

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 Wednesday, 18 December 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present.

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Mr S. Holt QC Ms R. Enbom SC Ms C. Dawes
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDPP	Ms A. Mitchelmore SC Ms A. Haban-Ber
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for AFP	Ms I. Minnett
Counsel for Chief Commissioner of Police	Mr A. Coleman SC Mr P. Silver
Counsel for Simon Overland	Ms G. Coleman

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09:35:53 1 COMMISSIONER: Yes, in terms of appearances, we have
09:35:56 2 Ms Tittensor and Mr Woods today assisting the Commission.
09:35:59 3 The usual appearances for Ms Gobbo. For Victoria Police we
09:36:03 4 have Ms Enbom and Ms Dawes, who are also appearing for the
09:36:08 5 witness, Ms Nixon. Otherwise the appearances are as they
09:36:13 6 were for yesterday, save that we have Ms O'Gorman for the
09:36:19 7 DPP. Three applications for leave to appear from
09:36:23 8 Mr Mokbel, Mr Cooper - four - Mr Higgs and Mr Orman. I
09:36:27 9 understand, Ms Tittensor, there's no objection from the
09:36:31 10 Commission?
09:36:32 11
09:36:32 12 MS TITTENSOR: No, Commissioner.
13
09:36:34 14 COMMISSIONER: Assuming that no one else wants to be heard
09:36:35 15 on that, those men have leave granted to appear in respect
09:36:46 16 of this witness. I think the witness is ready to go into
09:36:51 17 the witness box. Oath or affirmation, Ms Nixon?---Oath.
09:37:00 18
09:37:01 19 <CHRISTINE NIXON, sworn and examined:
20
09:37:15 21 COMMISSIONER: Yes Ms Enbom.
09:37:17 22
09:37:17 23 MS ENBOM: Thank you, Commissioner. Ms Nixon, is your full
09:37:22 24 name Christine Nixon?---Yes, it is.
25
09:37:25 26 Is your address care of Corrs Chambers Westgarth
09:37:29 27 lawyers?---Yes.
28
09:37:30 29 Were you the Chief Commissioner of Victoria Police for
09:37:32 30 eight years between April 2001 and March 2009?---I was.
31
09:37:35 32 And are you currently working as a university lecturer and
09:37:39 33 company director?---Correct.
34
09:37:41 35 Have you prepared a statement for this Royal
09:37:43 36 Commission?---I did.
37
09:37:44 38 Do you have a copy of that with you?---I have it in my
09:37:48 39 handbag.
40
09:37:49 41 Would you mind taking it out?---My handbag's over there.
42
09:37:53 43 Yes, thank you.
44
09:37:55 45 COMMISSIONER: You're free to get it.
09:38:09 46
09:38:09 47 MS ENBOM: Thank you?---Thank you.

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1
09:38:11 2 Is the statement dated 30 October 2019?---Yes, it is.
3
09:38:19 4 To the best of your recollection is it true and
09:38:21 5 correct?---It is.
6
09:38:21 7 I tender that statement, Commissioner.
09:38:23 8
09:38:24 9 #EXHIBIT RC920A - (Confidential) Statement of Christine
09:38:32 10 Nixon 30/10/19.
09:38:32 11
09:38:33 12 #EXHIBIT RC920B - (Redacted version.)
09:38:34 13
09:38:35 14 MS ENBOM: Thank you, Commissioner.
09:38:36 15
16 <CROSS-EXAMINED BY MS TITTENSOR:
17
09:38:39 18 As has just been pointed out, Ms Nixon, you were appointed
09:38:43 19 Chief Commissioner in 2001?---I was.
20
09:38:45 21 And prior to that you'd been an Assistant Commissioner in
09:38:49 22 New South Wales?---Yes, I was.
23
09:38:50 24 And that was Region Command Assistant Commissioner?---So I
09:38:53 25 was originally appointed as an Assistant Commissioner in
09:39:01 26 1994, responsible for human resources and education, and
09:39:04 27 then in 1997 I became the Acting Region Commander in west
09:39:08 28 of Sydney, and then to the north of Sydney, then eventually
09:39:12 29 to a region called southeastern region, and I was there
09:39:16 30 until 2001.
31
09:39:17 32 What was that responsible for, in your duties as Assistant
09:39:22 33 Commissioner for Region Command, what was - - - ?---I was -
09:39:23 34 I had the overall responsibility for those three
09:39:26 35 operational regions, for setting out accountabilities,
09:39:30 36 responsibilities for senior managers. In one region, for
09:39:34 37 instance, I managed 11 Commanders and they were responsible
09:39:37 38 then to deliver on the targets and goals of New South Wales
09:39:43 39 Police.
40
09:39:43 41 So that was a position accountable for operational
09:39:48 42 policing?---For really strategy and overall human resource,
09:39:53 43 finance, all of the kind of - I suppose a mini CEO for a
09:40:00 44 particular region.
45
09:40:01 46 The role of Chief Commissioner itself doesn't involve
09:40:03 47 obviously day-to-day operational work?---No, it doesn't.

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1
09:40:07 2 But you've had operational experience in the past?---For
09:40:10 3 that short time as an Assistant Commissioner in charge of a
09:40:14 4 region, but my career was limited really because of being a
09:40:19 5 female and my only real access in terms of operational
09:40:23 6 policing was during the time I was at Darlinghurst police
09:40:28 7 station and for a short of period in the Criminal
09:40:31 8 Investigation Branch in New South Wales.
9
09:40:32 10 And for how long was that?---The Darlinghurst police
09:40:35 11 station was for two years from 1976 to 1978. I was one of
09:40:40 12 the first women in New South Wales to be able to work in
09:40:44 13 that level of operations, and it was station duties and
09:40:49 14 then out working in cars, and my role in criminal
09:40:52 15 investigation was dealing with young girls who were charged
09:40:56 16 with a variety of offences and perhaps taking sexual
09:41:03 17 assault statements from victims of rape.
18
09:41:07 19 How long did that role last?---It was really on and off for
09:41:10 20 probably all together about a year.
21
09:41:12 22 Do you perceive that that had any impact on your
09:41:15 23 understanding and your management later on of operational
09:41:17 24 policing?---Well it certainly gave me an overview of how
09:41:21 25 you know you go about that. I mean I suppose I also have a
09:41:23 26 significant research background in policy and strategy on
09:41:29 27 policing, so that would be more of my expertise I think.
28
09:41:35 29 The perhaps lack of on the ground operational policing
09:41:39 30 experience, do you have any perception that that might have
09:41:42 31 impacted upon things down the track?---Well certainly in
09:41:45 32 terms of managing an organisation, as I did towards the end
09:41:49 33 of the time in Victoria Police with 14, 15,000 people,
09:41:53 34 there's a piece of you understanding that you don't have to
09:41:57 35 have all of the kind of detailed understanding of what
09:42:01 36 happens on the ground, your more responsibility is for the
09:42:11 37 overall supervision, coordination, strategy, leadership of
09:42:12 38 the organisation.
39
09:42:13 40 Yes. But would you accept that there's perhaps in
09:42:15 41 operational policing, once you've experienced it, there's
09:42:18 42 an understanding of the practicalities of how things
09:42:21 43 work?---Of the fundamentals.
44
09:42:22 45 Yes, and the motivations and the way people might perhaps
09:42:26 46 take shortcuts and so forth?---I'm not sure about the
09:42:30 47 shortcuts, but I understand the general principles, and

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09:42:34 1 obviously I looked at policies and strategies and systems
09:42:39 2 and have an understanding of that.
3
09:42:42 4 In paragraph 14 of your statement you talk about the
09:42:46 5 changes to the structure of the organisation that you made
09:42:49 6 once you came to Victoria Police?---Yes.
7
09:42:54 8 That structure changed a couple of years in, in about 2003;
09:43:00 9 is that right?---Yes, I think so.
10
09:43:02 11 I might just take you to some operational charts so that
09:43:05 12 the Commissioner can have an understanding of how the
09:43:08 13 organisation was laid out over time. If we can bring up
09:43:11 14 the organisational chart for 2001/2. For the transcript
09:43:15 15 this is VPL.0002.0001.0070, p.1.
16
09:43:22 17 COMMISSIONER: This is of Victoria Police?
09:43:24 18
09:43:25 19 MS TITTENSOR: Yes?---Yes.
20
09:43:26 21 This is the organisation essentially as you entered
09:43:30 22 it?---That's correct.
23
09:43:31 24 With you at the top of the tree sitting atop essentially
09:43:36 25 three direct reports?---Yes.
26
09:43:39 27 Two Deputy Commissioners and one executive
09:43:44 28 director?---Correct.
29
09:43:45 30 One Deputy Commissioner was responsible for operations; is
09:43:50 31 that right?---Yes, and that's principally the regions, yes.
32
09:43:53 33 That's all the operational policing, that's the regions and
09:43:56 34 the - - - ?---And crime. Sorry.
35
09:43:59 36 The regions and the squads, the crime squads?---Yes, the
09:44:02 37 Crime Department, yes.
38
09:44:03 39 The other Deputy Commissioner was specialist operations, so
09:44:06 40 that's legal services, forensic services, traffic, ESD,
09:44:10 41 intelligence, covert support?---That's correct.
42
09:44:13 43 And then you have sitting in the middle of those, at least
09:44:16 44 in this chart, is corporate services, so how the
09:44:22 45 organisation functions from day-to-day with HR and those
09:44:25 46 sorts of things?---Yes, and the two people who are in those
09:44:28 47 Deputy Commissioners are obviously sworn officers and the

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09:44:30 1 executive director was a very senior public servant.
2
09:44:40 3 This changes substantially, your direct reporting changes
09:44:45 4 substantially by 2003. I'll just take you to that chart
09:44:48 5 which is at p.3.
6
09:44:50 7 COMMISSIONER: Sorry, can I just ask about the former
09:44:54 8 chart.
9
09:44:57 10 MS TITTENSOR: Yes, this can go on the public screen.
11
09:44:59 12 COMMISSIONER: The Deputy Commissioner Operations on the
09:45:01 13 left-hand side as you look at it, it doesn't have a line
09:45:04 14 reporting to you, it comes up through - - -
09:45:07 15
09:45:08 16 MS TITTENSOR: I think it's just a faded line,
09:45:11 17 Commissioner.
18
09:45:11 19 COMMISSIONER: It's a faded line. I just wanted to clarify
09:45:12 20 that. It just looked a bit lonely out there?---Lonely for
09:45:15 21 me too. I think the line's just slightly blurred.
22
09:45:22 23 Right?---But it was a direct reporting line.
24
09:45:25 25 Right, got it now. Thank you. And just before - one other
09:45:27 26 question I just wanted to ask you. You did mention that
09:45:33 27 your experience was limited because you were a woman in
09:45:35 28 your early career?---Yes, that's right.
29
09:45:39 30 Was that because it wasn't possible for a woman to hold
09:45:42 31 those roles or was it just culturally not done?---No, it
09:45:47 32 wasn't done. There were quotas on the number of women who
09:45:51 33 could be in the police, so when I joined there were only
09:45:53 34 130 women in 1972 and then we weren't able to work in
09:45:58 35 operational policing.
36
09:45:59 37 So you're talking about New South Wales Police?---Yes, I
09:46:02 38 am. And somewhat similarly in some other police
09:46:05 39 jurisdictions. So it was only really as a trial in 1976,
09:46:09 40 and I was part of asking for that trial to occur, that we
09:46:11 41 were then able to then be transferred into operational
09:46:15 42 roles for women and it was a trial. It actually followed a
09:46:18 43 trial which had occurred in Washington DC, and so you know
09:46:22 44 the research said that women could work in operations, so I
09:46:26 45 was one of the first three. I stayed for two years into
09:46:29 46 that role, partly - I moved out of that role, I wanted to
09:46:31 47 become a detective but I was unable to. The senior women

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09:46:38 1 police at the time stopped me from undertaking going into
09:46:42 2 criminal investigation and working in that area.
3
09:46:45 4 Did you say senior women police?---Yes. The women police
09:46:48 5 reported, really up until I first went to Darlinghurst in
09:46:54 6 1976, to women. There was a separate seniority structure.
09:46:59 7 My registered number in New South Wales is 173 and that
8 means from 1915 when women first were hired in policing
09:47:06 9 that's all there were and there were three senior women
09:47:11 10 police when I came into the police, one was an Inspector,
09:47:13 11 the other two were Senior Sergeants, and so the move into
09:47:16 12 operational policing was really about opening up
09:47:20 13 opportunities for women and shortly thereafter the systems
09:47:24 14 changed. But it was a success, the women working in
09:47:27 15 operations. My two colleagues stayed in fact for quite
09:47:30 16 some afterwards at Darlinghurst, Kings Cross, which is
09:47:34 17 where we went as the trial, then I moved out of that area
09:47:37 18 into an education review policy area.
19
09:47:41 20 Yes, thank you. Yes Ms Tittensor.
09:47:42 21
09:47:43 22 MS TITTENSOR: If we can go to the - I don't think we've
09:47:46 23 got one for the following year but I'm not sure that it
09:47:52 24 changed a great deal in 2002/3. But 2003/4 we see here how
09:47:55 25 the structure has essentially been flattened out?---Yes.
09:47:59 26
09:48:01 27 COMMISSIONER: Do you want the 2001/2002 chart tendered?
09:48:03 28
09:48:04 29 MS TITTENSOR: I might tender them all together if that
09:48:06 30 suits you, Commissioner.
31
09:48:07 32 COMMISSIONER: Sure.
09:48:08 33
09:48:08 34 MS TITTENSOR: The structure by 2003/4 has been flattened
09:48:12 35 out. It seems perhaps on a quick count - if we can just
09:48:18 36 raise that because we're missing the bottom level off the
09:48:21 37 screen that I've got - you've got about 25 direct reports,
09:48:26 38 you've gone from three to about 25 direct reports; is that
09:48:30 39 right?---Yes.
40
09:48:33 41 We see over to the left-hand side starting with Assistant
09:48:40 42 Commissioner Crime, that left-hand bank was formerly under
09:48:47 43 a Deputy Commissioner of Operations, but they're now all
09:48:53 44 directly reporting to you?---Yes.
45
09:48:54 46 The bottom row were formerly all under the Executive
09:48:59 47 Director, with a direct to you, but are now themselves

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09:49:03 1 directly reporting to you?---M'hmm.
2
09:49:05 3 The right-hand side were the specialist operations?---Yes.
4
09:49:08 5 Under a Deputy Director but - - - ?---Would you like me to
09:49:11 6 explain why?
7
09:49:12 8 Sure?---So what happened when I came into Victoria Police
09:49:15 9 is - so I'm an outsider. I was hired from New South Wales
09:49:19 10 and having the three only direct reports meant for me that
09:49:27 11 I didn't really get access to understand what happened
09:49:30 12 under those direct reports. They were decent people but it
09:49:37 13 seemed to me that the way that we were operating didn't
09:49:40 14 fulfil what I believed to be the real potential for the
09:49:44 15 organisation, and so it may look on this chart, and it
09:49:48 16 clearly is, that those people were directly accountable to
09:49:51 17 me, and I certainly had performance agreements with every
09:49:54 18 single one of them about what was to be achieved, but the
09:49:57 19 head - the organisation, the Deputy Commissioners, and Ken
09:50:06 20 Latta and Valda Berzins also had responsibilities. So in a
09:50:08 21 sense they were with me in managing those people, and
09:50:12 22 certainly given their expertise in certain areas and their
09:50:16 23 previous backgrounds they would work also directly with,
09:50:20 24 perhaps just give an example, Bill Kelly certainly had
09:50:24 25 oversight of all of the regions in Crime, Valda had
09:50:29 26 technology and certainly Ken Latta had a number of those
09:50:32 27 other areas. So it was more a collective leadership. It's
09:50:35 28 not unusual. It perhaps is unusual in policing but that's
09:50:40 29 certainly how we came to that model and in my view it
09:50:45 30 managed more effectively, because what you had was all of
09:50:47 31 those people involved in the key decision-making and key
09:50:49 32 goals for Victoria Police.
33
09:50:54 34 So the Deputy Commissioners directly reported to
09:50:57 35 you?---Yes.
36
09:50:58 37 Were there responsibilities for those - - - ?---Yes.
38
09:51:03 39 So for the Operations, the Crime?---Yes, that's right. So
09:51:05 40 whenever I was meeting perhaps with, you know, senior
09:51:08 41 people from a region then often, well, just about every
09:51:11 42 time, Bill Kelly would come with me and be with me meeting
09:51:15 43 with them talking about their performance, talking about
09:51:18 44 their budgets, talking about all of those key issues.
45
09:51:21 46 Did they have obligations to report to the Deputy
09:51:24 47 Commissioners as well or was it simply to report to

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09:51:26 1 you?---No, I think it was in a sense a more shared
09:51:29 2 responsibility, and so what we had was they are very
09:51:32 3 experienced people, those Deputy Commissioners, and Ken
09:51:37 4 Latta as well, and so they would often be involved in
09:51:40 5 coaching the Assistant Commissioners, working with them,
09:51:43 6 talking to them about their work.
7
09:51:45 8 In terms of titles or ranks, as I understand it under the
09:51:51 9 legislation at the time you could have up to four Deputy
09:51:56 10 Commissioners, 10 Assistant Commissioners, does that sound
09:51:58 11 about right?---Four Deputy Commissioners?
12
09:52:01 13 Yes?---Yes, and I think it was probably ten assistants.
14
09:52:07 15 Ten Assistant Commissioners according to the legislation at
09:52:08 16 the time?---Yes.
17
09:52:08 18 So that's why we see some people heading departments that
09:52:11 19 aren't Assistant Commissioners but they're Commanders and
09:52:15 20 so forth?---No, Commander is a different rank.
21
09:52:18 22 Yes?---Assistant Commissioners are on contracts. Anybody
09:52:22 23 Assistant Commissioner level and Deputy Commissioner level
09:52:25 24 are on contract to me and Commanders were still within the
09:52:30 25 management structure of a salaried employee.
26
09:52:35 27 If we scroll through to the next few pages. The structure
09:52:40 28 essentially remains the same for the next few years, is
09:52:43 29 that right? If we go to 2004/5 the picture might look
09:52:48 30 slightly different but the effect is the same?---There may
09:52:50 31 have been some slight amalgamations but I think that's just
09:52:56 32 another interpretation of it, yes.
33
09:52:58 34 We see the top row reporting to you are the - - - ?---Yes.
35
09:53:03 36 - - - Deputy Commissioners and Executive directors and so
09:53:06 37 forth and the second row again reporting to you are the
09:53:10 38 Crime or the Operations groups?---Yes.
39
09:53:14 40 Third are the specialist operation groups broadly and then
09:53:20 41 lastly the Corporate Services?---Correct.
42
09:53:24 43 If we continue through to the following year. That's the
09:53:29 44 organisational chart, again very similar in 30 June
09:53:33 45 2006?---M'hmm, yes.
46
09:53:34 47 And then by the following year you indicate in your

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09:53:55 1 statement at about paragraph 17 that you resume around
09:53:57 2 about this time a more hierarchical structure; is that
09:54:01 3 right?---I think - yeah, I'm not sure exactly that conveys
09:54:05 4 it in terms of an organisational structure but we're
09:54:09 5 certainly starting to move into a more, you know, with
09:54:12 6 Simon Overland having obviously more responsibility and
09:54:15 7 oversight of specialist operations and Kieran Walsh with
09:54:19 8 the regions and fields. So I think it's kind of portrayed
09:54:24 9 in that way but it was starting to move back to that model.
10
09:54:28 11 Simon Overland, you said specialist operations, he still
09:54:32 12 remained in control of essentially the crime squads and the
09:54:34 13 regions; is that right?---Yes.
14
09:54:36 15 And did so throughout his career with Victoria
09:54:38 16 Police?---That's right.
17
09:54:38 18 Until he became Chief Commissioner himself?---Correct.
19
09:54:43 20 Once he was promoted to the Deputy Commissioner role,
09:54:51 21 rather than replace the Crime Department with an Assistant
09:54:55 22 Commissioner it was replaced with a board of
09:54:57 23 management?---Yes, it was.
24
09:54:58 25 Was there a particular reason for that?---Yes, there was.
26
09:55:00 27 What was that?---So what happened - so Simon moved out of
09:55:03 28 that role and in fact I'd had some experience previously
09:55:08 29 when in region 4 that - when I'd moved one of the Assistant
09:55:16 30 Commissioners out of that role I had then created a crime
09:55:18 31 board, sorry, a region board. That was my first time to do
09:55:26 32 that, and I did it because I wanted to develop the
09:55:29 33 Superintendents. It was part of development of leadership
09:55:32 34 for the future. They were given very clear
09:55:34 35 accountabilities and goals to achieve, financial goals,
09:55:39 36 human resource goals, crime goals. So that was my first
09:55:44 37 experience at that. And then after about a year, and we
09:55:48 38 had it evaluated and it seemed to be a success and they
09:55:51 39 certainly saw themselves as stepping up into greater
09:55:55 40 responsibility and sharing resources, so they were replaced
09:55:58 41 with an Assistant Commissioner. So taking your question
09:56:01 42 about the crime board, we had undergone significant change
09:56:04 43 in the Crime Department. So starting obviously with a
09:56:09 44 whole organised crime strategy, which had commenced I think
09:56:13 45 in about 2004, we had looked to change the way criminal
09:56:19 46 investigation operated in the Crime Department to look to
09:56:24 47 think about where our resources were used, what kind of

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09:56:28 1 capacities they needed, how they targeted, how they
09:56:31 2 deployed. And so the next somewhat natural step was with
09:56:35 3 Simon oversighting the Crime Department still, and he
09:56:37 4 certainly had a very regular and mentoring support role,
09:56:43 5 and that was obviously one of the few reasons why we do it,
09:56:46 6 because I did have someone like him working with the Crime
09:56:50 7 Department, and they - I think there were six or seven
09:56:54 8 Superintendents and a business manager and they were given
09:56:57 9 the responsibilities to then manage their resources, their
09:57:04 10 people and continue to manage the change that was part of
09:57:07 11 the whole reform crime strategy.

12
09:57:09 13 Mr Overland at that point in time remained essentially
09:57:12 14 oversighting the Crime Department?---Yes, he did.

15
09:57:15 16 Was there a particular reason why he wasn't perhaps moved
09:57:20 17 to another area of the organisation to get some different
09:57:23 18 experience? Did he have some say in the fact that he
09:57:27 19 remained oversighting the Crime Department?---Let me think
09:57:34 20 about that. Probably, I think, because of the complexity
09:57:41 21 of the Crime Department, the kind of work that they were
09:57:45 22 undertaking. I don't recall having a discussion with him
09:57:50 23 about moving into another area but somewhere I seem to
09:57:56 24 think he might well have swapped with Deputy Commissioner
09:58:02 25 Walsh, but I'm not sure, I'm sorry I can't - - -

26
09:58:05 27 Swapped in what way?---Well I meant like they might have
09:58:07 28 changed responsibilities but I can't remember.

29
09:58:10 30 So with Mr Overland swapping out of Crime or back into
09:58:13 31 Crime?---No, no, I think - I'm trying to recall, if you
09:58:17 32 look at the chart, Kieran Walsh is obviously very
09:58:21 33 operationally focused, general operations region person.
09:58:24 34 That's his expertise. Simon's expertise I think was more
09:58:29 35 in the major crime and intelligence, those areas.

36
09:58:33 37 The squads?---And so I think - I can't remember any
09:58:36 38 discussions as to whether he should move or not but - I
09:58:40 39 can't remember, sorry.

40
09:58:41 41 Was it his desire to remain in charge of those squads and
09:58:46 42 intelligence based roles?---I'm sorry, I missed you?

43
09:58:49 44 Was it his desire to remain oversighting and involved in
09:58:53 45 those squads and intelligence based roles?---I can't
09:58:57 46 remember having a discussion with him to change it, so.

47

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09:59:03 1 Through this time, 2005 and maybe 2006, how often were you
09:59:09 2 meeting with your direct reports, your Commissioners? I
09:59:14 3 just want to understand something of the governance?---So
09:59:16 4 the model operated in - we established a group called
09:59:21 5 Corporate Committee which was made up of those people who
09:59:24 6 were the direct reports. So we would meet as a group about
09:59:29 7 every six weeks.

8
09:59:31 9 Perhaps if we can go back in time to the time period where
09:59:34 10 you've got 25 direct reports?---Yes.

11
09:59:39 12 Are we having big 25 - - - ?---Yes, we are. We are. And
09:59:42 13 we're having them because of the troubles and problems
09:59:45 14 facing Victoria Police at that particular time. So when I
09:59:49 15 came into Victoria Police we had obviously the underworld
09:59:55 16 murders, which clearly this is a piece of it, but we also
09:59:58 17 had major significant problems in a range of other areas,
10:00:02 18 and I mean those by crime rates, which in fact were
10:00:08 19 significantly climbing in a various number of categories,
10:00:13 20 and so I also believed, after having spent the first six
10:00:17 21 months talking to people within Victoria Police, about
10:00:22 22 8,000 members and the senior executive as well, that what
10:00:25 23 we needed to do was set goals, set accountabilities and
10:00:30 24 actually drive reform and change in Victoria Police, both
10:00:34 25 in systems reform and in the way we dealt with crime. So
10:00:37 26 the point I wanted to do was to bring all of those people
10:00:40 27 together who had a part of it and have them held
10:00:43 28 accountable. So I didn't chair the meetings, they were in
10:00:47 29 fact chaired by a senior partner from KPMG who I hired to
10:00:51 30 drive those meetings so that we could look at the
10:00:56 31 performance of Victoria Police.

32
10:00:57 33 Were there minutes - - - ?---Yes, there are.

34
10:01:01 35 - - - made of those meetings, decisions recorded?---Of
10:01:04 36 course.

37
10:01:05 38 And that's the appropriate thing to do?---Of course it is.

39
10:01:07 40 So we can understand when a meeting takes place?---Yes.

41
10:01:10 42 The action items that were there, the following through of
10:01:14 43 those action items, who was present at the meeting, who
10:01:17 44 knew what when?---Absolutely.

45
10:01:19 46 Okay. I take it there were other one-on-one meetings with
10:01:25 47 - - - ?---So the second part of it, thank you, was having a

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10:01:29 1 structure in place to meet on a quarterly basis with -
10:01:34 2 well, if we take one example. If you took one of the
10:01:37 3 Region Commanders. So I would meet with them on a
10:01:40 4 quarterly basis, and just let me - for want of an example,
10:01:45 5 Sandra Nicholson was an Assistant Commissioner. And I met
10:01:48 6 with her on a quarterly basis. I would also have the
10:01:52 7 finance people come with me, sometimes I might have had one
10:01:55 8 of the Deputy Commissioners as well, and we would then work
10:02:02 9 through all of the indicators for that region, human
10:02:08 10 resource indicators, finance indicators, crime indicators
10:02:11 11 and also their own personal development. Those took place
10:02:14 12 on a regular quarterly basis where I would go and work
10:02:17 13 through all of those areas.

14
10:02:21 15 You indicate at paragraph 18 of your statement that you
10:02:24 16 received high level briefings from Mr Overland in relation
10:02:27 17 to his time as both Assistant Commissioner and Deputy
10:02:32 18 Commissioner?---Yes.

19
10:02:34 20 High level briefings in relation to Crime Department
10:02:37 21 investigations?---I think general - yes, that would have
10:02:45 22 been a high level overview, it would have been - about
10:02:49 23 their finances, about if there were major strategies they
10:02:52 24 were putting into place, major changes that were being
10:02:55 25 undertaken, technology systems, those sorts of things.

26
10:02:58 27 New investigations, new Task Forces, you'd be informed
10:03:01 28 about those?---Not so much. They might have told me the
10:03:05 29 names and that they'd formed some groups focus on or target
10:03:12 30 a particular issue.

31
10:03:12 32 One thing you do mention in your statement is that you
10:03:15 33 would be briefed about any investigation where there was an
10:03:19 34 intersection of crime and corruption; is that
10:03:20 35 right?---That's correct.

36
10:03:21 37 And that was because, and I'll come to it, Victoria Police
10:03:25 38 had experienced significant events in that
10:03:30 39 regard?---Certainly my coming into Victoria Police and then
10:03:34 40 my time in Victoria Police. The point I make in the
10:03:39 41 statement was when we had that conjunction where a police
10:03:45 42 officer might have been, it might have been alleged that
10:03:47 43 they'd been involved in major crime, then that also would
10:03:52 44 have involved Ethical Standards and operational police
10:03:57 45 together.

46
10:03:58 47 As a rule any time that there was such intersection between

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10:04:01 1 corruption and crime you were informed and you were
10:04:03 2 briefed?---Police corruption, yes.
3
10:04:06 4 Yes, that's what I mean?---Sorry, yes. That generally
10:04:11 5 would have been the case.
6
10:04:13 7 Do you recall how often you might have had those types of
10:04:17 8 reports coming to you?---It probably changed over time. It
10:04:28 9 might have been on a quarter basis. I certainly more
10:04:32 10 remember the briefings through Ethical Standards Department
10:04:35 11 about corruption within the organisation. I probably
10:04:41 12 focused more on that given I had a view that Simon and
10:04:49 13 senior team were involved in, more in operational.
14
10:04:53 15 I asked that in relation to Mr Overland simply because you
10:04:59 16 mention it in the paragraph where you indicate you were
10:05:03 17 receiving briefings from him about various things, but you
10:05:05 18 most certainly would receive briefings from him in relation
10:05:08 19 to his investigations that involved police
10:05:12 20 corruption?---Yes.
21
10:05:15 22 I was going to come next similarly to ESD, which by - - -
10:05:20 23 ?---Sorry, thank you.
24
10:05:21 25 Which by September 2005 is headed by Assistant Commissioner
10:05:25 26 Cornelius?---Yes.
27
10:05:26 28 Is it the case that essentially all of those investigations
10:05:30 29 would be reported to you?---Certainly what phase the
10:05:38 30 investigation was up to, their concerns about particular
10:05:40 31 individuals, yes.
32
10:05:46 33 Would you be briefed as to the commencement of an
10:05:48 34 investigation into particular officers by the ESD on each
10:05:52 35 occasion?---I think they were - there's various grades and
10:05:56 36 levels of those investigations. I think the more
10:05:58 37 significant investigations they were.
38
10:06:00 39 If there was any OPI involvement you might be
10:06:03 40 informed?---Yes, because we had a responsibility to report
10:06:06 41 to OPI and then OPI would make decisions about whether or
10:06:10 42 not Victoria Police was going to conduct the investigation
10:06:12 43 or whether in fact they were going to take responsibility
10:06:14 44 over. They always had oversight but sometimes we would
10:06:19 45 conduct the investigation.
46
10:06:21 47 And in what circumstances would the obligation arise in

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10:06:25 1 terms of reporting to the OPI?--Well, we had an obligation
10:06:30 2 to tell them where we had any view where there was corrupt
10:06:34 3 behaviour by police officers and they would then, in fact
10:06:37 4 it was a regular process between certainly Assistant
10:06:41 5 Commissioner Cornelius and the OPI about a significant
10:06:45 6 range of small and large matters.
7
10:06:48 8 One of the other departments was the Intelligence and
10:06:56 9 Covert Support Department?---Yes.
10
10:06:57 11 That was being run by Danye Moloney?---I mean obviously
10:07:01 12 over time.
13
10:07:02 14 Yes?---It had - - -
15
10:07:04 16 After he came from Ceja?---Yes.
17
10:07:06 18 I think he effectively commenced in that role some time
10:07:09 19 after mid-2005?---I think that's right.
20
10:07:14 21 From memory. How often would you be receiving reports from
10:07:18 22 that department?---Not that often and I would have met with
10:07:21 23 Danye on a quarterly basis to assess his performance, to
10:07:26 24 work on those issues. Less so from that area of
10:07:30 25 responsibility and I - I mean my sense of that area was
10:07:35 26 developing over time. I had, as had Simon, obviously been
10:07:39 27 involved in looking at how we managed human sources and
10:07:44 28 that was really back in the beginning of, after the Drug
10:07:48 29 Squad review, that we started to think about how we handle
10:07:52 30 that area. I also think I probably had more of an
10:07:55 31 understanding about the kind of ways we were collecting
10:07:57 32 intelligence. So it was really that broader high level we
10:08:00 33 would have been talking about.
34
10:08:02 35 In terms of reporting to you major organisational risks,
10:08:10 36 for example, in the Crime Department there's an event in
10:08:15 37 2004, you may or may not know of this, but Mr Mokbel
10:08:22 38 arranges a meeting between Purana detectives and an MDID
10:08:28 39 detective. This is in the midst of delays and police
10:08:32 40 corruption allegations with his trials under way. And he's
10:08:36 41 raising, or is essentially trying to barter convictions for
10:08:42 42 a few of his colleagues away and promising to resolve the
10:08:48 43 gangland wars, otherwise there's going to be corruption
10:08:50 44 allegations, a Royal Commission, and there were obviously
10:08:53 45 those corruption allegations in the offing. Now where
10:08:57 46 there's these issues being raised of allegations of police
10:09:01 47 corruption and Royal Commissions, something like that,

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10:09:06 1 would you expect to be informed?---I would have thought so.
10:09:11 2 I mean this is long time back about whether or not I
10:09:15 3 actually recall whether I was informed, but certainly the
10:09:19 4 spectra of a Royal Commission was with us throughout the
10:09:24 5 whole time I was in Victoria Police and so I think I knew
10:09:31 6 about the Mokbel matter but I don't know when I knew.
10:09:35 7 Whether I'd known afterwards, like subsequently, or whether
10:09:38 8 I knew then.

9
10:09:39 10 I just want to have some idea of your expectation of and
10:09:43 11 the responsibilities of those reporting to you as to when
10:09:47 12 those matters ought be elevated because of the nature of
10:09:50 13 the risk to the organisation that's at play?---So in a
10:09:55 14 general sense what seemed to happen is I would be advised
10:09:59 15 of the good news, which might be a major arrest or major
10:10:03 16 matter, something like that, in terms particularly around
10:10:07 17 that area. And then I would be advised of the bad news.
10:10:10 18 What I mean by that is that I would have, if they thought
10:10:14 19 there was something very significant that we had done that
10:10:18 20 was inappropriate that may have gained public attention,
10:10:24 21 may have been at risk of that, then in many cases I'd be
10:10:29 22 involved - advised of that.

23
10:10:36 24 If it was going to be embarrassing in the media, public
10:10:40 25 attention, you would be advised?---Certainly my role was in
10:10:42 26 the main to be the one who would be accountable for the
10:10:46 27 organisation, to explain to the community about that if it
10:10:52 28 came into the media, or obviously also dealing with
10:10:55 29 oversight agencies on that matter as well when they would
10:10:59 30 become aware of it.

31
10:11:05 32 Obviously you agree that there's a need for transparency in
10:11:09 33 decision-making processes in an organisation?---Well, I
10:11:11 34 think in a number of organisations, and in particular
10:11:15 35 aspects of the organisation, I think that's true. But
10:11:17 36 given this particular aspect that we're here for, I think
10:11:23 37 there is a process involved, long history around a need to
10:11:28 38 know basis and a series of steps about who needs to know
10:11:32 39 and why.

40
10:11:34 41 But there clearly needs to be a process whereby one can go
10:11:38 42 back and understand what information was being conveyed to
10:11:41 43 the decision makers and what decision makers decided?---So
10:11:49 44 in the broad sense you would have, you know, what did I
10:11:54 45 need to know.

46
10:11:56 47 Yes?---So one would - generally I would be told about major

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10:12:05 1 risks to the organisation. I would be told about major
10:12:11 2 difficulties the organisation was having. I'd be told
10:12:13 3 about potential problems around corruption issues. And
10:12:22 4 obviously then all the other kind of information about
10:12:24 5 human resources, policies and strategies and systems, those
10:12:28 6 sorts of things.
7
10:12:29 8 Obviously we're pretty focused on it in this Royal
10:12:32 9 Commission?---Yes.
10
10:12:32 11 But where would we go to see the reporting of these
10:12:36 12 organisational risks associated with, for example, the
10:12:39 13 Crime Department? Where do we see those being reported to
10:12:43 14 you and get an idea of things appropriately being reported,
10:12:50 15 or not?---I think it would be more practice and tradition
10:12:55 16 than anything else.
17
10:12:56 18 So we don't necessary have a record - I think the
10:13:01 19 Commission's been given in recent days an electronic diary
10:13:05 20 from 2007 which indicates some meetings that you've
10:13:11 21 had?---Yes.
22
10:13:11 23 Throughout 2007. But we don't see the content of those
10:13:15 24 meetings or what was reported to you in those
10:13:18 25 meetings?---So those meetings were - so you get a range of
10:13:24 26 meetings that are in that Outlook diary. Obviously it's a
10:13:28 27 short mechanism. What would often be the practice is
10:13:32 28 someone might come to meet me about a particular decision
10:13:36 29 and using a format that I actually put into place, it might
10:13:40 30 be an issue, background comment, recommendation, and then
10:13:47 31 they would be asking me to agree or not to agree or to
10:13:51 32 authorise or not to authorise something. So sometimes that
10:13:54 33 would be what the substance of some of the meetings would
10:13:57 34 be. If there was to be action taken out of that, then
10:14:01 35 there would be documentation that I might have signed or
10:14:06 36 someone would have written up. There's a whole variety of
10:14:10 37 ways. I assume you're asking me did I keep a diary myself
10:14:15 38 of those matters? No, I didn't. I don't have a tradition
10:14:19 39 of having kept a diary and I didn't in New South Wales
10:14:21 40 either. But being the Chief Commissioner I - people would
10:14:26 41 generally come to me to tell me things. They would then be
10:14:30 42 the ones responsible to do something about it unless we
10:14:33 43 were going to see the Ombudsman or we were going to see the
10:14:37 44 oversight agency or someone else. Generally say if it was,
10:14:40 45 just to give you an example, if it was Luke Cornelius he
10:14:46 46 will in fact have kept some notes and we'd them and we'd
10:14:51 47 then go and have the meeting.

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1
10:14:53 2 We just don't seem to have the ability to say when was
10:14:56 3 Ms Nixon briefed on Operation Briars?--No, we don't.
4
10:15:00 5 When was Ms Nixon briefed on Task Force Petra? When did
10:15:05 6 she receive particular information? You say in your
10:15:08 7 statement, for example, you don't recall knowing that
10:15:11 8 Ms Gobbo had been a human source prior to her becoming a
10:15:14 9 witness. But we don't know when you were briefed on her
10:15:19 10 becoming a witness and what the circumstances were - - -
10:15:24 11 ?--Well, not even when or whether. I don't have a
10:15:27 12 recollection, and you're right, there is no - I don't have
10:15:30 13 any documentation. I understand Victoria Police has looked
10:15:33 14 for documentation as to whether anybody else had taken a
10:15:37 15 note of that when that occurred. I don't recall it, being
10:15:41 16 told that she was a registered - that she was a human
10:15:45 17 source and, correct, there isn't a record that I can find.
18
10:15:50 19 And it seems to - whilst Mr Cornelius seems to have taken
10:15:57 20 some notes on some documents that were provided to him in
10:16:00 21 meetings, there don't appear to have been minutes or those
10:16:05 22 kinds of things flowing from those meetings so that we can
10:16:09 23 see what was actually decided?--I understand that, and I
10:16:13 24 understand in hindsight, you know, that would have made,
10:16:18 25 you know, the responsibilities of this Commission easier.
10:16:24 26 But as we progressed it seemed to me that we were able to
10:16:28 27 do our work, we were able to undertake all of our
10:16:31 28 obligations and responsibilities, and that my view, for the
10:16:36 29 majority of time, certainly someone else will have taken
10:16:39 30 some sort of a record or a note of it, but I didn't.
31
10:16:44 32 That's what we're trying to get to the bottom of?--I
10:16:46 33 understand.
34
10:16:46 35 I suppose?--I understand.
36
10:16:48 37 But there seems to be this, at least in relation to some
10:16:52 38 people, "Well we're not taking diary notes any more because
10:16:56 39 this is too sensitive", and these are very serious issues -
10:16:59 40 - - ?--Yes, they are.
41
10:17:00 42 - - - that may come to be litigated down the track in some
10:17:05 43 form?--I understand that, very much so. I understand the
10:17:07 44 work you're doing and the difficulty you're actually facing
10:17:10 45 in this regard. But that's the way we operated. It
10:17:19 46 certainly for me seemed to be an efficient way that we
10:17:22 47 operated. It wasn't any intention to cause problems for

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10:17:27 1 anybody down the track. You know, I suppose I never quite
10:17:31 2 imagined, you know, we would be here today, you know, this
10:17:35 3 many years after some of those events. But it wasn't done
10:17:40 4 with anything other than just practical sort of ways of
10:17:46 5 handling situations.
6
10:17:48 7 All right. It's apparent that you took your position at
10:17:56 8 Victoria Police at a very challenging time?---I certainly
10:17:59 9 did.
10
10:18:00 11 In late 2000 prior to your arrival there were some serious
10:18:05 12 issues going on in the Drug Squad?---There were.
13
10:18:10 14 Specifically in relation to the operation of the chemical
10:18:14 15 diversion desk which had been staffed by a number of
10:18:18 16 members, Paton, Rosenes and Mr Strawhorn?---Yes.
17
10:18:24 18 And there had been suspicious drug purchases identified by
10:18:27 19 the drug company responsible for providing drugs to
10:18:32 20 Victoria Police?---To then sell into the market.
21
22 To then sell into the community. There were all sorts of
10:18:35 23 issues going on?---To then immediately follow and then be
10:18:40 24 able to arrest people who'd been involved in manufacturing,
10:18:45 25 yes.
26
10:18:45 27 In December of that year Mr Paton resigned when that issue
10:18:53 28 became apparent, as I understand it. You arrived in April,
10:18:57 29 a number of months later, 2001?---Yes.
30
10:19:01 31 A few months following that Mr Paton and Mr Rosenes were
10:19:08 32 arrested, and within a very short period of time, as you
10:19:12 33 say in your statement, you'd commissioned the Purton
10:19:15 34 review?---So the practise was when I got there not long
10:19:18 35 after that there was an Ombudsman's report as well. Barry
10:19:22 36 Perry was the Ombudsman and he had reported on the Drug
10:19:25 37 Squad issues and that was really the commencement for me to
10:19:29 38 look at the strategies and systems and processes that were
10:19:34 39 in place in the Drug Squad.
40
10:19:37 41 Just pausing there. You'd come from New South Wales which
10:19:42 42 not too long in its past had experienced its own issues
10:19:47 43 which ended up with the Wood Royal Commission?---I
10:19:50 44 certainly was there. I was appointed as an Assistant
10:19:54 45 Commissioner three days before the Royal Commission was
10:19:56 46 announced into the New South Wales Police, known as the
10:20:00 47 Wood Royal Commission.

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1
10:20:01 2 Did some of the outcome of that Royal Commission impact
10:20:06 3 upon the region that you were overseeing?---So the Wood
10:20:12 4 Royal Commission ran from 1994 until 1997 and during that
10:20:15 5 whole time I was actually in human resources and education.
10:20:18 6 But I also had responsibility on behalf of Peter Ryan, who
10:20:23 7 became the Police Commissioner in 1996, to implement the
10:20:26 8 recommendations from the Royal Commission. So I learned an
10:20:31 9 enormous amount from that Royal Commission and in fact had
10:20:34 10 a capacity to work with the Commission to share a lot of
10:20:40 11 good research and thinking about the way New South Wales
10:20:44 12 Police might be able to better equip, better systems,
10:20:49 13 better practices to deal in the future. So I certainly
10:20:53 14 learned a lot from that Commission.
15
10:20:55 16 That Commission uncovered serious abuses and criminal
10:20:59 17 conduct?---Yes, it did.
18
10:21:01 19 Within parts of the service, including special squads and
10:21:06 20 the Drug Squad?---Yes.
21
10:21:07 22 As well as the regions?---Operational regions, Kings Cross,
10:21:11 23 a range of those operational regions, yes.
24
10:21:14 25 Quite broad corruption?---Yes.
26
10:21:15 27 Uncovered during the course of that Commission?---It did,
10:21:18 28 yes.
29
10:21:19 30 And corruption of the kind that I think they discovered
10:21:24 31 could set in very quickly and people could become inured to
10:21:29 32 it very quickly?---Yes, I think they described it often as
10:21:34 33 the slippery slope. There was the sort of initial kind of
10:21:38 34 corrupting of individuals, which would then slide into more
10:21:42 35 significant corruption in their careers unless it was cut
10:21:45 36 off quickly, early.
37
10:21:47 38 No doubt that experience had an effect on the way you
10:21:53 39 handled matters when you were confronted with the situation
10:21:55 40 you were when you came to Victoria Police?---Look, it
10:22:00 41 certainly did and there were a range of other matters that
10:22:04 42 influenced me. My father in fact was a senior police
10:22:07 43 officer and was Assistant Commissioner Crime in the New
10:22:10 44 South Wales Police. And so there were a range of
10:22:12 45 experiences that I brought to Victoria, and so going to
10:22:15 46 your particular issue about the Drug Squad, certainly I had
10:22:20 47 my own views about the strategy, particularly the precursor

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10:22:29 1 chemicals strategy. But I also did something that I think
10:22:32 2 was a bit unique at the time, and perhaps follows by model
10:22:35 3 of opening up the organisation, I asked the members of the
10:22:38 4 Drug Squad what had caused them to become corrupt. I
10:22:41 5 actually personally went and saw them. And they identified
10:22:45 6 to me at the time a series of practices and strategies,
10:22:49 7 leadership, you know, neglect, management which
10:22:54 8 particularly brought to my attention the concerns. Then
10:22:57 9 Terry Purton was there for that discussion and then
10:22:59 10 continued so that we relatively quickly were able to figure
10:23:03 11 out how we were going to deal with those matters, and as
10:23:07 12 you may know, that whole strategy of precursor chemicals
10:23:13 13 being bought was immediately stopped under my command.

14
10:23:17 15 It was always fraught?---It was appalling. I have to say I
10:23:25 16 was absolutely shocked. I rang colleagues in other States
10:23:28 17 and asked them was I wrong, because Victoria Police was
10:23:32 18 very committed to the strategy and I was just shocked and
10:23:37 19 suggested we weren't going to do that any more.

20
10:23:40 21 Mr Purton provided you with his report later in
10:23:44 22 2001?---Yes, did he.

23
10:23:45 24 In December of 2001?---Yes.

25
10:23:47 26 And that recommended a number of things, significantly the
10:23:50 27 restructure of the Drug Squad?---Yes.

28
10:23:54 29 And the creation of the Ceja Task Force to investigate the
10:23:57 30 corruption allegations?---The two aspects. One was to - we
10:24:01 31 had to obviously continue to investigate in major drug
10:24:04 32 investigations. So we looked to create what I would have
10:24:08 33 hoped, but didn't quite turn out that way, an empty agency,
10:24:12 34 which means you create a new agency all together and then
10:24:17 35 you determine who might go into that agency to work there.
10:24:19 36 The other side was the issue of then setting in place a
10:24:24 37 major investigation team, Ceja, and ensuring they were
10:24:28 38 properly resourced to continue to make, I guess make good
10:24:31 39 on my promises, which I'd made a promise that we would
10:24:36 40 spend as much money as necessary to deal with those police
10:24:39 41 officers who we found to be corrupt and to investigate
10:24:41 42 their behaviour and if possible put them before the courts.
10:24:44 43 This was a test for me I think and for Victoria Police to
10:24:46 44 show we were absolutely serious about the issue.

45
10:24:50 46 All right. I might just take you to some aspects of the
10:24:57 47 Purton report now. It's VPL.0005.0028.0001.

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1
10:25:03 2 COMMISSIONER: Just while that's getting pulled up, do you
10:25:05 3 want to tender the organisational charts now?
10:25:07 4
10:25:07 5 MS TITTENSOR: Yes, thank you, Commissioner.
6
10:25:09 7 COMMISSIONER: How many were there?
10:25:10 8
10:25:12 9 MS TITTENSOR: They were organisational charts from 2001 to
10:25:19 10 - we might go beyond that, if it does.
11
10:25:23 12 COMMISSIONER: 2001/2 will be 921A.
10:25:28 13
10:25:28 14 #EXHIBIT RC921A - Police organisational chart 2001/2.
10:25:31 15
10:25:32 16 MS TITTENSOR: There's 2003 to 4.
10:25:34 17
10:25:34 18 #EXHIBIT RC921B - Police organisational chart 2003/4.
10:25:38 19
10:25:38 20 MS TITTENSOR: 2004 to 5.
10:25:40 21
10:25:40 22 #EXHIBIT RC921C - Police organisational chart 2004/5.
10:25:43 23
10:25:43 24 MS TITTENSOR: 2005 to 6.
10:25:46 25
10:25:46 26 #EXHIBIT RC921D - Police organisational chart 2005/6.
10:25:47 27
10:25:48 28 MS TITTENSOR: 2006 to 7.
10:25:50 29
10:25:51 30 #EXHIBIT RC921E - Police organisational chart 2006/7.
10:25:52 31
10:25:52 32 MS TITTENSOR: We might keep going if we can. 2007 to 8.
10:25:58 33
10:25:59 34 #EXHIBIT RC921F - Police organisational chart 2007/8.
10:26:00 35
10:26:02 36 MS TITTENSOR: I assume this is 2009 to 10.
10:26:11 37
10:26:11 38 #EXHIBIT RC921G - Police organisational chart 2008/9.
39
10:26:17 40 COMMISSIONER: Is that the last one?
10:26:19 41
10:26:19 42 MS TITTENSOR: Perhaps if we can keep scrolling up, we
10:26:21 43 might see if there's anything beyond. There's a 9/10.
10:26:32 44
10:26:33 45 #EXHIBIT RC921H - Police organisational chart 2009/10.
46
10:26:36 47 COMMISSIONER: That's 921A to H. Do you want the next one,

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10:26:47 1 it's outside this Commissioner's time I think?
10:26:55 2
10:26:56 3 MS TITTENSOR: I don't need the next one, Commissioner. It
10:26:57 4 might be useful for the Commission to have it for future
10:27:01 5 examinations.
6
10:27:02 7 COMMISSIONER: Yes.
10:27:03 8
10:27:03 9 #EXHIBIT RC 921I - Police organisational chart 2010/11.
10:27:10 10
10:27:10 11 MS TITTENSOR: And perhaps 11 to 12 while we're there.
12
10:27:14 13 #EXHIBIT RC 921J - Police organisational chart 2010/11.
10:27:16 14
10:27:16 15 COMMISSIONER: That's it?
10:27:16 16
10:27:17 17 MS TITTENSOR: Yes Commissioner.
18
10:27:18 19 COMMISSIONER: Thank you.
10:27:18 20
10:27:19 21 MS TITTENSOR: Now if perhaps we can move to the Purton
10:27:22 22 review. This is a document you would be familiar with,
10:27:28 23 Ms Nixon?---Yes, I am.
24
10:27:30 25 If we can go to p.21 of that document, I think there's an
10:27:34 26 executive summary there. The document provides really a
10:27:40 27 history, there had been some earlier incidents of
10:27:43 28 corruption identified in the Drug Squad. It indicated that
10:27:51 29 - it identified a culture focused on achieving operational
10:27:56 30 success with scant regard for administrative
10:27:58 31 responsibilities. So there was some sort of cultural issue
10:28:01 32 perhaps there. It referred to deficiencies being
10:28:06 33 identified at various stages, corrupt activities continuing
10:28:09 34 during periods in which steps were being taken to rectify
10:28:13 35 matters. So there were problems and delays in
10:28:18 36 rectification of matters and corruption continued in the
10:28:21 37 interim?---I think certainly my understanding before I got
10:28:24 38 there was there had been different pieces of work done to
10:28:28 39 try and overcome some of the problems within that area.
40
10:28:32 41 If we move up to 3.3. It indicated overwhelming support
10:28:42 42 for the establishment of an officer-in-charge position.
10:28:45 43 That was something that was sorely lacking; is that
10:28:50 44 right?---Certainly what was described by the members and by
10:28:54 45 obviously Mr Purton's review was a real kind of concern
10:28:57 46 about not having a clear accountability structure as to who
10:29:02 47 was responsible for that area and then have the person stay

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10:29:06 1 there for a period of time as well, because sometimes they
10:29:08 2 did have someone who was leading it but they apparently
10:29:12 3 moved quite regularly.
4
10:29:14 5 It goes on, "The current structure does not provide for
10:29:18 6 effective risk management or administrative financial
10:29:22 7 accountability". That was a significant finding and I take
10:29:26 8 it that that came from those interviews with members
10:29:29 9 identifying that that was an issue?---It certainly did, and
10:29:32 10 there were a number of others that perhaps in the rest of
10:29:36 11 the report which talked about, you know, how long drugs
10:29:39 12 were kept for court cases. There was a whole series of
10:29:43 13 those kind of practical things that needed to be reformed
10:29:48 14 as well.
15
10:29:49 16 That officer-in-charge position is someone that's there to
10:29:52 17 establish, amongst other things, an ethical benchmark for
10:29:57 18 the officers below?---Of course. Leadership, strategy,
10:30:01 19 culture, all of those things would have been part of that
10:30:04 20 responsibility and that's in effect, when we did move into
10:30:07 21 the new structure, why we put someone with those sorts of
10:30:13 22 capacities in charge.
23
10:30:15 24 COMMISSIONER: What level would that person have
10:30:17 25 been?---I'm sorry?
26
10:30:18 27 What level was that person who took on the
10:30:20 28 officer-in-charge?---I think it was an Inspector.
29
10:30:23 30 Thank you.
10:30:24 31
10:30:25 32 MS TITTENSOR: If we can move to p.23, 3.5. Each of the
10:30:35 33 identified corrupt members had associations with
10:30:40 34 informers?---Yes.
35
10:30:40 36 It was a common link?---Yes.
37
10:30:44 38 And policy was very important in terms of minimising risks
10:30:48 39 in that regard?---Yes.
40
10:30:50 41 And the importance of active management, this is as the
10:30:57 42 report indicates, the importance of active management in
10:31:01 43 that area just can't be overstated?---I know. This is - I
10:31:04 44 mean the whole issue of, as is described here, of informant
10:31:07 45 management has been a problem for policing for many, many
10:31:10 46 years and I think that obviously what came out of this
10:31:14 47 review was an attempt to do our very best to mitigate the

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10:31:18 1 risk as much as you can in dealing with what became now to
10:31:23 2 be called human sources, but informants and their
10:31:26 3 connection to policing really had underpinned corruption in
10:31:31 4 policing back to the 50s.

5
10:31:33 6 And probably much earlier than that. I think Mr Brouwer
10:31:38 7 has a report examining the history back to the Eureka
10:31:42 8 Stockade which probably talks about issues well before
10:31:43 9 that?---And it's a fundamentally complex area about the
10:31:46 10 fact that people give you information, and that's how you
10:31:51 11 solve many crimes, and the risks that sometimes are posed
10:31:57 12 because of that person giving you information.

13
10:31:59 14 Yes. There were recommendations obviously made about
10:32:05 15 informer management from the report?---Yes.

16
10:32:08 17 At that stage there were two policies running within the
10:32:12 18 Police Force, one within the Crime Department and one for
10:32:15 19 the rest of the Force?---In the regions.

20
10:32:19 21 It was proposed that there be a centralised Informer
10:32:22 22 Management Unit following this?---Yes.

23
10:32:23 24 And one policy for all?---Yes.

25
10:32:28 26 At p.24 of the document at 3.14. Amongst other people the
10:32:48 27 report was critical of a number of people from the Drug
10:32:52 28 Squad, including Commander Lambert and Detective Senior
10:32:56 29 Sergeant Strawhorn; is that right?---Yes.

30
10:32:59 31 Commander Lambert had line management responsibility within
10:33:02 32 the Drug Squad and Detective Strawhorn headed the criminal
10:33:07 33 diversion desk where Mr Paton and Rosenes worked?---Yes.

34
10:33:16 35 Following this report Commander Lambert was transferred at
10:33:21 36 the same rank to administrative duties at head
10:33:25 37 office?---Yes, he was.

38
10:33:26 39 Mr Strawhorn was transferred to the Major Fraud Squad?---He
10:33:30 40 was, and Mr Davis left not too far after this point.

41
10:33:37 42 And the transfers of specifically Lambert and Strawhorn had
10:33:41 43 taken effect in January of 2002, so that happened pretty
10:33:46 44 quickly?---Yes.

45
10:33:47 46 And at the same time there's the establishment of Ceja, so
10:33:51 47 we're not sitting on our hands, we're establishing Ceja,

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10:33:54 1 getting on with the corruption investigations?---Yes.
2
10:33:59 3 Detective Inspector De Santo was in charge of that
10:34:03 4 operation; is that right?---The Ceja operation?
5
10:34:06 6 The Ceja operation?---I think so.
7
10:34:09 8 He'd come from Operation Hemi, I think, that had done the -
10:34:14 9 - - ?---I think we called it Hemi. Yes.
10
10:34:17 11 He'd been responsible for the investigations of Paton and
10:34:22 12 Rosenes and then naturally he came across to lead the Ceja
10:34:27 13 Task Force?---To continue the investigation.
14
10:34:29 15 Initially Ceja were given six months to complete their
10:34:33 16 tasks but at the end of the six months they said, "We're by
10:34:37 17 no means finished, there's more here"?---That's true.
18
10:34:41 19 There was an interim report or another report at the end of
10:34:44 20 that six months and that report identified allegations
10:34:48 21 against Wayne Strawhorn?---Yes.
22
10:34:51 23 And he was subsequently charged with serious offending
10:34:54 24 himself in March of 2003?---Yes.
25
10:34:57 26 And that was offending for which he was later
10:35:01 27 convicted?---Correct, yes.
10:35:01 28
10:35:01 29 Those Drug Squad cases had significant impact upon a number
10:35:07 30 of other cases before the courts, the prosecutions that the
10:35:11 31 Drug Squad were bringing, you're aware of that?---Right,
10:35:15 32 yes.
33
10:35:19 34 Paton and Rosenes had been arrested in July of 2001 and
10:35:23 35 then the following month in August of 2001 there were
10:35:26 36 arrests in relation to Operation Kayak. Do you remember
10:35:30 37 the name of that - - - ?---I certainly remember the name,
10:35:33 38 yes.
39
10:35:33 40 That involved an arrest of Tony and Milad Mokbel, a
10:35:41 41 Mr Karam, Parisi and Lanteri, do you remember those
10:35:46 42 names?---Certainly some of them, yes.
43
10:35:48 44 Some of them. The problem in relation to the prosecution
10:35:53 45 of that case was that that case relied upon the evidence of
10:35:58 46 an informer and that informer had been handled by Paton and
10:36:04 47 Rosenes?---Right.

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1
10:36:05 2 And that informer had been used by them to conduct
10:36:08 3 transactions which were recorded?---Right.
4
10:36:11 5 These are matters, I take it, you would have understood
10:36:14 6 back then?---Back then.
7
10:36:16 8 You would accept that?---Yes.
9
10:36:22 10 It's unfortunate obviously, but I understand that informer
10:36:26 11 was being used by Paton and Rosenes to, aside from conduct
10:36:31 12 those transactions with Mokbel and others, they were also
10:36:38 13 being used by Paton and Rosenes to conduct other illicit
10:36:43 14 transactions themselves; is that right?---I'm sure you're
10:36:46 15 correct. It's a long time ago for me and that doesn't
10:36:49 16 surprise me at all.
17
10:36:53 18 It seems as though the informer became a bit concerned
10:36:56 19 about his own position and then started recording
10:36:58 20 conversations with Paton and Rosenes?---Right.
21
10:37:04 22 There were a number of issues that flowed from the
10:37:07 23 discovery of the corruption, including how they might prove
10:37:11 24 their recordings that had been taken of the informer in
10:37:15 25 court proceedings?---Right.
26
10:37:20 27 It seems that informer had also recorded conversations that
10:37:23 28 were relied upon in a parallel or separate Commonwealth
10:37:28 29 proceeding?---Right.
30
10:37:30 31 So there were Commonwealth proceedings against Mr Mokbel
10:37:35 32 and State proceedings, the Operation Kayak proceedings
10:37:39 33 against Mr Mokbel and perhaps others, that both relied on
10:37:44 34 similar evidence from the same informer and therefore the
10:37:46 35 cases were being delayed for the same issues, all
10:37:51 36 right?---Sure.
37
10:37:54 38 Those cases, you understood Mr Mokbel, the progress of
10:37:59 39 Mr Mokbel's case because the police corruption, the delays
10:38:04 40 lasted years?---I'm sure that you're right. I can't recall
10:38:08 41 the details of that.
42
10:38:09 43 There were criminals or people that had been charged who
10:38:13 44 were being granted bail because of the delays in
10:38:15 45 proceedings, do you remember these issues?---I just
10:38:18 46 remembered there were a lot of complications around the
10:38:20 47 matters at the time and that related to all of that. I

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10:38:23 1 don't remember much more.
2
10:38:24 3 It seems as though Mr Mokbel's Commonwealth trial for the
10:38:29 4 Operation Kayak, sorry, for the parallel Commonwealth
10:38:32 5 matter at least only came on for legal argument in late
10:38:36 6 2005 and then the trial subsequently in February/March of
10:38:40 7 2006 and that was the one from which he absconded before
10:38:44 8 the end of the trial?---Yes, I remember that.
9
10:38:46 10 That's something that - - - ?---None of us can forget
10:38:51 11 really.
12
10:38:54 13 You haven't forgotten that one?---None of us forget his
10:38:56 14 absconding.
15
10:38:57 16 The State trial I think was set to run, the Operation Kayak
10:39:00 17 trial was set to run at the conclusion of that?---Right.
18
10:39:03 19 But was obviously put off for - - - ?---Given he wasn't
10:39:06 20 there.
21
10:39:06 22 Yes. That received significant publicity at the time?---It
10:39:10 23 certainly did.
24
10:39:11 25 That would have been something that was would have been
10:39:13 26 reported to you, I take it?---That Mr Mokbel had absconded,
10:39:17 27 yes.
28
10:39:17 29 One of those matters for which you would be potentially
10:39:20 30 being asked questions of by the media and need to
10:39:23 31 respond?---Yes.
32
10:39:25 33 Was there a protocol or a decision - obviously Mr Overland
10:39:33 34 also had a bit of a public persona in that regard in terms
10:39:37 35 of gangland types of matters - was there a division of
10:39:41 36 duties in terms of who would front the media?---We
10:39:45 37 certainly determined that between us we would both take
10:39:50 38 some responsibility. There were sometimes joint media
10:39:54 39 briefings. There were often alone, but my view was Simon
10:39:58 40 was very capable of being the public face of this issue and
10:40:05 41 a number of others around underworld murders and organised
10:40:09 42 crime, and so he took a lot of that responsibility and, you
10:40:13 43 know, would often carry out those, do the briefings,
10:40:16 44 whatever it might be. And obviously sometimes, and it
10:40:19 45 seems to me in some ways in hindsight, I'd get the really,
10:40:23 46 we might have stuffed up or we might have done something
10:40:28 47 inappropriate, then I might be the one to have to explain

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10:40:33 1 that to the community.
2
10:40:34 3 He got the good stuff?---Well I think he occasionally got
10:40:37 4 the bad stuff too.
5
10:40:39 6 And in essence he might have taken the Mokbel stuff because
10:40:42 7 that was an area that he was oversighting and very
10:40:44 8 knowledgeable about?---He may well have. I can't remember
10:40:49 9 exactly, you know, who did what in that regard but clearly
10:40:54 10 Mr Mokbel being able to leave the country was very damaging
10:41:02 11 I think and a real issue for Victoria Police and the
10:41:07 12 Federal Police, Commonwealth, to deal with.
13
10:41:11 14 You were receiving briefings about that from him at the
10:41:13 15 time?---Yes.
16
10:41:19 17 At paragraph 30 of your statement you refer to a matter
10:41:24 18 involving Kerry Milte?---Yes.
19
10:41:30 20 That was a matter that was ultimately the matter of an OPI
10:41:33 21 investigation and report?---Yes, it was.
22
10:41:37 23 In short, that was an incident in which you had the wool
10:41:40 24 pulled over your eyes?---Yes, you could say that.
25
10:41:46 26 Kerry Milte was a former Commonwealth police officer and
10:41:49 27 barrister?---Yes.
28
10:41:52 29 I'm not sure he was practising at the time you were - - -
10:41:55 30 ?---No, I don't think he was.
31
10:41:57 32 - - - had dealings with him?---The reason I actually knew
10:42:00 33 about him was to do with, he was a lecturer in New South
10:42:05 34 Wales in what was a diploma in criminology that police
10:42:09 35 officers studied, and so I had become aware of him in that
10:42:12 36 way, and as you would know, he was introduced to me by a
10:42:15 37 colleague from New South Wales, an Assistant Commissioner.
38
10:42:17 39 Yes?---And that's how come I had any contact with him at
10:42:22 40 all.
41
10:42:22 42 Mr Milte had set himself up, it seems, as a consultant who
10:42:27 43 promoted himself to have contacts within law enforcement
10:42:31 44 such that he was able to assist clients that might have law
10:42:35 45 enforcement problems; is that right?---That doesn't
10:42:39 46 surprise me. I think he also set himself up as someone
10:42:43 47 who'd be able to assist law enforcement.

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1
10:42:46 2 Yes?---With problems they have might have as well.
3
10:42:51 4 He was introduced to you when he professed to have some
10:42:54 5 valuable information about organised crime in Melbourne and
10:42:57 6 possible links to corrupt police?---That certainly was what
10:43:01 7 was told to me by the Assistant Commissioner from New South
10:43:06 8 Wales, Paul McKinnon. And so I, I guess being new in some
10:43:13 9 ways in Victoria and not really necessarily understanding
10:43:16 10 the crime environment in Victoria, I agreed to meet with
10:43:21 11 him.
12
10:43:23 13 That Assistant Commissioner, Mr McKinnon, you understand
10:43:26 14 later told the OPI that he'd essentially offloaded Milte on
10:43:30 15 to you and he'd, having previously registered Milte himself
10:43:38 16 as an informer?---Yes, that's what he said. I didn't know
10:43:41 17 that until the report came out of course.
18
10:43:43 19 It might have been helpful to know?---It's one of those
10:43:47 20 things really.
21
10:43:49 22 Yes. Over the course of a couple of meetings it was agreed
10:43:51 23 that Mr Milte had information that should be followed
10:43:54 24 up?---Yes.
25
10:43:55 26 And Operation Clarendon was born?---Yes.
27
10:44:01 28 Mr Milte was then able to nominate a number of members of
10:44:05 29 Victoria Police with whom he wanted to work?---Yes, he did.
30
10:44:10 31 He chose Commander Lambert and Detective Senior Sergeant
10:44:14 32 Strawhorn?---Yes, he did.
33
10:44:21 34 The OPI investigation ultimately found that Operation
10:44:25 35 Clarendon strayed well outside its Terms of
10:44:28 36 Reference?---Yes.
37
10:44:29 38 It pursued Mr Milte's own agendas, including trying to set
10:44:36 39 up police investigations into areas that would assist his
10:44:40 40 clients in his private consultancy business?---Certainly
10:44:44 41 the OPI, you know, covered this in detail at the time.
42
10:44:48 43 Yes?---They, you know, took statements from the officers
10:44:52 44 involved in the matter. Certainly from my view once I was
10:44:58 45 advised of the fact that Strawhorn was, and Lambert were
10:45:09 46 behaving inappropriately, in that sense I quickly moved to
10:45:13 47 shut down. It was clearly, and the OPI advice on the

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10:45:18 1 document was clearly very salutary for me and taught me a
10:45:24 2 great lesson about how I should not have got involved in
10:45:28 3 the details of those sorts of matters and I should have
10:45:32 4 trusted people in Victoria Police more to actually have
10:45:35 5 been able to take their advice on what I should have done.
6
10:45:42 7 At one stage, aside from using Clarendon to pursue his own
10:45:46 8 agendas, it seems as though it was also being used to
10:45:50 9 pursue Mr Strawhorn's agenda at the time, is that right?
10:45:55 10 There's an indication in the OPI report that at one stage
10:46:00 11 the operation was used to try and find out information
10:46:03 12 about an investigation that was occurring in relation to
10:46:07 13 Mr Strawhorn?---I haven't refreshed my memory about this
10:46:09 14 matter. It obviously is seared in my brain that it
10:46:14 15 occurred because it was an embarrassment to me, but in
10:46:19 16 terms of - I haven't been back to look at the detail, I
10:46:24 17 didn't - I haven't.
18
10:46:31 19 I might just take you to a - I'll show you this document, I
10:46:44 20 might have the wrong code. VPL.0005.0254.0213. This is
10:46:51 21 the ultimate report?---Yes.
22
10:46:55 23 If we can go to p.17. Yes, here we go. This is headed
10:47:28 24 "Impact of the Ceja investigations" and this is talking
10:47:33 25 about the situation that I've just raised with you, the use
10:47:40 26 of the Operation Clarendon in effect to try and impact the
10:47:45 27 investigation that was underway in relation to Mr Strawhorn
10:47:47 28 by Ceja.
29
10:47:50 30 COMMISSIONER: This is the OPI report?---Yes.
10:47:52 31
10:47:52 32 MS TITTENSOR: Yes.
33
10:47:53 34 COMMISSIONER: Thank you.
10:47:53 35
10:47:57 36 MS TITTENSOR: It indicates, you see there on 22 May,
10:47:59 37 there's a diary entry by Mr Strawhorn. He'd met Mr Milte.
10:48:09 38 "He mentioned that a crim had dropped his name yesterday,
10:48:14 39 ESD" - and there's a name deleted. Assuming that's the
10:48:19 40 Detective Inspector in charge at Ceja "is looking all
10:48:24 41 around about me", it's understood that that would be
10:48:29 42 Mr De Santo. If we continue on. On 31 May there's a diary
10:48:37 43 entry by Mr Lambert indicating that he'd had a meeting with
10:48:44 44 Mr Milte and an unregistered informer. He was informed
10:48:57 45 Mr Strawhorn and he, that he'd been speaking with a
10:48:59 46 barrister and the barrister's client was being pestered by
10:49:02 47 the ESD detective and the barrister's client had made a

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10:49:08 1 number of allegations against the former Drug Squad member,
10:49:12 2 including Strawhorn, and there was a possibility the
10:49:14 3 information was false. Lambert says he informed Milte that
10:49:18 4 he should report the conversation to you and that he'd
10:49:24 5 agreed to do so. Then you see following that it seems
10:49:27 6 separately the Assistant Commissioner you referred to,
10:49:29 7 Mr McKinnon, says he sent a fax to you after having
10:49:33 8 received an email from Mr Milte. Mr Milte had reported to
10:49:40 9 Mr McKinnon having met with a Melbourne barrister who'd
10:49:45 10 been acting for a major drug trafficker in committal
10:49:48 11 proceedings. There was reference to those proceedings
10:49:50 12 potentially having been adjourned because the barrister's
10:49:53 13 client was speaking with the Ceja Detective Inspector.
10:49:58 14 Milte reported that what was occurring was undermining the
10:50:01 15 drug cases and that the Ceja detectives such as, it seems
10:50:06 16 Mr De Santo, had possibly formed relationships with the
10:50:10 17 defence, and it goes on, "The advice is that it seems
10:50:13 18 reasonable to assume that there's an orchestrated exercise
10:50:17 19 under way to stymie a number of current and pending
10:50:20 20 prosecutions of major crime figures. In the circumstances
10:50:22 21 I thought that you ought to be appraised of this side of
10:50:26 22 the picture so that issues surrounding what could be
10:50:29 23 occurring might be properly examined and that people who
10:50:34 24 might be driving a Royal Commission agenda may have their
10:50:37 25 motives tested. There is always a possibility where less
10:50:45 26 experienced police see potential advancement by taking on a
10:50:48 27 crusader approach, that serious harm can be done to the
10:50:53 28 institution and shake public confidence". It seems as
10:50:55 29 though you didn't recall, when you were asked, having seen
10:50:58 30 that fax from Mr McKinnon. On 30 June you received the
10:51:04 31 Ceja interim report and that's indicated to you, that
10:51:07 32 Mr Strawhorn is a target?---Yes.
33
10:51:12 34 And that there are numerous allegations of corrupt activity
10:51:17 35 being alleged against him?---Yes.
36
10:51:22 37 On 12 July 2002 you told Mr Lambert that Operation
10:51:31 38 Clarendon was - - - ?---Finished.
39
10:51:32 40 - - - to cease and that any information he had was to be
10:51:35 41 handed over to another organised crime investigation,
10:51:38 42 Operation Lorcha?---Yes.
43
10:51:43 44 Following that you told Mr Lambert to pass any further
10:51:46 45 information from Mr Milte to the Crime Department?---Yes.
46
10:51:49 47 It seems as though on 24 July 2002 there was continuing to

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10:51:57 1 be evidence of a scheme between Mr Milte and Mr Strawhorn
10:51:59 2 and others to tape a conversation with the
10:52:03 3 barrister?---Right.
4
10:52:04 5 To probe for further details about what was going on with
10:52:08 6 the information with Mr Strawhorn and Mr De Santo. Now,
10:52:14 7 Operation Clarendon was shut down when you received that
10:52:18 8 information?---Yes.
9
10:52:24 10 Would you be surprised that it seems to be apparent from
10:52:27 11 the evidence before the Commission that the barrister that
10:52:29 12 was being referred to there providing the information to
10:52:34 13 Mr Milte was Ms Gobbo?---I am - I knew where you were going
10:52:39 14 to go then and I was absolutely surprised that she was the
10:52:46 15 barrister. I did not - and I understood where you were
10:52:52 16 going to take this, but I had no idea that she was the
10:52:56 17 barrister.
18
10:52:57 19 Never received that information?---Never.
20
10:52:59 21 An examination of diaries that the Commission has of
10:53:03 22 Mr De Santo's and Ms Gobbo's court book indicates that
10:53:07 23 around the relevant dates Ms Gobbo was speaking with
10:53:10 24 Mr De Santo about the Strawhorn matter. Clearly that was a
10:53:16 25 matter that impacted upon the trial of Mr Mokbel?---Of
10:53:20 26 course.
27
10:53:21 28 Or the proceedings against Mr Mokbel that were occurring at
10:53:24 29 the time?---I have to say this incident for me was a real
10:53:32 30 wake up about it but I did not understand those
10:53:35 31 connections. Never had them explained to me. Not by the
10:53:38 32 OPI, not by anybody else.
33
10:53:44 34 Later Operation Lorcha referred conduct of Mr Milte for
10:53:50 35 investigation in relation to his inappropriate
10:53:53 36 relationships with law enforcement?---Yes.
37
10:53:55 38 You knew that to be the case?---Oh - - -
39
10:53:59 40 No doubt you would have followed it?---After what had
10:54:02 41 happened, yes.
42
10:54:03 43 And he was later prosecuted in October of 2005 in relation
10:54:09 44 to unlawfully accessing information from the police
10:54:13 45 database or his involvement in that?---Yes, I think that
10:54:16 46 piece, I recall that piece.
47

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10:54:21 1 It seems as though in April of 2005 you were interviewed by
10:54:25 2 Graham Ashton, is that right, in relation to these
10:54:29 3 matters?---Sorry, what do you mean "these matters"?
4
10:54:33 5 Well for the purpose of the OPI report?---Right.
6
10:54:35 7 You were asked questions by the OPI?---Yes.
8
10:54:39 9 And that was Mr Ashton that asked you the
10:54:42 10 questions?---Right.
11
10:54:43 12 In April of 2005?---I have no reason to suggest you are
10:54:49 13 wrong.
14
10:54:51 15 According to the Operation Clarendon report, or the OPI
10:54:55 16 report, that investigation was largely finished by August
10:55:00 17 of 2005 but the report itself wasn't tabled until 2008
10:55:05 18 because of ongoing court proceedings?---Yes.
19
10:55:08 20 Were you advised of the findings in 2005 or did you have to
10:55:13 21 wait until the report was tabled?---I think I came to
10:55:18 22 understand that there were, you know, I obviously had been
10:55:26 23 criticised in the report and I think that's, that was the
10:55:28 24 main part of it, the material, other matters. I don't
10:55:31 25 think I - I know they held it for quite some time, which is
10:55:36 26 what you've said, but I think it was more in relation to me
10:55:41 27 and my behaviour that I was advised that in the end I think
10:55:50 28 they determined that I hadn't - that I'd been misled, that
10:55:54 29 I had behaved in a way that I shouldn't have.
30
10:55:58 31 Policies weren't necessarily being adhered to?---No.
32
10:56:02 33 And it was perceived that that was for good reason at the
10:56:05 34 time but it led you down a track where the unexpected,
10:56:11 35 unintended consequences ultimately occur where policy is
10:56:18 36 not being adhered to?---That's certainly the case.
10:56:21 37 Certainly I very much understood that about how close the
10:56:23 38 Chief Commissioner of Police should become to any of these
10:56:26 39 matters and I understood that very early when we shut down
10:56:29 40 the Clarendon Task Force, that I needed to ensure that I
10:56:37 41 was distant and removed from those operational matters,
10:56:43 42 both because for my own benefit and also for the
10:56:46 43 organisation's.
44
10:56:48 45 I might just take you to the concluding remarks of the
10:56:51 46 report. It's at p.24 I think. That report indicates that
10:57:00 47 you were not informed by Mr Milte or Mr Lambert about the

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10:57:03 1 entirety of the work that they were doing?---No.
2
10:57:06 3 In Operation Clarendon. Obviously that you took steps to
10:57:09 4 close it down when the allegations of corruption were
10:57:13 5 brought to your attention. It refers then to unacceptable
10:57:17 6 delays in rectifying deficiencies in informer management
10:57:22 7 policies and procedures, you're aware of that? And perhaps
10:57:26 8 the final paragraph appears apposite, which I'll read.
10:57:34 9 "Although the events that gave rise to this investigation
10:57:37 10 have now passed into history, an analysis of Operation
10:57:43 11 Clarendon provides an important reminder of the need for
10:57:45 12 police to be every vigilant when approached by manipulative
10:57:49 13 individuals, such as Mr Milte, bearing gifts, i.e.
10:57:55 14 purporting to be able to provide high level assistance for
10:57:58 15 no reward. Such individuals may present as concerned
10:58:01 16 citizens well credentialed and apparently respectable, yet
10:58:05 17 their real mission is to woo police for the purposes of
10:58:11 18 obtaining or trading information. Police have access to
10:58:14 19 information that is extremely valuable to certain sectors
10:58:17 20 of the community, be it for criminal purposes, commercial
10:58:20 21 interests or newsworthiness. Police are aware of the risks
10:58:24 22 in dealing with people who have a criminal record and
10:58:26 23 understand the importance of registering them as informers
10:58:30 24 or human sources. The outwardly respectable manipulator
10:58:36 25 presents dangers that are less apparent, but just as real.
10:58:41 26 As this report demonstrates, police must guard against
10:58:45 27 allowing (even by inadvertence) outsiders to obtain access
10:58:51 28 to operational resources under any guise"?---Very wise.
29
30 Very wise. Clearly some of those issues you became aware
10:58:55 31 in mid-2002, that perhaps you'd been misled, you might have
10:58:56 32 not appreciated to the extent at that time but it became
10:59:00 33 apparent to you?---Over time.
34
10:59:02 35 Over time. You were reminded no doubt about it in 2005
10:59:07 36 when you were interviewed by Mr Ashton?---Yes.
37
10:59:09 38 And significantly reminded again in 2008 when the report
10:59:12 39 was released?---Yes.
40
10:59:13 41 I just want to understand whether you took those learnings
10:59:19 42 and passed them along to other members in Command in your
10:59:23 43 organisation?---I think we - certainly my view of how you
10:59:30 44 handled informants and people, as this report says, bearing
10:59:36 45 gifts really would have underpinned the work we then put
10:59:40 46 into place. I think Ian Thomas was commissioned to look at
10:59:43 47 the best mechanisms to deal with human sources and looked

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10:59:47 1 across internationally and that really was a way of
10:59:53 2 thinking about warning people to be careful about managing
10:59:57 3 informants and also looking to put systems in place to be
11:00:01 4 able to manage the risks of dealing with people who have
11:00:05 5 information to give to the police. So I certainly was
11:00:07 6 quite strong about that. I do recall the reports they
11:00:13 7 produced about what was the best system to be handling
11:00:17 8 registration and management of sources and the risks and
11:00:23 9 how you might deal with those risks.
10
11:00:25 11 Were these types of things discussed at risk meetings or
11:00:28 12 organisational risk meetings where you've got - you're - -
11:00:33 13 - ?---The team.
14
11:00:35 15 - - - sitting around the table and saying, "Look, I was
11:00:38 16 fooled, it can happen to any of us. Be on your guard.
11:00:42 17 Informer management is one of the highest risks in this
11:00:45 18 organisation. We need to be right across it"?---Certainly
11:00:49 19 everybody in Victoria Police and many people in the
11:00:51 20 community understood the - I mean this report didn't come
11:00:54 21 out, but they certainly understood that I had got myself in
11:00:58 22 a situation which I shouldn't have and certainly the
11:01:01 23 senior, the leadership team of Victoria Police were very
11:01:03 24 much aware of that and the impetus for attempting to reform
11:01:08 25 the systems was very much driven by me and Simon Overland
11:01:13 26 and others to make sure we try and develop a system where
11:01:16 27 that kind of thing didn't happen again.
28
11:01:23 29 In May 2003 we have an interim report in relation to Ceja
11:01:30 30 occurring, and I'll just take to you that now. It's
11:01:33 31 VPL.0015.0002.0033.
32
11:01:39 33 COMMISSIONER: Has the Clarendon report been tendered?
11:01:42 34
11:01:42 35 MS TITTENSOR: Sorry, I tender that, Commissioner.
36
11:01:44 37 COMMISSIONER: Right.
11:01:44 38
11:01:44 39 #EXHIBIT RC922 - Operation Clarendon report.
11:01:57 40
11:01:57 41 MS TITTENSOR: It's publicly available. If we can go to
11:02:04 42 p.26. This was a report I think in about May of 2003, just
11:02:16 43 to place it in time. There's reference you'll see in the
11:02:22 44 second paragraph - no, no, back where we were - to the Ceja
11:02:29 45 investigation having major repercussions for past, present,
11:02:37 46 future drug prosecutions, and that's a recognition of those
11:02:41 47 matters that we've just been talking about. It seems also

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11:02:44 1 though that there were some tensions being reported on
11:02:48 2 between the new MDID and Ceja about Ceja's ongoing
11:02:54 3 investigations. Were you aware of that? Perhaps if we can
11:03:00 4 - - - ?---I'm not sure where you're reading from.
5
11:03:02 6 If we can move up. Keep on going. Keep on going. You'll
11:03:13 7 see in the final paragraph there there's some complaints in
11:03:18 8 relation to, or from members of the MDID about the Task
11:03:23 9 Force and that carrying out its investigations, no doubt
11:03:25 10 having an impact upon the prosecutions they were trying to
11:03:29 11 run?---On the cases. But I think also the Ceja Task Force
11:03:33 12 did come under a significant pressure from a range of
11:03:37 13 individuals, some within policing, some without, about the
11:03:40 14 work they were doing and it was a high stress situation for
11:03:44 15 those involved.
16
11:03:45 17 Yes. That report in May 2003, if we just quickly go to
11:03:52 18 p.30, provided a summary of what the allegations were in
11:04:01 19 relation to Mr Strawhorn. I'm not sure if this was
11:04:05 20 publicly available at the time or not. It may have been.
11:04:11 21 Then at p.31, if we can go to the next page, it provides
11:04:20 22 some details in relation to another prosecution of a number
11:04:23 23 of other police that had also been charged with some drug
11:04:27 24 trafficking and money laundering offences?---Yes.
25
11:04:32 26 Messrs Ferguson, Cox and Sadler?---Yes.
27
11:04:36 28 I think Mr Strawhorn had been arrested in March of 2003 and
11:04:39 29 then they were arrested on 26 May 2003?---As a result of
11:04:41 30 the Ceja investigation, yes.
31
11:04:43 32 As a result of the Ceja investigation. And that was yet
11:04:46 33 another case involving an informer?---Right.
34
11:04:52 35 Are you aware that a number of those individuals in that
11:04:58 36 prosecution, Ferguson, Cox, Sadler, at least two of them
11:05:02 37 went to see Ms Gobbo for advice?---No.
38
11:05:10 39 Further to those matters that were being investigated by
11:05:13 40 Ceja, in February of that year four other detectives from
11:05:18 41 St Kilda had been charged with drug trafficking offences
11:05:23 42 following an alleged drug rip off at the St Kilda
11:05:28 43 marina?---I understand that marina issue.
44
11:05:31 45 You recall the case of Saunders, Waters, Campbell,
11:05:38 46 Alexander, you know those names?---Yes, I do know those
11:05:41 47 names.

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1
11:05:42 2 Are you aware that Ms Gobbo had a relationship with
11:05:46 3 Mr Campbell, a personal relationship with
11:05:50 4 Mr Campbell?---No.
5
11:05:50 6 Never became aware of that. Are you aware that that case
11:05:53 7 also involved an informer?---I don't know. I wouldn't have
11:05:56 8 known the detail. There would have been a Ceja
11:05:59 9 investigation. They would have - - -
10
11:06:00 11 That one wasn't a Ceja investigation, that was an ESD
11:06:03 12 investigation?---Oh, okay.
13
11:06:05 14 That didn't come out of the Drug Squad. I think they might
11:06:08 15 have been attached to the Embona Task Force
11:06:11 16 perhaps?---Right.
17
11:06:11 18 This is something you probably would have been given a
11:06:15 19 briefing on, perhaps by ESD?---The fact they were going to
11:06:17 20 be, people were going to be charged with the details of how
11:06:20 21 and who they spoke to and relationships they might have
11:06:24 22 had, I wouldn't have had that.
23
11:06:26 24 As it turned out that case also involved an informer who
11:06:29 25 indicated at one stage that he was going to give evidence
11:06:33 26 against the four detectives and Ms Gobbo was representing
11:06:38 27 that informer?---Right.
28
11:06:41 29 The tentacles are everywhere?---Are strong, yes. A bit
11:06:47 30 like organised crime really, the tentacles are everywhere.
31
11:06:51 32 Yes, so Ms Gobbo was representing the informer in that
11:06:55 33 matter, having a relationship with one of the detectives in
11:06:57 34 that matter, and was dealing with the ESD in relation to
11:07:01 35 the cooperation of the informer?---Right.
36
11:07:09 37 In July of 2003, so these three prosecutions have all
11:07:14 38 started within the first six months of 2003, Strawhorn,
11:07:20 39 Saunders, Campbell, Alexander, Waters, then Ferguson, Cox
11:07:27 40 and Sadler?---Right.
41
11:07:29 42 So they're all sort of commencing in 2003, they all involve
11:07:31 43 informers. In July of 2003 there's a new Chief
11:07:35 44 Commissioner instruction on informer management?---Right.
45
11:07:40 46 You'd be well aware of this one?---Yes.
47

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11:07:43 1 Now that was issued obviously following the Purton report
11:07:47 2 recommendations and the interim report of the
11:07:51 3 Ombudsman?---And the work done by a Task Force within the
11:07:55 4 organisation to look to develop a better model of informant
11:07:59 5 management.
6
11:08:02 7 As we understand it that instruction gets issued and it's
11:08:07 8 re-issued on a yearly basis thereafter?---Yes.
9
11:08:11 10 At least in the first number of years it's not amended at
11:08:14 11 all, it remains as it is. I'll just take you quickly to
11:08:17 12 that instruction. VPL.0002.0001.2232. You see there that
11:08:29 13 it's issued as CCI 7/03 and re-issued September the
11:08:35 14 following year and then September of 2005. On p.2 we note
11:08:45 15 that it's Victoria Police policy to utilise informers for
11:08:48 16 the purposes of crime investigations in a matter in which
11:08:51 17 the integrity of informers, police members and Victoria
11:08:56 18 Police is protected. And the policy goes on to cover new
11:09:02 19 forms that are required, informer registration
11:09:05 20 reactivation, because before there were different
11:09:09 21 policies?---Yes, there were, in different places.
22
11:09:11 23 This was to bring everything into one Informer Management
11:09:14 24 Unit. There were forms in relation to informer contact
11:09:17 25 reports, there were to be acknowledgements of
11:09:20 26 responsibility. There were deactivation forms. It set
11:09:24 27 policies for informer payments and an Informer Payments
11:09:30 28 Committee and so forth?---Yes.
29
11:09:31 30 It outlined the general responsibilities and functions of
11:09:34 31 the various players in the management and handling of
11:09:38 32 informers?---Yes.
33
11:09:40 34 Central Informer Registrar, Local Informer Registrar,
11:09:44 35 officer-in-charge, controller, handler and so forth. Did
11:09:47 36 you have much to do with the construction of this policy
11:09:50 37 yourself?---Well it certainly was the outcome of a great
11:09:53 38 deal of work that was done by a range of people and would
11:09:56 39 have been authorised by the senior management committee
11:09:59 40 because they would have had capacity to have influence on
11:10:03 41 it and then put together, you know, in this format for
11:10:08 42 distribution across the organisation and understanding by
11:10:11 43 people in the organisation, and implementation.
44
11:10:17 45 It goes through on p.6 to recruitment and the initial
11:10:20 46 assessment required and then for registration I think on
11:10:25 47 p.8 at paragraph 25 it talks about - in particular one of

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11:10:29 1 the things I want to come to is the responsibilities of an
11:10:32 2 officer-in-charge?---Right.
3
11:10:37 4 And we saw that there were issues in the Drug Squad, just
11:10:41 5 to take you back, about the lack of an officer-in-charge
11:10:43 6 and the impact that that had on the Drug Squad back in the
11:10:47 7 90s?---Yes, and the 2000s.
8
11:10:49 9 This is obviously not the Drug Squad but this is talking
11:10:52 10 about informer management but similar concepts as to why
11:10:57 11 you need someone oversighting?---Yes.
12
11:10:59 13 And we have the responsibilities here of the
11:11:01 14 officer-in-charge and those include to assess the
11:11:09 15 suitability of an informer, to evaluate the identified
11:11:12 16 risks and consider potential risks. So it acknowledges
11:11:16 17 that this is someone superior?---Yes.
18
11:11:19 19 Someone below me has identified these particular risks but
11:11:24 20 they might not be thinking more broadly and there are these
11:11:29 21 other risks that they haven't taken into account, so on you
11:11:33 22 go. The officer-in-charge is there to ensure compliance
11:11:36 23 with policy and procedures and to consider operational
11:11:39 24 priorities?---So the officer-in-charge is a general title.
11:11:43 25 It could be if you're in a crime area within a station. It
11:11:50 26 would be the officer-in-charge of that particular - - -
27
11:11:53 28 The line supervisor?---That's right, yes.
29
11:11:57 30 Most often it's an Inspector above the rank - - - ?---Or a
11:12:02 31 Detective Senior Sergeant.
32
11:12:07 33 Yes. It goes on in terms of once the officer-in-charge is
11:12:11 34 satisfied that the informer is to be registered then on
11:12:14 35 they go, they deliver those documents identifying those
11:12:20 36 risks and so forth down the line?---Up the line.
37
11:12:24 38 One of the things that they also consider is operational
11:12:27 39 priorities. In deciding whether to register an informer I
11:12:36 40 take it there might be some balance of, "Well, there's a
11:12:40 41 pretty high risk in relation to this informer but we've got
11:12:43 42 a significant risk to the community if we don't register
11:12:48 43 this informer". Is that the type of thing that this
11:12:52 44 officer-in-charge - - - ?---That's a piece of it. I think
11:12:55 45 the risk to the safety of the informer, the risk as to
11:12:58 46 whether or not what they're telling you is accurate. So
11:13:01 47 there's a series of risks I think that are taken into

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11:13:05 1 account and intended in this particular instruction.
2
11:13:09 3 Yes, and I think somewhere within this document there is -
11:13:13 4 and I don't have it to hand, but there are specific risks
11:13:16 5 that need to be considered in a risk assessment?---Yes.
6
11:13:20 7 So risks to the informer, risks to the organisation, risks
11:13:23 8 to the community?---Right.
9
11:13:24 10 And so forth?---Right.
11
11:13:25 12 There's about five different categories?---Yes
11:13:29 13
11:13:31 14 MS ENBOM: Commissioner, sorry to interrupt. May I
11:13:33 15 approach Ms Tittensor for a moment?
16
11:13:35 17 COMMISSIONER: Yes, certainly.
11:13:36 18
11:13:36 19 MS ENBOM: Thank you.
11:13:54 20
11:13:55 21 MS TITTENSOR: I think this document's been tendered
11:13:57 22 previously, Commissioner.
23
11:13:58 24 COMMISSIONER: It's attachment 36 to Exhibit 8 which is
11:14:02 25 Neil Paterson's statement, and the earlier document you
11:14:05 26 were referring to, the Ceja Task Force interim report, was
11:14:08 27 attachment 51 is to Exhibit 8, Neil Paterson's statement.
11:14:13 28
11:14:14 29 MS TITTENSOR: Thanks Commissioner. This report's released
11:14:21 30 some time - it says 7 of 03 and it's advertised in the - -
11:14:28 31 - ?---Yes.
32
11:14:31 33 Sorry, not the report, this instruction?---Yes.
34
11:14:33 35 It says 7 of 03. We understand it's advertised in the
11:14:37 36 police gazette around September 03?---Yes.
37
11:14:44 38 There's another major event that occurs which you'll
11:14:50 39 understand in September of 03, the Dublin Street burglary
11:14:54 40 in Oakleigh?---Yes.
41
11:14:56 42 On Grand Final day?---I didn't know the name of the street
11:14:59 43 but I certainly know Oakleigh.
44
11:15:01 45 Yes. And you'll recognise the operation name Gallop; is
11:15:07 46 that right?---I don't know if I know the name but I
11:15:09 47 certainly know the incident.

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1
11:15:10 2 And this incident is discussed in Ceja's second interim
11:15:16 3 report, Commissioner, it's VPL.0005.0070.0007. In any case
11:15:39 4 I'll continue whilst this is - that described this incident
11:15:50 5 as a major set back for the new Major Drug Investigation
11:15:55 6 Division?---Major Drug Investigation Division, yes.
7
11:15:57 8 Which you would have no cause to query?---No.
9
11:16:01 10 The MDID, the new MDID had been conducting Operation Gallop
11:16:07 11 in relation to a drug house in Dublin Street,
11:16:10 12 Oakleigh?---Yes.
13
11:16:11 14 And that involved Detective Senior Constable
11:16:19 15 Miechel?---Yes.
16
11:16:24 17 There's the document there. If we can go to p.8, please.
11:16:33 18 You'll see the heading there, it's in fact headed "A major
11:16:38 19 set back for the new Major Drug Investigation
11:16:41 20 Division"?---Yes.
21
11:16:41 22 "In the early evening of Saturday 27 September 2003, at
11:16:45 23 East Oakleigh, Detective Senior Constable Miechel of the
11:16:49 24 MDID was arrested. Miechel's informer, the late Terrence
11:17:00 25 Hodson, was also arrested in the vicinity and both were
11:17:05 26 later charged with the alleged theft of a significant
11:17:08 27 quantity of drugs. It is alleged the drugs were taken from
11:17:10 28 a house which had been used as a drug store and which was
11:17:13 29 to be raided as part of the MDID's Operation
11:17:19 30 Gallop"?---Yes.
31
11:17:21 32 As you understand it Miechel and Hodson were both arrested
11:17:25 33 at the scene on the night?---They were, by the Dog Squad
34 actually.
35
11:17:28 36 Sorry?---By the Dog Squad.
37
11:17:29 38 Yes, I think Mr Miechel ended up with a bit of a bite?---He
11:17:31 39 did.
40
11:17:32 41 The ESD obviously commenced an investigation straight away
11:17:36 42 and they obtained the cooperation of the informer Hodson
11:17:43 43 and he implicated, not too long after that, Mr Dale?---Yes,
11:17:49 44 he did.
45
11:17:52 46 It goes on, on this page you'll see and no doubt you'll
11:17:58 47 agree with naturally, "Members of the MDID and its head

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11:18:03 1 Superintendent Tony Biggin felt betrayed by this incident
11:18:07 2 which, among other things, compromised the dedicated and
11:18:14 3 professional efforts of a large number of other members of
11:18:17 4 the MDID. The incident has served to highlight the
11:18:21 5 ever-present risks of compromise in the area of drug law
11:18:26 6 enforcement and the need for more stringent controls in
11:18:28 7 relation to informer management"?---Yes.
8
11:18:30 9 At paragraph 34 of your statement you indicated that your
11:18:32 10 desire had been, following the Purton review, to set up the
11:18:36 11 MDID as a completely new division?---Yes.
12
11:18:39 13 Free of any earlier members, regardless of integrity or
11:18:44 14 not. Why did that not happen?---We attempted to, as I
11:18:48 15 described it, create an empty agency so that we wouldn't
11:18:53 16 have any of those cultures or anything else, in a sense
11:18:56 17 taint the new Major Drug Investigation Division. But we
11:19:00 18 had difficulties with the Police Association who argued
11:19:05 19 that we were judging members and, you know, not giving
11:19:10 20 people a fair chance to prove they're innocent, we hadn't
11:19:15 21 proven they were guilty of any offences at that in
11:19:19 22 particular point, except obviously we were investigating
11:19:20 23 some of them, and so it really in essence was a compromise
11:19:24 24 with the Police Association who was going to take us to the
11:19:27 25 Industrial Commission, take action against us about
11:19:31 26 allowing people to come back into that area. So we had to
11:19:34 27 then come to a series of assessments that we would, before
11:19:40 28 we let people go back into that area, and a significant
11:19:44 29 number didn't go back but clearly some got through, which
11:19:47 30 was a great - well, I think, as they suggest,
11:19:52 31 embarrassment, certainly to the management of that area,
11:19:55 32 because in fact they had done extremely well since then and
11:20:02 33 past that, they'd operated effectively without this kind of
11:20:05 34 problem occurring.
35
11:20:05 36 Mr Miechel was one of those people that came from the old
11:20:09 37 Drug Squad?---And Mr Dale. I think Mr Miechel was in the
11:20:11 38 Drug Squad and I think Dale was somewhere else.
39
11:20:14 40 Yes, I don't understand that he was one of the people - - -
11:20:17 41 ?---No. No, no, Miechel was one and I think there were
11:20:19 42 others that we had to let come back in. There were a
11:20:22 43 series of kind of hurdles that had to be gotten through but
11:20:26 44 we still had wanted it empty and weren't able to do that
11:20:30 45 for industrial reasons.
46
11:20:35 47 Not long after the arrests of Miechel and Hodson at the

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11:20:39 1 scene on the night there were arrests of the occupants of
11:20:42 2 the house. You understand that Mr Ahmed, Ms Haynes and
11:20:48 3 Ms O'Reilly, those people that were occupants of the house
11:20:51 4 on that night?---I wasn't - I can't remember that. You
11:20:55 5 know, one assumes that was the case but I can't remember
11:20:57 6 that.
7
11:20:58 8 Would you have been told at some point in time that in fact
11:21:01 9 Ms Gobbo represented each of those people?---No.
10
11:21:05 11 Upon their being arrested and charged?---No.
12
11:21:08 13 Does that surprise you?---That she was - well, yes, I was
11:21:13 14 not advised of that. I'm not sure why I would have been
11:21:18 15 actually, but it would have been part of operations.
16
11:21:21 17 At some point in time down the line there are obviously
11:21:23 18 investigations where these people were wanting to be spoken
11:21:26 19 to about some other police corruption inquiries that were
11:21:30 20 going on?---Yes.
21
11:21:32 22 Did you understand there to be any connection between
11:21:35 23 Ms Gobbo and occupants of the house later down the
11:21:38 24 track?---No. My focus was really more on Miechel and the
11:21:45 25 police officers and their corruption and obviously the
11:21:48 26 allegations against Mr Dale as well.
27
11:21:52 28 At least initially both Murray Gregor and Mr De Santo of
11:21:55 29 ESD were involved in that investigation for ESD, is that
11:22:00 30 your understanding?---I - - -
31
11:22:04 32 Would you have been briefed directly by them or by a
11:22:06 33 superior?---Just take me back a bit. We're talking about
11:22:14 34 Mr De Santo investigating the matter with Hodson - - -
35
11:22:18 36 Miechel?---Miechel and Dale?
37
11:22:19 38 Yes?---ESD, yes.
39
11:22:21 40 ESD were investigating Miechel, Hodson?---Yes.
41
11:22:24 42 I think obviously the Operation Gallop arrests of - - -
11:22:28 43 ?---Yes.
44
11:22:29 45 - - - Ahmed, Haynes and O'Reilly were carried out by the -
11:22:33 46 - - ?---Separately.
47

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11:22:35 1 - - - MDID?---Yes.
2
11:22:36 3 It seems as though in order - so they came to have some
11:22:42 4 contact and secure the cooperation of the informer Terrence
11:22:44 5 Hodson?---Yes.
6
11:22:46 7 Were you aware that it was Ms Gobbo that facilitated that
11:22:50 8 contact?---No. No.
9
11:22:55 10 It seems as though by virtue of the fact that Ms Gobbo had
11:22:58 11 previously represented Andrew Hodson, the son of Terrence
11:23:03 12 Hodson, secured him bail the year before, Mr De Santo
11:23:09 13 contacted her to see if through Andrew Hodson she could
11:23:16 14 facilitate contact with Terrence Hodson?---I wasn't aware
11:23:20 15 of that.
16
11:23:21 17 And came to provide some advice or conferred with him on a
11:23:24 18 number of occasions?---I knew that Mr De Santo talked to
11:23:27 19 Hodson and I knew that he was prepared to give evidence or
11:23:30 20 information, but I didn't know who facilitated that.
21
11:23:33 22 Did you become aware that Mr Hodson, or you became aware I
11:23:42 23 take it early on that Mr Hodson had implicated
11:23:48 24 Mr Dale?---Yes.
25
11:23:49 26 Did you become aware that he told ESD investigators that he
11:23:51 27 believed Mr Dale to be in a sexual relationship with
11:23:54 28 Ms Gobbo?---I know that but I don't know if I knew it then.
11:24:00 29 I understood from the publicity that has occurred since the
11:24:05 30 Commission that I knew that, but I don't know if I knew
11:24:08 31 that then.
32
11:24:09 33 Mr Dale and others were arrested in relation to the
11:24:15 34 burglary on 5 December 2003?---Yes.
35
11:24:19 36 Were you aware that he contacted Ms Gobbo for advice
11:24:24 37 following his arrest?---No, I didn't know.
38
11:24:29 39 Were you aware that she visited him or conducted a
11:24:33 40 professional visit to him in custody following about
11:24:35 41 that?---No, I wouldn't have known about that at all. What
11:24:38 42 I was focused on, as also with Mr Dale, was attempting to
11:24:42 43 have him exited from Victoria Police as well. I was aware
11:24:46 44 of the work that was done to look to see whether we had a
11:24:52 45 capacity to have him sacked from Victoria Police. So I was
11:24:56 46 aware of that piece of it.
47

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11:24:58 1 Were there changes afoot - eventually there came to be, or
11:25:02 2 there was s.68 notices. Were they - was that something
11:25:07 3 that was changing during this period of time?---We were
11:25:13 4 trying to find ways, loss of confidence, a range of those
11:25:15 5 sorts of matters. I'd certainly been used to those kind of
11:25:18 6 provisions in New South Wales and so - you know, I think
11:25:21 7 that might have been the first time we've ever used it. I
11:25:25 8 think, you know, that was a provision where we were looking
11:25:27 9 to exit him. There was always a kind of a process within
11:25:33 10 Victoria Police that whilst someone was under investigation
11:25:37 11 or charged, that they were suspended, suspended without
11:25:40 12 pay, but I was actually looking to facilitate earlier his
11:25:44 13 departure given what I saw to be his involvement in that
11:25:50 14 matter, and particularly some of the statements that he
11:25:53 15 made in relation to that matter.

16
11:26:00 17 If we can go to - I think we're on p.8, yes, down the
11:26:04 18 bottom there. We see the next major event. On 16 May 2004
11:26:17 19 Mr Hodson and his wife were found murdered in their
11:26:21 20 home?---Yes.

21
11:26:23 22 And there was immediately concern about the possibility of
11:26:26 23 links between that double murder and police
11:26:30 24 corruption?---Yes.

25
11:26:32 26 You no doubt received briefings about that matter?---Yes.

27
11:26:36 28 And were they ongoing briefings?---Yes, they would have
11:26:41 29 been.

30
11:26:44 31 How often would you have been briefed about that?---No more
11:26:47 32 than - well depending on whether there was a significant
11:26:51 33 advancement, it might have been earlier, otherwise it would
11:26:52 34 have probably been a regular monthly or - probably a
11:26:55 35 monthly. Sometimes though if there were particular changes
11:26:58 36 in circumstances, perhaps, they might have come and seen me
11:27:02 37 otherwise.

38
11:27:04 39 The bodies of Christine and Terrence Hodson were found by
11:27:10 40 Andrew Hodson and maybe his sister as well. Did you become
11:27:20 41 aware that in order to report that discovery he first
11:27:26 42 called Ms Gobbo to facilitate contact with Mr De Santo?---I
11:27:31 43 only became aware of that after. I didn't know at the time
11:27:34 44 but again I've read that or heard that afterwards.

45
11:27:38 46 When you say after can you put - - - ?---like in the last -
11:27:43 47 I mean as part of this kind of Commission or somehow. I

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11:27:47 1 don't remember it at the time but I certainly remember
11:27:50 2 understanding it at some point but I'm not sure where I
11:27:52 3 know that from.
4
11:27:55 5 You became aware that there was a possible connection
11:27:59 6 between a missing information report and the murders, is
11:28:05 7 that right, at some point? This is IR 44?---I'm not sure
11:28:11 8 what you mean. I understand missing information but I
11:28:14 9 don't, I can't particularly - - -
10
11:28:16 11 There came to be one line of inquiry which was that an
11:28:21 12 information report identifying Terrence Hodson as an
11:28:26 13 informer?---Right.
14
11:28:27 15 Went missing and one line of inquiry was that there was a
11:28:34 16 link between that coming into the hands of certain people
11:28:38 17 resulting in the murder?---Right.
18
11:28:41 19 Presumably there was an OPI investigation and a reporting
11:28:47 20 by Mr Fitzgerald I think in relation to that which no doubt
11:28:50 21 you would have been aware of at the time?---I was certainly
11:28:53 22 aware of the investigation but I can't remember on the day
11:28:56 23 or what I knew about that.
24
11:29:00 25 In the course of that I think perhaps initially some of
11:29:04 26 those investigations and inquiries were being also
11:29:08 27 conducted by the Homicide Squad?---Yes.
28
11:29:09 29 In relation to the murders?---Yes.
30
11:29:11 31 And Mr Bezzina was involved in that investigation?---Yes.
32
11:29:13 33 Was he involved in the briefings of you?---No, I don't
11:29:17 34 think so.
35
11:29:19 36 Were you receiving your briefings from the Commissioners
11:29:23 37 and they receiving briefings - - - ?---That's right.
38
11:29:27 39 Part of that investigation, which included the line of
11:29:32 40 inquiry about the missing information report, meant that
11:29:37 41 Ms Gobbo was interviewed in the early days by Mr Bezzina
11:29:42 42 because of various clients of hers who might have known
11:29:45 43 that Terrence Hodson was an informer, and indeed the timing
11:29:50 44 of when she learnt that Terrence Hodson was an informer and
11:29:54 45 when she spoke to her clients about all of those kinds of
11:29:58 46 matters. Were you aware that Ms Gobbo was interviewed as
11:30:00 47 part of that inquiry?---No.

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1
11:30:02 2 Would you have become aware of this level of detail of the
11:30:04 3 Mokbels?---No.
4
11:30:06 5 Or Tony Mokbel being interviewed as part of that
11:30:08 6 inquiry?---No. I mean you're really talking about I guess
11:30:12 7 a need to know basis and also the fact that it's part of
11:30:15 8 the investigation as it continues. I wasn't kept up in a
11:30:18 9 step-by-step briefing on that investigation.
10
11:30:28 11 I see the time, Commissioner.
12
11:30:30 13 COMMISSIONER: Yes, we'll have the mid-morning break now,
11:30:33 14 thank you.
15
16 (Short adjournment.)
17
11:54:39 18 COMMISSIONER: Yes Ms Tittensor.
11:54:40 19
11:54:50 20 MS TITTENSOR: Ms Nixon, at paragraph 35 of your statement
11:54:56 21 you talked about your commissioning of the Human Source
11:55:03 22 Management Unit, which resulted in a recommendation that a
11:55:06 23 Source Development Unit be implemented to manage high risk
11:55:12 24 sources?---Yes.
11:55:13 25
11:55:14 26 You had a team that was set up to investigate best
11:55:18 27 practices?---Correct.
11:55:19 28
11:55:19 29 And understandably, given what's occurred and what I've
11:55:22 30 taken you through this morning, you wanted best practice in
11:55:26 31 the area of informer management?---Sorry, did you say it
11:55:30 32 wasn't?
11:55:31 33
11:55:31 34 You wanted?---Wanted, sorry.
11:55:34 35
11:55:34 36 Desire?---It's just my hearing. Of course I wanted the
11:55:38 37 best practice based on the best evidence we could find.
11:55:42 38
11:55:42 39 I'm just going to take you to the Findings of the Dedicated
11:55:49 40 Source Unit Pilot?---Right.
11:55:49 41
11:55:50 42 That's something you would have been familiar with yourself
11:55:52 43 at the time?---Yes.
11:55:53 44
11:55:53 45 Given the risks to the organisation?---Yes.
11:55:55 46
11:55:55 47 And this is to be a unit within Victoria Police that deals

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11:55:59 1 not simply with informers, which have proven to be a
11:56:04 2 problem over the decades, but with the highest of risk
11:56:09 3 informers?---High risk human sources, yes.
11:56:11 4
11:56:12 5 So if we can go to the Findings of the Dedicated Source
11:56:19 6 Unit Pilot, 0005.0108.0001. If we can scroll through, or
11:56:29 7 go to p.11 of that document. And you see, we saw on the
11:56:37 8 first page of that document there's someone that came -
11:56:41 9 it's in very small type?---Yes, I can see it.
11:56:46 10
11:56:47 11 You see the name Sandy White?---Yes.
11:56:49 12
11:56:49 13 That's the name we're giving to - - - ?---Yes, I understand
11:56:53 14 that.
11:56:53 15
11:56:54 16 - - - the controller or the ^{PII} [REDACTED] ^{PII} that
11:56:56 17 was in charge of the DSU when it - - - ?---Yes.
11:57:00 18
11:57:00 19 So you know who we're talking about?---I do.
11:57:03 20
11:57:08 21 COMMISSIONER: It's Exhibit 278.
11:57:10 22
11:57:10 23 MS TITTENSOR: Thank you, Commissioner. I just want to
11:57:23 24 make a couple of points and take you through a couple of
11:57:26 25 things in this document. It refers there to the pilot,
11:57:34 26 it's to be staffed by a number of teams, which we're
11:57:39 27 apparently not meant to know, and it's to be headed by an
11:57:42 28 Inspector, so - and each team is to consist of, at least
11:57:48 29 one, it seems, ^{PII} [REDACTED] ^{PII} and then some
11:57:52 30 ^{PII} [REDACTED] ^{PII} and an analyst below. The pilot itself
11:58:00 31 commenced on 1 November 2004 with one team and this, these
11:58:08 32 findings came out of that pilot, as you understand it, is
11:58:13 33 that right?---Yes.
11:58:14 34
11:58:14 35 Now, it goes on, and the first topic was the Inspector and
11:58:21 36 officer-in-charge topic. And it notes that the Inspector
11:58:28 37 that was allocated to the pilot shared time between the
11:58:34 38 Security Intelligence Group, the SIG and the DSU as it was
11:58:40 39 then known, the Dedicated Source Unit, it became the Source
11:58:44 40 Development Unit. I might use that
11:58:46 41 interchangeably?---Sure.
11:58:47 42
11:58:47 43 And it goes on that not having a full-time Inspector within
11:58:50 44 the DSU ultimately proved detrimental to the
11:58:55 45 pilot?---Right.
11:58:55 46
11:59:00 47 "The ^{PII} [REDACTED] ^{PII} 's duties as controller were

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11:59:03 1 impeded by the need to set up and administer the office on
11:59:07 2 a day-to-day basis, to market the DSU across the Force, to
11:59:14 3 develop SOPs, Standard Operating Procedures, to prepare
11:59:18 4 memorandums of understanding, the policy documents,
11:59:21 5 training and new systems creation." It goes on that the
11:59:29 6 officer-in-charge, I'm not sure where it is in this
11:59:32 7 document, we might need to continue scrolling, if we can go
11:59:37 8 over to the next page. It notes that, "The
11:59:47 9 officer-in-charge is significantly more involved in
11:59:51 10 managing day-to-day operations than would normally be the
11:59:54 11 case. If [PII] dedicated to the role of
11:59:59 12 controller and have sufficient time and opportunity to
12:00:02 13 intrusively supervise the handler source relationship, the
12:00:07 14 Inspector, as the officer-in-charge, will in addition to
12:00:13 15 setting the ethical benchmark and driving management and
12:00:16 16 change for source management practices, to also be
12:00:21 17 responsible for the day-to-day management and
12:00:23 18 administration of a high risk and highly accountable
12:00:26 19 office". So if we can move up. It notes that, "The DSU
12:00:33 20 was in its formative stages. The Inspector in charge of
12:00:39 21 the DSU will have responsibility for creating an
12:00:43 22 environment which will identify, encourage, embed best
12:00:48 23 practice in source management and continuing the momentum
12:00:52 24 and cultural change delivered by the pilot". Now, are you
12:00:59 25 aware that when the SDU commenced and for many years into
12:01:05 26 its operation it had only a part-time Inspector that was
12:01:08 27 [PII]?---And [PII] with [PII].
12:01:12 28
12:01:13 29 And [PII] with [PII] and - sorry, the DSU were [PII]
12:01:20 30 [PII]?---Yes.
12:01:20 31
12:01:20 32 And the Inspector was not [PII] with that unit,
12:01:26 33 it was [PII], you would have been aware of
12:01:30 34 that?---Not really, no.
12:01:32 35
12:01:32 36 Do you see how that created a significant risk?---Of
12:01:37 37 course.
12:01:37 38
12:01:37 39 In terms of what was to become of the SDU and its
12:01:46 40 oversight?---Of course. And I remember a report coming to
12:01:48 41 me from Ian Thomas about, about this matter, and I suppose,
12:01:57 42 you know, someone in my position then agrees that we should
12:02:00 43 be looking to staff appropriately, there would have then
12:02:04 44 been applications to human resources, to a range of other
12:02:09 45 areas to find sufficient resources to staff it. But I can
12:02:12 46 see that not having that sufficient staffing may well have
12:02:17 47 undermined the work of that unit.

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12:02:19 1
12:02:19 2 And that's perhaps especially so where you've got a
12:02:22 3 situation where you say as a Force we're committed to
12:02:26 4 spending as much money as we can to prosecute these corrupt
12:02:31 5 individuals?---Yes.
12:02:31 6
12:02:32 7 If we're going to set up this new unit in relation to very
12:02:35 8 high risk sources, we're not going to have this oversight
12:02:39 9 of it that is going to potential let us down
12:02:42 10 again?---That's a perfectly reasonable position to take. I
12:02:48 11 don't know in detail why they wouldn't have. They knew
12:02:50 12 obviously my experience in this area and my commitment to
12:02:55 13 staffing, I don't know why they didn't get the resources,
12:02:59 14 we were growing as an organisation during that time. In
12:03:02 15 many ways, I don't recall seeing document which would have
12:03:06 16 said authorising, you know, these additional positions but
12:03:11 17 I did see the document which said this is what we needed
12:03:15 18 and I assumed people did - - -
12:03:17 19
12:03:17 20 You saw this document and this document clearly says?---It
21 does.
22
12:03:19 23 There was a separate officer-in-charge?---There was another
12:03:23 24 document I recall seeing by Ian Thomas, maybe there's a
12:03:27 25 cover on the front of this or something, but Ian Thomas was
12:03:32 26 one of the people I think involved. I would just assume
12:03:36 27 people did as I had asked and authorised, that they were
12:03:39 28 given the appropriate resources to do the job.
12:03:41 29
12:03:41 30 Whose responsibility is it, who does this come back to in
12:03:46 31 terms of this high risk unit not having an
12:03:48 32 officer-in-charge, where does the buck stop?---So it has an
12:03:52 33 Inspector in charge and whether or not it had sufficient
12:03:55 34 resources to do the job, it would have gone from him to
12:04:01 35 the, I guess, Danye Moloney who is probably the next
12:04:04 36 person, or a Superintendent might be the next in line.
12:04:07 37 They weren't reticent about asking for resources for a
12:04:12 38 whole range of areas. If you took Purana, for instance, we
12:04:14 39 dramatically increased the resources there to do that work.
12:04:19 40 I don't know what happened as to why they didn't have the
12:04:23 41 resources. I absolutely understand they should have.
12:04:25 42
12:04:26 43 Where is the?---Where is the breakdown?
44
12:04:28 45 Where does the buck stop, whose responsibility is
12:04:31 46 this?---Given it was my report, in the sense this was
12:04:34 47 commissioned through myself and Simon Overland, it would

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12:04:39 1 have been either of us following up afterwards to say,
12:04:43 2 "Have you got the resources? This is the review, what are
12:04:46 3 we doing? What are we putting in place?" If you took a
12:04:50 4 similar circumstance with the Major Drug Investigation
12:04:53 5 Division, "What kind of resources do you need, what kind of
12:04:55 6 people?" They all went into place. So I don't know what
12:04:58 7 happened here. I guess I was responsible overall for
12:05:02 8 ensuring that these resources should have been made
12:05:06 9 available.

12:05:06 10
12:05:07 11 This is a situation that persisted for years?---Yes.

12:05:11 12
12:05:11 13 This unit, that is overseeing the most high risk sources in
12:05:17 14 Victoria Police, has no dedicated officer-in-charge?---It
12:05:21 15 doesn't mean that they don't and can't go about their work.
12:05:26 16 I have to say [PII] [PII] in Victoria Police
12:05:29 17 are very powerful people and very capable. I understand
12:05:32 18 the issue about the Inspector but you shouldn't in any way
12:05:36 19 discount either though the capacity of the [PII]
12:05:39 20 to do the work that would have been required.

12:05:41 21
12:05:41 22 And this [PII], Sandy White?---Yes.

12:05:45 23
12:05:46 24 Was left to do a lot of that work?---Yes, he would have.

12:05:48 25
12:05:49 26 And had no ethical oversight sitting above him in terms of
12:05:53 27 saying, "Hang on a minute, what are you doing? What's
12:05:55 28 going on with this particular source"?---Yes.

12:05:58 29
12:05:58 30 And we know the source we're all talking about
12:06:01 31 now?---Right.

12:06:02 32
12:06:03 33 And perhaps, just while we're on it, and I took you to the
12:06:08 34 paragraph of your statement before, paragraph 22, where you
12:06:13 35 said you don't recall knowing that Ms Gobbo had been a
12:06:16 36 human source prior to her becoming a witness. Now she
12:06:18 37 became a witness in early 2009?---Yes.

12:06:23 38
12:06:23 39 When did you become aware that she was a human source?---I
12:06:26 40 think when the matters were raised around, you know, the
12:06:32 41 charges that were to be laid against Dale and I think
12:06:36 42 that's the best, so that is in fact in late 2000 and -
12:06:41 43 2008, 2009.

12:06:42 44
12:06:42 45 You became aware that she had in fact been a human
12:06:45 46 source?---No, I never became aware of that. I became aware
12:06:48 47 that she was going to be a witness. I did not know, I

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12:06:52 1 don't have any recollection of people telling me, a bit
12:06:55 2 like you've done with me today, I was very surprised and
12:06:58 3 when in fact when this Commission was, or before the
12:07:03 4 Commission actually - when the whole material came out
12:07:06 5 about, about this, I actually, you know, then thought it
12:07:11 6 was another lawyer actually who I didn't know who the
12:07:15 7 person was. I had no recollection at all that I knew who
12:07:19 8 3838 was.
12:07:19 9
12:07:20 10 When you found out there's this story in the press I guess
12:07:23 11 in about 2014 about Lawyer X, you thought that was another
12:07:27 12 lawyer?---I did.
12:07:28 13
12:07:28 14 You didn't make any connection between that lawyer and the
12:07:30 15 Dale case?---I knew there were, I knew there were two
12:07:34 16 female lawyers involved, I think I became aware of that.
12:07:38 17 But in terms of the Dale case, she, I understood, to be a
12:07:43 18 witness.
12:07:44 19
12:07:45 20 No one gave you any idea that there were any of these other
12:07:49 21 issues in the background?---I have absolutely no
12:07:54 22 recollection of people telling me that.
12:07:55 23
12:07:56 24 Do you think that's something you ought to have been
12:07:58 25 told?---Of course.
12:07:59 26
12:07:59 27 Who do you hold responsible for that?--Well, in hindsight,
12:08:05 28 you know, there clearly were opportunities all the way back
12:08:09 29 that you've raised. When, you know, we started out with
12:08:14 30 your earlier discussion today about the point of, you know,
12:08:18 31 the Milte matters. I didn't know about her role so we then
12:08:24 32 get to the point where I'm told she's a witness, so I
12:08:27 33 assume people like Simon Overland would have been one, he's
12:08:31 34 the person who has continuity through this process, perhaps
12:08:35 35 there were others.
12:08:36 36
12:08:37 37 I might take you through some of those matters in the next
12:08:40 38 little while and ask your opinion again at the end?---Okay.
12:08:45 39
12:08:49 40 COMMISSIONER: Could I just ask about Ian Thomas, you
12:08:52 41 mentioned he was the person Victoria Police sent overseas
12:08:56 42 to look at best practice for this new unit. What was his
12:09:00 43 rank at the time?---I think he was a Detective
12:09:06 44 Superintendent.
12:09:07 45
12:09:07 46 MS TITTENSOR: His name may appear on the initial
12:09:10 47 registration documents, Commissioner.

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12:09:11 1
12:09:11 2 COMMISSIONER: He was too high up to carry out the role of
12:09:15 3 Inspector over this rank?---Yes.
12:09:17 4
12:09:17 5 But he was one person who knew all about the new
12:09:21 6 techniques?---Yes, he did. I certainly remember seeing a
12:09:23 7 document that was related to him.
12:09:25 8
12:09:25 9 Thank you.
12:09:26 10
12:09:26 11 MS TITTENSOR: His name appears on Ms Gobbo's registration.
12:09:32 12
12:09:32 13 COMMISSIONER: But he wasn't ever placed into any
12:09:36 14 supervisory role over the SDU that was established although
12:09:38 15 he was an expert in the field?---I can't remember why he
12:09:42 16 was, he just comes to my mind as someone who did some work
12:09:47 17 on this and I'm not sure how I remember that, but I do,
12:09:50 18 that he was involved and had experience in intelligence, so
12:09:55 19 I think that was part of the process.
12:09:57 20
12:09:57 21 MS TITTENSOR: Is it your understanding perhaps that when
12:09:59 22 the unit and the, or the Informer Management Unit was set
12:10:04 23 up, that was responsible for the policy and administration
12:10:08 24 of informer management Force wide, so not just the SDU, but
12:10:13 25 - - - ?---Certainly the policy piece I think.
12:10:15 26
12:10:15 27 Yes?---But obviously in, in implementing it they would have
12:10:20 28 been and should have been part of that process, but through
12:10:24 29 - yes.
12:10:25 30
12:10:25 31 And then once it is set up, once the Informer Management
12:10:29 32 Unit or the Human Source Management Unit is set up, we have
12:10:32 33 the HSMU as a body that's receiving the documents,
12:10:38 34 administering the information that's coming to it,
12:10:40 35 disseminating it according to policy?---Right.
12:10:44 36
12:10:44 37 And you have the SDU over here as one group that manages a
12:10:50 38 group of informers and obviously there are other areas
12:10:53 39 within Victoria Police that use informers, less high risk
12:10:58 40 informers, is that right?---Not sure.
12:11:01 41
12:11:02 42 It's not just the SDU that register informers?---Right.
12:11:06 43
12:11:06 44 Within Victoria Police. They're dealing with the high risk
12:11:10 45 informers?---Yes.
12:11:10 46
12:11:10 47 There are other lower level informers - - - ?---Who are

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12:11:15 1 following the processes and procedures, that's right.
12:11:16 2
12:11:17 3 Yes, and they're all coming into this?---Information.
4
12:11:20 5 The HSMU and they have their levels of supervision
12:11:23 6 accordingly, their Local Informer Registrar?---And the
12:11:27 7 point I think is, the point we were trying to establish
12:11:30 8 was, you know, it doesn't turn out necessarily as a sterile
12:11:34 9 corridor so you then separate the information and the
12:11:36 10 source from the investigators, so that then intelligence is
12:11:40 11 conveyed to the investigators and that was the model we
12:11:44 12 hoped would reduce the risk in terms of using human
12:11:47 13 sources.
12:11:47 14
12:11:47 15 Yes. One of the ideas behind that separation was because
12:11:54 16 investigators might be more inclined to push an informer to
12:11:58 17 do things that are more risky?---Yes.
12:12:00 18
12:12:00 19 And to take those risks, whereas you really need someone
12:12:06 20 separate from the investigators to consider the bigger
12:12:09 21 picture?---I'm not sure they necessarily always would have
12:12:14 22 wanted to push informants for information but I think it
12:12:17 23 was more an important separation.
12:12:19 24
12:12:19 25 Yes?---So that you could have the intelligence and we were
12:12:23 26 also driving up, I think that actually may be why Ian was
12:12:27 27 involved in it, because of his intelligence background. As
12:12:31 28 to how did you drive up our handling of intelligence, our
12:12:36 29 analysis of intelligence, so that when it did go to the
12:12:39 30 investigators they wouldn't have been, wouldn't have had a
12:12:44 31 relationship with the informant.
12:12:45 32
12:12:45 33 And obviously also an informer might provide intelligence
12:12:49 34 that's not relevant to just one investigation. They might
12:12:53 35 provide some intelligence that's relevant across the
12:12:56 36 organisation and so to have one central body with that, can
12:13:00 37 disseminate - - - ?---It was the right model, as you've
12:13:03 38 pointed out perhaps not appropriately resourced, but I
12:13:08 39 believed certainly to start with at that point in time it
12:13:12 40 was the best model we could find.
12:13:14 41
12:13:14 42 I just want to read you a couple of transcripts just to
12:13:19 43 highlight to you the problems of this lack of supervision.
12:13:23 44 You may have heard some of these things mentioned in the
12:13:28 45 course of the Royal Commission if you've been following
12:13:31 46 some of the evidence?---I have.
12:13:32 47

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12:13:33 1 So on [PII] 2006 we've got a situation where there's
12:13:41 2 about to be a major arrest coming up of a client of
12:13:47 3 Ms Gobbo's. She's been informing on that client and
12:13:52 4 there's a discussion about whether or not she will
12:13:54 5 represent him once he's arrested again?---Right.
12:13:59 6
12:14:01 7 Mr White says, "From a purely technical point of view, if
12:14:07 8 you talk to", we're calling him [PII], "If you talk to
12:14:10 9 [PII] and give him legal advice before he's interviewed
12:14:13 10 and he makes a confession, I'm speaking theoretically here
12:14:18 11 right, I'm not saying this is going to happen, but wouldn't
12:14:21 12 it be the case down the track that a defence barrister
12:14:24 13 could argue, 'Well, the advice that he got prior to
12:14:27 14 participating in the record of interview was not impartial
12:14:30 15 because it was done on behalf of the police by a person
12:14:32 16 that was acting for the police'", and Ms Gobbo's response
12:14:37 17 was, "Who the fuck is going to say that"?---Right.
12:14:40 18
12:14:41 19 Mr White responds, "Well it's essentially just a
12:14:44 20 theoretical question, I'm just trying to". She says, "Well
12:14:49 21 why would anyone say that?" He says, "No one 's going to
12:14:54 22 say that, but I'm trying to understand the conflict of
12:14:56 23 interest area is not something that we ever deal with, all
12:14:59 24 right, and you, it's, I mean some people could put up an
12:15:03 25 argument that a person who is a barrister perhaps could
12:15:05 26 never help the police and still represent the person she's
12:15:09 27 helping the police with, so I'm just trying to get my head
12:15:13 28 around this, maybe it's even pointless talking about it
12:15:17 29 because you might think I'm going". And Ms Gobbo
12:15:19 30 interjects and says, "Probably, but what's the real point?"
12:15:22 31 Mr Smith, one of the other handlers then says, "Just the
12:15:25 32 general ethics of the whole situation" and Ms Gobbo
12:15:29 33 responds, "The general ethics of all of this is fucked".
12:15:34 34 There we have an acknowledgement, a problem, what's going
12:15:39 35 on. What should have happened from that point in time,
12:15:46 36 would you say?---So the - - -
12:15:49 37
12:15:49 38 We've got to that point in time, perhaps?---Right.
12:15:52 39
12:15:52 40 Assuming, and there's been a lot before it and we perhaps
12:15:56 41 shouldn't have got to this point in time, we're there,
12:15:59 42 we've got - - - ?---So it's alleged, or is, I'm not sure,
12:16:05 43 whatever, that a person who's a barrister.
12:16:09 44
12:16:09 45 Yes?---Gives information about a matter, is that right, is
12:16:13 46 that what you're asking?
12:16:14 47

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12:16:15 1 Yes?---Then that same person who is a barrister is going to
12:16:18 2 give advice to the person who is arrested as a result of
12:16:21 3 that information, is that right?
12:16:23 4
12:16:23 5 Yes. And you've got the [PII] [PII]?---Yes.
12:16:26 6
12:16:26 7 Who is in charge of this squad being told?---Who is there
12:16:29 8 at the time or is he - - -
12:16:31 9
12:16:31 10 He's there at the time having the conversation with
12:16:33 11 Ms Gobbo?---With the barrister.
12:16:34 12
12:16:35 13 With the barrister?---And says to her that in fact she has
12:16:39 14 a conflict and shouldn't - - -
12:16:41 15
12:16:41 16 Raising with her, you know, "Up the track this might be
12:16:44 17 inadmissible, what should we do"?---Right. I guess he's
12:16:45 18 also raising with her that she has a conflict, that if
12:16:52 19 she's giving information it's inappropriate for her to then
12:16:55 20 be appearing for this person.
12:16:57 21
12:16:57 22 Yes, and what should he be doing though within the
12:17:00 23 organisation? Aside from raising this fact with Ms Gobbo,
12:17:04 24 who is currently also already representing that client that
12:17:07 25 she's informing on?---Right.
12:17:10 26
12:17:10 27 What should he be doing?---What steps should he take?
12:17:14 28
12:17:14 29 Yes?---He has raised that issue with the barrister that he
12:17:18 30 thinks there's a conflict involved. I think that's the
12:17:22 31 first step. If she then refuses in the terms you've used
12:17:27 32 to actually not appear, or not represent that particular
12:17:33 33 client in that circumstance, he has a real dilemma, and he
12:17:37 34 has a difficulty in both the client is asking for their
12:17:44 35 lawyer and the lawyer is wanting to meet that person, I
12:17:47 36 think the police officer is in a very difficult place. He
12:17:51 37 can't tell the client, for instance, that the person has
12:17:54 38 given information because that breaches a set of
12:17:56 39 obligations that he has to protect a source and so then
12:18:01 40 he's got, what do you do about the lawyer? Now if he
12:18:05 41 could, and I don't know the circumstances, but if he could
12:18:09 42 then one of the things would be to say to the detectives
12:18:12 43 who are dealing with the matter, if they're around, is,
12:18:15 44 "You need to talk to her about not appearing for this
12:18:20 45 person because there is a conflict involved". Do you want
12:18:23 46 me to keep going?
12:18:24 47

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12:18:25 1 In terms of upping it up the line, in terms of - - -?---So
12:18:29 2 he's talking to the detectives involved.
12:18:30 3
12:18:31 4 Yes?---The detectives then have to decide about what action
12:18:33 5 they're going to take and whether or not, you know, they're
12:18:38 6 going to let this continue. I assume there's a series of
12:18:43 7 steps they could have taken. One might be that they
12:18:46 8 determine not to interview the person that day and, you
12:18:52 9 know, call the Bail Justice in as to whether or not that's
12:18:56 10 appropriate. So there is that kind of a step. In terms of
12:19:02 11 who the source management people call, they may then look
12:19:08 12 to talk to their more senior officer, the Superintendent or
12:19:12 13 the Assistant Commissioner.
12:19:14 14
12:19:15 15 You would be going straight to a senior officer, wouldn't
12:19:18 16 you, and just discussing a dilemma like this?---It depends,
12:19:23 17 it depends on many things. It depends on the time of day,
12:19:27 18 it depends on the circumstances, it depends as to where
12:19:32 19 they saw and how they might think about resolving the
12:19:36 20 matter. I guess it's a hypothetical, or perhaps it's not a
12:19:38 21 hypothetical, but they're in a very difficult position and
12:19:41 22 would be looking to talk to the detectives involved or look
12:19:44 23 to talk to their senior officers about what steps could be
12:19:47 24 taken.
12:19:48 25
12:19:48 26 Assuming from there Ms Gobbo goes on to turn up and advise
12:19:58 27 that person and that person is charged with offences
12:20:01 28 arising out of that?---Right.
12:20:04 29
12:20:04 30 You bring proceedings in court?---Yes.
12:20:06 31
12:20:06 32 You have obligations of disclosure?---Yes.
12:20:09 33
12:20:09 34 In relation to the admissibility or lack of - potential
12:20:12 35 lack of inadmissibility in relation to it?---Yes, you
12:20:16 36 would.
12:20:16 37
12:20:17 38 And they are obligations that - - - ?---To disclose all
12:20:22 39 information to the defence, yes.
12:20:23 40
12:20:23 41 Would be well aware of, we're well aware - - - ?---Should
12:20:26 42 be well aware of it too, if she is the one defending them
12:20:30 43 and was the one involved, she would be aware of all of
12:20:34 44 those things.
12:20:35 45
12:20:35 46 In that regard the police have a choice, they can say, "We
12:20:39 47 will disclose that if we want to bring this trial on and

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12:20:41 1 try and use that evidence"?---Right.
12:20:43 2
12:20:43 3 Or, "We can withdraw these charges and not proceed"?---I
12:20:47 4 would have thought the step was a bit further back before
12:20:50 5 you get to that point.
12:20:51 6
12:20:51 7 I think that that's right. But once you get to a position
12:20:53 8 where you've initiated the charges, you've gone down that
12:20:57 9 track, you've made your decisions, good, bad or
12:21:02 10 indifferent, you have two choices, you can disclose or you
12:21:06 11 can withdraw the charges?---You have a range of
12:21:09 12 circumstances about what you might do about her in those
12:21:12 13 circumstances. You might put it to the Bar actually.
12:21:16 14
12:21:16 15 Police are well aware that is something they can do, one of
12:21:20 16 their options?---I'm not in those circumstances, and both
12:21:25 17 the Source Management Unit are intelligent thoughtful
12:21:29 18 police officers who make decisions, sometimes there's risk
12:21:31 19 involved and the detectives do the same thing.
12:21:34 20
12:21:34 21 Just to fill you in a little bit further. Two days later
12:21:41 22 the arrest takes place. Ms Gobbo is advised that the
12:21:46 23 arrest has taken place. Naturally that client calls and
12:21:50 24 wants advice from Ms Gobbo?---Yes.
12:21:53 25
12:21:54 26 The investigators know that she's the source. They know
12:21:58 27 that she's provided information which has in fact led to
12:22:02 28 his arrest, the location of the ^{PII} [REDACTED]. He
12:22:09 29 initially, the plan is to seek for this person to roll and
12:22:16 30 give evidence against others?---That's the investigation -
12:22:21 31 - -
12:22:21 32
12:22:21 33 That's the investigation plan. "We want this guy on our
12:22:24 34 side, we want to use this arrest to motivate him to assist
12:22:27 35 us to get evidence and prosecute others", that's the
12:22:32 36 plan?---Right.
12:22:32 37
12:22:33 38 And Ms Gobbo has provided the information which has led to
12:22:36 39 the arrest?---Right.
12:22:37 40
12:22:37 41 She's aware of the plan. She turns up on the night, she
12:22:41 42 provides him with some advice, he's initially given a no
12:22:46 43 comment, she provides him with some advice, the ^{PII} [REDACTED]
12:22:49 44 ^{PII} [REDACTED] is essentially then put to him by a number of
12:22:53 45 investigators and he says, "I want to speak to Ms Gobbo
12:22:56 46 again"?---Right.
12:22:56 47

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12:22:57 1 She then re-attends the station and is in a room with him
12:23:02 2 for more than an hour with one of the other detectives,
12:23:06 3 there are no notes of what goes on in that room but it's
12:23:09 4 acknowledged by her, and I'll read the next passage, that
12:23:13 5 she assists the investigators, who know her role, to push
12:23:17 6 him over the line. He then cooperates, we then get him
12:23:23 7 PII [REDACTED] in
12:23:27 8 the next PII [REDACTED] and making PII [REDACTED] statements in which
12:23:31 9 police rely on in significant prosecutions in the years to
12:23:34 10 come?---Right.
12:23:35 11
12:23:36 12 Okay. What would you expect to have happened during that
12:23:43 13 period of time? Do you expect the reports would have gone
12:23:46 14 up the line?---So the offender makes a choice, given the
12:23:53 15 advice she gives him, and he makes a choice about what he's
12:23:57 16 going to do. I assume there would have been some
12:23:59 17 encouragement, some potential, you know, reduction of
12:24:04 18 sentence, I don't know, but that seems to me to be a
12:24:07 19 reasonable potential that it would have been able to be
12:24:10 20 raised with him as to why he might want to continue to
12:24:15 21 support the investigation or help the police. Now, she
12:24:18 22 clearly has a conflict because of the first piece of it.
12:24:22 23 The police involved have to make a decision about whether
12:24:26 24 or not they're going to use him and I'm not there at the
12:24:29 25 time, they make a decision and balance the risks up.
12:24:32 26
12:24:33 27 His lawyer is an agent of the police?---Yes.
28
12:24:36 29 He doesn't know that?---No.
12:24:37 30
12:24:37 31 He's not getting independent legal advice?---No, he's not
12:24:41 32 and I understand that, and that's what I tried to say, and
12:24:44 33 he's entitled to independent legal advice but if you're in
12:24:47 34 the circumstances in the middle, I don't know where it is,
12:24:50 35 in the middle of the day or night, the fact is, unless they
12:24:54 36 actually physically restrained her from being there, she
12:25:00 37 assumes and intends from your language in the way she
12:25:04 38 behaved that she was going to pursue that no matter what.
12:25:08 39 So the police could have simply, and should have, perhaps
12:25:11 40 said, "That's it, we're not proceeding any further unless
12:25:14 41 he gets proper legal advice".
12:25:16 42
12:25:16 43 Do you perceive any responsibility on behalf of the police
12:25:19 44 for what, for that scenario that I've just taken you
12:25:22 45 through?---Of course.
12:25:22 46
12:25:23 47 Now, what ought those officers have done, what would you

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12:25:27 1 expect very senior investigators to have done in that
12:25:32 2 situation?---So they've made a judgment. They've
12:25:37 3 determined to proceed on with the matter. Other people
12:25:41 4 will have made a different judgment in different
12:25:44 5 circumstances, but I think the appropriate step would have
12:25:47 6 been they would have stopped the interview and then
12:25:50 7 proceeded to suggest he needed to find other legal
12:25:54 8 representation.
12:25:54 9
12:25:54 10 You wouldn't let her in the building, would you?---I don't
12:25:57 11 know how you - I suppose that would have been the start of
12:26:00 12 it. She didn't seem like she's - - -
12:26:03 13
12:26:03 14 You don't facilitate - - - ?--- - - - amenable to that.
12:26:06 15
12:26:06 16 You wouldn't facilitate contact?---No, I wouldn't.
12:26:10 17
12:26:10 18 You wouldn't have done that, and once you become aware
12:26:13 19 we've got these issues, would it not be discussed with your
12:26:18 20 superior officer?---I would have thought so. But you're
12:26:21 21 talking about, if you're talking about experienced police
12:26:25 22 officers who are capable and able and make decisions all
12:26:27 23 the time. You're obviously talking about the officer a
12:26:32 24 Constable of Police, which allows decisions by police
12:26:36 25 officers, they make them and they stand on them, and they
12:26:39 26 are judged in this case sometime later, or in a court
12:26:42 27 matter whenever that happens, but that's the decisions they
12:26:45 28 make.
12:26:45 29
12:26:46 30 This man has made a huge decision on this night with
12:26:55 31 Ms Gobbo acting as a police agent not getting any
12:26:59 32 independent legal advice?---Yes, that's the case obviously.
12:27:05 33
12:27:05 34 It has huge implications for the cases that follow, the
12:27:09 35 admissibility of the evidence in cases that follow.
12:27:12 36 Wouldn't you be running off to get legal advice, "Before we
12:27:15 37 use this evidence" - - - ?---Whether it's tainted or it's
12:27:20 38 not, yes, I would have been, and we had legal advisors
12:27:24 39 available to do that.
12:27:24 40
12:27:25 41 What I'm asking you is what would you expect these officers
12:27:28 42 to do in that position? Would they be raising it up the
12:27:31 43 line, where would they be raising it to?---Look I
12:27:34 44 understand what you're asking me, but I'm not in the
12:27:38 45 circumstances of those police officers to know whether
12:27:42 46 exactly they see it in the way you see it and whether they
12:27:46 47 exactly knew the implications for the future or what the

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12:27:49 1 potential implications are. Hindsight's a wonderful thing.
12:27:54 2 So in this case they're there and they make a call. Now, I
12:27:57 3 would have, have to say I'm not an investigator but it
12:28:02 4 seems to me an appropriate step would have at least been to
12:28:05 5 stop and look for legal advice and determine what were the
12:28:09 6 implications of allowing her to be there for, as a lawyer
12:28:15 7 for the person involved.
12:28:16 8
12:28:19 9 They had indicated to her, or her handlers did?---Yes.
12:28:23 10
12:28:24 11 This conflict two days before this eventuated. It was
12:28:29 12 already identified?---Yes.
12:28:30 13
12:28:30 14 It was permitted to happen. It was in fact
12:28:34 15 facilitated?---Right.
12:28:34 16
12:28:35 17 Do you see - - - ?---I do see exactly what you're telling
12:28:39 18 me and I understand that it's, you know, it's not an
12:28:42 19 appropriate thing to do because he wasn't being properly
12:28:45 20 legally advised.
12:28:46 21
12:28:47 22 One would expect this is an obvious risk which would have
12:28:50 23 been apparent from the very commencement of recruiting
12:28:53 24 someone like Ms Gobbo as a human source?---It certainly
12:28:56 25 would have and I assume when they dealt with her they were
12:29:01 26 looking for information that would have been able to assist
12:29:06 27 them, that wouldn't have been, you know, related to her
12:29:09 28 appearing for clients.
12:29:11 29
12:29:11 30 You might assume that?---Of course.
12:29:13 31
12:29:13 32 But I might take you to some material perhaps that - -
12:29:19 33 -?---Suggests otherwise.
12:29:20 34
12:29:20 35 - - - suggests otherwise?---I understand that. But the
12:29:23 36 issue about - obviously there are no laws that says
12:29:27 37 barristers aren't able to give information. Perhaps there
12:29:31 38 should be and perhaps after this process then there are
12:29:35 39 rules, court rules, there's a whole series of that
12:29:41 40 information. There's clearly a rule about not giving
12:29:44 41 information about your own clients but in terms of other
12:29:47 42 information - - -
12:29:49 43
12:29:50 44 You're quite right about that but - - -?---It was a citizen
12:29:52 45 obligation, yes.
12:29:52 46
12:29:53 47 Naturally one would - it's quite, it would be obvious,

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12:29:58 1 you've received some confidential information from your
12:30:02 2 client, that's a privilege that you hold, it's your
12:30:05 3 client's privilege, you can only divulge that information
12:30:09 4 if you've got permission from your client?---Yes, I
12:30:12 5 understand that.
12:30:12 6
12:30:13 7 Equally you're acting for a client, you might come into
12:30:16 8 possession of information in relation to that client
12:30:18 9 otherwise?---Yes.
12:30:18 10
12:30:19 11 It's not necessarily confidential or privileged?---Yes.
12:30:21 12
12:30:21 13 It's able to be told?---Yes, it can.
14
12:30:23 15 But you cannot go on to represent that client and act in
12:30:30 16 that client's best interests, that's also would be very
12:30:32 17 obvious?---That would be inappropriate, yes.
12:30:33 18
12:30:34 19 And obvious?---And obvious.
12:30:35 20
12:30:42 21 Ms Gobbo comes back from having advised [PI] and has a
12:30:46 22 bit of a conversation with her handlers that are waiting
12:30:54 23 for her and she talks about some of the things that it's
12:31:01 24 apparent that she's said and one of them is this, "And
12:31:05 25 it's, look, I gave him my word, I mean I'm not the one
12:31:09 26 facing [PI] years imprisonment, I'm not the one who's got
12:31:13 27 [PI]. I'm going to have to [PI] too and I said
12:31:13 28 to him tonight, '[PI]' when he was wavering
12:31:16 29 with, 'I don't think I can do this. Maybe I can, maybe I
12:31:20 30 can't. I don't really', and I said, 'Because of your
12:31:25 31 [PI]'." This is the independent barrister in the
12:31:28 32 room with an experienced Detective convincing, doing the
12:31:31 33 police work, pushing him over the line?---Right.
12:31:34 34
12:31:43 35 She talks about having gone into the room with [PI]
12:31:47 36 and Jim O'Brien, Dale Flynn and in front of them she says,
12:31:52 37 "I was a bit embarrassed and [PI] burst into tears,
12:32:25 38 grabbed my hand and said he didn't think he could do it, he
12:32:29 39 didn't want to put me in danger, that's really, really
12:32:34 40 hard." Mr White says to Ms Gobbo, "But the situation for
12:32:38 41 [PI] now is 3000 times better than it was yesterday".
12:32:40 42 Ms Gobbo responds, "Yeah, and he needed a bit of a push,
12:32:43 43 yeah". Now it seems, as I've indicated to you, the
12:32:48 44 failings are not simply just with the source
12:32:51 45 management?---No.
12:32:52 46
12:32:52 47 They go beyond that. Now, the Purana Task Force was a Task

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12:32:58 1 Force that had been established in 2003 in response to the
12:33:02 2 gangland murders?---I think it was earlier, yes.
12:33:07 3
12:33:08 4 And that was oversighted by Mr Overland?---Yes.
12:33:11 5
12:33:13 6 Obviously they were targeting various gangland figures
12:33:16 7 through that, from that period of time?---They were.
12:33:19 8
12:33:20 9 And it was apparent that Ms Gobbo was representing and/or
12:33:27 10 associated with many of those figures?---It appears that
12:33:30 11 way.
12:33:30 12
12:33:31 13 When were you aware of Ms Gobbo as a barrister?---I think I
12:33:36 14 saw her on television when she would accompany some of the
12:33:39 15 various offenders as their lawyer and that was really part
12:33:45 16 of it.
12:33:45 17
12:33:46 18 Do you know what period of time that might have been? Is
12:33:50 19 it Purana time, early Purana time or prior to that?---I
12:33:53 20 don't know. I just remember that I saw her on television
12:33:57 21 and I must say since then multiple times, in and out of
12:34:01 22 courts as she was walking with various people who had been
12:34:04 23 charged.
12:34:05 24
12:34:05 25 You would have known her to be associated, representing
12:34:08 26 people such as Tony Mokbel?---Yes.
12:34:10 27
12:34:10 28 And certainly she was associated with him before the Purana
12:34:15 29 Task Force with those MDID Drug Squad matters, but also
12:34:20 30 people like Carl Williams?---I certainly saw pictures of
12:34:25 31 her with Carl Williams and I'm not sure whether it was the
12:34:28 32 time or since then, but certainly I knew she appeared for
12:34:32 33 many of the high profile people who were charged.
12:34:35 34
12:34:35 35 And other people that they were associated with?---Right.
12:34:38 36
12:34:38 37 And I'm not sure how broad your knowledge was of the other
12:34:42 38 players. They're sort of two of the big names. Were you
12:34:46 39 aware of the other players within the underworld?---No.
12:34:50 40
12:34:51 41 The evidence of a number of witnesses we've heard indicate
12:34:54 42 that she came under suspicion for her association in
12:34:59 43 relation to those figures going beyond the professional
12:35:04 44 boundaries?---H'mm.
12:35:05 45
12:35:07 46 Did you have any awareness of that, of her being suspected
12:35:13 47 of - - - ?---Look I think there was probably gossip about,

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12:35:18 1 about her behaviour, about who she was appearing for. I
12:35:22 2 don't remember much more than that, I think that was
12:35:24 3 probably in the media more than anything else but, you
12:35:28 4 know, I don't know in detail anything else.
12:35:31 5
12:35:31 6 All right. Now in about September 2005 there was a bit of
12:35:40 7 a change within the Purana focus. Do you recall that
12:35:44 8 happening, that at around that time there's a move to, what
12:35:49 9 we know as maybe the second phase of Purana, where we've
12:35:55 10 got a number of the gangland killers or suspected gangland
12:35:59 11 killers at least, either deceased or in custody?---Yes.
12:36:02 12
12:36:03 13 And we've moved on to the underlying causes of it all and
12:36:07 14 we're now going to focus on the drug - - - ?---The
12:36:13 15 amphetamines and others. I think there's a series of
12:36:16 16 things that happened within the police itself. I mean the
12:36:18 17 2003 kind of start of - so Purana did in fact operate as a
12:36:24 18 lesser staffed, you know with less profile and until 2003
12:36:31 19 when the murder of Moran and Barbaro and I - - -
12:36:35 20
12:36:36 21 It came into public consciousness with that murder in about
12:36:40 22 June of 2003?---Not just public consciousness. Up until
12:36:44 23 that point I have to say I'd kind of stayed out of the
12:36:49 24 issues and I just had been the one often having to explain
12:36:52 25 how come we still weren't making any great progress, and so
12:36:55 26 I certainly became involved in that point about resourcing.
12:37:00 27 So on the Monday after those murders I called everybody in,
12:37:04 28 Simon Overland, the head of the Task Force, Deputy
12:37:09 29 Commissioners, everybody else, and said, "That's it, we
12:37:10 30 need to do better than this". So that was really the point
12:37:16 31 where we then started to put many, many more resources,
12:37:18 32 much more capacity, and went to the Government as well
12:37:19 33 looking for much more powers to be able to deal with the
12:37:22 34 underworld murders.
12:37:22 34
12:37:22 35
12:37:23 36 Yes?---That really was that 2003 to 5. The other thing
12:37:26 37 that happened during that time was the major crim
12:37:30 38 investigation systems were to be - investigate to add it in
12:37:35 39 as well to be able to look to see how we went about
12:37:38 40 managing organised crime and again, you know, we put a lot
12:37:41 41 of resources and a lot of people into looking at how did
12:37:45 42 you do that, so that we even got to the stage, in a sense,
12:37:50 43 when I came to Victoria Police where they were just behind
12:37:53 44 the 8 ball always and we could stop that happening in the
12:37:56 45 future. So the phase then, Purana was really just, well
12:37:58 46 not just, in a sense a turn and a focus but it was
12:38:02 47 underpinned by a significant amount of resourcing capacity

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12:38:06 1 to be able to do the work they were doing.
12:38:08 2
12:38:09 3 And I think we've heard evidence that initially there was a
12:38:15 4 crew led by Mr Swindells?---Phil, yes.
12:38:18 5
12:38:19 6 And he was joined by Mr Ryan and another crew joined later
12:38:24 7 in 2003?---There just wasn't that only though. There was
12:38:29 8 also discussions with the DPP about plea bargaining and
12:38:34 9 about using that kind of tool to be able to get to the
12:38:38 10 substance of the matter. I was asking Government for a
12:38:43 11 Crime Commission so that we could use coercive questioning,
12:38:48 12 use the Australian Crime Commission. So all of those
12:38:50 13 things were coming into play at that point to support our
12:38:53 14 work in this regard.
12:38:55 15
12:38:56 16 We then at the end of that year, there's another
12:39:00 17 significant murder, that of ^{PII} [REDACTED], and the
12:39:06 18 resources that were in play at that time meant that that
12:39:10 19 was [REDACTED] on a [REDACTED] and ^{PII} [REDACTED] people
12:39:16 20 responsible for that were arrested?---They were.
12:39:19 21
12:39:19 22 Very shortly after?---I think that's an indication, that
12:39:22 23 seemed to me certainly my indication of where we had got to
12:39:24 24 in these matters, that we'd finally looked like we were at
12:39:30 25 least if not on top of it as it happened, at least knowing
12:39:34 26 it occurring. And that seemed to me we'd finally managed
12:39:39 27 to make the turn in regard to this piece of our problems.
12:39:42 28
12:39:42 29 Just as an aside, Ms Gobbo advised ^{PII} [REDACTED]
12:39:47 30 shortly after their arrest, and I think went on in relation
12:39:53 31 to the ^{PII} [REDACTED] who went on to become a Crown
12:39:59 32 witness, to be advising him through that process, including
12:40:04 33 his statement process?---Right.
12:40:07 34
12:40:10 35 Yes. There were some further arrests, just further to fill
12:40:15 36 you in. As a result of that particular witness, that
12:40:20 37 particular offender becoming a witness, there were other
12:40:24 38 arrests, including Carl Williams?---Yes.
12:40:28 39
12:40:28 40 For involvement in a number of murders on the basis of that
12:40:31 41 evidence?---Right.
12:40:32 42
12:40:32 43 And there was another arrest by the ^{PII} [REDACTED]
12:40:38 44 ^{PII} [REDACTED], we'll say, so if we say ^{PII} [REDACTED] is the
12:40:43 45 first person that rolled?---Right.
12:40:45 46
12:40:45 47 The person arrested with him was ^{PII} [REDACTED]

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12:40:51 1 And then you understand that there was another [REDACTED]
12:40:54 2 [REDACTED] who eventually rolled in 2006. Do you
12:41:01 3 know who I'm talking about there?---Vaguely, yes.
12:41:04 4
12:41:04 5 He was arrested as a result of [REDACTED]'s
12:41:09 6 - - -
12:41:09 7
12:41:09 8 COMMISSIONER: Perhaps if we give - - -
12:41:11 9
12:41:12 10 MS TITTENSOR: Yes.
12:41:12 11
12:41:13 12 COMMISSIONER: - - - the witness Exhibit 81. Perhaps I
12:41:19 13 think we should really tell her who we're talking about,
12:41:23 14 it's a bit cryptic.
12:41:26 15
12:41:26 16 MS ENBOM: Commissioner, I'm also concerned about bio data
12:41:30 17 because we've identified the murder using the name [REDACTED]
12:41:33 18 [REDACTED] I think the question was put to Ms Nixon that he
12:41:36 19 was murdered, [REDACTED] were arrested and then [REDACTED]
12:41:40 20 [REDACTED] cooperated.
12:41:43 21
12:41:43 22 COMMISSIONER: What's the application, to have something
12:41:45 23 removed?
12:41:46 24
12:41:47 25 MS ENBOM: Yes, I think we should remove - - -
12:41:50 26
12:41:50 27 MS TITTENSOR: I might just say Mr Winneke has been through
12:41:53 28 this material in the last number of days with Mr Overland
12:41:57 29 in the manner in which I'm dealing with it now.
12:42:00 30
12:42:00 31 MS ENBOM: If that's so and no objection was taken then I
12:42:03 32 don't press the objection.
12:42:03 33
12:42:03 34 COMMISSIONER: He may not have actually mentioned the names
12:42:08 35 of the victims, I'm not sure about that. I don't think it
12:42:11 36 was.
12:42:11 37
12:42:11 38 MS ENBOM: If we removed [REDACTED] the date is not
12:42:15 39 referred to.
12:42:15 40
12:42:16 41 COMMISSIONER: Yes, it's at 11622 line 19, if we just took
12:42:22 42 out the name there.
12:42:23 43
12:42:24 44 MS ENBOM: Yes.
12:42:24 45
12:42:24 46 COMMISSIONER: And thereafter it was mentioned in argument
12:42:28 47 also. If we just redact that and just say that of a person

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12:42:36 1 instead.
12:42:36 2
12:42:37 3 MS TITTENSOR: Thanks Commissioner, if may well be though,
12:42:40 4 I might say, that those names were raised in the course of
12:42:44 5 Mr Overland's evidence.
12:42:46 6
12:42:46 7 COMMISSIONER: Just in case.
12:42:47 8
12:42:47 9 MS TITTENSOR: It will suffice for now.
12:42:49 10
12:42:49 11 COMMISSIONER: Just in case.
12 12
13 MS TITTENSOR: Thank you Commissioner.
14
12:42:50 15 COMMISSIONER: I think the witness has now been given the
12:42:52 16 actual names of the ^{PII} people that you're referring
12:42:55 17 to?---I do, thank you.
12:42:56 18
12:42:57 19 MS TITTENSOR: If I can take you to number 33 on that
12:43:02 20 list?---Yes.
12:43:03 21
12:43:03 22 Sorry, you've got the flash card, all right.
12:43:07 23
12:43:08 24 COMMISSIONER: The witness can also have Exhibit 81.
12:43:20 25 Number 33 on that list is the person that - - -
12:43:23 26
12:43:23 27 MS TITTENSOR: I might just say, Commissioner, at p.11362
12:43:30 28 of the transcript these names were mentioned in the course
12:43:32 29 of Mr Overland's evidence.
12:43:34 30
12:43:34 31 COMMISSIONER: Yes.
12:43:35 32
12:43:35 33 MS TITTENSOR: In any case we'll move on. As a result of
12:43:40 34 making statements, and ^{PII}
12:43:48 35 and ^{PII} were arrested and
12:43:52 36 charged with murder. Ms Gobbo then commenced acting for
12:44:00 37 ^{PII} and advising him?---Right.
12:44:04 38
12:44:04 39 Now, I take it you would see a problem in relation to
12:44:08 40 that?---I would.
12:44:09 41
12:44:13 42 In any case I've gone off topic a little bit. By September
12:44:18 43 2005 there was a bit of a change of focus occurring at
12:44:24 44 Purana and I take it you would have been aware of that at
12:44:27 45 the time?---Yes.
12:44:28 46
12:44:28 47 That we're now, we've got a lot of these people in custody,

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12:44:33 1 or a lot of these people have been killed
12:44:36 2 themselves?---Yes.
12:44:36 3
12:44:36 4 And we're now going to make a real effort to get to the
12:44:42 5 underlying root cause of why this all happened in the first
12:44:45 6 place?---Yes.
12:44:46 7
12:44:46 8 And that's amphetamines?---Yes, it is.
12:44:47 9
12:44:48 10 And so this plan was developed in relation to in particular
12:44:52 11 the Mokbel cartel?---(Witness nods.)
12:44:55 12
12:44:56 13 How closely would you have been briefed about that, about
12:45:01 14 this change within Purana - - - ?---So I would have been
12:45:06 15 briefed there was to be a broader strategic direction. It
12:45:09 16 made sense to look to see at the source of the problem, for
12:45:14 17 want of a better description, and the money involved so I
12:45:17 18 would have been briefed at that level.
12:45:20 19
12:45:20 20 At around that time Jim O'Brien, who had headed up the
12:45:27 21 MDID, was brought across to be the officer-in-charge at
12:45:32 22 Purana. Would you have been aware of that?---Yes.
12:45:35 23
12:45:40 24 Also at that very time it seems Ms Gobbo was recruited and
12:45:46 25 provided a major plank in the new plan which was Operation
12:45:53 26 Posse. Were you aware of this operation called Operation
12:45:58 27 Posse which was being run?---I can recall the name of it
12:46:02 28 but that's all.
12:46:03 29
12:46:03 30 Would you have understood generally what it was all
12:46:06 31 about?---I would have at the time but I - it's a long time.
12:46:09 32 I don't know. We had a lot of operational names, we had,
12:46:13 33 you know and they would often, you know, explain to me,
12:46:17 34 "This operation was going this way or it had not come to
12:46:21 35 fruition", whatever the circumstances might have been, but
12:46:24 36 not much more than, "We were working on these five or six
12:46:28 37 main targets or main operations".
12:46:31 38
12:46:33 39 It seems as though there were some arrests by the MDID in
12:46:37 40 about mid-August. Ms Gobbo came to - and that was in
12:46:43 41 another operation called Operation Quills?---Right.
12:46:45 42
12:46:46 43 Ms Gobbo came to represent, well I'll say one at this point
12:46:52 44 in time but it was more than one in fact, but one of the
12:46:56 45 men that was arrested and had concerns that there might be
12:47:00 46 some sort of conflict because of her representation of Tony
12:47:04 47 Mokbel?---Others, right.

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12:47:05 1
12:47:06 2 And that she couldn't provide this man the best advice
12:47:11 3 because she obviously had obligations in relation to the
12:47:15 4 representation of Tony Mokbel?---Right.
12:47:17 5
12:47:17 6 This led to her concerns apparently being raised with some
12:47:21 7 of the detectives and ultimately it was decided that
12:47:26 8 perhaps she might be recruited as a human source and so it
12:47:29 9 went on?---Right.
12:47:30 10
12:47:32 11 Now, initially there's plans or she's seen as an
12:47:35 12 opportunity to use her information for Operation Quills and
12:47:44 13 that was a drug operation that was also targeting Tony
12:47:49 14 Mokbel. That developed into this larger Operation
12:47:54 15 Posse?---Right.
12:47:55 16
12:47:55 17 And it seems as though a number of operations targeting
12:48:00 18 Mr Mokbel were subsumed into this Operation Posse?---Right.
12:48:05 19
12:48:05 20 There was some targeting of Mokbel already in Purana, there
12:48:09 21 was targeting obviously in MDID and it was all subsumed
12:48:13 22 into this one operation within Purana?---Right.
12:48:17 23
12:48:18 24 And there was some MDID crews then brought in, so there was
12:48:22 25 some major resourcing going on?---Right.
12:48:24 26
12:48:25 27 Bringing some crews in from MDID?---Right.
12:48:28 28
12:48:28 29 And presumably you would have been aware of some movement
12:48:31 30 in that regard at that time?---Well just in terms of the
12:48:34 31 capacity, they might have told me about they were looking
12:48:37 32 to ramp up capacity to be able to target the target.
12:48:45 33
12:48:46 34 The investigation plan for Operation Posse which was
12:48:51 35 developed by the investigators in conjunction or with the
12:48:55 36 SDU?---Yes.
12:48:56 37
12:48:56 38 It seems was to bring down Mr Mokbel and his associates and
12:49:02 39 the cartel?---Right.
12:49:04 40
12:49:07 41 In doing so it also involved targeting a number of other
12:49:13 42 people, one being [REDACTED] who I've already told you
12:49:16 43 about. Now there's another one who we're referring to as
12:49:20 44 Mr Bickley. Mr Bickley was the person that was arrested
12:49:23 45 initially in Operation Quills who Ms Gobbo
12:49:27 46 represented?---Right. [REDACTED]
12:49:29 47

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12:49:29 1 And led to her recruitment.
12:49:32 2
12:49:33 3 COMMISSIONER: [REDACTED]
12:49:34 4
12:49:34 5 MS TITTENSOR: You may or may not know that name?--No, I
12:49:37 6 don't.
12:49:38 7
12:49:39 8 Mr Bickley was arrested in the course of Operation Quills.
12:49:43 9 Ms Gobbo comes to represent him. That's how she comes
12:49:47 10 essentially to become an informer, because of her concerns
12:49:51 11 with conflict?--Right.
12:49:52 12
12:49:55 13 So the plan for Operation Posse, bring down Mokbel and his
12:49:59 14 associates and we want to completely dismantle this cartel,
12:50:02 15 we want to go after - not just criminally, we want
12:50:06 16 finances, we want everything, we want to stop them
12:50:09 17 completely?--I'm certainly aware that was the big picture
12:50:13 18 plan, to try and take down and out as part of the process,
12:50:17 19 yes.
12:50:17 20
12:50:17 21 Two of the major planks in that were to use [REDACTED], who
12:50:22 22 Ms Gobbo was representing, and Mr Bickley. Now [REDACTED]
12:50:28 23 was already, he had a plea date set for [REDACTED]
12:50:34 24 [REDACTED] coming up. Mr Bickley had
12:50:38 25 obviously been charged as a result of the Quills operation
12:50:44 26 and the plan was, "Let's catch them at it again and provide
12:50:50 27 them with the motivation that they need to decide to assist
12:50:54 28 us in our endeavours". It turns out that that's exactly
12:50:59 29 what happened?--Right.
12:51:00 30
12:51:01 31 And Ms Gobbo provided information in pursuit of that
12:51:07 32 plan?--Right.
12:51:07 33
12:51:10 34 So what we have is a situation where she's a barrister,
12:51:16 35 practising in defence work, she's known to represent people
12:51:19 36 associated with the underworld, specifically known to
12:51:25 37 represent Tony Mokbel?--Yes.
12:51:26 38
12:51:26 39 And you would have - - - ?--I'd seen her with him.
12:51:30 40
12:51:30 41 Yes. Any Detective, especially a Detective within Purana,
12:51:35 42 would have known that, or within the MDID would have known
12:51:39 43 that?--Yes.
12:51:39 44
12:51:40 45 Ms Gobbo represents Tony Mokbel?--Yes.
12:51:42 46
12:51:42 47 Ms Gobbo is likely to be representing many of Tony Mokbel's

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12:51:46 1 associates?---Right.
12:51:47 2
12:51:47 3 That would be obvious, an obvious scenario?---Yes.
12:51:51 4
12:51:54 5 So Ms Gobbo presented herself to police as a potential
12:51:58 6 obvious source of information. She obviously had
12:52:01 7 information which the police very much would like to have.
12:52:06 8 The police go on to register her as a human source and she
12:52:10 9 provides them with that information and she provides that
12:52:15 10 information in the early days, they come up with this plan
12:52:17 11 and obviously it's executed. She continues throughout that
12:52:24 12 time to represent Mr Mokbel. She continues throughout that
12:52:28 13 time to represent PII. It's apparent that she's also
12:52:35 14 advising Mr Bickley and essentially once he comes to be
12:52:40 15 arrested she also advises him?---Right.
12:52:44 16
12:52:46 17 Following the arrests of people after that, so PII
12:52:52 18 PII, makes statements, she then advises
12:52:56 19 people down the line as well. So the failings are not
12:53:03 20 simply with the handling management of Ms Gobbo by the
12:53:09 21 Source Development Unit, you see the failings are broader
12:53:14 22 than that within Victoria Police. Do you accept that?---I
12:53:17 23 think you're in an extraordinary circumstance here with an
12:53:22 24 extraordinary individual who comes to the police to become
12:53:28 25 a human source. They obviously think about her, make
12:53:32 26 decisions about whether or not they're going to use her or
12:53:35 27 not and, you know, they have made some decisions which I
12:53:41 28 assume they thought about at the time, they knew who she
12:53:44 29 was, they would have taken into account the risks involved
12:53:47 30 and proceeded on.
12:53:51 31
12:53:52 32 Do you accept that there were failings by Victoria
12:53:56 33 Police?---In terms of using someone who was representing
12:54:00 34 someone, a client, that's clearly entirely inappropriate.
12:54:05 35
12:54:06 36 There was nothing done to prevent Ms Gobbo from
12:54:09 37 representing people she was known to be informing about,
12:54:14 38 there was nothing done?---Right. I take your word for
12:54:19 39 that, I don't know - - -
12:54:19 40
12:54:22 41 MR CHETTLE: I know I shouldn't object but that's just not
12:54:21 42 a proper statement.
12:54:23 43
12:54:24 44 COMMISSIONER: Could you rephrase?
12:54:25 45
12:54:26 46 MS TITTENSOR: I will. In terms of, I accept she was given
12:54:29 47 some discouragement by members of the Source Development

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12:54:33 1 Unit, but in terms of preventing by the investigators,
12:54:38 2 preventing her from representing people?---Right.
12:54:42 3
12:54:42 4 There was nothing done?---I take your word for that. I
12:54:45 5 don't know.
12:54:46 6
12:54:51 7 There was, it seems, everything done to try and prevent
12:54:55 8 disclosure of material which would have revealed what the
12:55:01 9 situation was, which would have revealed evidence upon
12:55:04 10 which people down the track could have challenged matters
12:55:07 11 in their trial?---I don't, I mean I assume you've taken
12:55:12 12 that from your view of the evidence. I don't have any kind
12:55:18 13 of capacity to agree or not with whether that's the case.
12:55:22 14
12:55:23 15 If that was the case, do you have any reflections of that
12:55:27 16 in terms of the conduct of police involved?---Obviously it
12:55:32 17 depends on the circumstances. I would think they'd have to
12:55:37 18 think very carefully about what information was used in the
12:55:42 19 prosecution of individuals and where that information came
12:55:46 20 from.
12:55:48 21
12:55:49 22 At the very least do you think that there might have been
12:55:52 23 cause to get legal advice at some point in time?---My
12:55:56 24 thinking is they would have had to get legal advice in
12:55:58 25 terms of putting the case together that then was to be
12:56:02 26 prosecuted by the Director of Public Prosecutions.
12:56:03 27
12:56:04 28 There would need to have been disclosure of this issue to
12:56:07 29 at least a lawyer to get legal advice?---There were lawyers
12:56:11 30 involved in Victoria Police and I don't know whether they
12:56:14 31 went to them or not. If you're telling me they didn't,
12:56:17 32 then I would have thought they should have.
12:56:19 33
12:56:20 34 They didn't?---Right.
12:56:20 35
12:56:21 36 There was no disclosure it seems to the DPP or the OPP in
12:56:25 37 relation to Ms Gobbo's status?---Right.
12:56:29 38
12:56:33 39 Obviously I take it you've got no awareness that any of
12:56:38 40 this was going on?---No. I didn't know the decision making
12:56:43 41 they're doing within the investigations. I have a trust
12:56:46 42 and a belief that the people making the investigations are
12:56:51 43 some of the best investigators Victoria Police has. They
12:56:53 44 are wise and they are thoughtful. They obviously had to
12:56:56 45 think through why they did what they did, they obviously
12:57:00 46 have to account to this forum as to why they did it as
12:57:05 47 well.

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12:57:05 1
12:57:06 2 Such a situation, the recruitment of Ms Gobbo carried those
12:57:10 3 obvious risks at the very beginning. The people that she
12:57:13 4 was representing, the information that they were seeking
12:57:18 5 from her, there were very obvious risks associated with
12:57:23 6 that?---There clearly were and my view would have been that
12:57:28 7 they will have thought through those risks. They're quite
12:57:32 8 obvious risks and how they thought they might mitigate.
12:57:36 9 I'm aware of some of the statements that have been made in
12:57:40 10 this forum and people have suggested that in some cases
12:57:44 11 they passed information on, in others that they didn't
12:57:49 12 where they thought it might have been compromised by that
12:57:52 13 situation. But you're in a situation that is a very
12:57:55 14 difficult one to deal with.
12:57:57 15
12:57:57 16 The consequences of the risk eventuating were potentially
12:58:03 17 catastrophic for the organisation?---Yes.
12:58:06 18
12:58:07 19 Do you expect in those circumstances, when people superior
12:58:12 20 in the organisation became aware of those risks, that they
12:58:15 21 would have elevated them to you?---Well, you'd think that
12:58:20 22 might have been the case but they obviously believed they
12:58:23 23 were handling them, that they were able to manage the risk
12:58:27 24 and that they were going about their work in a legal,
12:58:31 25 decent fashion. They've obviously made a decision not to
12:58:35 26 tell me.
12:58:35 27
12:58:36 28 And why do you think that that was?---I don't know. It
12:58:39 29 can't be because they didn't think that I couldn't handle
12:58:44 30 bad news, because I'd been handling that the whole time I
12:58:48 31 was in Victoria Police. They were obviously of the view
12:58:50 32 they were going to proceed on, they thought through the
12:58:53 33 consequences of it, and they don't need to tell me.
12:58:55 34
12:58:58 35 Now I might just take you to a, it seems as though that in
12:59:06 36 about August of 2006 you were, along with other senior
12:59:12 37 members, given a PowerPoint presentation of what Posse had
12:59:17 38 achieved. And I think that that PowerPoint presentation
12:59:24 39 was given to you and others in command, but then also taken
12:59:29 40 down to see Premier Bracks and provide it to him. Can you
12:59:36 41 recall that?---I don't recall the presentation to Premier
12:59:41 42 Bracks. I do remember Premier Bracks coming to the Crime
12:59:46 43 Department and meeting the people there. I don't remember
12:59:51 44 much more about what kind of briefing was given.
12:59:54 45
12:59:55 46 Perhaps if we can bring up the PowerPoint presentation. I
12:59:58 47 think it needs to be on limited screens at this stage

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13:00:00 1 because there are some names, so just perhaps on the
13:00:05 2 witness's screen, the Commissioner's screen and mine. You
13:00:14 3 may or may not recall this presentation. It's, according
13:00:19 4 to Mr O'Brien's diaries, something which, and according to
13:00:24 5 this document you'll see on the first slide there?--Yes.
13:00:27 6
13:00:27 7 That was done by him. It seems he's consulted with Sandy
13:00:32 8 White in the making of it. Sandy White was also present
13:00:37 9 during the presentation. Now this was something, according
13:00:41 10 to Mr O'Brien's diary, a presentation given to yourself,
13:00:44 11 Mr Overland, Carter, Blayney, Biggin, Whitmore, Hollowood,
13:00:53 12 Linnell, Koo, Grant and Allen?---I have no reason to not
13:00:56 13 believe you. It looks, I can't remember seeing it, but
13:00:58 14 certainly some of the data in it, you know, telephone
13:01:03 15 intercepts, for instance, I remember having seen that
13:01:04 16 information.
13:01:04 17
13:01:05 18 Yes. Now according to his diary there's also this
13:01:09 19 presentation to Premier Bracks later that month, 29 August
13:01:13 20 2006 with yourself, Mr Overland, Mr O'Brien going
13:01:19 21 down?---Right.
13:01:19 22
13:01:19 23 To Treasury Place?---Right. That wouldn't surprise me and
13:01:23 24 I think part of that was, you know, now that I've seen it
13:01:29 25 and know what it was, it didn't take place down at St Kilda
13:01:32 26 Road.
13:01:32 27
13:01:32 28 No, I think you went to Treasury Place from memory?---We
13:01:36 29 did. And that was part of a series of proposals we had
13:01:40 30 with the Premier about the powers and capacities of
13:01:43 31 Victoria Police.
13:01:43 32
13:01:46 33 You see broadly the briefing topics are listed there on the
13:01:51 34 second slide. If we scroll through the document, by the
13:01:59 35 third page we start seeing a bit of the background of
13:02:07 36 Purana?---Yes.
13:02:07 37
13:02:07 38 The various homicides that have occurred and their motives
13:02:12 39 and whether the offenders have been identified or
13:02:15 40 not?---Yes.
13:02:16 41
13:02:17 42 If we can move forward to p.6. This then indicates some
13:02:24 43 milestones and you'll see there on the left-hand side of
13:02:27 44 the screen references to the various players who by this
13:02:33 45 stage had become Crown witnesses, including in order,
13:02:38 46 [REDACTED] on the left-hand side
13:02:41 47 and you'll see over on the right there are a number of

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13:02:45 1 others identified, including [REDACTED] ?---Yes.
13:02:48 2
13:02:49 3 And I think the one on the top we're referring to as [REDACTED]
13:02:53 4 [REDACTED] ?---No, I understand.
13:02:54 5
13:02:56 6 We then move on, on p.7, to Operation Posse. It gives you,
13:03:06 7 as you see there, the origins of Posse and how that came
13:03:10 8 about and the various MDID operations and those essentially
13:03:15 9 all being subsumed into the Purana Operation
13:03:20 10 Posse?---Right.
13:03:20 11
13:03:21 12 With Terms of Reference signed in November 2005. And those
13:03:30 13 matters, the investigation philosophy, I take it, is
13:03:42 14 something that you can recall?---Yes.
13:03:45 15
13:03:45 16 And down the bottom there we start with some information in
13:03:51 17 relation to [REDACTED] ?---Right.
13:03:53 18
13:03:54 19 And we move on. If we can move on. And you see there the
13:04:09 20 second target, [REDACTED], is over the next page?---Yes.
13:04:14 21
13:04:16 22 Do you see the strategy as I've indicated to you down the
13:04:21 23 bottom was to target?---Yes.
13:04:23 24
13:04:24 25 Those people amongst a couple of others identified with a
13:04:26 26 view to enlisting their cooperation?---Yes.
13:04:29 27
13:04:32 28 If we can move to the next page. There's reference on this
13:04:38 29 page in the middle, to the right, to how the investigation
13:04:45 30 was being conducted and it includes the reference to the
13:04:50 31 use of human sources?---Yes.
13:04:55 32
13:04:55 33 Do you see that?---Yes, of course.
13:04:57 34
13:04:59 35 And if we can continue on through that document. It gives
13:05:07 36 an overview of what's happened to that date in terms of
13:05:11 37 intelligence that's been supplied by, and leading to the
13:05:15 38 arrest of [REDACTED] you see in small print there, and then
13:05:21 39 in the middle section it talks about, it talks about
13:05:25 40 [REDACTED] rolled. "QC legal opinion sought to hold in
13:05:30 41 custody without charge", and so on. And I might say he was
13:05:36 42 arrested with another person that night who's named in that
13:05:40 43 sentence there?---Yes.
13:05:42 44
13:05:42 45 Who was also represented throughout to plea by
13:05:46 46 Ms Gobbo?---Right.
13:05:47 47

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13:05:56 1 Now if we get to pp.16 to 17. We start to see some
13:06:04 2 information in relation to the Mokbels and what the
13:06:06 3 situation was at this point with them. Obviously Tony
13:06:11 4 Mokbel I think had absconded but they were taking other
13:06:15 5 steps in relation to property and so forth?---Yes, they
13:06:17 6 were.
13:06:18 7
13:06:25 8 And I think that that's mentioned - sorry, withdraw that.
13:06:33 9 There's similarly information in relation to other members
13:06:37 10 of the Mokbel family following that and if we can move up
13:06:40 11 to the next screen. There's then, by the bottom of the
13:06:49 12 next screen, an indication of other operations that were
13:06:54 13 being conducted within Purana that related and at that
13:07:00 14 stage that included something that was known as Operation
13:07:05 15 Clonk, which was an investigation into the murder of
13:07:09 16 Chartres-Abbott. Is that something you were aware of at
13:07:13 17 that stage or - - - ?---I didn't know about the Clonk but I
13:07:19 18 certainly knew there was an investigation into the murder
13:07:22 19 of Chartres-Abbott.
13:07:23 20
13:07:23 21 You became more aware?---Yes, I did.
13:07:28 22
13:07:28 23 Once there'd been a potential link identified with
13:07:31 24 police?---That's right. That's exactly right.
13:07:32 25
13:07:32 26 And it became Briars?---Yes.
13:07:34 27
13:07:34 28 If we go to the final page, p.19. This document identifies
13:07:43 29 as a threat, presumably a threat to a successful, success
13:07:53 30 for Posse or Purana, being the judicial process and public
13:07:58 31 interest immunity issues. Now, do you have any idea or
13:08:03 32 recollection as to why judicial process was seen as a
13:08:07 33 threat?---No. I mean, you know, I can hazard a guess, in
13:08:20 34 terms of delay or those sorts of matters, that might have
13:08:24 35 been why it was considered.
13:08:26 36
13:08:27 37 I take it you would accept that judicial process and public
13:08:31 38 interest immunity issues are vital to the running of the -
13:08:34 39 - - ?---They are of the criminal justice process, of
13:08:38 40 course.
13:08:38 41
13:08:40 42 At around this time, or in July of 2006, so in the month or
13:08:47 43 so before this period of time, ^{PII} [REDACTED]
13:08:50 44 had signed his statements. He was becoming a witness
13:08:55 45 himself against Carl Williams. Milad Mokbel had been
13:09:01 46 arrested on the basis of ^{PII} [REDACTED]'s evidence. He was
13:09:05 47 potentially making a bail application and seeking naturally

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13:09:11 1 information about how he came to be arrested?---Right.
13:09:15 2
13:09:15 3 The types of issues that might be bound up in public
13:09:20 4 interest immunity. And there were significant, Ms Gobbo,
13:09:25 5 although she was representing [REDACTED] had
13:09:30 6 also provided information against him and been not
13:09:33 7 necessarily acting in his interests through that process
13:09:37 8 either. There were significant matters that might have
13:09:40 9 been discovered in that process had it worked
13:09:45 10 correctly?---Right.

13:09:45 11
13:09:45 12 So you can understand why police going to Government
13:09:49 13 saying, "We're threatened by these processes" is
13:09:52 14 significant?---Yes, it is. Whether the Government took any
13:09:59 15 notice is a whole other issue.

13:10:01 16
13:10:01 17 It is, it is. But the Government of the day does tend to
13:10:04 18 take notice, at least, of issues that are being raised by
13:10:10 19 Victoria Police?---They do.

13:10:12 20
13:10:15 21 And of course under the "opportunities" banner we see
13:10:19 22 included there, "Because of essentially the good work that
13:10:23 23 we've done we've now had the opportunity to increase
13:10:27 24 community, Government and judiciary confidence in Victoria
13:10:32 25 Police"?---I think that's right.

13:10:40 26
13:10:41 27 In relation to those milestones that we went through back
13:10:48 28 on p.6 of this document, each of those [REDACTED] had
13:10:51 29 been represented by Ms Gobbo?---Right.

13:10:53 30
13:10:53 31 And in relation to [REDACTED], she'd also been a
13:10:58 32 police agent effectively at the time that she was
13:11:00 33 representing them?---Right.

13:11:02 34
13:11:06 35 Specifically in relation to [REDACTED], [REDACTED]
13:11:10 36 [REDACTED] he'd, as I just indicated to you, made a
13:11:19 37 statement or a number of statements in relation to Carl
13:11:22 38 Williams. Police had reservations about his truthfulness
13:11:27 39 when he initially began talking to them. And Ms Gobbo was
13:11:33 40 provided with copies of transcripts of meetings between the
13:11:38 41 Purana investigators, Mr O'Brien and Mr Bateson and
13:11:42 42 [REDACTED] and she was provided with those
13:11:47 43 transcripts through the intermediary of the Source
13:11:51 44 Development Unit?---Right.

13:11:51 45
13:11:54 46 It doesn't appear to have been known and certainly wouldn't
13:11:58 47 have been known to the instructing solicitor, nor to

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13:12:02 1 [REDACTED] [REDACTED] goes on
13:12:07 2 to give evidence against Faruk Orman, you'd be familiar
13:12:11 3 with that name?---(Witness nods).
13:12:12 4
13:12:13 5 Who Ms Gobbo also then represents?---Right.
13:12:16 6
13:12:19 7 And you're aware that Mr Orman's had his conviction
13:12:21 8 overturned by the Court of Appeal?---I am.
13:12:25 9
13:12:25 10 Earlier this year?---Yes, I am and I've read that judgment.
13:12:29 11
13:12:30 12 Now I've taken you through essentially the issues in
13:12:34 13 relation to [REDACTED] already?---Yes.
13:12:37 14
13:12:37 15 There are significant issues in relation to the judicial
13:12:40 16 process and public interest immunity that are all going on
13:12:43 17 through this process?---At the same time.
13:12:45 18
13:12:48 19 Again, in relation to [REDACTED], the other target, the
13:12:57 20 same thing essentially happened as happened with [REDACTED]
13:13:02 21 She represented him, she informed on him, she was in fact
13:13:07 22 involved in passing a phone between [REDACTED] to [REDACTED]
13:13:11 23 in the course of her informing?---Right.
13:13:15 24
13:13:16 25 She provided police in the lead up to his arrest with
13:13:19 26 arrest tips, what might work on him when he's arrested.
13:13:23 27 She discussed with them the fact that he would be seeking
13:13:26 28 her advice or he would be likely to seek her advice upon
13:13:30 29 arrest. That in fact happened and that was all permitted.
13:13:35 30 And he agreed to assist police?---Right.
13:13:38 31
13:13:40 32 Now, according to Mr Overland's evidence in the last few
13:13:49 33 days to the Commission - have you been listening to that
13:13:51 34 evidence?---I've seen some of it on television and I saw a
13:13:56 35 short summary of some of it.
13:13:57 36
13:13:59 37 According to his evidence in the last number of days he's
13:14:02 38 made a number of comments and statements. He says he was
13:14:07 39 surprised and concerned that a barrister was registered as
13:14:09 40 a human source. I take it you would share that?---Of
13:14:14 41 course, and I've said that throughout the day.
13:14:16 42
13:14:18 43 It seems as though he became aware of her potential use and
13:14:24 44 her actual use prior to her being registered and the fact
13:14:27 45 that she'd been registered very shortly after that had
13:14:30 46 occurred?---Right.
13:14:31 47

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13:14:32 1 I take it that was never raised up to you?---No.
13:14:34 2
13:14:35 3 He said he understood Ms Gobbo to be informing on Mokbel.
13:14:42 4 He viewed Ms Gobbo to have no other viable option than to
13:14:47 5 become a human source because Tony Mokbel would kill her if
13:14:50 6 she stopped acting for him?---I think that might be true.
13:14:55 7
13:14:55 8 He was well aware - well, you think it might be true but
13:14:59 9 what - - - ?---What I mean by if she was to be found out to
13:15:03 10 be a human source then I think she was at grave risk.
13:15:06 11
13:15:06 12 No, what was being put to Mr Overland was, well if she
13:15:11 13 wanted to get away for acting for the Mokbels, if that was
13:15:15 14 her intent?---Right.
15
13:15:17 16 She had other options than to become a human source. She
13:15:21 17 could have gone overseas for six months, she had previously
13:15:25 18 had a stroke, she could have begged off with health issues,
13:15:28 19 she could have changed her area of practice, she could have
13:15:31 20 done any number of things other than become a human source
13:15:35 21 which was, as I understand Mr Winneke was putting, would
13:15:39 22 increase her level of risk many times over one would
13:15:45 23 think?---I mean I obviously wasn't involved. You're
13:15:48 24 talking again and still about an extraordinary
13:15:50 25 circumstance. I think the High Court called it unique.
13:15:53 26 And so I assume she had been part of the decision making
13:16:00 27 and obviously the police were to make her a human source
13:16:03 28 and that's what happened. Clearly, you know, whether
13:16:08 29 that's the right thing to do or not is - - -
13:16:11 30
13:16:11 31 What I'm taking you through now though is what
13:16:14 32 Mr Overland's understanding was?---Right.
13:16:15 33
13:16:15 34 Or what he says his understanding was at the time. He says
13:16:20 35 he viewed, when it was put to him, that there were other
13:16:23 36 options available to Ms Gobbo, he says he viewed her to
13:16:27 37 have no other viable option?---Right.
13:16:29 38
13:16:29 39 Other than to become a human source because in taking any
13:16:33 40 of those other options that were put to him, Mr Mokbel
13:16:37 41 would have killed her?---So certainly I think she's at
13:16:40 42 significant risk. I don't know whether, what other options
13:16:44 43 and whether or not she's prepared to take the other options
13:16:47 44 at the time, would have been a part of the circumstances.
13:16:51 45 The Mokbel empire, as we came to know, is a very
13:16:54 46 significant empire and quite powerful in many ways, so I
13:17:01 47 assume after thinking all of that through she's then

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13:17:04 1 determined that she would become a human source and that
13:17:07 2 was the way that she would be supported or protected
13:17:11 3 perhaps.
13:17:11 4
13:17:11 5 I just want to, so you understand, Ms Gobbo has to become a
13:17:17 6 human source because she can't stop acting for
13:17:20 7 Mokbel?---Right.
13:17:20 8
13:17:21 9 Is the effect of that statement?---Right.
13:17:23 10
13:17:27 11 He understood that Ms Gobbo was to be informing on
13:17:32 12 Mr Mokbel?---Right.
13:17:34 13
13:17:36 14 He was well aware that using a barrister and a human source
13:17:39 15 would raise issues of potential breach of legal
13:17:44 16 professional privilege and conflict. And he sought
13:17:48 17 assurances from both his investigators and those managing
13:17:52 18 Ms Gobbo that she was not acting for those that she was
13:17:55 19 informing on. So there seems to be some conflict in the -
13:18:03 20 - - ?---Yes, there does.
13:18:04 21
13:18:04 22 - - - in the statements being made?---Right.
23
13:18:07 24 On the one hand she has to inform on him because she'll be
13:18:11 25 killed. On the other hand I'm seeking assurances that
13:18:14 26 she's not going to inform on him?---Right, I understand the
13:18:18 27 conflict.
13:18:18 28
13:18:19 29 He says he seeks assurances, he sought assurances from both
13:18:24 30 his investigators and those managing Ms Gobbo that she's
13:18:27 31 not acting for those that she's informing on and that those
13:18:32 32 police must have disobeyed his instructions when she was
13:18:36 33 permitted, and facilitated in effect to act for those that
13:18:42 34 she was informing on?---Right.
13:18:44 35
13:18:44 36 And he says, "I was never told that such a situation was
13:18:46 37 occurring". So it seems as though there must have been
13:18:54 38 some perhaps conspiracy within the organisation not to tell
13:18:57 39 Mr Overland that these things were occurring?---Right. I
13:19:01 40 don't know about that.
13:19:02 41
13:19:06 42 COMMISSIONER: It is time.
13:19:07 43
13:19:07 44 MS TITTENSOR: All right.
13:19:08 45
13:19:08 46 COMMISSIONER: Will you be much longer?
13:19:10 47

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13:19:11 1 MS TITTENSOR: I've got a few pages to go, Commissioner.
13:19:13 2
13:19:13 3 COMMISSIONER: All right. So in terms of
13:19:16 4 cross-examination, how much, Mr Collinson?
13:19:19 5
13:19:20 6 MR COLLINSON: Nothing.
13:19:22 7
13:19:22 8 COMMISSIONER: Nothing.
13:19:23 9
13:19:23 10 MS ENBOM: I don't have any re-examination, if Ms Tittensor
13:19:26 11 only has a few pages left I wondered whether it might be
13:19:28 12 possible just to press on.
13:19:30 13
13:19:30 14 COMMISSIONER: I think there might be some questions from
13:19:32 15 Mr Chettle.
13:19:33 16
13:19:33 17 MR CHETTLE: 15 minutes.
13:19:34 18
13:19:34 19 COMMISSIONER: I think we'll need to come back.
13:19:36 20
13:19:37 21 MS TITTENSOR: I might say I've probably got, I might be
13:19:39 22 half an hour or so, 45 minutes.
13:19:42 23
13:19:42 24 COMMISSIONER: Yes. So I think we could safely tell
13:19:45 25 Mr Overland not before 3.15 or 3 o'clock. Maybe not before
13:19:52 26 3 o'clock.
13:19:54 27
13:19:55 28 MS ENBOM: I think he might be already here because we were
13:19:57 29 told in the break that he would start at 2 o'clock. So
13:20:01 30 something has changed.
13:20:02 31
13:20:02 32 COMMISSIONER: That was optimistic. All right, he can have
13:20:07 33 a long lunch hour anyway. He won't be needed before 3
13:20:12 34 o'clock. That's the best we can do. We'll adjourn now
13:20:41 35 until 2, thank you.
13:20:44 36
13:20:44 37 <(THE WITNESS WITHDREW)
13:20:45 38
13:20:45 39 LUNCHEON ADJOURNMENT
40
41
42
43
44
45
46
47

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13:51:33 1 UPON RESUMING AT 2.00 PM:
2
14:02:07 3 COMMISSIONER: Yes Ms Tittensor.
14:02:09 4
14:02:10 5 <CHRISTINE NIXON, recalled:
14:02:14 6
14:02:15 7 MS TITTENSOR: Just a couple of quick things. Ms Nixon, in
14:02:16 8 relation to the Milte matter I was discussing with you
14:02:19 9 earlier, it's apparent that Mr De Santo was having contact,
14:02:21 10 of course, with a number of lawyers throughout that period
14:02:23 11 of time who had drug matters running and were concerned
14:02:27 12 about the corruption issues?---Right.
13
14:02:28 14 You would have been aware of that, yep. It may or may not
14:02:33 15 be another lawyer was also having the contact with
14:02:39 16 Mr Milte, it may or may not have been Ms Gobbo. It might
14:02:42 17 have been one of the other lawyers involved, but certainly
14:02:45 18 it's the case that through that period of time Ms Gobbo was
14:02:48 19 representing a major gangland figure caught up in all that,
14:02:54 20 Mr Mokbel?---Right.
21
14:02:55 22 That she was having contact with Mr De Santo in relation to
14:02:58 23 those corruption issues because of the impact on their
14:03:01 24 proceedings, and she'd had a history with Mr Strawhorn as
14:03:06 25 well, he having introduced her to Mr Pope, who'd registered
14:03:12 26 her as an informer in the late 90s, and that she reported
14:03:17 27 to Mr De Santo, according to his diary, that Mr Strawhorn
14:03:21 28 had been pestering her for a meeting. But it may or may
14:03:28 29 not be that the contact with Mr Milte - it might have been
14:03:32 30 with another barrister?---Okay.
31
14:03:34 32 We'll make some further inquiries about that?---Thank you,
14:03:38 33 yes.
34
14:03:42 35 I might also say an examination of Ms Gobbo's court book
14:03:45 36 through that period of time indicates not only that contact
14:03:48 37 but references to De Santo and the Wood Royal Commission
14:03:53 38 and issues of the like?---Right.
39
14:03:55 40 Anyway. I should also tender, Commissioner, that
14:04:00 41 PowerPoint presentation.
42
14:04:02 43 COMMISSIONER: I think it may already have been tendered?
14:04:05 44 No, it hasn't been.
14:04:06 45
14:04:07 46 MS TITTENSOR: I'm told it hasn't been.
47

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14:04:09 1 COMMISSIONER: Right.
14:04:10 2
14:04:10 3 #EXHIBIT RC923A - (Confidential) PowerPoint presentation.
14:04:12 4
14:04:13 5 #EXHIBIT RC923B - (Redacted version.)
14:04:15 6
14:04:15 7 MS TITTENSOR: Just in relation to that matter, it
14:04:17 8 obviously referred to a registered human source, or the use
14:04:20 9 of registered human sources through that process, or the
14:04:23 10 Purana process, and that wouldn't be something of surprise
14:04:27 11 to you. Were you aware that Purana or the SDU had a
14:04:32 12 significant or very special source that was going?---No.
13
14:04:41 14 So not even the concept of Ms Gobbo or some ultra
14:04:48 15 supergrass source, you were not aware of that?---I would
14:04:52 16 have been aware that they were using sources, because that
14:04:55 17 was part of the strategy that they were following. I just
14:04:58 18 wasn't aware particularly of that human source.
19
14:05:00 20 That they had someone of such significance on the
14:05:02 21 books?---No.
22
14:05:02 23 COMMISSIONER: Or that the person was a barrister?---Or
14:05:05 24 that the person was a barrister, no.
14:05:10 25
14:05:10 26 MS TITTENSOR: I've just taken you through some of the
14:05:12 27 comments that Mr Overland has made to the
14:05:16 28 Commission?---Yes.
29
14:05:16 30 In terms of his surprise, his concerns over the use of
14:05:21 31 Ms Gobbo?---Yes.
32
14:05:24 33 The assurances that he was seeking that she wasn't to be
14:05:28 34 used against clients, but on the other hand the fact that
14:05:32 35 she's recruited to inform on a client, it seems, because
14:05:37 36 she can't stop acting for that client?---No.
37
14:05:43 38 It's quite apparent that this represented a very
14:05:45 39 significant risk to the organisation?---Yes.
40
14:05:53 41 Did Mr Overland or anyone else inform you that there was
14:05:57 42 any risk associated with any source during this period of
14:06:02 43 time?---No.
44
14:06:05 45 Would you have expected to be told that such a risk to the
14:06:09 46 organisation was occurring?---If he thought that risk
14:06:18 47 couldn't be managed or might cause extraordinary or

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14:06:21 1 complications in the future I would have thought that he
14:06:24 2 may have raised it, but I don't have any recollection of
14:06:27 3 him doing that.
4

14:06:29 5 He's given evidence that he had concerns and Mr Cornelius
14:06:35 6 has equally given some evidence about the fact that he
14:06:39 7 naturally would have had concerns had he have known at a
14:06:42 8 particular point in time?---Yes.
9

14:06:45 10 That a barrister was being recruited to be a human
14:06:47 11 source?---Yes.
12

14:06:48 13 And the consequences that might flow from that have very
14:06:51 14 significant - - - ?---They do, I understand that.
15

14:06:54 16 - - - consequences for the organisation?---Yes, they do.
17

14:06:57 18 Flowing from that, would it not be a requirement almost
14:07:00 19 that you be advised of such a risk?---I think you're
14:07:05 20 talking about a range of very competent officers who, you
14:07:12 21 know, would have thought through, you know, did I need to
14:07:15 22 know? What was the system or processes that I might be
14:07:19 23 involved in it? I don't know why they made that decision.
14:07:25 24 I just don't have any recollection of them telling me.
25

14:07:28 26 Might the decision be made that, "We don't want to tell
14:07:31 27 anyone who might put a stop to it"?---I certainly know
14:07:35 28 those two individuals that you've spoken about and I've had
14:07:38 29 a very positive - and I appointed both of them, so I didn't
14:07:45 30 see any reason why they would have seen me as someone who
14:07:48 31 would have said, you know - or couldn't be told should I
14:07:52 32 say.
33

14:07:53 34 Yes?---There was no history, you know, of people not
14:07:57 35 wanting to tell me things. I'd been aware of many, many
14:08:00 36 things in the organisation. I don't know why they didn't
14:08:02 37 tell me in this case.
38

14:08:04 39 Had you been told of the simple fact that, "We are
14:08:07 40 registering Ms Gobbo as a human source", what would you
14:08:13 41 have done?---I would have been extraordinarily surprised in
14:08:16 42 the first place, which is what I was later on. I would
14:08:18 43 have obviously then I think probably followed my colleague
14:08:23 44 Graham's behaviour when he became, I think Ken Lay and
14:08:27 45 Graham's behaviour and looked to say, "What's the risk
14:08:31 46 we're facing here? What do the implications of that
14:08:35 47 decision mean? What does it mean for prosecutions?", and

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14:08:38 1 gone through that whole process.
2
14:08:39 3 That would have involved quite some consideration - - -
14:08:43 4 ?---Yes, it would.
5
14:08:45 6 - - - and advice?---Absolutely. And look to bring in, as I
14:08:48 7 did in a number of other matters, bring in legal advice,
14:08:51 8 bring in, you know, people involved in corruption or people
14:08:55 9 involved in, you know, who had the expertise that would
14:08:59 10 have been able to help us think through what were the
14:09:01 11 implications and also have to report it really.
12
14:09:04 13 The likelihood in the circumstances that I've taken you
14:09:06 14 through, that she's being recruited to give information
14:09:08 15 against someone that she's representing?---Yes.
16
14:09:10 17 Would be that that advice is going to come back and say,
14:09:17 18 "No, you cannot do this"?---Right.
19
14:09:20 20 You would accept that? That's the likely advice you would
14:09:25 21 have received had you asked for it?---I would have thought
14:09:26 22 that whoever was giving the advice would have to be across
14:09:30 23 all the circumstances and then tell us what the
14:09:32 24 implications were.
25
14:09:33 26 It wouldn't have come as a surprise if on those bare facts,
14:09:38 27 "We want to recruit a criminal barrister to give us
14:09:41 28 information about someone she's representing", it wouldn't
14:09:43 29 be a surprise if the advice came back and said, "You can't
14:09:47 30 do it"?---I imagine the advice would have been, "It's
14:09:51 31 highly risky. You need to be very careful about what
14:09:54 32 information she's actually giving you and how you're going
14:09:58 33 to use that information and whether or not it can be used."
34
14:10:01 35 As far as you know that was just never done, you were never
14:10:06 36 given the opportunity to make that calls?---I certainly
14:10:08 37 never had - I have no recollection of that at all.
38
14:10:11 39 You expect that those very senior people in Command that
14:10:14 40 you knew of those bare facts would have done the same
14:10:20 41 thing, they would have sought the advice?---They're very
14:10:24 42 competent, capable individuals and I'm sure they will have
14:10:28 43 had to have throughout through the implications.
44
14:10:30 45 One explanation for not seeking that advice is because they
14:10:34 46 didn't want to hear the outcome, "No, you can't do
14:10:38 47 that"?---I can't make that judgment, I don't know.

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1
14:10:46 2 In about mid-2007 Ms Gobbo was representing someone by the
14:10:51 3 name of Rob Karam in an importation trial, a Commonwealth
14:10:58 4 trial. Do you know that name?---Yes, I do.
5
14:11:01 6 At some point during the course of that trial he gave her a
14:11:03 7 document or some documents for safekeeping and one of those
14:11:09 8 documents was a bill of lading. She copied the document
14:11:12 9 and provided it to her police handlers. She even gave them
14:11:17 10 the Italian translation. That bill of lading was then
14:11:22 11 provided through the Drug Task Force to Federal authorities
14:11:27 12 and it ultimately led to the interception of, well what was
14:11:32 13 at the time, the world's biggest ecstasy haul?---Haul.
14
14:11:36 15 You're aware of that?---I'm aware of that.
16
14:11:39 17 Shortly after handing over - - - ?---Excuse me if I might
14:11:43 18 stop for a minute.
19
14:11:45 20 Sure?---I'm not aware until you know later that in fact
14:11:48 21 that's how they come to that information. That's only
14:11:50 22 really subsequently.
23
14:11:52 24 I didn't take from your response - you're aware that there
14:11:56 25 was this interception of the world's biggest ecstasy
14:11:58 26 haul?---Yes, that's what I'm certainly aware of, yes.
27
14:12:02 28 That occurs in about June of 2007, that she provides that
14:12:06 29 bill of lading?---Right.
30
14:12:08 31 In July of 2007 she has a conversation with her SDU handler
14:12:18 32 and controller in relation to them indicating to her, "You
14:12:24 33 shouldn't represent anyone out of this", all right? Just
14:12:29 34 to read some of the transcript of the conversation as it
14:12:34 35 occurred at this stage, this is 3 July 2007?---Right.
36
14:12:39 37 Mr White says, "All right. It's really important for all
14:12:43 38 of us that you don't represent anyone", speaking of that
14:12:47 39 transaction obviously?---Do you want me to look at this?
40
14:12:54 41 Yes, feel free to look at the transcript. Ms Gobbo says,
14:13:00 42 "M'mm". Mr White says, "I'd hate to think that", and where
14:13:05 43 that ... it says "ultimately" upon a listening. "I'd hate
14:13:11 44 to think that ultimately a conviction could be overturned
14:13:14 45 because there was an allegation or suggestion or a bloody
14:13:18 46 inquiry in relation to whether he got completely unbiased
14:13:21 47 uncompromised defence". Ms Gobbo's response, "Who's ever

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14:13:29 1 gonna know about that?" She goes on, "And there's already
14:13:29 2 20 people in that category". Mr White says, "I know, I
14:13:33 3 know. Don't think we haven't thought about this day in,
14:13:37 4 day out". Ms Gobbo says, "I do", and on it goes. So it
14:13:42 5 seems by that stage there's an appreciation of up to or 20
14:13:48 6 cases that have been affected by this issue?---Right.
7
14:13:55 8 Later that month the Commission's got evidence that
14:14:02 9 Mr Blayney has slowly come to understand over the time that
14:14:08 10 a human source is being used. He then comes to understand
14:14:14 11 that human source is a lawyer and ultimately that that
14:14:16 12 human source is a criminal defence lawyer, which is Nicola
14:14:20 13 Gobbo?---Right.
14
14:14:21 15 He perceives issues and starts asking some questions about
14:14:26 16 those matters, as you might, becoming aware of a concerning
14:14:30 17 issue like that. He recorded in his notes of a meeting
14:14:35 18 involving Mr Overland on 17 July "hypothetical legal
14:14:43 19 opinion". So there's a discussion at that particular point
14:14:47 20 in time about the need for a hypothetical legal opinion as
14:14:50 21 of July of 2007?---Right.
22
14:14:55 23 Now the next day there's some discussions going on between
14:14:59 24 Mr White and Mr O'Brien, the investigator and the
14:15:03 25 controller, about whether it was inevitable that Ms Gobbo's
14:15:08 26 going to be compromised, whether she should become a - or
14:15:13 27 could become a witness, and Mr White's notes of the
14:15:15 28 conversation indicate that they are discussing political
14:15:19 29 fall out from the legal fraternity and whether it would
14:15:23 30 impact on [REDACTED] and other convictions and agreed on the
14:15:26 31 need for legal advice in relation to the fall out?---Right.
32
14:15:34 33 Subsequently, if we can put up the source management log
14:15:38 34 for the 24th. Do you see down the bottom - so this is a
14:15:43 35 week after the original meeting that Mr Blayney raised the
14:15:51 36 need for the hypothetical legal advice, there's a Crime
14:15:54 37 Department meeting with Mr Biggin, Mr O'Brien, Mr Ryan and
14:16:00 38 Mr O'Connell, as well as Superintendents Blayney and Brown.
14:16:10 39 If we go over it says they've agreed the value of the - the
14:16:21 40 human source is Ms Gobbo. "As a source is outweighed by
14:16:25 41 repercussions and risk to same. Agree to continue
14:16:27 42 deployment with no tasking. Intelligence to be assessed on
14:16:30 43 an individual basis and risk determination prior to any
14:16:33 44 dissemination." Then it's agreed that there needs to be a
14:16:36 45 further briefing of Mr Overland in relation to issues.
14:16:40 46 Mr Blayney's evidence to the Commission is that he walked
14:16:42 47 away from that meeting with the understanding that legal

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14:16:46 1 advice had been taken and somehow this was permitted to be
14:16:54 2 occurring?---Right.
3
14:16:56 4 It's apparent that there was no such legal advice that had
14:17:01 5 been taken?---Right.
6
14:17:02 7 If we then go to the source management log, this is the
14:17:05 8 meeting with Mr Overland subsequently, there's a discussion
14:17:09 9 there about what the options are in relation to the ongoing
14:17:15 10 use of Ms Gobbo. "We can either deactivate her. Ongoing
14:17:23 11 management of her with no tasking or she can become a
14:17:26 12 witness." It's agreed she can't become a witness, "That
14:17:31 13 deactivation's not an option because we need to see her
14:17:34 14 through all these court issues"?---Right.
15
14:17:37 16 Disclosure issues with the Mokbel cases and so forth that
14:17:40 17 are going on?---Right.
18
14:17:42 19 And again "agreed to manage with no tasking", but she's
14:17:46 20 then - they have a discussion about using her to ^{PII}
14:17:51 21 ^{PII} in Operation Petra and
14:17:55 22 Briars?---Right.
23
14:18:00 24 Did you become aware at any stage about any of these
14:18:03 25 organisational risks that were being discussed? They're
14:18:06 26 talking about legal fall out, the overturning of
14:18:12 27 convictions, these would be, you would accept, significant
14:18:17 28 organisational risks?---They are, and I don't have any
14:18:20 29 recollection of being advised of that matter.
30
14:18:23 31 You would think if there was discussion and contemplation
14:18:26 32 at senior ranks about such matters, political fall out and
14:18:31 33 legal fraternity, overturning of very significant
14:18:36 34 convictions, that is something in the order that should be
14:18:39 35 elevated to the Chief Commissioner's office?---I would have
14:18:41 36 thought, and I was always concerned about how the cases
14:18:45 37 were conducted, whether we had sufficient advice about how
14:18:50 38 to operate in this area so that there wasn't a potential
14:18:54 39 for matters to be overturned into the future. That was
14:18:57 40 always - I'd seen that happen in previous instances in New
14:19:00 41 South Wales when cases were undermined because of the
14:19:03 42 inappropriate practices and procedures so I was always of
14:19:06 43 the view we needed to have, you know, sufficient capacity
14:19:09 44 of resources and risk management to not let that happen.
45
14:19:14 46 You accept that they should have told you, that this
14:19:16 47 information should have been conveyed to you?---I don't

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14:19:20 1 understand why they didn't but if I look at what you've
14:19:23 2 shown to me, they obviously believed they were managing it
14:19:27 3 and so I assume that's got to be part of the reason they
14:19:30 4 didn't.
5
14:19:31 6 Do you accept that they should have told you?--Well I
14:19:33 7 would have liked to have been told.
8
14:19:36 9 Do you expect that it was deliberately kept from you?--I
14:19:39 10 don't know that.
11
14:19:46 12 Ultimately you are aware that numerous people were arrested
14:19:51 13 in relation to what became known as the tomato tins
14:19:55 14 matter?--I know that matter.
15
14:19:58 16 Are you aware that Ms Gobbo went on following that to
14:20:01 17 represent numerous people, at least in the early stages of
14:20:05 18 those arrests?--I mean I understand that's what you're
14:20:08 19 telling me, yes.
20
14:20:10 21 It's apparent that there was some consternation within
14:20:14 22 Victoria Police about the credit that the Federal
14:20:17 23 authorities were taking in relation to those arrests.
14:20:21 24 You're aware of that at the time, that there was this -
14:20:27 25 Victoria Police viewed the Federal authorities as taking a
14:20:30 26 lot of credit for this when in actual fact they viewed it
14:20:36 27 as their good work that led to these arrests?--I certainly
14:20:39 28 know there was conflict between the Federal Police and
14:20:42 29 Victoria Police about them taking, you know, as you've
14:20:45 30 said, the credit.
31
14:20:47 32 Did you understand why those within Victoria Police viewed
14:20:52 33 it as essentially their good work that led to all of this,
14:20:55 34 did you understand - - - ?--Well I understood - - -
35
14:20:58 36 - - - the root cause?---- - - they had uncovered the
14:21:02 37 information, they were the ones who'd been investigating
14:21:05 38 and the Federal Police because of their jurisdiction had
14:21:07 39 taken control of the matter.
40
14:21:08 41 I take it you didn't understand that they'd uncovered the
14:21:14 42 information from Ms Gobbo?--No, I did not know that. I
14:21:17 43 just assumed they'd uncovered the information, they'd
14:21:20 44 somehow, in all of their investigations and matters, had
14:21:22 45 come to that view.
46
14:21:23 47 It seems as though around this period of time at one point

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14:21:29 1 journalist Steve Butcher - you know Mr Butcher?---I know of
14:21:33 2 him.
3
14:21:34 4 Sidled up beside Ms Gobbo in court one day around this
14:21:37 5 period of time and told her about, or raised these
14:21:40 6 simmering tensions between the Victoria Police and the AFP,
14:21:47 7 that they weren't happy about it because it was Victoria
14:21:50 8 Police's source that discovered the information?---Right.
9
14:21:53 10 And naturally Ms Gobbo was a bit concerned about there
14:21:56 11 being a - you might see that represented there in this
14:22:01 12 contact report. She then goes back to her handlers and is
14:22:06 13 very annoyed and her perception is that there's a leak in
14:22:10 14 Victoria Police that could potentially endanger her safety
14:22:13 15 and she goes over the conversation that she's had with
14:22:17 16 Mr Butcher at court?---Right.
17
14:22:20 18 Do you see that?---(Witness nods.)
19
14:22:25 20 Again, given what's occurred in the past in relation to the
14:22:27 21 Hodsons, the leaking of the information in relation to the
14:22:30 22 Hodsons, this was an indication here that we've got a
14:22:35 23 source reporting a leak and is concerned about her safety.
14:22:41 24 Is that the type of information that you might have
14:22:44 25 reported to you?---No.
26
14:22:46 27 You wouldn't have had leakage about sources from within
14:22:54 28 Victoria Police, that's - - - ?---I mean I think there's
14:22:57 29 always the risk around information leaking. It was
14:22:59 30 something that we were always concerned about.
31
14:23:02 32 Leaking about an informer?---Well, less so that matter.
14:23:07 33 Other parts of it, it's a big organisation and, you know,
14:23:11 34 there was always the potential for people to, you know,
14:23:16 35 speak out of turn, speak inappropriately, or in fact give
14:23:19 36 information to journalists. We've been dealing with that
14:23:22 37 in Victoria Police for years, about detectives and others
14:23:27 38 who gave information to the media inappropriately.
39
14:23:32 40 I ask it in relation to this matter simply because of the
14:23:35 41 Hodson parallel?---Yes.
42
14:23:37 43 In terms of the leakage of that information as to his being
14:23:40 44 an informer, there was some concern that that led to his
14:23:45 45 murder and whether - - - ?---Yes.
46
14:23:47 47 If there was a similar situation here where you've got a

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14:23:50 1 leakage out of Victoria Police about an informer, that that
14:23:54 2 might have been raised with you?---I don't recall if it
14:23:57 3 was.
4
14:23:58 5 It seems as though over time there was growing concern for
14:24:01 6 Ms Gobbo's safety?---Right.
7
14:24:06 8 That appeared to relate to two matters. One being the fact
14:24:09 9 that she's a human source and that that might get out. She
14:24:12 10 was being labelled as, colloquially, a dog within gangland
14:24:20 11 circles?---Right.
12
14:24:22 13 And part of that related to the fact that she was perceived
14:24:25 14 to be representing people that were cooperating?---Right,
14:24:31 15 and turning against the syndicates.
16
14:24:32 17 And turning against others, although that very fact in
14:24:35 18 itself was being concealed in court processes?---Right.
19
14:24:39 20 So the fact that she had turned up on the night of
14:24:45 21 [REDACTED]'s arrest and advised him, there was some effort
14:24:48 22 to not have that come out during court proceedings.
14:24:53 23 Ultimately it did but there was quite some concerted effort
14:24:58 24 to stop that fact coming out?---Right.
25
14:25:01 26 Ultimately though it never came out, the role that she'd
14:25:05 27 played, that she turned up a second time and was in the
14:25:09 28 room as he rolled?---Right.
29
14:25:11 30 Now, out of those concerns for Ms Gobbo's safety arose
14:25:17 31 Operation Gosford. Do you know what Operation Gosford
14:25:20 32 was?---I know the name but - - -
14:25:22 33
14:25:23 34 You received a report about Operation Gosford at some
14:25:26 35 particular point?---I can't remember the detail of it. I
14:25:28 36 know the name of the operation and I - perhaps you could
14:25:34 37 help to remind me.
38
14:25:35 39 That was an operation in relation - that started probably
14:25:38 40 late 2006 or early 2007 in relation to threats to kill or
14:25:44 41 threats against Ms Gobbo?---Right.
42
14:25:47 43 So at some particular time you've received briefings about
14:25:50 44 that?---I can't remember. I may have, I can't remember.
45
14:25:54 46 She started to receive threats, death threats. At some
14:25:57 47 point in time you may well recall her car was set fire to,

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14:26:02 1 do you recall that incident, it made headlines?---I
14:26:07 2 remember it only vaguely.
3
14:26:11 4 Did you receive any briefing from Mr Overland or Mr Moloney
14:26:17 5 who was in charge of the department that was administering
14:26:21 6 the SDU about that matter?---I have no recollection.
7
14:26:27 8 About threats against Ms Gobbo?---I can't recall. That
14:26:30 9 doesn't mean I didn't, I just cannot recall whether or not
14:26:35 10 there was a briefing around that.
11
14:26:46 12 Back in March of 2006 do you recall that there was an
14:26:50 13 officer by the name of Shields who was served with a s.68
14:26:55 14 notice?---I certainly do.
15
14:26:58 16 It may have been that that was one of the first or the
14:27:02 17 first time a s.68 notice had been served on a serving
14:27:06 18 member; is that right?---That's correct. Well, just to be
14:27:09 19 precise, it had actually been attempted to be served when
14:27:12 20 the legislation was put in place, to use that kind of
14:27:15 21 procedure. But we'd been given advice that it was not
14:27:19 22 necessarily, you know, the right procedure to use. But I
14:27:23 23 had used, as I think I said to you earlier, a similar
14:27:25 24 process in New South Wales to in fact, after the Royal
14:27:29 25 Commission, to depart company with about 70 police
14:27:32 26 officers. So I wanted to test it and that's - he was the
14:27:36 27 first and extremely appropriate case that we should use.
28
14:27:41 29 He was served with that notice in March of 2006?---Right.
30
14:27:48 31 Following that there's a joint ESD/OPI investigation in
14:27:53 32 relation to a number of members from Brighton, including
14:27:56 33 Mr Shields?---Yes.
34
14:27:58 35 And that involved a plan to put Ms Gobbo before the OPI,
14:28:04 36 you're aware of that?---No. I don't recall that.
37
14:28:10 38 There were plans to put telephone intercepts on Ms Gobbo's
14:28:14 39 phones in connection with the OPI hearing to see what
14:28:19 40 happened?---Right.
41
14:28:23 42 In the course of that some inquiries were made with Purana
14:28:30 43 to see whether there were already intercepts on Ms Gobbo's
14:28:34 44 phones?---Right.
45
14:28:40 46 That led to Mr Overland becoming notified that there's an
14:28:48 47 inquiry being made that might affect Ms Gobbo?---Right.

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1
14:28:53 2 And he came and spoke to ESD in relation to the
14:29:00 3 sensitivities that were involved around that matter.
14:29:07 4 There's evidence of diary notes which suggest that
14:29:13 5 Mr Cornelius at that stage became aware and was told at a
14:29:19 6 meeting by Mr Overland, as well as a number of the
14:29:23 7 investigators, that Ms Gobbo was a human source?---Right.
8
14:29:26 9 That's as at around June of 2006?---Right.
10
14:29:35 11 Mr Wilson, I think you know - - - ?---Rod Wilson.
12
14:29:39 13 - - - Rod Wilson. He was one of the investigating members
14:29:43 14 who was present at that meeting?---Right.
15
14:29:45 16 And he was told to go and coordinate matters with the SDU
14:29:50 17 in relation to Ms Gobbo?---Right.
18
14:29:54 19 It seems as though as things progressed there was some
14:30:00 20 concern that she's going to get called before the OPI and
14:30:06 21 as those concerns grow stronger there's a decision made for
14:30:10 22 Mr Overland to go and speak to Mr Ashton, disclose her
14:30:17 23 status as a human source?---Right.
24
14:30:19 25 And try and prevent her being the subject of an OPI
14:30:25 26 investigation or hearings because it's feared that might
14:30:28 27 compromise her in some way?---Right.
28
14:30:33 29 Out of that meeting - so there is a meeting between
14:30:38 30 Mr Cornelius, Mr Overland and Mr Ashton on 27 July 2006,
14:30:48 31 and following that investigators are briefed as to the
14:30:51 32 result of discussions. Ms Gobbo will no longer be called
14:30:55 33 before the OPI or be involved in that investigation insofar
14:31:00 34 as the OPI is concerned?---Right.
35
14:31:03 36 She had been spoken to informally by investigators from ESD
14:31:08 37 prior to that?---Right.
38
14:31:09 39 Which caused the upset and so forth?---Got it.
40
14:31:12 41 But significantly, and I might just put this up on the
14:31:17 42 screen, Mr White's diary notes as to his briefing that he
14:31:20 43 has with Mr Overland and Mr Biggin following that meeting
14:31:24 44 with Mr Ashton.
14:31:33 45
14:31:34 46 MR COLEMAN: It should be made clear that both Mr Overland
14:31:37 47 and Mr Ashton's recollection is that there was no

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14:31:42 1 discussion at the meeting on 27 July about this issue.
2
14:31:45 3 COMMISSIONER: I think that Ms Tittensor should be allowed
14:31:48 4 to cross-examine as she is cross-examining. You can
14:31:51 5 clarify anything you want to clarify in your
14:31:53 6 cross-examination. Yes, Ms Tittensor.
14:31:55 7
14:31:55 8 MS TITTENSOR: Mr Ashton's got a diary note of a meeting on
14:31:59 9 this morning of 27 July. It doesn't mention these
14:32:03 10 matters?---Right.
11
14:32:03 12 It mentions another operation. But significantly following
14:32:10 13 that meeting there were briefings of Mr Overland to
14:32:17 14 Mr Biggin and Mr White of the SDU and similarly there's a
14:32:21 15 briefing by Mr Cornelius - there's another diary entry of
14:32:25 16 Mr Wilson's indicating he was briefed in relation to
14:32:29 17 similar matters although a much more brief note by
14:32:33 18 Mr Cornelius. So a strong inference that these matters
14:32:37 19 were discussed with Mr Ashton. Mr Overland indicates to
14:32:46 20 Mr Biggin and Mr White that he has met with Graham Ashton,
14:32:53 21 that the OPI are happy to drop off the - we're calling the
14:32:59 22 other officer Mr Brown, and the Shields issue, that there's
14:33:08 23 no requirement to examine Ms Gobbo in relation to that, and
14:33:11 24 this is something of interest, that it's believed that the
14:33:17 25 human source, Ms Gobbo, and Mr Dale had a relationship,
14:33:22 26 that they wanted to examine Ms Gobbo in the future in
14:33:25 27 relation to the leaked information report 44?---Right.
28
14:33:30 29 There was a belief that Ms Gobbo may have been a conduit
14:33:33 30 between Mokbel, Williams and Dale in relation to that
14:33:37 31 information report, leading to the killing of the Hodsons;
14:33:43 32 that Ms Gobbo believes Dale was involved in the burglary at
14:33:47 33 Oakleigh. There's a belief that Tony Mokbel and Carl
14:33:53 34 Williams had ordered the killing and Mr Fitzgerald was to
14:33:56 35 conduct an inquiry. It goes on. It's agreed that Ms Gobbo
14:34:01 36 is to be told that there will be no OPI hearing in relation
14:34:05 37 to the Brown matter, and you may or may not remember
14:34:08 38 another Brighton member, Brown, being associated with the
14:34:13 39 Shields inquiry?---Not the name, no.
40
14:34:16 41 COMMISSIONER: There's a pseudonym.
14:34:18 42
14:34:19 43 MS TITTENSOR: The name is there in the document before
14:34:21 44 you?---Right.
45
14:34:21 46 You can see that. Under the first dash heading
14:34:28 47 "Agreed"?---Right.

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1
14:34:29 2 I don't know if you recognise that name or not. Where the
14:34:37 3 cursor is, the line where the cursor is?---Yes.
4
14:34:40 5 It's agreed that at a time in the future Ms Gobbo can be
14:34:44 6 pre-warned of the OPI hearing in relation to Mr Dale, that
14:34:50 7 Ms Gobbo may speak to her handlers in relation to same,
14:34:55 8 presumably about Mr Dale, and that there's a trust issue in
14:35:00 9 relation to informing Ms Gobbo of the hearing before it
14:35:04 10 happened, and on it goes - there we go. Clearly at this
14:35:12 11 point in time, July of 2006, there's a question as to
14:35:18 12 Ms Gobbo's involvement as a conduit, innocent or not, in
14:35:22 13 the double murder of the Hodsons and her involvement with
14:35:29 14 former member of police Paul Dale. Again, this was a
14:35:33 15 matter that was potentially troubling for the organisation
14:35:39 16 and of some concern that it might lead to a Royal
14:35:45 17 Commission, this issue; is that right?---Well certainly
14:35:48 18 some of the implications you've just made would call our
14:35:54 19 behaviours into serious question.
20
14:35:56 21 From the time of the murder of the Hodsons there was some
14:36:01 22 concern that there might have been a connection to
14:36:04 23 police?---There certainly were.
24
14:36:06 25 And there was always some concern that the police
14:36:10 26 corruption link, especially to gangland matters, might lead
14:36:13 27 to a Royal Commission?---Yes, and there was a lot of
14:36:15 28 speculation in the media and somewhat within the
14:36:19 29 organisation about what was the link and who were the
14:36:23 30 links.
31
14:36:23 32 Yes. At this particular point in time Mr Overland and
14:36:27 33 Mr Cornelius are receiving information from the OPI that
14:36:31 34 "we believe there's this link"?---Right.
35
14:36:33 36 "And we're going to investigate it at some point in the
14:36:36 37 future." Was that raised with you at that time?---I don't
14:36:40 38 recall.
39
14:36:46 40 Do you expect that the head of the Crime Department and the
14:36:51 41 head of ESD would have raised such an issue with you at the
14:36:56 42 time?---They raised a very significant number of issues
14:37:01 43 with me, particularly relating to corruption, and as -
14:37:03 44 there are other matters that I do recall but I don't have a
14:37:09 45 recollection.
46
14:37:10 47 This was a pretty significant issue, this was one - - -

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14:37:13 1 ?---Yes, I know, but I can't accurately say that I recall,
14:37:17 2 you know, this particular matter or whether it's in this
14:37:20 3 format that they would have told me. I'm sorry, but I just
14:37:24 4 can't recall it.

5
14:37:26 6 You expect that they would have told you?---Look, they may
14:37:30 7 have. They'd certainly told me about many other matters as
14:37:35 8 time went on, particularly relating to police corruption,
14:37:38 9 and I certainly was aware of those.

10
14:37:41 11 This is the very type of thing, you've mentioned a number
14:37:43 12 of times in your statement, "I would be briefed by
14:37:47 13 Mr Overland of any interception between police corruption"
14:37:49 14 ?---I don't recall it in regard to Shields. I have no
14:37:54 15 recollection in regard to Shields. But certainly in terms
14:37:57 16 of telling me about corruption related to the Hodsons,
14:38:01 17 certainly I was aware of that.

18
14:38:02 19 It may be that the conversation with you may not have
14:38:07 20 mentioned Shields, that was just the mechanism by which
14:38:11 21 they came to know this information it seems?---Right.

22
14:38:14 23 Albeit that there might have been some link because Azzam
14:38:18 24 Ahmed was involved in both of those matters?---Right. And
14:38:20 25 it may be the timing for me that I can't quite, you know, I
14:38:25 26 don't have a detailed recollection of what time and when,
14:38:28 27 you know, they did tell me some things. I did know the
14:38:34 28 issues around the Hodsons, they certainly did tell me that.

29
14:38:39 30 Assuming you would have been told about something
14:38:41 31 significant like this, about police involvement potentially
14:38:45 32 in a double murder?---Yes, of course.

33
14:38:48 34 Would you expect to have been told, "They want to interview
14:38:49 35 a barrister in relation to that" and, not only that, "this
14:38:52 36 barrister is our source"?---I don't have a recollection of
14:38:54 37 them telling me that the all.

38
14:39:01 39 Do you think that they should have if they didn't?---Yes.

40
14:39:14 41 Following this, the next year there was the establishment
14:39:16 42 of Task Force Petra which related to these specific
14:39:23 43 matters?---Yes.

44
14:39:24 45 That was a joint enterprise between the OPI and Victoria
14:39:27 46 Police, a joint agency agreement ultimately?---Yes.

47

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14:39:31 1 How often would you receive briefings in relation to Task
14:39:34 2 Force Petra?---I don't recall how often. I think there's a
14:39:42 3 regular update as to where, what the progress has been
14:39:45 4 made.
5
14:39:48 6 That investigation seemed to commence in earnest after
14:39:52 7 there was a statement taken from Carl Williams. You would
14:39:56 8 have understood that at the time I take it?---Well, I
14:39:59 9 certainly understood it at some point.
10
14:40:02 11 That statement is from Carl Williams at that stage. I
14:40:04 12 think he ultimately came to make another statement prior to
14:40:07 13 Mr Dale being charged down the line?---Right.
14
14:40:11 15 But he made an initial statement around the time he was
14:40:13 16 pleading guilty himself?---Yes.
17
14:40:16 18 That statement referred to Ms Gobbo in a number of respects
14:40:20 19 and she was to be the subject of an examination at the
14:40:24 20 OPI?---Right.
21
14:40:27 22 There were plans to compulsorily examine her around the
14:40:32 23 middle of that year. There were obvious complications
14:40:37 24 similar to the wanting to compulsorily examine her the year
14:40:43 25 before. And there was some intervention by the police with
14:40:45 26 the OPI to try and smooth the way during that process.
14:40:51 27 We're trying to get to the bottom of exactly what occurred
14:40:54 28 during that process?---Right.
29
14:40:55 30 And when people became aware that she was a source and who
14:40:59 31 became aware that she was a source through the
14:41:01 32 process?---Right.
33
14:41:02 34 But it seems to be that there was some police involvement
14:41:08 35 in that process, to try and perhaps prevent Mr Fitzgerald
14:41:13 36 from asking some of the questions which might compromise
14:41:15 37 her?---Right.
38
14:41:17 39 Did you become aware of any of that?---No.
40
14:41:20 41 That's something you would remember I take it?---Well, I
14:41:23 42 think so. I mean it's a long time ago and it's a detail, I
14:41:29 43 know significant, but I, you know, don't have a
14:41:34 44 recollection.
45
14:41:35 46 Right. By September the following year, September
14:41:43 47 2008?---2008.

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1
14:41:44 2 Police or the investigation had discovered evidence that
14:41:50 3 led them to suspect that Ms Gobbo had been using false
14:41:53 4 phones back at a relevant period of time?---Right.
5
14:41:56 6 And that she was using those phones to communicate with
14:42:00 7 Mr Dale during the period leading up to the murder of the
14:42:05 8 Hodsons?---Right.
9
14:42:07 10 If you can just go to the source management log for 1
14:42:10 11 October. There's a call you'll see from Detective
14:42:21 12 Inspector Smith of Petra and this is through to the SDU.
14:42:27 13 "Advised that investigators believe Ms Gobbo was in
14:42:31 14 possession of false SIM cards shortly prior to the death of
14:42:34 15 the Hodsons. Petra plan to interview the same. SDU will
14:42:38 16 check intel holdings re what phone numbers human source has
14:42:42 17 had"?---Right.
18
14:42:51 19 If we can go to the diary of Sandy White. Do you see that
14:43:04 20 there?---Yes.
21
14:43:05 22 This is from the same day. He's had a discussion with
14:43:12 23 Inspector Smith of Petra, "Have discussed Ms Gobbo. Smith
14:43:19 24 is aware of the identity of the same". They discussed the
14:43:22 25 belief that Ms Gobbo may have been in possession of SIM
14:43:26 26 cards with false identities shortly prior to the death of
14:43:29 27 the Hodsons. "Investigators are planning to interview the
14:43:35 28 same", da da da. "Advised SDU checking phone records of
14:43:43 29 Ms Gobbo against CCRs provided by O'Connell", who was
14:43:47 30 another investigator in that Task Force, "re any
14:43:50 31 similarities that may confirm Ms Gobbo was using relevant
14:43:53 32 phone numbers. Agreed discussion to occur re who best to
14:43:57 33 interview Ms Gobbo re knowledge, probably best done by
14:43:58 34 investigators. OPI hearing will be counterproductive". I
14:44:02 35 just want to - that was a significant discovery in the
14:44:07 36 investigation at that particular point in time?---Right.
37
14:44:11 38 A bit of a breakthrough for Petra it seems. Your diary
14:44:15 39 indicates that later that night you've had a - you see it
14:44:20 40 here - a meeting with Mr Overland, Mr Biggin, Mr Wilkins
14:44:26 41 and Mr Moloney re Petra?---Yes.
42
14:44:30 43 I just want to understand if this is the type of
14:44:33 44 information that might have been conveyed to you?---I don't
14:44:38 45 remember the substance of the discussion but obviously
14:44:41 46 having those individuals involved they would have been
14:44:43 47 talking to me about where the investigation was up to, what

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14:44:46 1 matters they were dealing with.
2
14:44:48 3 Look to be fair - - - ?---And concerns.
4
14:44:51 5 - - - there were various arms of Petra investigating a
14:44:53 6 number of things?---Right.
7
14:44:54 8 But it seems to be the case that there's been some
14:44:57 9 development that's occurred at that particular point in
14:45:00 10 time in terms of Ms Gobbo, her phones and, "We're now going
14:45:07 11 to proceed to interview her or speak to her in some way".
14:45:10 12 Is it likely that you would have been told that information
14:45:13 13 at that time?---It's likely but I can't remember it.
14
14:45:21 15 I take it you say if you were told that Ms Gobbo's phones,
14:45:27 16 and she somehow might have been involved in the
14:45:30 17 investigation or they wanted to speak to her, you weren't
14:45:32 18 told that - - - ?---I can't remember that. They may well
14:45:35 19 have told me but I can't remember it.
20
14:45:38 21 The end of the question was - - -?---Sorry.
22
14:45:41 23 - - - if you were told about Ms Gobbo being, that they
14:45:44 24 wanted to interview her at the time, were you told also
14:45:48 25 that she was a source?---I don't recall being told that she
14:45:50 26 was a source ever.
27
14:45:53 28 Do I take it from your answer that if you had have been
14:45:58 29 told that you would remember?---I think so. As I think
14:46:05 30 I've said earlier, I really only became aware of her as a
14:46:11 31 source at a distance, which I spoke to you about earlier.
32
14:46:25 33 Was it from this period of time on - there's a bit of
14:46:28 34 development that's happening from that period of time,
14:46:31 35 November into December, we get Ms Gobbo being spoken - - -
14:46:37 36 ?---This is 2008, sorry?
37
14:46:39 38 This is 2008?---Thank you, yes. Yes, there is.
39
14:46:42 40 There's quite some development that happens in Petra in the
14:46:44 41 next short while?---Right.
42
14:46:48 43 Ms Gobbo is spoken to by the investigators, she admits that
14:46:52 44 she's been using - or she had used false phones back at the
14:46:58 45 relevant period of time. Petra decide that they want to
14:47:01 46 get a statement from her. There is vehemency in opposition
14:47:09 47 from the SDU being expressed to that course. You would

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14:47:13 1 understand why?---Of course I do.
2
14:47:18 3 Do you understand the reasons why - well - - - ?---Of
14:47:20 4 course I understand why.
5
14:47:21 6 Putting aside the fact that she was a barrister?---Yes.
7
14:47:24 8 You understand issues of - - - ?---Of turning a source into
14:47:27 9 a witness is entirely not the done thing, for want of a
14:47:30 10 better description.
11
14:47:31 12 Yes. Is that the type of thing that in itself is something
14:47:37 13 you would expect to be briefed about? "We've got a
14:47:41 14 significant source here on the books", forgetting the fact
14:47:44 15 that this has got other issues, "we are now going to use
14:47:47 16 this source as a witness against Paul Dale, a former member
14:47:53 17 of the police", is that something in itself you might have
14:47:56 18 been briefed on?---Look, they may have. I mean what I
14:47:59 19 recall as being told is they intended to use as a witness
14:48:02 20 at some point, which I thought was enough of an issue
14:48:06 21 anyway, when they were going to use a barrister as a
14:48:08 22 witness, I thought that was a significant matter, but that
14:48:10 23 was the only piece I can recall, that piece.
24
14:48:13 25 They thought enough of that to elevate that issue to
14:48:17 26 you?---That she would be a witness.
27
14:48:19 28 Yes?---In the matter with Dale?
29
14:48:21 30 Yes?---Yes.
31
14:48:22 32 Right. There was significant opposition from the SDU in
14:48:30 33 relation to the use or the transition of her from source to
14:48:34 34 witness?---I now understand that, yes.
35
14:48:39 36 Their list of reasons when Mr Overland indicated his desire
14:48:42 37 for her to be a witness included matters - aside from
14:48:49 38 implications for her safety, included matters such as the
14:48:53 39 possibility of a Royal Commission, it included the
14:48:59 40 possibility of overturned convictions and the jeopardy of
14:49:03 41 current and future prosecutions?---Right.
42
14:49:06 43 They were all in mind?---Right.
44
14:49:08 45 Front of mind it seems at that point of time?---Right.
46
14:49:11 47 So people were aware, it seems, of risks that - of what had

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14:49:16 1 been going on with this source?---Right.
2
14:49:21 3 Ms Gobbo, following those matters being raised early in
14:49:25 4 December, goes on then to record a conversation with
14:49:28 5 Mr Dale and do you understand the details of what her
14:49:30 6 evidence was to be, she'd recorded a conversation with
14:49:33 7 Mr Dale?---I understand she recorded a conversation. I
14:49:37 8 don't necessarily know the details, I can't remember the
14:49:40 9 details.
10
14:49:40 11 That had some significance because of admissions as to the
14:49:45 12 truthfulness of what, or the accuracy of what Mr Williams
14:49:48 13 had said?---Williams had said, yes, I now recall that.
14
14:49:53 15 As was put to him, that was the significance of
14:49:55 16 that?---Right.
17
14:49:55 18 That obviously increased the desire?---Yes.
19
14:49:57 20 On the part of investigators to have Ms Gobbo become a
14:50:01 21 witness?---Yes.
22
14:50:02 23 On top of that they had this issue of the credibility of
14:50:05 24 the main witness, Mr Williams?---Yes, Mr Williams, yes.
25
14:50:11 26 So it seems as though over the Christmas period Mr Williams
14:50:15 27 was let out of custody to make his statement and that
14:50:21 28 received some publicity at the time?---Yes, it did. I
14:50:23 29 recall that.
30
14:50:24 31 You were called upon?---I do recall that.
32
14:50:27 33 So you would have briefed about that occurring around that
14:50:30 34 period of time?---Yes.
35
14:50:31 36 Because of the press interest in why this was being allowed
14:50:34 37 to happen?---Sure, I do recall that.
38
14:50:41 39 He makes his statement and shortly following that, early
14:50:44 40 January there's a couple of days over which Ms Gobbo is
14:50:47 41 making her statement, it's not yet signed. Then if we can
14:50:53 42 bring up then - there's a memo or a SWOT analysis which has
14:51:01 43 been conducted by the SDU, they're asked to do a SWOT
14:51:04 44 analysis, effectively a risk assessment?---Yes.
45
14:51:08 46 Of this decision. They were asked to do this. That is
14:51:15 47 written. It's then - there's an issue cover sheet by

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14:51:21 1 Mr Biggin and then it's sent through the line so I might
14:51:26 2 just take you through that. So we see the document itself,
14:51:38 3 the SWOT analysis itself was done by one of the SDU
14:51:42 4 controllers, not Mr White but Mr Black?---Right.
5
14:51:44 6 On 31 December. It goes to Mr Biggin, Superintendent
14:51:51 7 Biggin on 2 January. From him it seems if we go to the
14:51:56 8 dissemination at the first page - sorry, yes, you see
14:52:01 9 Mr Porter down there who stamps it and signs it and he
14:52:09 10 sends it on then to Assistant Commissioner Moloney.
14:52:11 11 Mr Moloney has by that stage been elevated to the position
14:52:16 12 of Assistant Commissioner and is in the Crime
14:52:19 13 Department?---Yes.
14
14:52:20 15 Then if we go to the distribution list at the first page.
14:52:24 16 No, the first page. You see then there it's sent by
14:52:33 17 Mr Moloney to Deputy Commissioner Overland on 5
14:52:40 18 January?---Yep.
19
14:52:41 20 For action by the Petra steering committee and
14:52:45 21 consideration. I'll just take you through just briefly
14:52:53 22 Mr Biggin's notes. He refers to the fact that she has been
14:53:00 23 a source since September of 2005. She was formally
14:53:07 24 registered as human source 3838. Now that's a number you
14:53:11 25 say, "Look, I may or may not have been told about a source
14:53:15 26 in the course of some briefing"?---A source, of a number.
27
14:53:18 28 You can't say one way or the other but if you were you made
14:53:23 29 no connection?---No. Yes, I can say that. No, I didn't
14:53:26 30 make a connection.
31
14:53:31 32 It indicates, I'm not sure if it's been blanked out, but
14:53:38 33 she's responsible for a number of the investigations?---I
14:53:42 34 can read that.
35
14:53:43 36 I don't know why that bit's been blanked out. In any case
14:53:47 37 there's a comment below, "There are a number of
14:53:50 38 organisational risks to Victoria Police. The SDU are
14:53:54 39 prepared to expand upon these to Task force management".
14:53:54 40 And it goes on, "The purpose of this paper is to ensure
14:53:57 41 that decision makers are in possession of relevant
14:54:00 42 information to allow proper decisions to be made.
14:54:03 43 Decisions made today may have long-term implications for
14:54:06 44 Victoria Police", and it's sent on?---Of course.
45
14:54:09 46 The note contained within which contains the SWOT
14:54:14 47 analysis - if we can move on. You understand what SWOT

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14:54:18 1 analysis is?---Of course.
2
14:54:23 3 Indicates amongst - I'll concentrate on the weaknesses and
14:54:30 4 the threats that are contained and you'll see the very
14:54:36 5 first weakness is, "Possible OPI or government review into
14:54:45 6 the legal and ethical implications. Disclosure of the
14:54:46 7 long-term relationship of source with the SDU". There's
14:54:51 8 references to Ms Gobbo's credibility, her acquaintances,
14:54:57 9 criminal associations, sexual relationships, the fact that
14:55:00 10 there's prior inconsistent statements in relation to the -
14:55:08 11 that the SDU have in relation to her relationship with Dale
14:55:11 12 and her failure to disclose the bogus mobile phone numbers.
14:55:16 13 She's been asked in the past about whether she was
14:55:19 14 operating other phones, she'd told them no, she wasn't.
14:55:23 15 And ultimately obviously when the evidence was put to her
14:55:29 16 she conceded that she was. The SDU, as you might
14:55:31 17 understand, were in possession of significant information
14:55:33 18 which would have impacted upon Ms Gobbo's credibility. You
14:55:38 19 would accept that I take it?---Yes.
20
14:55:43 21 If we look through the list of threats obviously high up
14:55:50 22 there is the risk to her safety?---Yes.
23
14:55:59 24 Aligned with that also is the exposure of her as a
14:56:02 25 consequence of becoming a Crown witness as a human source,
14:56:05 26 and then following that, "Judicial review of police actions
14:56:08 27 in tasking and deploying one of their own", referring to
14:56:13 28 public interest immunity, her being well-connected within
14:56:17 29 the legal fraternity. It talks about medical
14:56:22 30 issues?---Yes.
31
14:56:23 32 The fact that the SDU have source contact reports and
14:56:29 33 covert recordings and if we can move up, you'll see there
14:56:38 34 about the fifth or sixth dot point down, "OPI review. A
14:56:44 35 serving barrister assisting police. Consideration of
14:56:47 36 unsafe verdicts and possible appeals. Prosecutions
14:56:52 37 current, being Mokbel, and future. OPI investigation
14:56:55 38 implication - further potential OPI investigation", and so
14:57:02 39 it is. Now, that day, that very day, there was a Petra
14:57:11 40 Task Force steering committee. We're seeking to get to the
14:57:14 41 bottom of what happened at that steering committee but can
14:57:17 42 I ask you, Assistant Commissioners having this document in
14:57:23 43 their hands, what would you expect in terms of reporting to
14:57:28 44 you?---So I don't have any recollection of seeing that
14:57:33 45 document and the first time I saw it was in fact in my
14:57:37 46 barrister's chambers last week.
47

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14:57:41 1 Did it surprise you?--Of course it surprised me. It's an
14:57:44 2 excellent document. I don't recall seeing something like
14:57:46 3 that in Victoria Police. It certainly sets out all of the
14:57:51 4 risks that we would have faced, but I don't ever remember
14:57:56 5 seeing it within the organisation. Now I don't know why
14:58:00 6 that was the case but it may have been - there may be a
14:58:04 7 number of reasons why I wasn't given this document.
8
14:58:08 9 Might one of the reasons you weren't given this document is
14:58:13 10 because people didn't want you to have the information in
14:58:16 11 this document?--I don't know that. I had already given my
14:58:20 12 resignation from Victoria Police on 5 November that year.
13
14:58:26 14 You were still Chief Commissioner?--I was still Chief
14:58:28 15 Commissioner.
16
14:58:28 17 You still had responsibilities in that capacity?--I
14:58:33 18 certainly did, I understand that. But I was also on, you
14:58:37 19 know, leave for a portion of that time. It may be that's a
14:58:41 20 piece of it. I know I'm back in January. But it may be
14:58:44 21 they made a decision that in fact relatively shortly I
14:58:48 22 wasn't going to be there any more and that that may have
14:58:50 23 been the case. I don't know what their motives are. If I
14:58:54 24 had have seen that document I would have been staggered by
14:58:57 25 it.
26
14:58:57 27 All right. What were Victoria Police's responsibilities in
14:59:01 28 terms of reporting concerns that are raised in this
14:59:05 29 document to the OPI?--They should report it.
30
14:59:12 31 Might this document have been stopped in its tracks because
14:59:15 32 no one wanted this information to get to where it should go
14:59:20 33 to?--I don't know. I don't know that.
34
14:59:25 35 This information you accept should have come to you?--Of
14:59:28 36 course.
37
14:59:28 38 This information should have gone to the OPI?--Yes. I
14:59:32 39 certainly would have taken that. I had a relationship with
14:59:36 40 the OPI that was one where we did always tell them when we
14:59:40 41 had concerns and issues and I don't know why it wasn't
14:59:43 42 taken.
43
14:59:43 44 The concerns that are raised in this document are obvious
14:59:48 45 concerns, having taken you through what's occurred in the
14:59:51 46 handling - - - ?--Yes.
47

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14:59:53 1 - - - and the investigations that relate to
14:59:56 2 Ms Gobbo?---Yes.
3

14:59:57 4 These were concerns from go to woe and ought to have been
15:00:04 5 elevated or reported to the OPI at any stage along the
15:00:08 6 process?---I agree.
7

15:00:09 8 When anyone in Command became aware of it?---I mean this
15:00:12 9 document crystallises a lot of the issues and concerns but
15:00:19 10 I never saw it.
11

15:00:26 12 One of the people present at the meeting on 5 January was
15:00:34 13 Mr Hollowood. Do you know Mr Hollowood?---I do.
14

15:00:39 15 He had a briefing with you the following day?---No.
16

15:00:46 17 Were any of these concerns at all raised with you?---I
15:00:51 18 don't have any recollection. I understand from my diary
15:00:53 19 that I met with Mr Hollowood but I can't even understand
15:00:58 20 why I would have met with Mr Hollowood.
21

15:01:04 22 Was that an unusual thing for you - your diary, if we can
15:01:08 23 put that up, 6 January 2009, VPL.0005.0259.0001 at p.70.
15:01:26 24 You see there 11 o'clock?---Yes, I can.
25

15:01:29 26 It says, "Crime briefing with Paul Hollowood"?---He's a
15:01:34 27 Superintendent in the Crime Department.
28

15:01:35 29 He was Superintendent at the time. Was that unusual for
15:01:37 30 you to be briefed by a Superintendent?---Yes.
31

15:01:41 32 Can you explain why you might have been briefed at that
15:01:44 33 time?---No, I have tried to think through this and I don't
15:01:47 34 know and I've also been advised there are a number of other
15:01:52 35 meetings with him, but I can't understand whether that is
15:01:56 36 an error in the diary or in fact it really occurred.
37

15:02:00 38 The other meetings, do they occur subsequent or before this
15:02:05 39 that you - - - ?---Subsequent. But of course by this stage
15:02:09 40 I have one month before I'm then moving to the Bushfire
15:02:14 41 Recovery Reconstruction Authority and so I handed over all
15:02:19 42 responsibility. So I don't understand what he was telling
15:02:23 43 me, I don't know.
44

15:02:31 45 The little circle there in the meeting, does that indicate
15:02:36 46 that it's a reoccurring - - - ?---I gather so. I'm not an
15:02:41 47 expert on Outlook but that's what I think it means because

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15:02:45 1 it appears to me in other, in further circumstances that
15:02:51 2 it's still there, but I can't figure out why I would have
15:02:54 3 been talking to him or what he was telling me.
4
15:02:59 5 The day following that Ms Gobbo signs her statement and now
15:03:03 6 she's a witness?---Right.
7
15:03:09 8 You get told at some stage she's to become a witness or she
15:03:13 9 is a witness, can you recall - - - ?---She is a witness.
10
15:03:16 11 You only get told about Ms Gobbo's involvement once she - -
15:03:20 12 - ?---Some time in 2008 I come to understand she's going to
15:03:23 13 be a witness in these matters.
14
15:03:25 15 All right. But you're not told of any issues associated
15:03:33 16 with that?---No, not that I can recall.
17
15:03:38 18 Task Force Briars had commenced a little bit preceding
15:03:42 19 Petra?---M'mm.
20
15:03:43 21 Around the same period of time but in the months
15:03:46 22 preceding?---Yes.
23
15:03:47 24 And that became a focus following ██████████ I referred to
15:03:52 25 before?---Right.
26
15:04:00 27 Do you know who I'm talking about?---I think so, yes.
28
15:04:03 29 Implicating police in that murder. Number 30 I think on
15:04:09 30 that list?---Yes, I was going to say it's not ██████ I saw
15:04:16 31 the name before, yes.
32
15:04:17 33 You had some meetings in relation to the set up of that
15:04:21 34 inquiry; is that right?---Yes, I think so.
35
15:04:25 36 And I think we've got a running sheet in relation to that
15:04:32 37 which indicates that you've indicated the need for legal
15:04:37 38 advice and management committee accountability and so forth
15:04:41 39 in the running of that operation?---Yes.
15:04:44 40
15:04:44 41 Is that right?---And that certainly would have been the
15:04:48 42 way, you know, I handled many matters.
43
15:04:52 44 That management committee accountability, would that
15:04:56 45 include the taking of minutes?---It would have included the
15:05:04 46 writing of actions, details of what was to be done.
47

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15:05:08 1 Yes?---Outcomes of the meeting.
2
15:05:13 3 A meeting would get a report from the investigators as to
15:05:16 4 how the investigation was coming along?---Yes.
5
15:05:19 6 What was to be done, but separately from that there's a
15:05:22 7 management - to be a management of the committee, the
15:05:26 8 steering committee - - - ?---Yes.
9
15:05:27 10 - - - itself to indicate what decisions are they
15:05:31 11 making?---Or directions or whatever it might have been.
12
15:05:35 13 We should see some of that in documentation?---Yes.
14
15:05:40 15 Would it surprise you if that didn't occur?---Depending on
15:05:48 16 whether there were legal people involved. I certainly know
15:05:51 17 there were some notes taken by people, the legal people
15:05:56 18 would have followed - I mean I recall seeing some of those.
19
15:05:59 20 There was a separate committee as well, is that right, in
15:06:02 21 relation to around this time, in relation to concerns about
15:06:09 22 a Royal Commission and so forth and Mr Costigan joined that
15:06:12 23 committee?---Yes, he did.
24
15:06:14 25 That was a separate committee than the one overseeing
15:06:17 26 Briars, the investigations management committee?---Right.
27
15:06:24 28 I think you say in your statement you recall being briefed
15:06:27 29 about - do you know how often you were briefed in relation
15:06:38 30 to that matter, Briars?---There were irregular briefings.
31
15:06:48 32 Were you aware of the use of a human source during that
15:06:51 33 operation?---I can't recall.
34
15:06:57 35 In September 2007 there came to be another inquiry arising
15:07:01 36 out of leaks going on in the course of that operation,
15:07:06 37 you're familiar with that?---Yes.
38
15:07:09 39 Separately - well, it's apparent that the Task Force during
15:07:16 40 the course of the investigation had used Ms Gobbo also to
15:07:20 41 leak material through to David Waters during the
15:07:24 42 investigation. Did you ever become aware of that?---I
15:07:26 43 think I became aware of that after.
44
15:07:29 45 Do you know when you became aware of that or how you became
15:07:33 46 aware of that?---No, I can't remember.
47

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15:07:35 1 Did you come to ask how was Ms Gobbo being used to leak
15:07:38 2 such information, or why?---I don't recall.
3

15:07:43 4 Did you become aware of that as part of your role as Chief
15:07:46 5 Commissioner, that Ms Gobbo was being used to leak
15:07:48 6 information or - - - ?---I don't know how I would have
15:07:51 7 become aware of it. I can't remember if it was afterwards
15:07:54 8 or at the time, I can't recall.
9

15:07:56 10 When you say afterwards - - - ?---Well at some point down
15:08:00 11 the history or down in time, I don't recall when.
12

15:08:10 13 Were you aware that a short time after Ms Gobbo becoming a
15:08:13 14 witness for Petra that there were moves afoot to make her a
15:08:16 15 witness potentially in Briars?---I think so, yes.
16

15:08:20 17 How did you become aware of that?---Someone will have told
15:08:23 18 me.
19

15:08:24 20 Did you ever become aware of even more significant concerns
15:08:27 21 in relation to the moves from Briars because there was even
15:08:33 22 more of a chance of her compromise in that situation?---I
15:08:36 23 don't know. I don't recall.
24

15:08:47 25 When Mr Overland applied for the position within Victoria
15:08:51 26 Police was that to come into the position of Assistant
15:08:55 27 Commissioner Crime or just generally into a position of
15:08:57 28 Assistant Commissioner?---You mean back in 2002 or 3?
29

15:09:07 30 Back in 2003?---It would have been - I think I'm pretty
15:09:12 31 clear that you apply to be an Assistant Commissioner but it
15:09:17 32 was very clear it was crime responsibility.
33

34 Was there any issue about his own level of operational
15:09:21 35 experience when he came into that position or he was - - -
15:09:23 36 ?---I had met him previously. He had done a significant
15:09:27 37 amount of work in constructing the Australian Crime
15:09:30 38 Commission so I knew of him through my role as a Chief
15:09:34 39 Commissioner in Commissioner's forums. I had understood he
15:09:40 40 certainly understood organised crime in the way that it
15:09:44 41 should be managed and certainly he'd recommended to the
15:09:49 42 Commissioner's ways to do that. So I thought he had
15:09:53 43 expertise, particularly in that area, to be able to work in
15:09:56 44 crime investigation.
45

15:09:57 46 Effectively until he became Chief Commissioner himself he
15:10:00 47 remained looking over that sort of same area, is that

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15:10:04 1 right, of crime, organised crime?---He must have, yes.
2
15:10:07 3 He didn't experience any other areas of Victoria
15:10:13 4 Police?---I don't think so.
5
15:10:27 6 Clearly there were difficult issues that the police were
15:10:31 7 grappling with back in 2003 and so on in relation to the
15:10:34 8 gangland wars that were going on, you no doubt agree with
15:10:40 9 that?---The Victoria Police was not just grappling with
15:10:43 10 those issues at that stage. We were grappling with very
15:10:48 11 significant issues around a range of matters, terrorist
15:10:54 12 issues, crime issues, corruption issues, all of those
15:10:58 13 matters were all occurring at the same time.
14
15:10:59 15 In terms of dealing with the gangland issues, by the time
15:11:03 16 Ms Gobbo was signed up, so to speak, in 2005, to a large
15:11:07 17 degree, as I've indicated, or many of the major players in
15:11:12 18 terms of the killings were either deceased or in
15:11:15 19 custody?---Yes.
20
15:11:15 21 But police understandably were wanting to focus then on the
15:11:20 22 underlying causes of those killings?---Which had really
15:11:23 23 come out of the organised crime strategy that we should be
15:11:27 24 looking to - what was the source of the problem.
25
15:11:29 26 It seems as though perhaps Ms Gobbo was viewed or came
15:11:31 27 along and was seen as something of a magic pill?---Look,
15:11:36 28 I've heard that kind of language used. I certainly have no
15:11:39 29 reason to describe her in that way and given that I didn't
15:11:45 30 know about her role, my view is that Victoria Police was
15:11:49 31 being given significant capacity and resources to deal with
15:11:53 32 these matters, relationships with Australian Crime
15:11:58 33 Commission, a whole range of tools and resources, and until
15:12:01 34 I really became aware of the role she may have played, my
15:12:06 35 view was we were working very effectively on dealing with
15:12:10 36 those matters through all of the proper channels.
37
15:12:16 38 It may have seemed to others, I'm not saying to you at all,
15:12:20 39 but it may have seemed to others that along comes this
15:12:23 40 criminal barrister with all this information, it's almost
15:12:26 41 all too good to be true. It seems like there was either no
15:12:32 42 thought or little regard or be damned the consequences - -
15:12:38 43 - ?---I don't know if that's the case. I know enough about
15:12:41 44 Victoria Police and the time that I've spent in it to have
15:12:45 45 a great deal of respect for the work that it does and the
15:12:48 46 individuals involved. I don't, I can't even imagine
15:12:52 47 people, you know, behaving in a way that said, you know,

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15:12:56 1 "This is wonderful and we're going to solve all the work".
15:12:59 2 They already were in fact working extremely effectively, I
15:13:02 3 thought, and working on this matter. So I don't see her at
15:13:10 4 all as that kind of a - a way to describe her.
5
15:13:12 6 This occurs at a period of time when we have this new focus
15:13:16 7 and she is able to provide all this wonderful information
15:13:19 8 at the time, the very time we're commencing this focus.
15:13:23 9 This is a shortcut way that we can get to the end. Now,
15:13:27 10 you know well the issues that I'm speaking about?---Yes, I
15:13:32 11 do.
12
15:13:34 13 Noble cause corruption and I'd just like your thoughts in
15:13:37 14 relation to those?---And I understand very much the ends
15:13:38 15 and the means and all of that but I never saw that happen
15:13:39 16 in Victoria Police, the noble cause corruption. We were
15:13:43 17 very focused on that in New South Wales and I certainly was
15:13:48 18 aware of it and certainly during the Royal Commission we
15:13:51 19 saw the major issue in that. You know, I never saw that in
15:13:56 20 the way that Victoria Police behaved.
21
15:13:58 22 I know you didn't see it but do you accept that perhaps
15:14:02 23 that might be one explanation for why we're here where we
15:14:07 24 are today?---Look, it may well be but I just never saw that
15:14:18 25 kind of behaviour.
26
15:14:19 27 It seems as though throughout the life of this Commission
15:14:22 28 though that we've seen from time to time explanations put
15:14:25 29 forward, "Well these were extraordinary times", it's still
15:14:28 30 happening?---I understand that.
31
15:14:29 32 I'd just like your thoughts about the way forward, because
15:14:32 33 if that's the attitude still today with what's gone on,
15:14:36 34 what is the way forward?---Well it certainly wasn't my
15:14:39 35 attitude and many other people's attitudes, I believe. The
15:14:43 36 way forward obviously is to look, as I understand has
15:14:48 37 already commenced and had commenced after Ken Lay and
15:14:51 38 Graham Ashton looked to reform the system, to have the OPI
15:14:56 39 come in, to have an ex Police Commissioner, Neil Comrie,
15:15:01 40 come in and look to change the systems and processes that
15:15:07 41 might have facilitated or underpinned that.
42
15:15:08 43 You've no doubt read the High Court comments?---I have, I
15:15:13 44 have. Very much so.
45
15:15:16 46 About the conduct of not only Ms Gobbo but Victoria
15:15:16 47 Police?---And I read the "reprehensible" piece and

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15:15:24 1 certainly it's resonated with me. It's a very serious
15:15:25 2 statement to make from the High Court and I think the
15:15:28 3 implications are significant.
4

15:15:30 5 Given that we are still in some respects receiving those
15:15:32 6 explanations, they then were extraordinary times, "Somehow
15:15:36 7 those actions that we took then were justified, how can we
15:15:40 8 stop it occurring again"?---It's really a matter of systems
15:15:45 9 and processes and risk analysis as to how.
10

15:15:48 11 And culture?---Well Victoria Police culture, my view of it,
15:15:56 12 changed over time, changed in its professionalism, changed
15:16:00 13 in its education standards, changed in a whole range of
15:16:04 14 ways, which is the only way you can understand, that I
15:16:06 15 understand you can change culture. I certainly put into
15:16:08 16 place a whole series of things. You earlier saw my
15:16:12 17 organisational chart. That was trying to open up the
15:16:14 18 organisation to try and overcome cultural isolation which
15:16:17 19 was a part of the process. It was also about bringing
15:16:21 20 researchers and community people into place to help us open
15:16:25 21 up. Victoria Police was quite a closed culture and my
15:16:29 22 time, and others who were senior managers at the time, were
15:16:33 23 really trying to open it up so we could let air into
15:16:36 24 Victoria Police, let the researchers in, let a lot of
15:16:40 25 others help us understand how we could do better in our
15:16:43 26 work and continuously improve.
27

15:16:45 28 Obviously there are thousands of Victoria Police members
15:16:47 29 who have got very good reason to be very proud of all the
15:16:52 30 good work they do?---Yes.
31

15:16:54 32 They've got very great attributes, the loyalty that goes
15:16:58 33 with the work that's done, they respect the lines of
15:17:02 34 authority, the commitment to the public and public
15:17:06 35 safety?---Yes.
36

15:17:06 37 And a desire to achieve the right outcome, but you can see
15:17:11 38 how those very qualities can lead, if they're not balanced
15:17:16 39 correctly - - - ?---Yes, and that's certainly the research
15:17:19 40 around policing and noble cause corruption is a significant
15:17:22 41 matter that's been raised. I mean, you know, the people I
15:17:26 42 saw working in the source management, the people I knew
15:17:31 43 working in Purana I thought, and still do believe actually,
15:17:34 44 that they were highly efficient, you know, people who were
15:17:40 45 trying to do the very best they could.
46

15:17:46 47 Just on that last matter, you've dealt with issues of

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15:17:52 1 isolation and insularity and I think Mr Biggin in the
15:17:56 2 course of this inquiry gave some evidence along those
15:17:59 3 lines, that you were trying to open things up?---Yes.
4
15:18:01 5 And it took him some courage to actually write and send
15:18:06 6 that memo that I've just taken you to?---Right.
7
15:18:08 8 On 5 January?---Yes.
9
15:18:10 10 He said in effect that it could possibly stymie his
15:18:17 11 career?---Yes.
12
15:18:18 13 Because of the very people he was sending that memo to and
15:18:21 14 he had to put a great deal of thought into whether he
15:18:24 15 should send it and it took him some courage to actually do
15:18:30 16 that?---Right.
17
15:18:31 18 It seems as though things hadn't quite developed?---In
15:18:38 19 terms of reforming policing I probably have more experience
15:18:42 20 than many other people in trying to work through this
15:18:45 21 process, and more research and understanding of it. It's a
15:18:50 22 very difficult process to work through and hold over time.
15:18:54 23 So what you have to look to do is continuously look to
15:18:57 24 reform, continuously change systems to bring in a series of
15:19:02 25 behaviours where people feel like they're confident and
15:19:05 26 come forward. One of the things when I look at that
15:19:07 27 document is if Tony Biggin had gone after Simon Overland,
15:19:13 28 and then gone Christine Nixon, which he had a perfect right
15:19:16 29 to do and other people did, then that may have more likely
15:19:20 30 guaranteed it might have gotten to me, or he could have
15:19:21 31 come to my door. I understand that. Now I was departing.
15:19:24 32 You know, nothing like second-hand. You're gone when
15:19:28 33 you're gone and that's what I'd already done when I gave
15:19:31 34 notice on 5 November. So maybe there was a piece of that
15:19:38 35 that restricted the reasons I was not, or stopped that
15:19:42 36 document coming to me.
37
15:19:43 38 One would have expected though this is a document that's
15:19:49 39 directed to Mr Overland for consideration by a steering
15:19:53 40 committee that has not only Deputy Commissioner Overland on
15:19:57 41 it, it's got Deputy Commissioner Cornelius head of
42 ESD?---Yes.
43
15:20:06 44 It's got Assistant Director Danye Moloney, head of the
15:20:06 45 Crime Department sitting on it there and it's got
15:20:06 46 Mr Ashton, OPI Director?---Yes.
15:20:08 47

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15:20:09 1 MR COLEMAN: I object. There has to be a fairness and a
15:20:12 2 factual premise being correct in the question. There is no
15:20:14 3 evidence that that document went to the Petra steering
15:20:18 4 committee or even Mr Ashton. The evidence is to the
15:20:20 5 contrary.
15:20:21 6
15:20:22 7 MS TITTENSOR: I'm not suggesting that it - I'm not putting
15:20:24 8 to the witness that proposition at this stage. I'm talking
15:20:27 9 about Mr Biggin's sending that memo through and who he
15:20:36 10 thought it was going to get to.
11
15:20:38 12 COMMISSIONER: I think that's - - -
15:20:40 13
15:20:40 14 MR COLEMAN: Well with that qualification.
15
15:20:43 16 COMMISSIONER: Thank you.
15:20:44 17
15:20:44 18 MS TITTENSOR: I make at that point.
19
15:20:46 20 COMMISSIONER: Thank you.
15:20:46 21
15:20:47 22 MS TITTENSOR: One would think that the serious issues, if
15:20:49 23 it got to those people, might have been dealt with and
15:20:52 24 certainly would have been raised to your level, and further
15:20:54 25 perhaps?---It may well have.
26
15:20:58 27 Just finally, obviously human source management would be
15:21:04 28 one of the top five risks within Victoria Police?---I would
15:21:09 29 have thought in any police organisation, in fact in a
15:21:13 30 number of other organisations that manage and deal with
15:21:16 31 sources of information and human sources, I would have
15:21:20 32 thought it's about number one. It's a significant, it's
15:21:24 33 had a long-term, and there have been various ways and means
15:21:28 34 people have tried to think about and mitigate the risks,
15:21:31 35 but it's fundamental that policing gains information and
15:21:36 36 intelligence from as many as sources as it possibly can.
15:21:41 37 In fact in many people's cases, all the people in this
15:21:46 38 room, they have an obligation, they're citizens, to give
15:21:48 39 that information to the police, and you know I said in my
15:21:51 40 statement that the notion of Peel's principles which says
15:21:56 41 the police are the public, the public are the police, the
15:21:59 42 police having full-time obligations which the community has
15:22:02 43 part-time, really is about saying, and this is back in the
15:22:05 44 1800s, saying that people need to be giving the police the
15:22:10 45 information and even within some of the Supreme Court
15:22:13 46 matters I saw judges referring to the fact that, you know,
15:22:18 47 a barrister can give information to the police. It just

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15:22:21 1 should not obviously have anything to do with a client
15:22:23 2 they're appearing for. But people are obliged to give this
15:22:27 3 information and should because that's how the system
15:22:29 4 operates. So, the point about that is you've got to think
15:22:33 5 about what are the risks, how do you mitigate them, how do
15:22:38 6 you collect that information and not put cases at risk or
15:22:41 7 how do you solve crime by using that information as well.

8
15:22:46 9 Are you able to offer an explanation as to how or why very
15:22:51 10 senior Victoria Police officers, apparently aware of the
15:22:57 11 very significant risks to Victoria Police, allowed this
15:23:03 12 conduct to go on without letting you know about it?---My
15:23:09 13 understanding of what this inquiry will do is try to
15:23:13 14 understand what were the implications, what actually
15:23:16 15 happened? So from that, you know, having - when I come to
15:23:21 16 that point and read it I'll obviously learn a lot more than
15:23:25 17 I have currently been able to know, but it certainly isn't
15:23:31 18 about malice, it certainly isn't about ill-will, it
15:23:40 19 certainly isn't about them not behaving as best they could
15:23:45 20 be and so I don't really have any other explanation if that
15:23:47 21 turns out to be the case in the end of what happens to all
15:23:50 22 those criminal matters.

23
15:23:51 24 You might have expected this last question, and you used
15:23:54 25 the quote yourself to the Drug Squad when you shut down the
15:23:58 26 Drug Squad?---M'hmm.

27
15:24:01 28 But do you accept that if you didn't know you should
15:24:04 29 have?---You should have. I was in a Royal Commission in
15:24:07 30 1994 when Justice Woods said, "If you didn't know, you
15:24:14 31 should have", and I have to say that's haunted me ever
15:24:18 32 since. And so what I've tried to do since I've been a
15:24:21 33 senior police officer is try and make myself aware of a
15:24:24 34 whole range of matters. There are only so many things you
15:24:27 35 can know, and so, you know, I take the point.

36
15:24:31 37 You accept you should have known?---Well, you know, how I
15:24:35 38 would have been able to know, whether there was a need to
15:24:38 39 know in many cases, whether I should have known particular
15:24:43 40 matters.

41
15:24:45 42 At the end of the day by at least 5 January you should have
15:24:49 43 known, whether it's because of your own inquiries that you
15:24:55 44 should have made or because of the neglect of others in not
15:24:58 45 telling you, if you didn't know, you should have, do you
15:25:04 46 accept that?---Certainly from what you've taken me through
15:25:08 47 today I've learned a lot more than I knew before. I think

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15:25:12 1 that I did the very best I could. I had the overall
15:25:15 2 responsibility for Victoria Police. I had the leadership,
15:25:18 3 the strategies, the supervision of it. I'm not responsible
15:25:22 4 for individual police officer's actions. They are
15:25:28 5 Constables of the Police who are sworn to take an oath and
15:25:31 6 sworn to do the right thing. Police senior management have
15:25:34 7 never been held accountable for that particular behaviour
15:25:37 8 of police officers dealing with particular matters because
15:25:40 9 that's the independent office of a Constable of Police. So
15:25:42 10 I'm prepared to take broad responsibility for the systems
15:25:45 11 and practices in the organisation, but individual decisions
15:25:48 12 of police officers are theirs.

13
15:25:51 14 Thank you, Commissioner.

15
15:25:53 16 COMMISSIONER: Thank you. Mr Nathwani.

15:25:55 17
15:25:56 18 MR NATHWANI: No, thank you.

15:25:57 19
15:25:57 20 MR COLEMAN: No questions.

21
15:25:59 22 COMMISSIONER: Mr Chettle.

15:26:01 23
24 <CROSS-EXAMINED BY MR CHETTLE:

25
15:26:06 26 Ms Nixon, you talked about your attempts to institute
15:26:11 27 cultural change at Victoria Police. You would say that you
15:26:13 28 had some success in that over the time you were there?---I
15:26:16 29 certainly would.

30
15:26:19 31 Two aspects of that I'd like to ask you about. The first
15:26:23 32 in relation to the whole informer management system. That
15:26:26 33 involved significant cultural change, didn't it, the
15:26:29 34 introduction of the Source Management Unit?---It does and
15:26:36 35 did.

36
15:26:37 37 Indeed, there was some resistance from perhaps what I'll
15:26:39 38 call the old-fashioned coppers who would say that this was
15:26:42 39 all nonsense and it was better the way they handled it when
15:26:46 40 they looked after their sources themselves?---They
15:26:49 41 certainly did.

42
15:26:50 43 That was the very culture you were trying to
15:26:52 44 change?---That's right.

45
15:26:55 46 Describing it as nonsense or dangerous. Generally there
15:26:59 47 were a lot of detectives who didn't embrace the new system,

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15:27:02 1 can I put that to you?---That's true.
2
15:27:04 3 When you do introduce this, it represents a whole new way
15:27:12 4 of thinking for a large number of operational
15:27:16 5 policemen?---Yes, it does. And it's as significant as
15:27:21 6 perhaps recording statements, which we didn't do, and so
15:27:25 7 it's in that level of change in the work of the way a
15:27:30 8 criminal investigator behaves.
9
15:27:35 10 In the past a number of police officers had improper or
15:27:39 11 corrupt relationships with their informers?---Yes, they
15:27:46 12 did.
13
15:27:48 14 And indeed people were often registered as informers for
15:27:50 15 all sorts of reasons which had nothing to do with them
15:27:55 16 being informers?---Yes.
17
15:27:56 18 So along comes the SDU. You know Sandy White, the name
15:28:00 19 you've been referred to today?---Yes.
20
15:28:02 21 You were taken to the 2003 policy document, the Chief
15:28:05 22 Commissioner's instruction?---Yes.
23
15:28:06 24 Do you understand that was contributed to by effectively
15:28:09 25 two people, one a man called Glen Owen, do you know him?
15:28:14 26 He was HSMU. If you don't remember his name my
15:28:17 27 instructions are he had a significant role in writing that
15:28:20 28 document?---That doesn't surprise me.
29
15:28:21 30 And indeed so did Mr White?---Right.
31
15:28:25 32 Would you agree with that?---Yes, I do.
33
15:28:28 34 That whole new policy involved effectively total
15:28:32 35 transparency and total accountability for those managing
15:28:36 36 sources?---Yes.
37
15:28:38 38 Everything that was - the idea was to ensure that there was
15:28:42 39 a complete and accurate record of what took place between
15:28:46 40 the interaction between the handlers and the
15:28:53 41 sources?---Correct.
42
15:28:57 43 There'd be rules in relation to the number of people who
15:28:59 44 should attend, the way in which these things are to be
15:29:02 45 recorded, all designed to mitigate against
15:29:06 46 corruption?---That was the fundamental piste.
47

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15:29:09 1 And as part of that process, you're familiar with the
15:29:13 2 concept of intrusive supervision?---Yes.
3
15:29:15 4 Sterile corridor?---Certainly.
5
15:29:18 6 Now these are essential elements of making the new system
15:29:22 7 work, do you agree with that?---Yes, of course.
8
15:29:27 9 As part of the way that was to work did you understand that
15:29:30 10 the - firstly, as a general proposition a unit where the
15:29:37 11 opinions and experiences of the members are shared and
15:29:43 12 discussed is a way to promote change, isn't it?---Yes, it
15:29:47 13 is.
14
15:29:47 15 It's also a significant anticorruption - - - ?---Strategy.
16
15:29:53 17 Strategy?---Yes, it is.
18
19 That's the word. So much so that you attended a Covert
15:30:15 20 Support Department comstat on 26 October 2006 and gave an
15:30:15 21 address, did you not, do you recall that?---I recall I
15:30:15 22 would have attended there because I was involved in that
15:30:15 23 process with all of the key units in Victoria Police.
15:30:16 24
15:30:17 25 And you said at that meeting on 26 October 2006 that, "The
15:30:24 26 SDU and the HSMU represented one of the best risk
15:30:29 27 management tools for the support of investigation. It
15:30:31 28 needs to further develop and grow and it's evidence you can
15:30:36 29 implement cultural change", do you accept that that's a
15:30:40 30 quote from you?---Look, I don't recall exactly the words
15:30:43 31 but I'm sure I would have thought and said that. It sounds
15:30:46 32 like me.
15:30:47 33
15:30:48 34 All right. So the other aspect of cultural change is there
15:30:58 35 had been a tendency in the past for higher level police
15:31:03 36 officers to seek to avoid responsibility for their actions
15:31:08 37 by blaming the troops?---Correct.
15:31:11 38
15:31:11 39 And if you can say, for example, "Look, we've dealt with
15:31:16 40 the problem, we've disciplined the troops, fixed the
15:31:19 41 problem, nothing to see here", that was the sort of culture
15:31:22 42 that existed in the past, wasn't it?---It was.
15:31:26 43
15:31:26 44 And you were trying to change that?---I was.
15:31:28 45
15:31:28 46 Did you hear Sir Ken Jones's evidence the other day or read
15:31:32 47 any of it?---I read some of the reports of it.

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15:31:35 1
15:31:36 2 He described a concept of absolute or unquestioning loyalty
15:31:41 3 and described it as being toxic, do you know what he meant
15:31:46 4 by that?---Yes.
15:31:48 5
15:31:48 6 So if you blindly do what the boss says and don't question
15:31:53 7 it and you cover up and make sure he's protected, that's
15:31:56 8 the toxic aspect of it, isn't it?--Well it's toxic and
15:32:01 9 been used and called the Nuremberg defence previously.
15:32:04 10
15:32:05 11 I know nothing?---Right.
12
15:32:07 13 That's part of the problem. I know management, upper
15:32:10 14 command it seemed had a policy of not keeping notes and
15:32:14 15 diaries?---Yes.
15:32:15 16
15:32:15 17 Ironically the SDU, as you know, kept copious notes?---They
18 did.
19
15:32:20 20 And copious records?---And should have.
15:32:21 21
15:32:22 22 And if they didn't we wouldn't be here now?---No, maybe
15:32:26 23 not.
15:32:26 24
15:32:26 25 One of the issues in relation to accountability is the need
15:32:32 26 for accurate and notes and records so that what was known
15:32:35 27 and said by whom, when and where can be checked, that's
15:32:40 28 fair, isn't it?---That's certainly why operational police
15:32:44 29 officers have been required to keep notes over time, yes.
15:32:49 30
15:32:49 31 One of the problems with what occurred for the 2006, 2008
15:32:55 32 period when nobody in command seemed to keep notes is that
15:33:02 33 it's impossible to say exactly what was told to them, when
15:33:05 34 and where, is that fair?---That certainly appears to be the
15:33:07 35 case so far.
15:33:08 36
15:33:08 37 So when you're confronted with a situation where command
15:33:11 38 are looking at blank diaries, but there are entries made by
15:33:18 39 Superintendents and Inspectors, the only record of what
15:33:20 40 occurred are the notes of those people?---No, that's not
15:33:23 41 always true. There are documents that are produced and
15:33:26 42 often then have a summary of the material that issue
15:33:32 43 background kind of sheets which would then have, come
15:33:35 44 through to me, I've signed hundreds of those. And so there
15:33:39 45 are clearly those records in Victoria Police. You're
15:33:41 46 talking about highly protected material here and so I think
15:33:45 47 there's a bit of a difference in that.

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15:33:47 1
 15:33:48 2 Perhaps I'll give you an example. The records of the SDU
 15:33:51 3 record that Sandy White was informed by Mr Wilson,
 15:33:58 4 Superintendent Wilson, that as a result of a conversation
 15:34:01 5 he'd had with Mr Overland, Mr Cornelius and Mr Ashton, he
 15:34:08 6 told Sandy White that as a result of that meeting those
 15:34:11 7 three officers were aware of the identity of Ms Gobbo. Do
 15:34:15 8 you follow?---Right.
 15:34:16 9
 15:34:16 10 There's a note in his diary and there's a note in the SDU
 15:34:20 11 records to that effect?---Right.
 15:34:21 12
 15:34:21 13 In the absence of any entries in the diaries of the three
 15:34:24 14 officers, that is Ashton, Overland or Cornelius, the only
 15:34:28 15 evidence of what occurred really is in the diaries of the
 15:34:32 16 individuals involved?---Yes.
 15:34:34 17
 15:34:34 18 MR COLEMAN: I object to that, it's not right. It's not
 15:34:37 19 right as a fundamental proposition, each person has been
 15:34:41 20 asked about it.
 15:34:43 21
 15:34:43 22 MR CHETTLE: I'll move on. I won't push it.
 15:34:45 23
 15:34:46 24 COMMISSIONER: All right.
 15:34:46 25
 15:34:48 26 MR CHETTLE: Can I take you briefly to some other topics.
 15:34:52 27 That risk assessment, sorry, that SWOT analysis that you
 15:34:55 28 were shown before, Ms Nixon. Ms Tittensor described
 15:35:00 29 accurately what Mr Biggin said when he described it as a
 15:35:04 30 career limiting move, I think he said, in writing something
 15:35:07 31 like that and sending it up the line. That would apply
 15:35:11 32 equally to the officer who wrote it, the [REDACTED] who wrote
 15:35:14 33 it, wouldn't it?---I think that's a great shame that both
 15:35:18 34 of those officers thinks that's the case. I'm not sure in
 15:35:22 35 the time I was in Victoria Police that I saw anybody's
 15:35:26 36 career limited, and I was there by that stage for eight
 15:35:30 37 years. So I think you can make that statement blithely,
 15:35:35 38 but it doesn't mean there's any real substance behind it
 15:35:39 39 that says, "I'm finished because I'm going to tell the
 15:35:42 40 truth" or, "I'm going to tell officers something they don't
 15:35:44 41 want to hear". I'm not prepared to agree with you about
 15:35:46 42 that.
 15:35:46 43
 15:35:46 44 [REDACTED] Black is the name that - I don't expect you
 15:35:49 45 know him or met him, but he's the one who wrote that
 15:35:51 46 document?---Right.
 15:35:52 47

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15:35:53 1 He did it in accordance with an instruction from an
15:35:58 2 Superintendent who asked him to write it?---Right.
15:36:01 3
15:36:01 4 COMMISSIONER: It's no.9 on the list if you want to check
15:36:05 5 the name.
15:36:05 6
15:36:06 7 MR CHETTLE: I suspect you don't know him but you might
15:36:08 8 check. No, don't know him?---I don't. I might have met
15:36:11 9 him, actually used to have a very good memory once when I
15:36:16 10 was in Victoria Police, but the older I get the less well
15:36:20 11 it is.
15:36:21 12
15:36:21 13 Tell me about it. He wrote it at the request of Mr Biggin,
15:36:24 14 provided it to Mr Biggin. Mr Biggin provided it to
15:36:27 15 Mr Moloney. That's the line of command, isn't it, that's
15:36:31 16 the appropriate way to deal with the document?---Yes.
15:36:33 17
15:36:35 18 You'd like to think, as you said before, that the culture
15:36:38 19 had changed so that it would be appropriate for someone in
15:36:41 20 his position to be able to come up, knock on your door and
15:36:45 21 provide it to you?---And trust me, many people actually did
15:36:48 22 just that.
15:36:48 23
15:36:49 24 So he adheres to the line of command policy?---Yes, I
15:36:52 25 understand that.
15:36:53 26
15:36:54 27 But you would like to think the culture had changed enough
15:36:57 28 for him to have gone straight to you?---And certainly some
15:37:00 29 people thought that was the case.
15:37:01 30
15:37:02 31 Let's give you another, on a related topic, if a member of
15:37:06 32 the SDU, an experienced Sergeant or Senior Sergeant, took
15:37:12 33 the view that their Inspector was making a particularly
15:37:16 34 stupid decision in relation to an operational matter, it
15:37:19 35 would be acceptable to ask to talk to the Chief
15:37:22 36 Commissioner in order to have that overturned?---Well,
15:37:24 37 there would be a range of people in the organisation who
15:37:27 38 wouldn't have thought that was a good idea.
15:37:27 39
15:37:30 40 Yeah?---But I had from the beginning of time in the
15:37:32 41 Victoria Police, particularly when we instituted an email
15:37:35 42 system, because when I got there we didn't have email, then
15:37:38 43 one of the things that I changed was a rule that said you
15:37:42 44 in fact could write to the Chief Commissioner and they
15:37:44 45 certainly did. In their hundreds on some occasions. So my
15:37:48 46 point is that I understand how people form the view and I
15:37:53 47 understand it's a damaging view to have about, about an

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15:37:56 1 organisation.
15:37:57 2
15:37:58 3 It would be inappropriate if somebody had a concern about
15:38:01 4 something like that and they wanted to raise it with the
15:38:04 5 Chief Commissioner but they would be in some way punished
15:38:06 6 for it?---Well it certainly wouldn't have been me
15:38:11 7 punishing.
15:38:12 8
15:38:13 9 I'm not suggesting it was, Ms Nixon, but you can understand
15:38:14 10 the resistance from some of the culture down below?---I
11 understand but we were about eight years into a cultural
15:38:20 12 shift, a leadership shift, and that process has to continue
15:38:22 13 and hopefully it did, but policing, you know, has a long
15:38:27 14 history thinking of people thinking they're going to be
15:38:29 15 harmed or damaged if they speak up.
15:38:33 16
15:38:34 17 Just switching to a different topic quickly. You were
15:38:34 18 asked by Ms Tittensor about the need for a dedicated
15:38:37 19 Inspector for the SDU and that there were some documents
15:38:41 20 written by Mr White that you were taken to that said we
15:38:44 21 need one, do you remember that - - - ?---Yes, I do.
15:38:46 22
15:38:47 23 The other aspect that you may or may not have been aware of
15:38:51 24 is that over the years that the unit operated they were in
15:38:55 25 fact screaming for administrative support, the paperwork
15:38:59 26 was large, they wanted to get administrative support to
15:39:02 27 help them deal with the volume of work. I suspect that's a
15:39:07 28 familiar cry, isn't it?---Quite a common cry in Victoria
15:39:09 29 Police, yes.
15:39:09 30
15:39:09 31 At the end of the day it comes down to availability of
15:39:13 32 dollars, doesn't it?---Yes.
15:39:15 33
15:39:15 34 It was put to you that the fact that they didn't have a
15:39:19 35 dedicated Inspector might in some way have meant that they
15:39:23 36 weren't being properly overseen and couldn't raise proper
15:39:26 37 issues with their Inspector. Did you know an Inspector by
15:39:31 38 the name of Inspector Rod Hardy who unfortunately is
15:39:38 39 deceased?---Rod?
40
15:39:39 41 Hardy?---I think I knew of him.
15:39:40 42
15:39:41 43 He was for a period of time the Inspector in charge of the
15:39:45 44 SDU who also obviously had issues with one of the other,
15:39:51 45 jointly over sighting another part of the
15:39:54 46 department?---Right.
15:39:54 47

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15:39:54 1 The evidence is that he participated regularly in meetings
15:39:59 2 and that issues involving Ms Gobbo were raised and
15:40:02 3 discussed with him over the course of that
15:40:04 4 relationship?---Right.
15:40:04 5
15:40:05 6 And if that's right, the point made about it - perhaps not
15:40:10 7 to the point that the Inspector was being shared with
15:40:13 8 somebody else, if that particular Inspector was over the
15:40:15 9 issues involved, do you see what I'm getting at? I'm
15:40:21 10 asking you not to accept necessarily just because there
15:40:24 11 wasn't a dedicated Inspector that the jointly positioned
15:40:28 12 Inspector wasn't over the issues anyway?---If the original
15:40:32 13 workload was significant then that should have justified an
15:40:36 14 independent officer, but clearly, you know, there are many
15:40:39 15 of us who have done multiple jobs and been able to do them
15:40:45 16 very effectively in many cases so I'm not suggesting that
15:40:48 17 you wouldn't possibly be able to do your job because you
15:40:52 18 were doing two or three or four things.
15:40:55 19
15:40:56 20 Thank you. In 2009 Mr White wrote another document called
15:40:59 21 "The Value of the Future" looking at the way in which the
15:41:02 22 SDU should go ahead?---Right.
15:41:03 23
15:41:04 24 I take it that would be, you wouldn't have seen - -
15:41:07 25 -?---After my time.
15:41:08 26
15:41:08 27 You didn't see it. It called again for a full-time
15:41:12 28 Inspector for the unit and they finally got
15:41:14 29 one?---Delighted.
15:41:15 30
15:41:15 31 You didn't see that document?---I finished and moved to the
15:41:19 32 bush fires pretty much on 7 February.
15:41:22 33
15:41:22 34 Thank you. Now, you were taken to a line, one line out of
15:41:34 35 a 350 page document, of one of 50 separate meetings that
15:41:39 36 Ms Gobbo had with her handlers where she uttered that one
15:41:42 37 line, "The ethics of all this are fucked", do you remember
15:41:45 38 you were taken to that by Ms Tittensor?---I did.
15:41:49 39
15:41:50 40 She asked you a number of questions about what you would do
15:41:53 41 with that, what should have been done when that was said.
15:41:55 42 Do you remember? The first thing you'd do is you'd have a
15:41:59 43 look at the totality of the conversation, wouldn't you, to
15:42:01 44 see whether it was in context?---That would be important.
15:42:03 45
15:42:04 46 Secondly, you would work out whether she was venting, as
15:42:06 47 she had a habit of doing, and just shooting off the top of

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15:42:09 1 her head rather than being an informed comment?---Right.
15:42:13 2
15:42:14 3 So you can't just obviously look at one line taken in
15:42:18 4 isolation out of thousands of pages of documents and say
15:42:22 5 that this represents a vast problem for Victoria
15:42:27 6 Police?---I was asked a whole series of questions over the
15:42:30 7 day and I take it they were asked in good faith and so I,
15:42:37 8 you know, responded in the same way.
15:42:39 9
15:42:39 10 Again, we've heard this line a lot, but if you do hear it,
15:42:42 11 it's not just the line, you have to put it in context
15:42:45 12 surely?---Anything has a context.
15:42:46 13
15:42:47 14 Thank you. You were asked about the issue of conflict and
15:42:53 15 an example was given to you of the tomato cans and the
15:42:58 16 large ecstasy importation, do you remember that?---Yes.
15:43:01 17
15:43:02 18 The facts in summary are these: Ms Gobbo was acting for
15:43:06 19 Mr Karam in a trial for an importation. During the course
15:43:10 20 of that trial, as you were told, she gave him some
15:43:13 21 documents, he gave her some documents to hold in relation
15:43:16 22 to a future importation. Now, that clearly is not legally
15:43:21 23 professionally privileged, is it, the contents of the
15:43:25 24 documents in relation to a future importation you would not
15:43:28 25 see as legally professionally privileged?---Well I think it
15:43:31 26 would be questionable.
15:43:32 27
15:43:32 28 Well - - - ?---And questionable as to whether it was
15:43:35 29 related to the case, whether it was a confidential
15:43:37 30 material, or whether it was simply information.
15:43:39 31
15:43:40 32 Let me give you - on that, the history, the facts of that
15:43:44 33 were Ms Gobbo was doing an importation which was a separate
15:43:48 34 importation Mr Karam had been involved in. She was
15:43:52 35 representing him and she provided documents that he was
15:43:55 36 asking her to hold, because he couldn't take them to court,
15:43:59 37 about a future crime?---Right.
15:44:01 38
15:44:01 39 You'd understand the exception to the legal professional
15:44:05 40 privilege rule?---I would.
15:44:06 41
15:44:06 42 Ongoing or future crime?---Yes.
15:44:07 43
15:44:08 44 On what I've told you that fits that bill, doesn't
15:44:11 45 it?---Certainly having read the judgment in the Supreme
15:44:15 46 Court and the way that the judge explained that particular
15:44:20 47 aspect relating to a crime, you could say she had an

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15:44:23 1 obligation to tell us.
15:44:24 2
15:44:29 3 I take it you haven't read the submissions that have been
15:44:33 4 lodged at the Royal Commission on the website for the Royal
15:44:37 5 Commission from the various organisations?---No, I have
15:44:39 6 not.
15:44:39 7
15:44:43 8 Did you have the perception that what was happening here
15:44:46 9 was that Ms Gobbo was sitting down with her clients,
15:44:48 10 getting instructions for the case she was working on and
15:44:51 11 then telling the police that, is that what you thought was
15:44:54 12 happening?---No, I didn't have that perception.
15:44:56 13
15:44:56 14 Because that clearly would be legally professionally
15:45:00 15 privileged and improper?---Yes, that's right.
15:45:01 16
15:45:02 17 So in the tomato cans case that I was telling you about,
15:45:05 18 having been told, as Ms Tittensor said to you, by the
15:45:08 19 handlers that she could not act for Mr Karam or any of the
15:45:13 20 people involved in the future and she said she understood
15:45:18 21 that, the Federal authorities told her she couldn't be
15:45:22 22 involved and she said she understood that, and she became
15:45:25 23 involved after she left the SDU management, that is she
15:45:29 24 started acting for them later?---Right.
25
15:45:30 26 You can hardly lay blame at the SDU, can you?---Hardly.
15:45:34 27
15:45:46 28 The SWOT analysis, I touched on it before, the document
15:45:49 29 that Mr Black prepared, Mr Biggin?---Yes.
15:45:51 30
15:45:51 31 You describe it as an excellent document?---It was.
15:45:54 32
15:45:54 33 Because it looks at all sides of the coin, spells out the
15:45:58 34 threats, the risks, clearly anyone reading it would see the
15:46:03 35 problems?---Yes.
15:46:04 36
15:46:08 37 That should have got to the steering committee, do you
15:46:12 38 agree with that?---Well that's who I was assuming it was
15:46:16 39 prepared for.
15:46:17 40
15:46:17 41 On the cover sheet that's where it says it's supposed to
15:46:20 42 go?---Right.
15:46:21 43
15:46:21 44 You would say not only should it have gone to the steering
15:46:25 45 committee but it should have gone to you?---Yes.
15:46:26 46
15:46:29 47 Excuse me. I think that's fairly close to all I want to

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15:46:32 1 ask you. During the course of your, one matter, during the
15:46:44 2 course of your preparation for your appearance here were
15:46:46 3 you shown the risk assessments that were completed by the
15:46:50 4 SDU in relation to Ms Gobbo's registration?---No.
15:46:55 5
15:46:56 6 If someone wanted to look at, if you wanted to look at a
15:47:01 7 risk assessment in relation to a particular informer as the
15:47:05 8 Chief Commissioner, I assume you could if you wanted
15:47:08 9 to?---I think I'd have to have a good reason to. It is a
15:47:11 10 need to know basis and we attempt very strongly to protect
15:47:19 11 the human source and the numbers that they are given is
15:47:26 12 usually the way that that's done.
15:47:27 13
15:47:27 14 Just to add to that though, if you discovered that the
15:47:29 15 police had registered a barrister who was a criminal
15:47:32 16 barrister and she was providing evidence against the
15:47:34 17 Mokbels and you knew she acted for - Nicola Gobbo acted for
15:47:39 18 the Mokbels, you might make a few inquiries, mightn't you,
15:47:43 19 in that situation?---I could have.
15:47:45 20
15:47:45 21 And one of the inquiries could be to get hold of the
15:47:48 22 documents and see what the risks were, what did they look
15:47:51 23 at, were they recognised, were they dealt with?---I think I
15:47:55 24 might have also taken steps to talk to the Source
15:47:59 25 Management Unit itself.
15:47:59 26
15:47:59 27 Get Mr White in and ask him what's going on?---That's
15:48:02 28 generally what my style was.
15:48:04 29
15:48:04 30 Thank you.
15:48:05 31
15:48:05 32 COMMISSIONER: Re-examination?
15:48:07 33
34 <RE-EXAMINED BY MS ENBOM:
35
15:48:08 36 Two very brief matters. Ms Nixon, you gave evidence that
15:48:13 37 you became aware that Ms Gobbo was to be a witness against
15:48:18 38 Paul Dale, do you remember giving that evidence?---I'm
15:48:20 39 sorry?
15:48:21 40
15:48:21 41 Do you remember giving that evidence?---Yes.
15:48:23 42
15:48:23 43 Do you remember who told you that she was to be a witness
15:48:26 44 against Paul Dale?---I assume it had to be Luke Cornelius
15:48:30 45 or someone who was involved at that level.
15:48:32 46
15:48:32 47 You don't have any specific memory of being told?---No.

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15:48:35 1
15:48:37 2 Do you have any memory of the circumstances in which you
15:48:39 3 were told?---I'm sure it was a briefing of some
15:48:42 4 description.
15:48:42 5
15:48:42 6 Do you think it would have been a formal briefing or do you
15:48:46 7 think it might have arisen in a discussion about the
15:48:48 8 prosecution?---I would have thought it was more an informal
15:48:52 9 discussion.
15:48:52 10
15:48:52 11 An informal discussion?---Yes.
15:48:54 12
15:48:54 13 The second matter, Ms Nixon, is this one: Ms Tittensor
15:48:59 14 seemed to perhaps gently suggest that the purpose of the
15:49:06 15 meeting with Mr Hollowood on 6 January 2009 might have been
15:49:11 16 for him to discuss with you the SWOT analysis?---H'mm.
15:49:15 17
15:49:15 18 Do you have any recollection of that meeting?---I don't
15:49:19 19 have any recollection of the meeting and I had no
15:49:23 20 recollection at all of ever having seen that SWOT analysis.
15:49:27 21
15:49:28 22 Have you had an opportunity over the last few days to look
15:49:31 23 at your Outlook diary?---I have.
15:49:33 24
15:49:33 25 Were you able to see in your Outlook diary that there were
15:49:36 26 many meetings in your diary scheduled with
15:49:40 27 Mr Hollowood?---Yes.
15:49:40 28
15:49:41 29 Did you see that there was at least one scheduled for
15:49:44 30 before 6 January 2009, do you remember seeing that?---I
15:49:48 31 recollect that, yes.
15:49:49 32
15:49:49 33 They're the only questions, Commissioner.
15:49:51 34
15:49:51 35 COMMISSIONER: Thank you. Yes Ms Tittensor.
15:49:51 36
15:49:51 37 <RE-EXAMINED BY MS TITTENSOR:
15:49:51 38
15:49:55 39 Just a couple of quick matters and you'll be out of here,
15:49:59 40 Ms Nixon?---Thank you.
15:50:00 41
15:50:00 42 You'll understand in relation to the bill of lading matter,
15:50:04 43 the Karam matter that was raised with you by
15:50:07 44 Mr Chettle?---Yes.
15:50:07 45
15:50:07 46 You'll understand that regardless of concepts of legal
15:50:15 47 professional privilege operating on that document, there

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15:50:17 1 was an obligation if Ms Gobbo was to inform on her client
15:50:21 2 for her not to continue representing that client, she
15:50:24 3 couldn't possibly be acting in that client's best
15:50:28 4 interests?---That would be my understanding.
15:50:30 5
15:50:33 6 I didn't seek to put to you an inordinate amount of
15:50:37 7 transcripts through the evidence otherwise we might have
15:50:39 8 been here all day?---Right.
15:50:41 9
15:50:41 10 I took you to one, I hope that I put it in context but to
15:50:47 11 give it a little more context, by the end of that
15:50:50 12 conversation or during that conversation Ms Gobbo also
15:50:53 13 indicated to her handlers, or questioned why she herself
15:50:59 14 might not be guilty of conspiring or inciting [REDACTED] to
15:51:05 15 commit the offences, her client, why was not, given what
15:51:11 16 she was doing, the chats that she was having with him about
15:51:14 17 what he was doing, she questions, "Why aren't I guilty of
15:51:20 18 inciting or conspiring with him to commit those offences",
15:51:24 19 she questions?---Right.
20
15:51:25 21 Police in possession of that knowledge, what should they
15:51:27 22 have done with it? Would you expect that they would be a
15:51:32 23 bit concerned about that and at least follow that up, "What
15:51:35 24 do we do" - - - ?---As to what means and what the
15:51:39 25 implications are?
15:51:39 26
15:51:39 27 Yes?---I would have thought so.
15:51:40 28
15:51:41 29 Thank you, Commissioner.
15:51:41 30
15:51:42 31 COMMISSIONER: Thanks very much Ms Nixon, you're excused,
15:51:46 32 you're free to go?---Thank you very much. Thank you
15:51:48 33 Commissioner.
15:51:48 34
15:51:48 35 We'll have a short adjournment before we resume with
15:52:14 36 Mr Overland.
15:52:16 37
38 (Witness excused.)
39
15:52:18 40 <(THE WITNESS WITHDREW)
15:52:18 41
15:52:19 42 (Short adjournment.)
16:07:46 43
16:07:46 44 MS TITTENSOR: Commissioner, there are a couple of exhibits
16:07:49 45 that I failed to tender and I might just quickly do that
16:07:52 46 before Mr Winneke stands up again.
16:07:54 47

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16:07:54 1 COMMISSIONER: Yes, sure.
16:07:55 2
16:07:56 3 MS TITTENSOR: Ms Nixon's Outlook calendar diary,
16:08:03 4 VPL.0005.0259.0001.
16:08:09 5
16:08:09 6 #EXHIBIT RC924A - (Confidential) Ms Nixon's Outlook
16:08:00 7 calendar diary.
16:08:11 8
16:08:11 9 #EXHIBIT RC924B - (Redacted version.)
16:08:13 10
16:08:13 11 There was an Operation Clonk/Briars running sheet which is
16:08:18 12 IBAC.0008.0001.0043.
16:08:24 13
16:08:25 14 #EXHIBIT RC925A - (Confidential) Operation Clonk/Briars
16:08:16 15 running sheet.
16:08:26 16
16:08:26 17 #EXHIBIT RC925B - (Redacted version.)
16:08:28 18
16:08:28 19 MS TITTENSOR: Thank you Commissioner.
16:08:29 20
16:08:30 21 COMMISSIONER: Thank you. Mr Overland is back in the
16:08:32 22 witness box. I'm sorry you've been delayed so long but
16:08:36 23 these things are very difficult to predict. Of course
16:08:40 24 you're on your former oath. Ms Coleman, you're here
16:08:46 25 representing the witness?
16:08:47 26
16:08:48 27 MS COLEMAN: Yes Commissioner.
16:08:48 28
16:08:49 29 COMMISSIONER: Yes Mr Winneke.
16:08:50 30
31 <SIMON JAMES OVERLAND, recalled:
32
16:08:51 33 MR WINNEKE: Mr Overland I was asking you yesterday about
16:08:55 34 Operation Khadi, or Task Force Khadi rather which was a
16:08:59 35 joint agency agreement between Victoria Police and the
16:09:04 36 OPI?---H'mm.
16:09:04 37
16:09:04 38 And it appears on the evidence on about 27 July 2006 the
16:09:17 39 operation insofar as it was going to call Ms Gobbo before
16:09:21 40 the OPI stopped. Now, it appears on the records that there
16:09:29 41 was a discussion between you and Mr Ashton, and it may well
16:09:33 42 have been Mr Cornelius was there, in which there was a
16:09:38 43 discussion about Ms Gobbo and if I can put it in neutral
16:09:45 44 terms, you say, "Well look, if this did occur, if there was
16:09:56 45 such a discussion, I would have said to Mr Ashton, 'It's a
16:09:59 46 matter for you'?"---H'mm.
16:10:01 47

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16:10:03 1 Now, the note of Mr White which was I was taking you to
16:10:08 2 previously indicated that human source, that is Ms Gobbo,
16:10:17 3 would not, there'd be no hearing in relation to Mr Brown.
16:10:24 4 At a time in the future it may well be that there would be
16:10:31 5 an OPI hearing in which Ms Gobbo would be called where
16:10:35 6 she'd be asked questions about her relationship with Dale
16:10:40 7 and so forth?---(Witness nods).
16:10:43 8
16:10:43 9 Now, having considered that material and the questions that
16:10:47 10 I was asking you, do you have any recollection about these
16:10:50 11 events now?---No, I don't.
16:10:53 12
16:10:54 13 Now, it does appear to be the case that it was Victoria
16:10:57 14 Police's desire, certainly the Source Development Unit's
16:11:02 15 desire and perhaps other people within Victoria Police, the
16:11:06 16 desire of those people, not to put Ms Gobbo before the
16:11:08 17 OPI?---I understand that and I understand why they would
16:11:11 18 have that desire.
16:11:12 19
16:11:13 20 On the other hand it appeared to be the desire of the OPI
16:11:16 21 to call her because they had an operation going?---And I
16:11:18 22 understand that as well.
16:11:19 23
16:11:22 24 It seems also that you were tasked, if you like, to ask
16:11:29 25 Mr Ashton whether he'd be prepared to hold off or not to
16:11:34 26 call her?---H'mm.
16:11:35 27
16:11:35 28 Right. Now, it seems also if we read - and do you accept
16:11:42 29 that that's what may have happened?---Well it may have
16:11:46 30 happened. I accept it may have happened.
16:11:48 31
16:11:48 32 Yes?---Look, I don't recall the specifics but I, I do
16:11:53 33 recall later on, and I'm sure you'll ask me about this as
16:11:57 34 well, when Ms Gobbo was called before the OPI.
16:12:01 35
16:12:01 36 Yes?---I remember the SDU and others having concerns about
16:12:05 37 that. I never had that concern and that's my abiding
16:12:12 38 recollection is that I didn't have a concern about her
16:12:14 39 being called in front of the OPI into a private hearing.
16:12:19 40
16:12:19 41 In which case it's hard to see why, if there was no concern
16:12:25 42 about her doing so, why you would want to prevail upon the
16:12:29 43 OPI not to call her?---And that's what I say is my
16:12:33 44 recollection. I don't remember doing that.
16:12:35 45
16:12:35 46 Yes?---You're putting material to me that says that I did.
16:12:38 47

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16:12:38 1 It seems quite compelling that - - - ?---I accept that. I
16:12:42 2 accept that. I have no recollection of it.
16:12:44 3
16:12:44 4 Yes, I follow that?---I can't - but I'm really clear, if I
16:12:48 5 did it would have been put on the basis that it's a matter
16:12:52 6 for you, because I absolutely understand and respect the
16:12:57 7 separation that I think you referred to yesterday between
16:13:00 8 the roles and functions of the OPI and the roles and
16:13:03 9 functions of Victoria Police. They were the oversight body
16:13:06 10 and it was a matter for them. It's not something I could
16:13:09 11 direct them on or I would seek to direct them on.
16:13:13 12
16:13:13 13 It does seem to be the case, assuming that the notes are
16:13:16 14 correct and accurate and one hopes and expects that they
16:13:19 15 are, that the decision was made reasonably quickly and you
16:13:22 16 were in a position to come back to Victoria Police and
16:13:27 17 convey to, via other police officers, Mr White?---Yes.
16:13:34 18
16:13:35 19 That the OPI was going to drop off?---And I find that
16:13:39 20 surprising actually.
16:13:40 21
16:13:41 22 One would assume that if a decision was made it would be
16:13:46 23 made by the Director and not the Assistant Director,
16:13:50 24 Mr Ashton?---Well at least the Director unless he delegated
16:13:56 25 the function to someone else in which case it would be the
16:13:59 26 someone else. But yes, I'd have thought it would need to
16:14:04 27 be made at that level.
16:14:05 28
16:14:05 29 The speed at which the decision was made suggests that you
16:14:08 30 got an answer reasonably quickly?---It does suggest that
16:14:13 31 but I find that surprising.
16:14:14 32
16:14:18 33 In addition, Mr White's made a note to the effect that at a
16:14:25 34 time in the future Ms Gobbo can be pre-warned re OPI
16:14:31 35 hearing and there's a note about trust, et cetera, and it
16:14:41 36 being a trust issue, that Ms Gobbo could be told prior to
16:14:45 37 the OPI hearing that she would be, she was going to be
16:14:49 38 called?---(Witness nods.)
16:14:52 39
16:14:52 40 That would seem to be an unusual - - - ?---Well I was just
16:14:56 41 going to say, that doesn't seem right to me.
16:14:58 42
16:14:59 43 Yes.
16:15:00 44
16:15:01 45 MS COLEMAN: Commissioner, it may assist if we have the
16:15:03 46 diary note in front of the witness.
16:15:06 47

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1 MR WINNEKE: We can put it up, I'm more than happy to put
16:15:07 2 it up. VPL.0100.0096.0327?---Sorry, I mean unless that was
16:15:21 3 something the OPI agreed to that would be unusual, can I
16:15:24 4 put it that way. Because again it would be a matter for
16:15:28 5 them.

16:15:28 6
16:15:28 7 I agree with that. If you have a look at the note, "AC has
16:15:32 8 met with Graham Ashton OPI. OPI happy to drop off" - can
16:15:37 9 we put it on all the screens. "Drop off Brown." It's hard
16:15:47 10 to read. "Shields issue." And then if we go to the part
16:15:55 11 that I'm talking about. Do you see on the right-hand side,
16:15:58 12 "HS can be told OPI, no hearing, no OPI hearing re Brown",
16:16:09 13 et cetera, "At a time in the future HS can be pre-warned re
16:16:15 14 OPI hearing. Dale", et cetera. "HS may speak to handlers
16:16:19 15 re same. Trust issue re informing" or something "HS of
16:16:28 16 hearing, re-informing Ms Gobbo, human source of the hearing
16:16:33 17 before it happens and Mr Smith to be told only". Now, it
16:16:39 18 seems that that is a meeting that you're having, Crime
16:16:46 19 Department meet with Superintendent Biggin and AC Overland
16:16:51 20 regarding Ms Gobbo and the OPI. It seems that message is
16:16:54 21 coming at 13:30 hours from you to Messrs Biggin and White
16:17:03 22 and in some detail and there's quite some detail there
16:17:09 23 which would seem to have come from you following your
16:17:12 24 meeting with Mr Ashton in the morning that day?---I accept
16:17:16 25 what you're putting to me about what the notes say.

16:17:19 26
16:17:19 27 Yes?---I mean I can't really take it any further. I
16:17:24 28 remember, I find it odd, because actually when this was
16:17:29 29 raised with me I remember Mr Shields and I do have a
16:17:33 30 recollection of that. Mr Brown I don't. I mean I still
16:17:36 31 really have almost no recollection - well I have no
16:17:41 32 recollection of Mr Brown so I'm trying to make sense of it
16:17:45 33 myself.

16:17:45 34
16:17:48 35 You would certainly find it concerning if you were the OPI
16:17:51 36 and you wanted to seriously inquire into allegedly corrupt
16:17:57 37 conduct on the part of Victoria Police that your capacity
16:18:01 38 to do so was being significantly hampered by some sort of
16:18:07 39 an arrangement like this?---I would be and I worked closely
16:18:11 40 with the OPI on a whole range of matters over a number of
16:18:15 41 years.

16:18:15 42
16:18:15 43 Yes?---I was always cognisant of the fact that there was a
16:18:19 44 separation and that if they were running - it was their
16:18:23 45 matter to run and that I would never seek to interfere or
16:18:31 46 improperly influence the way they ran matters. Now, I
16:18:34 47 accept there might be discussions from time to time about

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16:18:36 1 the best way to do things and look, if you can do it this
16:18:39 2 way and not do that, that would be good. But it's a matter
16:18:43 3 for them. And I always, you know, my abiding recollection
16:18:46 4 is I always approached those matters in that way. So I
16:18:49 5 can't make sense of what you're putting to me because I
16:18:52 6 don't remember it.
7
16:18:53 8 Yes?---But it's actually inconsistent with how I would
16:18:56 9 approach these matters.
16:18:57 10
16:18:57 11 You were certainly very keen to get from Ms Gobbo any
16:19:04 12 information that she could provide you about Mr Dale and
16:19:08 13 his potential involvement in either the distribution of IR
16:19:14 14 44 or his involvement in the deaths of the
16:19:21 15 Hodsons?---Certainly.
16:19:21 16
16:19:21 17 Do you think that you might have been prepared to sacrifice
16:19:28 18 an inquiry in relation to some police officers down at
16:19:32 19 Brighton to some degree for the greater good of ensuring a
16:19:41 20 better inquiry into those other matters?---No.
16:19:44 21
16:19:44 22 No, all right?---Can I say, I dealt with a lot of
16:19:51 23 corruption issues in the time that I was with Victoria
16:19:53 24 Police.
16:19:53 25
16:19:53 26 Yes?---And I would like to think that I was diligent.
16:19:58 27
16:19:58 28 Yes?---In terms of dealing with those matters and some of
16:20:01 29 them very serious. So I absolutely reject any suggestion
16:20:06 30 that I was soft or took an easy option around corrupt
16:20:11 31 activity when I was aware of it.
16:20:13 32
16:20:13 33 There's no suggestion that a police officer's involvement
16:20:17 34 in the murder of two people, one of whom was an informer or
16:20:21 35 a witness, would not be corruption?---It's absolutely
16:20:24 36 corrupt. It's about as corrupt as you get in my book.
16:20:28 37
16:20:30 38 In terms of the relationship between the OPI and Victoria
16:20:35 39 Police, obviously it's one of the things that the
16:20:38 40 Commission is having a look at, albeit not focusing on, but
16:20:43 41 it seems to have been relevant, that is the connection
16:20:46 42 between the OPI and Victoria Police in a number of
16:20:50 43 investigations, certainly Petra and Briars and this
16:20:53 44 one?---Yes.
16:20:53 45
16:20:56 46 And I've asked Chief Commissioner Ashton about the period
16:21:04 47 of time that he was the Deputy Director at the OPI because

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16:21:10 1 on one view he was involved in joint investigations with
16:21:14 2 Victoria Police in circumstances where it became apparent
16:21:17 3 to him there was a human source who was a practising
16:21:19 4 barrister?---Yes.
16:21:20 5
16:21:21 6 Which would seem to raise issues that the OPI might be
16:21:25 7 wanting to look into, do you accept that proposition?---I
16:21:27 8 do accept that.
16:21:28 9
16:21:28 10 And it appears that that matter wasn't looked into by the
16:21:31 11 OPI during the period certainly that these Task Forces were
16:21:37 12 operating?---That's right, but I would say that's a matter
16:21:40 13 for the OPI.
16:21:41 14
16:21:41 15 Yes?---I think I was involved in, well, I certainly, I mean
16:21:47 16 I was aware that Mr Ashton came to understand that to be
16:21:50 17 the case so there was no suggestion we were trying to
16:21:52 18 conceal that from the OPI.
16:21:54 19
16:21:54 20 Right. How would you describe your relationship with
16:21:57 21 Mr Ashton? Clearly you were his boss previously?---I was
16:22:03 22 his boss previously and then not, and I think then again
16:22:07 23 and then not. He's a professional colleague.
16:22:10 24
16:22:11 25 We're all human, there are personality types, how would you
16:22:12 26 describe his personality by comparison to yours?---I'm not
16:22:20 27 sure what you're asking me. His personality as compared to
16:22:24 28 mine?
16:22:25 29
16:22:25 30 One of the things that he gave evidence about was on
16:22:29 31 occasions in effect you'd hold him back after meetings and
16:22:32 32 say, "Listen, you've got to lift your weight in particular
16:22:36 33 areas" which might give one the impression you're carrying
16:22:42 34 the whip hand, if you like?---When he was at the OPI?
16:22:45 35
16:22:45 36
16:22:46 37 At the OPI?---Well if you can put specific examples to me I
16:22:49 38 might be able to remember but - - -
16:22:51 39
16:22:51 40 I can't put specific examples other than that which I put
16:22:56 41 to you, I think one might have been in relation to a power
16:22:59 42 that the OPI had which the Victoria Police didn't have, for
16:23:06 43 example, a warrant for a listening device or something like
16:23:08 44 that. I can't recall the exact circumstance.
16:23:11 45
16:23:11 46 MR COLEMAN: Can I object?
16:23:12 47

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16:23:13 1 MR WINNEKE: Go for your life.
16:23:14 2
16:23:15 3 MR COLEMAN: I don't think Mr Ashton used the word "lift
16:23:18 4 your weight" or those words, that may effect Mr Overland's
16:23:24 5 answer, but that's not the wording that was put to him or
16:23:26 6 used by Mr Ashton.
16:23:27 7
16:23:28 8 COMMISSIONER: It looks like we'll have to get the
16:23:30 9 transcript up, someone get the transcript up so it can be
16:23:34 10 put precisely.
16:23:35 11
16:23:35 12 MR WINNEKE: I don't have, I can't call to mind the exact
16:23:39 13 words?---Can I just say this, I wasn't telling Graham how
16:23:43 14 to do his job.
15
16:23:44 16 No?---And I wouldn't tell him how to do his job if that's
16:23:47 17 what you're suggesting. Again, without specifics it's
16:23:52 18 difficult to know. I would have talked to him about issues
16:23:55 19 from time to time and about, you know, "Is this something
16:23:58 20 you can do? Is this something we do?"
21
16:24:01 22 Yes?---I mean I think I said this earlier in relation to
16:24:04 23 the role of regulator and regulated
24
16:24:07 25 Yes?---My experience is it works best when there is a
16:24:13 26 mutuality and where there is cooperation. The regulator
27 standing apart and having nothing to do with the regulated
16:24:16 28 body in my experience tends not to work terribly well.
16:24:20 29 Within that there are lines that need to be respected and
16:24:23 30 there are judgments that need to be made, but I understood
16:24:25 31 very clearly that the OPI was separate from Victoria Police
16:24:29 32 and were over sighting Victoria Police. Mr Ashton may have
16:24:34 33 worked for me but at that time he wasn't. I would never
16:24:39 34 seek to improperly direct or influence him.
35
16:24:41 36 Do you see from a philosophical standpoint a problem with a
16:24:46 37 regulator and the regulated engaging in a joint
16:24:50 38 inquiry?---Not necessarily. I think there are reasons and
16:24:54 39 times when you want to do that and I think there are
16:24:56 40 reasons and times when you don't. I think it depends very
16:24:59 41 much on the circumstances.
16:25:00 42
16:25:00 43 We understand that IBAC doesn't do it as a point of
16:25:04 44 principle. They don't because of, I think the points for
16:25:09 45 example made by Ken Jones, that for example, if there's a
16:25:13 46 failure, well both, in an investigation, you sink or swim
16:25:17 47 together?---I understand that point of view.

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16:25:19 1
16:25:19 2 It's a reasonable point of view?---It's a reasonable point
16:25:24 3 of view but there are other points of view as well that can
16:25:28 4 also be reasonable depending on the circumstances at the
16:25:31 5 time.
16:25:31 6
16:25:36 7 Can I just take you to some issues of disclosure. I've
16:25:49 8 touched on these issues briefly, but you accept that it's
16:25:56 9 important that police in bringing investigations and
16:26:02 10 prosecuting comply with the obligations of disclosure to
16:26:08 11 people who are charged?---Yes.
16:26:09 12
16:26:09 13 Right. As things went on, subsequent to PII [REDACTED], and that
16:26:24 14 important phase of Operation PII [REDACTED] there were issues of
16:26:30 15 disclosure, problems of disclosure, which investigators
16:26:37 16 have given evidence before this Commission exercised a lot
16:26:43 17 of anxiety and energy over in the ensuing months and years.
16:26:47 18 Now, Ms Gobbo's role on the night in question in effect was
16:26:57 19 concealed. It wasn't made known to the people - it wasn't
16:27:03 20 made known to PII [REDACTED], for example?---Yep.
16:27:05 21
16:27:05 22 And it wasn't made known to any of the people who were
16:27:09 23 prosecuted on the basis of PII [REDACTED]'s evidence?---Yep.
16:27:13 24
16:27:13 25 Now, and indeed it wasn't made known to the prosecution, at
16:27:20 26 least the specific aspects of Ms Gobbo's role in that she
16:27:27 27 was an informer?---Yep.
16:27:29 28
16:27:31 29 And involved in providing information against PII [REDACTED].
16:27:35 30 Now, clearly those matters should have been disclosed and
16:27:40 31 should have been, if there was going to be an argument
16:27:43 32 about public interest immunity, those arguments should have
16:27:45 33 been had?---Yes, I accept that, absolutely.
16:27:48 34
16:27:50 35 Now, in addition to that we understand that Ms Gobbo's role
16:27:58 36 insofar as she was a barrister acting for [REDACTED]
16:28:07 37 [REDACTED] was not revealed to the people who were charged
16:28:15 38 as a result of [REDACTED] statements. Now,
16:28:24 39 are you aware of that?---No, I wasn't aware of that and in
16:28:29 40 fact in 2006, middle of 2006 I was made aware of threats
16:28:35 41 that were made to her coming from Carl and Roberta Williams
16:28:39 42 and I understood that was on the basis that they did know
16:28:43 43 that she had acted for that person, so I assumed that had
16:28:46 44 been disclosed.
16:28:47 45
16:28:49 46 The evidence that the Commission has is that there was
16:28:52 47 concern based on the proposition that she had become too

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16:28:57 1 aligned to the Williams/Mokbel camp and that if it was
16:29:02 2 known that she had suggested, advised or even condoned
16:29:08 3 [REDACTED]'s decision to give Crown evidence, she might be
16:29:12 4 harmed?---Yeah, I read that.
16:29:14 5
16:29:14 6 Did you become aware of that?---Of the fact that she might
16:29:17 7 be harmed or of the fact there was no disclosure?
16:29:19 8
16:29:20 9 That a decision was made that she would be protected, that
16:29:23 10 there would not be disclosure about her role?---No. No, I
16:29:26 11 wasn't aware of that.
16:29:27 12
16:29:29 13 It may well be there were grounds for the view that there
16:29:33 14 could be a threat because the evidence that the Commission
16:29:37 15 has is that in about September of 2003, I think Mr Veniamin
16:29:43 16 turned up at her doorstep and was making a threat as a
16:29:49 17 result of her acting for Lewis Moran on a bail application
16:29:52 18 when he got bail. Now, it's understood that Mr Veniamin
16:29:59 19 was spoken to perhaps by a senior solicitor and in effect
16:30:03 20 told to pull his head in and that seemed to settle things
16:30:07 21 down and ultimately Ms Gobbo appeared for Mr Moran again I
16:30:10 22 think on a bail variation and there is no evidence there
16:30:15 23 were any further issues. Would you have been aware of that
16:30:21 24 at the time? There was certainly, as I think I put to you
16:30:25 25 previously, Mr Swindells had spoken to Ms Gobbo about that,
16:30:29 26 back in 2003?---About - - -
16:30:32 27
16:30:32 28 About the - - - ?---The threat from Veniamin?
16:30:35 29
16:30:35 30 Which police had heard about, Purana had heard about, not
16:30:38 31 through Ms Gobbo, through intercepts or what have you?---I
16:30:42 32 don't recall that. I said earlier in my evidence I do
16:30:46 33 recall being told, at the time I was told she was
16:30:50 34 recruited, she was receiving threats I thought from Mokbel,
16:30:53 35 because of the way she was representing one of the members
16:30:56 36 of her syndicate and she felt her life was at some risk and
16:31:01 37 that was part of her motivation for coming forward. And I
16:31:04 38 do accept the proposition, I think I said this again,
16:31:08 39 particularly about Mokbel, but I'd say the same thing about
16:31:11 40 Williams, their expectation would be that she would act in
16:31:18 41 their interests.
16:31:19 42
16:31:19 43 To follow this through, in [REDACTED] of 2004 [REDACTED]
16:31:24 44 [REDACTED] pleaded guilty to some unrelated offences and
16:31:31 45 Ms Gobbo appeared for him?---Right.
16:31:33 46
16:31:33 47 And prior to that there had been discussions leading up to

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16:31:37 1 that appearance between police, Crown also and Ms Gobbo
16:31:44 2 about [REDACTED] resolving his matters and assisting police
16:31:51 3 but it hadn't happened by the date of that plea, do you
16:31:54 4 follow that?---I do.
16:31:55 5
16:31:55 6 Now, on the date of the plea there were further discussions
16:32:00 7 and Ms Gobbo indicated to Mr Bateson that she was concerned
16:32:05 8 about her welfare were it to become known that she had been
16:32:09 9 involved in the process for [REDACTED]. Do you
16:32:12 10 follow that?---Yep.
16:32:13 11
16:32:13 12 Again, one assumes that albeit you may not have been aware
16:32:18 13 of the detail of that, but you were certainly taking an
16:32:21 14 interest in what was going on with [REDACTED]
16:32:24 15 because he was the key at least to unlock this problem that
16:32:28 16 you had?---Yeah, but again I wasn't getting, you know, blow
16:32:33 17 by blow descriptions of what was going on. I was aware
16:32:35 18 broadly we were endeavouring to roll him. I mean the
16:32:39 19 information you've just given me, look I may have known at
16:32:42 20 the time but I don't recall it now so I'm not sure I was
16:32:45 21 following - well I wasn't following matters that closely.
16:32:48 22
16:32:48 23 In any event what I'm suggesting to you is that a decision
16:32:52 24 was made about that time to accede to or to support
16:32:58 25 Ms Gobbo's request or concern that if her conduct was
16:33:04 26 revealed she might be harmed and a decision was made in
16:33:11 27 effect to protect her by preventing her involvement from
16:33:15 28 becoming known. Do you accept that?---Well I accept what
16:33:19 29 you're putting to me. I have, I have no recollection of
16:33:23 30 that.
16:33:24 31
16:33:25 32 Effectively what it did was it involved Victoria Police to
16:33:29 33 make an application on her part on the basis one assumes of
16:33:36 34 public interest immunity, to protect the barrister who
16:33:40 35 apparently had got herself so hopelessly involved with
16:33:44 36 clients such that if she did act, let's say she acts
16:33:49 37 appropriately in acting for [REDACTED] and advising
16:33:51 38 him to do all these things, she's going to be suffering
16:33:55 39 from potentially harm from other people, from her other
16:33:59 40 clients. Now, can I suggest to you that that is an unusual
16:34:04 41 if not an extraordinary situation. Do you accept that
16:34:07 42 proposition?---So presumably - so who made that
16:34:12 43 application? I'm - - -
16:34:15 44
16:34:17 45 The police did?---How was it made?
16:34:19 46
16:34:20 47 Your investigators?---To the court - - -

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1
16:34:21 2 Ms Gobbo indicates she's concerned about coming into harm
16:34:25 3 and subsequently the police redact their notes in such a
16:34:30 4 way to remove any evidence that Ms Gobbo had been involved
16:34:36 5 in the process?---And how was this done, through the courts
16:34:40 6 or - - -
16:34:40 7
16:34:40 8 It was done through redacting notes and making an
16:34:44 9 application. The notes were put before a magistrate, I'm
16:34:47 10 not suggesting that didn't occur?---Right.
11
16:34:49 12 But there's a live issue as to the extent to which the
16:34:52 13 notes, whether they had been, all of the notes had been
16:34:55 14 provided to the magistrate. But the point I'm making is
16:34:59 15 this: on an occasion before this person had in fact rolled
16:35:05 16 and made statements she's expressing her concern that if it
16:35:10 17 became known what she was doing, she might come to harm.
16:35:14 18 Do you follow what I'm saying?---Yes, and this is in 2004?
16:35:17 19
16:35:18 20 2004. I'm interested to know your views. Subsequently I
16:35:25 21 take it you were critical of the fact that some lawyers got
16:35:31 22 too close to their clients, and indeed I think you've said
16:35:35 23 publicly that they crossed the line?---Yes.
16:35:38 24
16:35:39 25 If the position of a barrister is, "Look, I'm concerned
16:35:42 26 about my safety if it's known that I've advised a person
16:35:47 27 it's in his best interests to plead guilty", why should
16:35:50 28 Victoria Police protect that person by making the
16:35:53 29 application?---Well if they think their life's genuinely at
16:35:59 30 threat I can understand why they might take action.
16:36:01 31
16:36:01 32 Can I suggest to you this, might it not have been
16:36:04 33 appropriate at this court hearing before this person had
16:36:07 34 rolled, before the person had made statements, to say to
16:36:11 35 Ms Gobbo, "Now, if you are so concerned about your position
16:36:16 36 because you've got yourself hopelessly intertwined with
16:36:21 37 these people, you shouldn't act. The safest thing for you
16:36:24 38 is to get out of it", do you follow what I'm saying?---I
16:36:27 39 follow what you're saying but I wasn't I don't believe
16:36:31 40 party to any of this.
16:36:32 41
16:36:33 42 Okay. But do you agree that that would be a better thing
16:36:35 43 to do rather than keeping Ms Gobbo involved and then
16:36:37 44 protecting her involvement so as the people who then are
16:36:44 45 charged as a result of the conduct of PII
16:36:49 46 PII don't know of her involvement? Do you see what
16:36:53 47 I'm saying?---I see what you're saying but I think it goes

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16:36:57 1 back to an issue we covered previously, which is my view is
16:37:01 2 it wasn't as simple as that. It wasn't a simple matter for
16:37:05 3 her to walk away from the situation she'd got herself into.
16:37:09 4
16:37:09 5 Mr Overland, we're talking about in 2004?---Yep.
16:37:12 6
16:37:12 7 What I'm suggesting to you is that what happened in 2004
16:37:16 8 was a very important decision that was made, that decision
16:37:20 9 to protect her, because it in effect enabled her to
16:37:24 10 continue acting for and representing the people who she
16:37:28 11 then becomes concerned will harm her down the track. Do
16:37:32 12 you follow what I'm saying?---But wasn't she already
16:37:35 13 concerned about the fact that she was going to be harmed?
16:37:38 14
16:37:38 15 If she had simply been told, "Look, don't act for this
16:37:42 16 fellow, if you're concerned about your role becoming
16:37:46 17 involved"?---I understand what - - -
16:37:48 18
16:37:48 19 "Don't act for him, you withdraw"?---I understand what
16:37:51 20 you're putting to me.
16:37:52 21
16:37:53 22 Yeah, right. Well why wouldn't that be an appropriate
16:37:55 23 decision for Victoria Police to make?---Because I'm not
16:37:57 24 sure it's so simple as that. For the reasons I've outlined
16:38:01 25 previously I think people who get themselves into that
16:38:03 26 situation can't simply walk away. I stress, I don't
16:38:06 27 believe I was involved in this so I'm commenting on a, for
16:38:10 28 me a hypothetical you're putting to me.
16:38:12 29
16:38:13 30 It's not a hypothetical, Mr Overland?---Yeah, no, I
16:38:15 31 understand. I understand.
16:38:16 32
16:38:16 33 To take it further, what happens is the decision on 18 June
16:38:20 34 is made, one assumes at some stage thereafter, but she asks
16:38:26 35 for protection and she says she's concerned about her
16:38:31 36 welfare. What I'm suggesting to you is the appropriate
16:38:33 37 advice that should have been given to her was, "Get away
16:38:36 38 from this person. Do not act for him. If you're concerned
16:38:40 39 about being found out for assisting him to roll, don't
16:38:43 40 act". Instead - do you agree with that proposition, that
16:38:46 41 would have been sensible advice?---Look, it's advice that
16:38:50 42 could have been offered but - - -
16:38:52 43
16:38:52 44 Instead what happens I suggest to you - - - ?---Hang on,
16:38:55 45 but without knowing all of the facts and circumstances and
16:38:58 46 all of the detail, I can understand why it may have been
16:39:01 47 considered that that wasn't the best advice in the

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16:39:02 1 circumstances.
16:39:03 2
16:39:04 3 Instead what occurs is in effect she's enabled, her conduct
16:39:10 4 is enabled. She then continues to assist, she gets
16:39:14 5 involved in the statement taking process on [REDACTED] July
16:39:18 6 for [REDACTED], and then she then is
16:39:22 7 factually involved in that statement taking process. And
16:39:26 8 then Ms Gobbo, as we know, her name is kept out of the
16:39:34 9 committal process, she rings up Mr Bateson on 23 March the
16:39:38 10 following year after the committal proceeding and thanks
16:39:40 11 him for keeping her name out of the committal proceeding,
16:39:43 12 and then subsequently starts providing information to
16:39:46 13 him?---Right.
16:39:47 14
16:39:47 15 Now, what I'm suggesting to you is that if you take the
16:39:51 16 view that a barrister has got herself hopelessly involved
16:39:54 17 with a client, it's not appropriate to protect her with the
16:40:00 18 use of public interest immunity thereby permitting her in
16:40:06 19 effect to continue doing what she shouldn't be doing in any
16:40:10 20 event, do you follow what I'm saying?---I follow what
16:40:13 21 you're saying. Look, I don't know that I can take the
16:40:18 22 matter any further. I understand why you're saying it, and
16:40:22 23 I understand why you put it the way you put it. Can I
16:40:27 24 continue answering your question, is that okay?
16:40:29 25
16:40:30 26 Go for your life?---Good, thank you very much. What I was
16:40:33 27 about to say is that you run a risk of applying the rules
16:40:36 28 of normal social convention to these situations. You are
16:40:39 29 dealing with people who do not play by those rules. She'd
16:40:41 30 been threatened by Veniamin. I would take a threat by
16:40:43 31 Veniamin very seriously. There is no doubt in my mind that
16:40:46 32 he was responsible for multiple murders in the State of
16:40:50 33 Victoria. He was a hitman. And she would have known that
16:40:53 34 he was a hitman. I don't know all the facts and
16:40:57 35 circumstances around what you're putting to me. I assume
16:40:59 36 at some point an application was made to a magistrate, and
16:41:03 37 if there was an order issued then the magistrate issued the
16:41:06 38 order. I understand what you're putting to me, but I can
16:41:11 39 also understand why it might have been felt at that time
16:41:14 40 that was a better course of conduct to go down.
16:41:17 41
16:41:17 42 It might have been thought, "Because things were going
16:41:20 43 well, Ms Gobbo seems to be on side, we'll keep utilising
16:41:24 44 her because she seems to be of assistance to us"?---You'll
16:41:27 45 have to ask those questions of the people who were dealing
16:41:30 46 with her at the time.
16:41:31 47

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16:41:31 1 What I'm suggesting to you is if an appropriate decision
16:41:35 2 had been made, either by counselling strongly not to be
16:41:39 3 involved, or alternatively going to her professional body
16:41:43 4 and saying, "We're concerned about this barrister. We've
16:41:46 5 got evidence that she has been associating with criminals,
16:41:49 6 to the extent that one of our investigators has actually
16:41:53 7 sought to have her surveilled because we have concerns
16:41:59 8 she's been involved in a murder". That, I suggest, would
16:42:03 9 have been the appropriate conduct rather than continuing to
16:42:05 10 enable Ms Gobbo to act for these people?---Okay.

16:42:08 11
16:42:09 12 Right. And further to that, if prior to PII
16:42:13 13 PII actually rolling and making statements, if that
16:42:17 14 was done prior to that, then Ms Gobbo wouldn't have been at
16:42:20 15 risk because she wouldn't have been involved in the
16:42:23 16 process, do you follow what I'm saying?---I follow what
16:42:25 17 you're saying. I have to say that you might be right in
16:42:31 18 that particular, but I think given the behaviour of
16:42:33 19 Ms Gobbo that was then demonstrated over the subsequent
16:42:36 20 period of time it was likely she was going to continue to
16:42:39 21 get herself into difficulty.

16:42:41 22
16:42:41 23 That may be the case but ultimately albeit with the 20/20
16:42:46 24 vision of hindsight perhaps?---It's a wonderful thing.

16:42:50 25
16:42:50 26 But if there is a view that a barrister is not behaving
16:42:52 27 properly or has got too close why wouldn't Victoria Police
16:42:57 28 take action in the way in which I've suggested?---Because I
16:43:00 29 think we'd be taking a lot of action.

16:43:02 30
16:43:05 31 Mr Overland, you did express in 2006 your view that some
16:43:10 32 lawyers had become too close to their clients,
16:43:15 33 correct?---Yes.

16:43:15 34
16:43:15 35 There's an article we might have a look at it. Do you see
16:43:38 36 this article here?---Yes, I do.

16:43:39 37
16:43:41 38 Can we play it on all the screens? If it can go on the big
16:43:45 39 screen. Effectively - now this was an article, I assume
16:43:52 40 either you'd spoken to Mr Sylvester or your media unit at
16:43:57 41 Victoria Police had done so, because I think at this stage
16:43:59 42 you were calling for some sort of group to, some sort of
16:44:08 43 joint group or Task Force or something to deal with what
16:44:11 44 you perceived to be problems with the justice
16:44:15 45 system?---Yes.

16:44:15 46
16:44:15 47 And this was in the period shortly after Mr Mokbel had

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16:44:20 1 left?---Yes.
16:44:21 2
16:44:21 3 Do you recall this?---I do recall it, yes.
16:44:23 4
16:44:24 5 And your concern was that some lawyers have crossed the
16:44:27 6 line and become silent partners in organised crime
16:44:30 7 syndicates?---Yes.
16:44:31 8
16:44:32 9 And one assumes that certainly that would have been the
16:44:36 10 view about Ms Gobbo at least in the latter part of 2003, if
16:44:41 11 not early 2004, given the materials that we've looked
16:44:45 12 at?---Well, again, I really don't recall knowing terribly
16:44:50 13 much about Ms Gobbo until late 2005.
16:44:53 14
16:44:53 15 Yes, and in late 2005 she'd become a registered human
16:44:59 16 source?---Well that's been established, yes.
16:45:02 17
16:45:02 18 And she was acting as a significant plank in your attack on
16:45:08 19 Tony Mokbel, correct?---Yes.
16:45:09 20
16:45:10 21 And I've suggested to you that you would have been aware
16:45:13 22 that she was continuing to act for Mr Mokbel?---You have.
16:45:16 23
16:45:16 24 And do you not accept that?---I don't accept that.
16:45:20 25
16:45:21 26 Can we have a look at a larger version of this article,
16:45:24 27 please. This is an article of 30 March 2006. Now, it's a
16:45:33 28 front page of The Age. Do you see that?---I do.
16:45:35 29
16:45:37 30 You'll see part of the article is "Mokbel's lawyers face
16:45:41 31 contempt investigation"?---Yes, I do.
16:45:43 32
16:45:43 33 And if we focus, can we focus in on that. There's an
16:45:50 34 article by Mr Butcher and he's talking about the Supreme
16:45:56 35 Court judge in the Mokbel trial, Justice Gillard. Talking
16:46:01 36 about, speaking about Mr Heliotis, do you see that?---I do.
16:46:04 37
16:46:04 38 And you'll see here further on in the article that, "Last
16:46:07 39 Thursday Justice Gillard told Mr Heliotis and junior
16:46:10 40 counsel Nicola Gobbo they had an overriding duty to the
16:46:13 41 court and to remain despite his absence", right?---I see
16:46:19 42 that.
16:46:19 43
16:46:25 44 Do you see that?---I do, yeah, I see that.
16:46:28 45
16:46:28 46 You would have been aware at the time that this trial was
16:46:31 47 going on and you would have been interested in these

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16:46:33 1 comments, surely?---Probably. I don't, I don't recall
16:46:37 2 reading this but probably, yes.
16:46:38 3
16:46:38 4 If we have a look at p.2 of The Age, because the story's
16:46:42 5 continued. Over the page. Can we focus in on this part.
16:46:53 6 And there they are, Nicola Gobbo and Con Heliotis, Tony
16:46:58 7 Mokbel's barristers outside court during the trial, do you
16:47:01 8 see that?---I do.
16:47:02 9
16:47:03 10 Can I suggest to you that you would have known on 30 March
16:47:09 11 2006 that Nicola Gobbo was acting for Tony Mokbel?---Look,
16:47:13 12 I may have but, you know, I've said previously, and I'm not
16:47:19 13 a great reader, I wasn't a great reader of the media. I
16:47:23 14 may or may not have looked at this.
16:47:25 15
16:47:25 16 Nicola Gobbo, as I suggested to you, and as you know, is a
16:47:29 17 significant plank in Operation ██████ against Tony
16:47:32 18 Mokbel?---Yes.
16:47:33 19
16:47:33 20 Can I suggest to you that - - - ?---Sorry, against the
16:47:37 21 Mokbel syndicate at that stage. Against the Mokbel
16:47:40 22 syndicate. So at that stage I think the target was
16:47:44 23 actually - I'm sorry, I've just gone blank on all the names
16:47:53 24 we're supposed to be using.
16:47:55 25
16:47:55 26 COMMISSIONER: Have you got the exhibit in front of
16:47:57 27 you?---I have Commissioner, I apologise, I'm just trying to
16:48:00 28 find the - - -
16:48:00 29
16:48:00 30 MR WINNEKE: ██████ PII ?---Yes, I think it is ██████ PII
16:48:02 31
16:48:03 32 And the idea of the operation was to get ██████ PII so
16:48:06 33 hopelessly caught up on a ██████ PII - - - ?---Correct.
16:48:09 34
16:48:09 35 - - - ██████ PII that he would have
16:48:12 36 to roll on Mr Mokbel and the other members of the Mokbel
16:48:16 37 cartel, correct?---Correct.
16:48:17 38
16:48:18 39 Can I suggest to you, Mr Overland, that your assertion that
16:48:21 40 you were concerned about having an informer who was acting
16:48:26 41 against people who were her clients was not expressed to
16:48:30 42 your investigators at all?---Well, again, I believe it was.
16:48:35 43
16:48:35 44 Well, you must have been surprised to see this article,
16:48:39 45 Mr Overland?---Well, no, I knew that Ms Gobbo had an
16:48:43 46 association with Mr Mokbel.
16:48:44 47

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16:48:44 1 Yes?---I understood the reason she came to us was because
16:48:45 2 she was at fear from Mr Mokbel and the Mokbel syndicate but
16:48:52 3 at that time the target was not Mr Mokbel, the target were
16:48:55 4 those around Mr Mokbel.

16:48:57 5
16:48:57 6 As I under it the target was to bring down the Mokbel
16:49:01 7 cartel, including Tony Mokbel, his brothers, and that was
16:49:04 8 the strategy?---Correct.

16:49:05 9
16:49:05 10 That was the plan?---Yes.

16:49:06 11
16:49:07 12 There were talks about PII [REDACTED], there were suggestions
16:49:10 13 about having someone PII [REDACTED] to Mr Mokbel, correct,
16:49:14 14 sorry, getting Mr Mokbel PII [REDACTED] to a PII [REDACTED]
16:49:18 15 PII [REDACTED], that was part of the plan?---I think we covered
16:49:24 16 that yesterday. I think so. Well I think there might have
16:49:29 17 been some discussions about that.

16:49:30 18
16:49:33 19 Can I suggest to you that it would have been apparent to
16:49:40 20 you that your source was being tasked against a person for
16:49:44 21 whom she was acting?---She was being tasked for people
16:49:46 22 associated with a person for whom she may have been acting,

16:49:52 23
16:49:52 24 So they could assist in bringing them down?---If they were
16:49:55 25 the source and the source of the threat, yes.

16:49:57 26
16:49:57 27 Did you turn your mind to that and say, "As far as I'm
16:50:01 28 concerned, as a lawyer, as an Assistant Commissioner of
16:50:05 29 Crime, I'm satisfied that that's okay"?---I understood the
16:50:09 30 complexity of the situation.

16:50:10 31
16:50:10 32 It was complex?---It was very complex, but as I said, and I
16:50:14 33 said earlier, I thought it was the best option in the
16:50:18 34 circumstances as they presented and that by removing the
16:50:24 35 threat that would allow Ms Gobbo to extract herself from
16:50:28 36 the situation that she'd got in and she could move on with
16:50:31 37 her career. But, you know, I believed that her life was at
16:50:35 38 serious risk from these people.

16:50:36 39
16:50:36 40 Mr Overland, you've been saying that you were so concerned
16:50:39 41 about having a barrister registered as a human source
16:50:41 42 because of those two very issues, the possibility of
16:50:44 43 conflict and how that could interfere with the outcome of
16:50:49 44 proceedings, legal professional privilege. Now, do you
16:50:53 45 accept that those were your great concerns?---Yes.

16:50:56 46
16:50:56 47 Well, how did you permit this to go ahead?---Well because

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16:51:01 1 at that time the target was not Mr Mokbel, the target was
16:51:04 2 actually [REDACTED]
16:51:05 3
16:51:05 4 You say that Mr Mokbel was not the target of Operation
16:51:09 5 [REDACTED] is that right?--Well, the initial target was
16:51:12 6 [REDACTED].
16:51:13 7
16:51:15 8 Can I suggest to you that the whole purpose of Operation
16:51:18 9 [REDACTED] was to get Mr Mokbel and put him away?---Yes, it was.
16:51:24 10
16:51:24 11 For a long time?---Yes, it was.
12
16:51:25 13 Indeed one of the first things that Mr White asked Ms Gobbo
16:51:28 14 when he was having a meeting with her was how we could get
16:51:34 15 Mr Mokbel. "Tell us everything you know about Mr Mokbel."
16:51:38 16 Those sorts of questions were asked?---I understand that.
16:51:41 17
16:51:41 18 That was in accordance with your investigation
16:51:45 19 plan?---Well, the investigation, well, that was unknown to
16:51:48 20 me what Mr White was saying to Ms Gobbo.
16:51:51 21
16:51:51 22 Right?---The Posse investigation plan, yes, was focused on
16:51:55 23 Tony Mokbel.
16:51:55 24
16:51:57 25 It was focused on Tony Mokbel?---Well it was focused on the
16:52:00 26 Mokbel syndicate, sorry, and as part of that the initial
16:52:03 27 focus was on [REDACTED] because he was seen as a
16:52:07 28 vulnerability.
16:52:07 29
16:52:08 30 As a way to get to Mr Mokbel?---Correct.
16:52:10 31
16:52:11 32 Get him on his [REDACTED], he'd have
16:52:15 33 no alternative but to roll on Mr Mokbel?---Correct.
16:52:18 34
16:52:18 35 And Mr Mokbel's - give evidence against him and put him
16:52:22 36 away?---Correct.
16:52:23 37
16:52:23 38 Thanks very much. I tender that article, Commissioner.
16:52:25 39
16:52:25 40 COMMISSIONER: What's the date of the article?
16:52:27 41
16:52:28 42 MR WINNEKE: 30 March 2006.
16:52:30 43
16:52:31 44 #EXHIBIT RC926 - Age article of 30/3/06.
16:52:37 45
16:52:38 46 Now, would it be correct to say that throughout 2006 there
16:52:46 47 were a number of issues with respect to public interest

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16:52:51 1 immunity which needed to be dealt with by your
16:52:54 2 investigators and on occasions you got involved in
16:52:59 3 discussions with the OPP?---Through 2006?
16:53:10 4
16:53:15 5 Through 2006?---Possibly, I don't recall specifics, but
16:53:20 6 possibly.
16:53:21 7
16:53:21 8 I don't propose to go through all of the diary entries but
16:53:25 9 can I just make this suggestion. On perhaps of couple of
16:53:31 10 occasions throughout 2006, thereabouts, you would have met
16:53:33 11 with prosecutors to have discussions about public interest
16:53:36 12 immunity?---I accept that, yes.
16:53:37 13
16:53:38 14 Would it be correct to say that you did not disclose to
16:53:41 15 them that you had a human source who was Ms Gobbo and who
16:53:47 16 had provided the sorts of information that she had
16:53:52 17 provided?---Well I didn't, no.
16:53:53 18
16:53:54 19 All right. And you didn't instruct your investigators to
16:53:57 20 do so?---Well no, I didn't instruct them around disclosure.
16:54:01 21
16:54:01 22 As far as you're aware your investigators did not make
16:54:04 23 disclosure of these matters?---Well I don't know.
16:54:06 24
16:54:06 25 All right. Did you ask investigators whether they had made
16:54:11 26 disclosure about Ms Gobbo's role?---No, I didn't.
16:54:13 27
16:54:15 28 All right. Now, is it correct to say that on 16 August
16:54:28 29 2006 you were involved in a PowerPoint presentation to the
16:54:36 30 Chief Commissioner of Police about Purana and its
16:54:43 31 activities and Operation Posse and so forth?---Quite
16:54:48 32 possibly. I recall I think there were a number of briefs
16:54:51 33 given to the Chief Commissioner about those matters. It's
16:54:54 34 possible there was one on that date, yes.
16:54:56 35
16:54:56 36 And I think there's evidence, I think Mr O'Brien and
16:55:01 37 yourself and the Chief Commissioner gave a briefing to the
16:55:06 38 Premier, Mr Bracks, on about 29 August of 2006. Would that
16:55:13 39 be fair to say? Mr O'Brien's given evidence about
16:55:20 40 this?---I don't recall that. Was I there?
16:55:22 41
16:55:23 42 According to Mr O'Brien's notes you were. The Chief
16:55:30 43 Commissioner, yourself and Mr O'Brien went to see Premier
16:55:36 44 Bracks at Treasury Place?---I don't recall that. I do
16:55:42 45 recall an earlier conversation I had with the Premier but I
16:55:45 46 don't recall that, which I find odd.
16:55:47 47

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16:55:48 1 Perhaps if we can quickly pull up the briefing, the
16:55:54 2 PowerPoint presentation, it's IBAC.0010.0001.2756.
16:56:04 3
16:56:05 4 MR HOLT: If this could not be on these screens, it wasn't
16:56:09 5 earlier in the day.
16:56:11 6
16:56:11 7 COMMISSIONER: Exhibit 923 I think it is.
16:56:13 8
16:56:14 9 MR WINNEKE: Could that just be scrolled through slowly so
16:56:16 10 Mr Overland can see it. I'm not going to spend time on it
16:56:21 11 to a great extent?---Sorry, Mr Winneke, that doesn't help
16:56:24 12 me at all.
16:56:25 13
16:56:25 14 Is that too quick?---No, it's not too quick, I just don't -
16:56:30 15 I'm sorry, I don't have a recollection of this. As I say
16:56:33 16 it's unusual because going to see the Premier is an unusual
16:56:37 17 thing to do.
18
16:56:38 19 Yes?---I do remember having a conversation with the Premier
16:56:40 20 in the middle of 2004
21
16:56:43 22 Yes?---I don't remember this.
16:56:44 23
16:56:44 24 As we understand it the evidence is that this presentation
16:56:47 25 was also given, as I suggested, to the Chief Commissioner
16:56:50 26 on 16 August 2006. Keep scrolling through it?---I'm sorry,
16:57:17 27 I really don't have much recollection - I don't have any
16:57:19 28 recollection of having seen this or having gone to see the
16:57:22 29 Premier about it.
16:57:23 30
16:57:24 31 If evidence was given to the effect that that presentation
16:57:30 32 was given to the Chief Commissioner of Police in the
16:57:35 33 presence of yourself, Commander Carter, Superintendents
16:57:38 34 Biggin - perhaps I'll withdraw that. Perhaps if we have a
16:57:47 35 look at Mr O'Brien's diary at 9.10 on 16 August 2006.
16:58:22 36 Look, it's probably - - - ?---I can't explain it. I accept
16:58:26 37 if there's notes that say I was there, I accept the notes
16:58:29 38 say I was there. I have no recollection of this at all I'm
16:58:32 39 afraid.
16:58:33 40
16:58:39 41 What the evidence does reveal is that Sandy White was
16:58:42 42 involved or was consulted in the making of the PowerPoint
16:58:52 43 presentation and was present at the time that it was given
16:58:54 44 on 16 August 2006. You say you can't recall it?---No, I
16:59:02 45 can't recall it. So the 16th was to the Chief
16:59:05 46 Commissioner?
16:59:05 47

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16:59:06 1 The 16th to the Chief Commissioner?---Right.
16:59:08 2
16:59:09 3 Carter, Blayney, Biggin, Whitmore, Hollowood, Linnell, Koo,
16:59:14 4 Grant and Allen. It was authored by Jim O'Brien and the
16:59:17 5 diaries of Jim O'Brien and Sandy White indicate that he
16:59:21 6 consulted Sandy White in its making and he was present at
16:59:24 7 the giving of this presentation. That's the
16:59:26 8 evidence?---Right. I'm sorry, I really - I just don't
16:59:29 9 recall that.
16:59:29 10
16:59:30 11 Thanks Commissioner.
16:59:31 12
16:59:32 13 MR COLEMAN: Before you rise can I just correct what
16:59:34 14 happens to be my faulty recollection with respect to the
16:59:39 15 last matter that I rose on, the use of the words "lift your
16:59:40 16 weight". They are in the transcript. I'll give my learned
16:59:43 17 friend the transcript references and I'll certainly go to
16:59:46 18 the witness about it, but I just wanted to, having found I
16:59:50 19 was wrong, I just wanted - - -
16:59:52 20
16:59:52 21 MR WINNEKE: I thank my learned friend.
16:59:53 22
16:59:54 23 COMMISSIONER: Thanks very much. All right then, we'll
16:59:55 24 adjourn until 9.30 tomorrow morning.
25
26 <(THE WITNESS WITHDREW)
27
28 ADJOURNED UNTIL THURSDAY 19 DECEMBER 2019
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