:20 16 "She's highly likely to supply intelligence that will
16:14:24 17 trigger tactical responses and that might be further
16:14:24 18 evidence of police methodology". Next page, please.
16:14:30 19 There's issues about whether her premises might be bugged
16:14:32 20 and the risk that that represents. "Because of the
16:14:36 21 source's occupation and particular position, if compromised
16:14:41 22 the handling of this source would come under extreme
16:14:45 23 scrutiny. This could cause embarrassment and criticism of
16:14:49 24 the Force. This must be considered and balanced against
16:14:52 25 the proposition of not utilising the source and the
16:14:54 26 potential resultant harm to the public that may occur
16:14:57 27 through the lack of intelligence against very large scale
16:15:01 28 drug traffickers." That points to the risk to the Police
16:15:07 29 Force's reputation if it became apparent that they were
16:15:10 30 using a lawyer to provide evidence in relation to their
16:15:13 31 clients, doesn't it?---Yes.
16:15:15 32
16:15:15 33 And they talk about whether or not she's criminally active,
16:15:18 34 that she's been on the edges. And then there's further
16:15:22 35 risk measures. Then down the next one, risk of public
16:15:27 36 harm. Sets out a number of risks to the public, basically
16:15:30 37 if she doesn't report on serious crime, and then further
16:15:35 38 control measures. Finally going to the bottom of this,
16:15:39 39 we're nearly there, right. And then we come to the overall
16:15:42 40 assessment. "Determination and risk is high. Control
16:15:48 41 measures are appropriate. She has extensive connections to
16:15:54 42 both high level and local criminal identities and she's
16:15:57 43 established a short history of wide range and accurate
16:15:58 44 intelligence. She's capable of being deployed, high level
16:16:03 45 suspects appear to trust her and they speak openly in their
16:16:06 46 presence". Finally, "She is a criminal barrister in the
16:16:13 47 Victorian legal community and represents many high profile

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16:16:18 1 criminal identities. One group of clients is the Mokbel
2 family and are regarded as one of the major drug
16:16:23 3 trafficking consortiums in Australia. The effective
16:16:26 4 utilisation of the source has the potential to impede major
16:16:30 5 crime and reduce illicit drug trade. Failure to do so
16:16:34 6 would have the opposite effect", and there is a
16:16:38 7 recommendation, "She's strategically and tactically viable
16:16:39 8 and management is recommended", signed by Mr Black, is the
16:16:41 9 controller's comments, do you see that?---Yes.
16:16:44 10
16:16:47 11 Firstly, as I said at the start of this section of
16:16:51 12 cross-examination, that is a thorough and comprehensive
16:16:54 13 risk assessment, isn't it?---Yes.
16:16:55 14
16:16:55 15 It's been said by one of the members giving evidence that
16:16:59 16 Victoria Police, this was the first of its kind, this was
16:17:02 17 probably the most advanced risk assessment that had been
16:17:05 18 done by Victoria Police in relation to a source up to that
16:17:07 19 time?---I can't comment on that because I haven't seen all
16:17:12 20 the others but I wouldn't dispute it, it's very good.
16:17:15 21
16:17:16 22 Very good, all right. Can I take you to some evidence that
16:17:19 23 was given by Mr White, thank you. At p.3832. He said that
16:17:30 24 what occurred, it won't come up on the screen, you can take
16:17:35 25 the risk assessment down. He gave evidence here as to the
16:17:38 26 assessment process and the registration process. That
16:17:42 27 there was originally a request for assistance received from
16:17:47 28 the Drug Squad I think it was, from Acting Superintendent
16:17:53 29 Bob Hill, do you know Robert Hill?---I do.
16:17:56 30
16:17:56 31 And that would be the process, some high ranking officer
16:18:00 32 would request the assistance of the SDU in relation to a
16:18:05 33 source?---Yes, that's one way, yes.
16:18:06 34
16:18:06 35 A registration number was obtained for her and then an
16:18:10 36 assessment process was carried out over a period of about
16:18:14 37 five or six meetings. Does that make sense to you?---It
16:18:18 38 makes sense that that would occur.
16:18:19 39
16:18:19 40 At the conclusion of that they assess her, they get
16:18:24 41 information, there's some dissemination along the way, they
16:18:27 42 form an assessment of her, do the risk assessment over a
16:18:31 43 period of time, and she was given the number on 16
16:18:33 44 September of 2005?---I can't confirm that.
16:18:36 45
16:18:36 46 Let's accept that is the case. And the risk assessment is
16:18:40 47 completed on 23 November of that year. So it's, nearly two

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16:18:44 1 months down the track, all right. It is two and a bit
16:18:49 2 months down the track. He then said this, "The
16:18:53 3 registration is not finalised until the assessment is
16:18:57 4 complete and the risk assessment is completed and the
16:19:01 5 Central Source Registrar signs off on the risk or accepts
16:19:06 6 the risk on behalf of Victoria Police"?---Yeah, that's the
16:19:09 7 policy.
16:19:10 8
16:19:10 9 Who was the Central Source Registrar at the time that risk
16:19:15 10 assessment was provided?---I was occupying that position.
16:19:17 11
16:19:17 12 So she has been registered, there is no doubt Nicola Gobbo
16:19:23 13 ended up as 3838, registered informer?---No, I wouldn't
16:19:25 14 dispute that.
16:19:26 15
16:19:26 16 That can only have occurred, as you saw with Ms Tittensor,
16:19:29 17 when there's been a proper process of risk assessment
16:19:32 18 completed in the processes I've just outlined to you, do
16:19:37 19 you accept that?---That would be the process, yes.
16:19:39 20
16:19:49 21 Someone has accepted this registration and signed off on
16:19:54 22 this risk assessment. You say you don't remember doing
16:19:58 23 it?---I don't ever remembering knowing a lot of that
16:20:01 24 information that was in there and I have no recollection of
16:20:03 25 ever seeing that document.
16:20:04 26
16:20:05 27 I know you say that but how did she end up on the
16:20:08 28 system?---I can't answer that, I don't know.
16:20:10 29
16:20:10 30 That document ends up in police records, it must have been
16:20:13 31 provided from whoever, accepting it was given to you, you
16:20:17 32 would have given it to HSMU, wouldn't you?---I would have
16:20:19 33 given it, if it was given it to me I would have given it to
16:20:23 34 somebody.
16:20:23 35
16:20:23 36 Presumably somebody at HSMU?---It would eventually go
16:20:27 37 there, yes.
16:20:27 38
16:20:30 39 One other matter I want to ask you about. Could we put up
16:20:35 40 Exhibit 536, please. Now, I just want you to go to - this
16:20:51 41 is a document you won't have seen but I'll just give you
16:20:55 42 some background. Mr Black, the man who completed the risk
16:20:58 43 assessment that I took you to before, conducted an inquiry
16:21:00 44 for Inspector Swain on 9 November 2005 and went to the HSMU
16:21:05 45 and located a number of documents. In particular I want to
16:21:09 46 take you to what he located in items I and J. You'll see
16:21:17 47 there were two documents in there, HSMU safe file 472, and

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16:21:22 1 that was a hard copy of a management file from her
16:21:24 2 registration on 13 May 1999 to 23 September 2008. Do you
16:21:31 3 see that?---Yes.
16:21:32 4
16:21:33 5 And then the other one is HSMU file 727, hard copy
16:21:41 6 management files from 16 September 05 to 12 January 09.
16:21:45 7 The second one is the registration I've just taken you to.
16:21:49 8 She gets registered on 16 September, the risk assessment is
16:21:52 9 done and she remains a source until January 09, do you see
16:21:56 10 that?---Yes.
16:21:57 11
16:21:57 12 You see the number 472 and I'm taking you now to p.1 of the
16:22:04 13 IMU file which is VPL.0100.0121.0155 that you were shown
16:22:12 14 before. This is the original application that was at HSMU.
16:22:24 15 It's on the IMU file that was being produced to the
16:22:27 16 Commission and you were shown this document before and you
16:22:29 17 notice the numbers in the top right-hand corner?---I do.
16:22:33 18
16:22:33 19 They are the two numbers that are recorded in Mr Black's
16:22:37 20 diary as to the registrations of Ms Gobbo as an informer,
16:22:40 21 do you see that?---Yes.
16:22:41 22
16:22:42 23 The 727 is the one that we're here at 16 September and the
16:22:48 24 472 is a registration from 1999 to 2008. Did you have any
16:22:54 25 knowledge of that registration?---No.
16:22:56 26
16:22:56 27 You oversaw the HSMU, I take it?---Sorry?
16:23:00 28
16:23:01 29 Were you overseeing the HSMU or the IMU as it was at that
16:23:04 30 stage?---Yes.
16:23:05 31
16:23:08 32 Obviously the system as it existed at the time, rightly or
16:23:12 33 wrongly, allowed you to have two registrations running
16:23:16 34 simultaneously. Did that happen?---No.
16:23:22 35
16:23:22 36 Has anyone ever told you that Jeff Pope ran her as a source
16:23:27 37 for a period of time?---No.
16:23:28 38
16:23:29 39 Is that the first you've heard of it?---Yes.
16:23:31 40
16:23:32 41 That 1999 registration was his, do you follow?---(Witness
16:23:36 42 nods.)
16:23:36 43
16:23:39 44 According to the record that was shown by Mr Black, that
16:23:43 45 registration ceased in 2008. How does a registration
16:23:48 46 cease?---Only if it was deregistered.
16:23:51 47

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16:23:51 1 Does that involve some form of form or document being
16:23:55 2 lodged at the - - - ?---Yeah, it does.
16:23:57 3
16:24:00 4 So that should be in existence somewhere?---Yes.
16:24:03 5
16:24:07 6 You don't recognise the writing, the 472 or the 727?---No.
16:24:14 7 It's not mine if that's what you're saying.
16:24:16 8
16:24:16 9 I'm not suggesting it's yours. Up until I raised it this
16:24:21 10 was the first time you'd been aware she'd effectively been
16:24:24 11 registered twice at the same time for a period?---Yes,
16:24:27 12 absolutely, yes.
16:24:28 13
16:24:30 14 Finally, you were asked - there's an entry, Mr White gave
16:24:38 15 evidence of a conversation he had with you on 27 February
16:24:41 16 2006. Do you have your day books there or your diary for
16:24:46 17 27 February 06?---I'm not sure.
16:24:49 18
16:24:49 19 This is the last question I have for you?---27 February
16:25:03 20 2006?
16:25:04 21
16:25:04 22 Yes, thank you?---Yeah, I have it.
16:25:25 23
16:25:26 24 Do you have a reference of a conversation with Mr White on
16:25:28 25 that day, a telephone conversation I think?---No, it
16:25:37 26 doesn't appear so.
16:25:38 27
16:25:38 28 I'll read you what his evidence was in relation to that.
16:25:43 29 Thank you. I asked him, "Can you go to your diary for 27
16:25:52 30 February 06, please. Do you have an entry there in
16:25:54 31 relation to a selection panel and resources for the unit,
16:25:58 32 they involved Mr Cowlshaw?" Answer, "Yes. What page is
16:26:01 33 that in your diary? 265. What's the entry read? 'Call to
16:26:06 34 Acting Superintendent Calshaw'." Just stop there. Would
16:26:09 35 that mean you were upgraded to a position at that
16:26:12 36 stage?---Yeah, could be.
16:26:13 37
16:26:13 38 Does your diary show where you were upgraded?---No, it
16:26:17 39 doesn't actually. It has me as the officer-in-charge of
16:26:20 40 the State Intelligence Operations, which was the Inspector
16:26:24 41 position.
16:26:25 42
16:26:25 43 Okay. "Request progress re selection of ██████'s file
16:26:31 44 still with Command. No signing off", that's the first half
16:26:34 45 of his entry which I'm not interested in, it's about a
16:26:37 46 panel, do you know what I mean by a panel?---Yes.
16:26:41 47

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16:26:44 1 "Cannot do notification till then. State urgent meeting
16:26:49 2 for staff operating with one handler, too much work and
16:26:53 3 struggling, cannot assist until selection is signed off",
16:26:57 4 and then there's another reference to another source and
16:27:01 5 discuss Ms Gobbo. So would you argue with his diary entry
16:27:07 6 that that occurred on that date?---Well I haven't recorded
16:27:10 7 it.
16:27:10 8
16:27:10 9 So it didn't happen?---Mine records that I had a meeting
16:27:16 10 with Mr McWhirter to do a change over on that day and a
16:27:22 11 brief.
16:27:22 12
16:27:22 13 Nothing about a conversation with Mr White at all?---No.
16:27:26 14 And I might add that I think that was the change over to
16:27:31 15 Mr McWhirter who took over the unit.
16:27:33 16
16:27:33 17 He did. All right. Thank you, Commissioner, I have no
16:27:36 18 further questions.
16:27:37 19
16:27:37 20 COMMISSIONER: Mr Holt.
16:27:38 21
22 <RE-EXAMINED BY MR HOLT:
23
16:27:39 24 Mr Cowlshaw, just briefly. You were being asked some
16:27:42 25 questions about what was going on in that period in
16:27:46 26 November 2005 particularly when the day of the
16:27:51 27 registration, I'm sorry, the risk assessment of 23 November
16:27:53 28 2005. You indicated at that stage you were technically,
16:27:58 29 but you also agreed actually, the officer-in-charge of the
16:28:02 30 SDU because there was no Inspector?---Correct, yes.
16:28:08 31
16:28:08 32 What else were you responsible for in that role as well as
16:28:11 33 filling that role in the absence of an Inspector?---About
16:28:14 34 seven or eight other units. I was also the Joint
16:28:18 35 Intelligence Group Commander for the Commonwealth Games
16:28:20 36 which were going to be in 2006, which was probably my
16:28:24 37 highest priority there, it was a major Force role. I also
16:28:27 38 was continuing in charge of, I was the DNA spokesman for
16:28:37 39 Victoria Police, DNA investigative spokesman for Victoria
16:28:38 40 Police and I'd done all the projects and implementation for
16:28:42 41 that. I had the IMU, the DSU, the DNA Unit and we were
16:28:51 42 getting - at the time I was also responsible for getting
16:28:55 43 4,000 samples from all Victoria's prisoners. There was a
16:29:00 44 number of other units I had but it borders on methodology.
16:29:07 45 There was another four that I was responsible for and two
16:29:10 46 of those were operational I might add.
16:29:12 47

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16:29:12 1 You were taken to some documents where you record in
16:29:15 2 relation to the DSU pilot, and then following, just how
16:29:19 3 significant it was from your perspective that there be a
16:29:22 4 dedicated Inspector in the Source Development Unit or at
5 least an Inspector who was shared across that and another
16:29:28 6 unit?---Yes.
16:29:28 7
16:29:29 8 How significant a failure in your assessment was it not to
16:29:32 9 have an Inspector in place over this relevant period of
16:29:35 10 time?---The whole, the project and the three projects that
16:29:42 11 I led and the implementation was done over a period of time
16:29:46 12 but it was always, as well as the policy, the resources and
16:29:51 13 the, the money behind it was a lot slower than what we were
16:29:57 14 trying to do. There was still a significant amount of push
16:30:03 15 back from powerful sections of Victoria Police, including
16:30:07 16 the Drug Squad, as to us basically taking all their
16:30:12 17 informers from them and sharing some of that information
16:30:16 18 with them, so that was, there was - and the best way to
16:30:23 19 describe that is there was a turf war going on between
16:30:26 20 intelligence and between the squads. So - I just lost my
16:30:37 21 thread there.
16:30:37 22
16:30:38 23 You were talking about the absence of an
16:30:41 24 Inspector?---Sorry, yes. Apologies. So right from the
16:30:44 25 start in the original project and in the implementation
16:30:48 26 document, and I wrote one of them, it was, it was
16:30:53 27 recommended that we have two other inspectors. Because of
16:30:56 28 the workload, I had a significant workload, because of that
16:30:59 29 workload on me it was decided that two other Inspector
16:31:03 30 positions be created, one as I previously have talked
16:31:07 31 about, it was a dedicated Inspector in charge to fill that
16:31:11 32 Inspector role within that policy. That was - when we
16:31:15 33 originally did the policy it was always intended that would
16:31:18 34 happen, even though there was this lag that didn't happen,
16:31:21 35 technically I got burdened with that role without, and it
16:31:25 36 was a dedicated role, it had to be a full-time role. The
16:31:29 37 other position was critical as well. The other position
16:31:32 38 was an independent Inspector to ensure the sterile
16:31:37 39 corridor. So what - in practical terms what he would do
16:31:41 40 would be to meet with these high risk, these high risk
16:31:45 41 informants and other selected informants on a monthly basis
16:31:50 42 independently and assess their risk and assess how they
16:31:54 43 were going and whether we could continue with them and also
16:31:57 44 give the sources an opportunity, if they had any problems,
16:32:00 45 to express it independently. They were the two roles that
16:32:03 46 were never filled while I was there anyway.
16:32:05 47

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16:32:05 1 Just finally, in terms of that risk assessment document
16:32:09 2 that you've been taken to in some detail by Mr Chettle, had
16:32:15 3 you received and read a risk assessment document of that
16:32:18 4 kind, what kind of documentation would you have put in
16:32:22 5 place or what would we expect to see if you had in fact - -
16:32:25 6 - ?---There would have been a report from me on the top of
16:32:27 7 that with a recommendation.

16:32:28 8
16:32:28 9 Have you ever seen a document of that kind?---No.

16:32:30 10
16:32:31 11 Thank you, Commissioner.

16:32:32 12
16:32:32 13 MR CHETTLE: Commissioner, I indicated, I forgot one topic.

16:32:38 14
16:32:38 15 COMMISSIONER: Sure.

16:32:39 16
17 <FURTHER CROSS-EXAMINED BY MR CHETTLE:

18
16:32:39 19 Very, very briefly. When the pilot program finished and
16:32:43 20 the proposal was to set up the SDU, there was a
16:32:49 21 recommendation by Mr White that there be a maximum time in
16:32:52 22 position in relation to the program?---Yes, I vaguely
16:32:57 23 remember that, yes.

16:32:58 24
16:32:58 25 His recommendation was that there be a three year period
16:33:01 26 that could be extended twice, a year, a year, to a maximum
16:33:05 27 of five years?---I don't remember the exact one but there
16:33:08 28 was some time in tenure. I can't tell you what the years
16:33:12 29 were but I wouldn't dispute that.

16:33:14 30
16:33:14 31 It's in the documents from the analysis that was
16:33:17 32 done?---I'm not disputing that.

16:33:18 33
16:33:19 34 What happened when the SDU was set up, what that means is
16:33:21 35 the jobs, the [REDACTED] jobs and the [REDACTED]
16:33:24 36 jobs get advertised and if there's going to be maximum time
16:33:27 37 in position that gets advertised in the ad for the
16:33:31 38 position, doesn't it?---In the police gazette, yes.

16:33:33 39
16:33:34 40 And that's significant because of issues with bargaining
16:33:37 41 enterprise agreements with the unions and things of that
16:33:41 42 sort. The point I'm trying to make is, the proposal so far
16:33:44 43 as Mr White was concerned was that there would be maximum
16:33:49 44 time in position and that tends to accord with your
16:33:53 45 recollection?---Yeah, vaguely I remember that, yes.

16:33:55 46
16:33:56 47 Do you know who was responsible for completing the ads for

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16:33:59 1 the [REDACTED] position and the [REDACTED] position
16:34:01 2 at the unit? Was it you, that's really what I'm
16:34:07 3 asking?---No, it wasn't me. I think Sandy White did those.
16:34:11 4 He may have done it under my - like I've delegated it to
16:34:12 5 him but I certainly, I certainly chaired the panels and he
16:34:16 6 sat on the panels.

16:34:17 7
16:34:17 8 I understand all of that. What happened though when the
16:34:19 9 positions got advertised, the recommendation for maximum
16:34:22 10 time in position didn't get included?---Yeah, I can't,
16:34:25 11 can't remember that.

16:34:26 12
16:34:26 13 You don't know how that happened?---Yeah, no. I would have
16:34:29 14 been an advocate for it to be there.

16:34:31 15
16:34:31 16 And so was he from your recollection?---Yes.

16:34:34 17
16:34:35 18 Thank you. Sorry Commissioner.

16:34:37 19
16:34:37 20 COMMISSIONER: Anything arising, Mr Holt?

16:34:39 21
16:34:41 22 MR HOLT: No Commissioner.

16:34:42 23
16:34:42 24 MS TITTENSOR: No re-examination, Commissioner.

16:34:43 25
16:34:43 26 COMMISSIONER: Thanks very much, Mr Cowlshaw, you are free
16:34:46 27 to go. We'll resume tomorrow at 9.30. We have some
16:34:48 28 directions hearings concerning Mr Nathwani first up and
16:34:50 29 then I think it's Mr Sheridan after that, is it?

16:34:53 30
16:34:53 31 MR HOLT: Mr Wilson, Commissioner, and then Mr Sheridan.
16:34:56 32 Both are available.

16:34:56 33
16:34:57 34 COMMISSIONER: Excellent. All right then, adjourn until
16:34:59 35 9.30 tomorrow.

16:35:28 36
16:35:28 37 <(THE WITNESS WITHDREW)

16:35:29 38
16:35:29 39 ADJOURNED UNTIL WEDNESDAY 4 DECEMBER 2019

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