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12:57:43 1 COMMISSIONER: I understand there's a problem with, there
13:06:10 2 is no real time transcript at the moment, they're working
13:06:14 3 on that and we'll get it fixed as soon as possible but we
13:06:17 4 can start without it.
13:06:17 5
13:06:17 6 MR WINNEKE: Yes, absolutely, Commissioner.
13:06:17 7
13:06:18 8 COMMISSIONER: The appearances are as they were when we
13:06:21 9 were last here, save that we have Mr Goodwin for the State
13:06:24 10 and Ms Connelly for Pasquale Barbaro and we continue on in
13:06:30 11 the closed hearing with the orders that were in place when
13:06:33 12 we adjourned last week. Yes, Ms Enbom.
13:06:41 13
13:06:41 14 MR NATHWANI: Actually, I missed a topic on Thursday and I
13:06:44 15 spoke to Mr Winneke and it's been agreed, subject to your
13:06:47 16 view, that I just deal with that. It will be about five
13:06:50 17 minutes.
13:06:51 18
13:06:51 19 COMMISSIONER: Yes, I'll give you leave to do that.
13:06:55 20
13:06:57 21 <STUART BATESON, recalled:
13:06:58 22
13:06:58 23 MR NATHWANI: Welcome back Mr Bateson. One topic, and it
13:07:00 24 flows on from the committal hearing that you detail in your
13:07:03 25 supplementary statement, this is on 9 March 2005. You've
13:07:08 26 been asked lots of questions in relation to what documents
13:07:11 27 were redacted or provided or relied on. Just picking up on
13:07:16 28 the theme and then carrying it through, I was certainly
13:07:21 29 asking you questions about the knowledge of Mr Horgan and
13:07:23 30 others about Ms Gobbo's role. Paragraph 15, you include a
13:07:29 31 transcript, I'll just read a few lines of it?---Sorry, 50
13:07:32 32 or 15?
13:07:33 33
13:07:34 34 Fifteen of your supplementary statement?---Yes.
13:07:39 35
13:07:39 36 Mr Lovitt asks you, "Did [REDACTED] get an estimate from
13:07:44 37 Mr Horgan?" Obviously we saw the diary notes in relation
13:07:48 38 to that. It goes through, Mr Lovitt says, third entry
13:07:53 39 down, "What, his lawyer would from time to time be in
13:07:55 40 contact with Mr Horgan or those instructing Mr Horgan or
13:07:57 41 perhaps the Director of Public Prosecutions himself?", and
13:08:00 42 you replied yes. Pausing there. No one jumped up and
13:08:03 43 said, "No, that's not correct, that's not
13:08:06 44 right"?---Correct.
13:08:06 45
13:08:07 46 Following on from that, it's correct, isn't it, following
13:08:10 47 the committal Mr Horgan was concerned about the credibility

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13:08:15 1 of [REDACTED]?---It was a live issue. I'm not sure that I
13:08:24 2 know too much about his concern but it was always a live
13:08:28 3 issue.
13:08:28 4
13:08:28 5 I'll try and jog your memory. Mr Horgan after the
13:08:31 6 committal, so we're now in [REDACTED] 2005, your diary is p.7 on
13:08:36 7 the screens?-- [REDACTED] 2005.
13:08:41 8
13:08:41 9 COMMISSIONER: 2009, was it?
13:08:43 10
13:08:44 11 MR NATHWANI: Five, sorry. The point I'm just asking you
13:08:48 12 about, we'll go through the diary entries, is this, just to
13:08:53 13 put it in the sequence, we have the committal hearing in
13:08:58 14 relation to [REDACTED] which I asked you questions about, the
13:08:59 15 murder of Mr [REDACTED]. The next event was to be the
13:09:01 16 committal proceedings in relation to [REDACTED], does that
13:09:04 17 jog any memories, followed by the Supreme Court trial for
13:09:08 18 [REDACTED] and obviously [REDACTED] would have to give evidence at
13:09:11 19 those proceedings?---Yes.
13:09:12 20
13:09:12 21 What Mr Horgan was keen to do, given what had happened at
13:09:15 22 the committal hearing, was to protect [REDACTED] credibility so
13:09:20 23 much so he floated the idea of not proceeding with the [REDACTED]
13:09:26 24 [REDACTED] murder charges?---He did float that idea, yes.
13:09:28 25
13:09:28 26 We'll just go to that through your diary. If we go to
13:09:31 27 [REDACTED] 2007, [REDACTED], 2007?---2007?
13:09:39 28
13:09:39 29 2005, sorry. See at the top, first entry, 9.06, "Clear to
13:09:47 30 Supreme Court". We have a mention there, "Re Op Dozer".
13:09:51 31 Justice Cummins as we see orders the committal to be held
13:09:55 32 in May.
13:09:56 33
13:09:57 34 MS O'GORMAN: Commissioner, can I just ask for these to be
13:09:59 35 put up on the back screen?
13:10:02 36
13:10:02 37 COMMISSIONER: Is there any problem with that? Let's see
13:10:09 38 how we go with that.
13:10:11 39
13:10:12 40 MS ENBOM: I can't see anything in the notes specifically -
13:10:12 41 - -
13:10:12 42
13:10:12 43 MR NATHWANI: See at the top, first entry, see Mr Horgan
13:10:14 44 there raises the possibility of withdrawing the [REDACTED]
13:10:19 45 murder charge and you voice your dissatisfaction with that
13:10:22 46 course of action?---Yes.
13:10:23 47

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13:10:23 1 If we follow it through to the bottom of the page, the next
13:10:27 2 day, 8 am, you have a meeting with the Director. So
13:10:31 3 Mr Coghlan, Geoff Horgan, his junior Mr Tinney, Kylie Duffy
13:10:38 4 and Mr Ryan and the Director is then involved in the
13:10:41 5 discussions. We see he expresses the view that he would
13:10:46 6 rather withdraw the charges against Carl Williams re [REDACTED]
13:10:51 7 [REDACTED] than expose [REDACTED] to another committal hearing before the
13:10:51 8 trial, do you see that?---Yes, I do.

13:10:53 9
13:10:53 10 What then follows, as we can see, you in fact attend, that
13:10:58 11 is at 9.50, the committal mention hearing, do you see
13:11:02 12 that?---Yes.

13:11:03 13
13:11:03 14 If we follow it through what happens is somehow the
13:11:07 15 magistrate orders that [REDACTED] can't be cross-examined on any
13:11:10 16 matters relating to credit that were previously raised at
13:11:14 17 the [REDACTED] committal, do you see that?---Yes, I do.

13:11:18 18
13:11:18 19 And as a result, just to follow it through, we then see at
13:11:22 20 p.11, so this 16 May 2005, right at the bottom please, we
13:11:38 21 see, "Director's office, meeting" with Mr Horgan again,
13:11:42 22 Vaile Anscombe, Kylie and the Director Mr Coghlan, and we
13:11:48 23 see there as a result I would say the proceedings then
13:11:52 24 continue because of limited cross-examination?---I see that
13:11:54 25 the Director stated he wished to proceed, yes.

13:11:56 26
13:11:57 27 The issues of disclosure of notes and credit of [REDACTED],
13:12:02 28 what submissions were made at that committal mention
13:12:05 29 hearing by Mr Horgan to prevent further re-examination or
13:12:10 30 further questioning of [REDACTED] at the following proceedings?---I
13:12:13 31 don't recall, I'm sorry.

13:12:15 32
13:12:15 33 You can't help as to whether or not he did anything to try
13:12:18 34 and protect the position?---Look, I just don't have a clear
13:12:28 35 memory of what was put before the court on that issue.

13:12:31 36
13:12:34 37 But we certainly see by virtue of the ruling made by the
13:12:36 38 judge, was it - do you know which magistrate dealt with
13:12:39 39 it?---I would say it was Mr Gray, the Chief Magistrate.

13:12:39 40
13:12:39 41 The same magistrate that had earlier dealt with the notes,
13:12:42 42 the redacting?---I believe so, yes.

13:12:44 43
13:12:44 44 Thank you.

13:12:47 45
13:12:47 46 COMMISSIONER: Thank you. Yes Ms Enbom.

13:12:51 47

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1 <RE-EXAMINED BY MS ENBOM:
2

13:12:58 3 Mr Bateson, you will remember last week I asked you some
13:13:04 4 questions about - - -

13:13:05 5
13:13:05 6 COMMISSIONER: Ms Enbom, just before you get into your
13:13:07 7 stride, I've just been told the real time is fixed. So to
13:13:12 8 get it reconnected we need to stand down for two or three
13:13:16 9 minutes, it's probably worth doing that for the convenience
13:13:20 10 of having the real time.

11
12 MS ENBOM: Yes.

13
14 COMMISSIONER: We'll stand down.

13:13:49 15
13:13:50 16 (Short adjournment.)

13:13:50 17
13:23:14 18 COMMISSIONER: Yes Ms Enbom.

13:23:16 19
13:23:16 20 MS ENBOM: Thank you. Mr Bateson, last Thursday I asked
13:23:21 21 you a number of questions about murders that occurred
13:23:26 22 leading up to the establishment of the Purana Task Force
13:23:28 23 and after the establishment of the Task Force, do you
13:23:31 24 remember that?---Yes, I do.

13:23:33 25
13:23:34 26 I realised over the weekend that there was at least one
13:23:38 27 that I missed, the murder of solicitor Mario
13:23:42 28 Condello?---Yes.

13:23:42 29
13:23:43 30 Do you remember that one?---Yes, I do.

13:23:44 31
13:23:44 32 Was he murdered at his house in 2006?---Yes, he was.

13:23:49 33
13:23:50 34 On my count when you were at Purana, Purana was
13:23:59 35 investigating at least 14 murders, does that sound
13:24:03 36 right?---I'll take your word for it, I haven't added it up
13:24:08 37 but there was multiple.

13:24:10 38
13:24:12 39 Moving on to the arrests of ██████████ for the ██████████
13:24:20 40 murder, they were arrested on the day of the murder, is
13:24:24 41 that right?---Yes, they were.

13:24:26 42
13:24:26 43 And they were taken back to the police station for
13:24:28 44 interviewing?---Yes.

13:24:29 45
13:24:32 46 You've given evidence previously that ██████ was fairly
13:24:38 47 cooperative back at the police station?---Yes.

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13:24:42 1
13:24:42 2 And he indicated a willingness to assist by writing [REDACTED] on
13:24:48 3 the table?---Correct.
13:24:49 4
13:24:49 5 So that's [REDACTED]?---Yes.
13:24:51 6
13:24:52 7 How about [REDACTED], was he cooperative back at the police
13:24:55 8 station?---No, not in any way.
13:24:57 9
13:24:57 10 What do you remember about his conduct back at the police
13:25:01 11 station?---He was very aggressive and certainly wasn't
13:25:04 12 cooperative. He was - yeah, he, he took it on as a real
13:25:13 13 battle and I remember him screaming and yelling in the
13:25:16 14 interview room and things like that, so he was much more
13:25:20 15 difficult to deal with.
13:25:23 16
13:25:23 17 Yes. Following the interviews both men were charged with
13:25:27 18 Mr [REDACTED]'s murder?---Yes.
13:25:29 19
13:25:29 20 Were [REDACTED] at that point people who had been in trouble
13:25:35 21 with the police in the past?---Extensively.
13:25:38 22
13:25:38 23 Can you remember any detail in relation to [REDACTED] history?---I
13:25:42 24 remember a very nasty [REDACTED] that he committed and he was
13:25:46 25 certainly a [REDACTED] so I think his priors were
13:25:52 26 along those lines.
13:25:53 27
13:25:53 28 Yes. What about [REDACTED]?---He was a career [REDACTED].
13:26:02 29
13:26:03 30 After both men were charged with the [REDACTED] murder there
13:26:07 31 was then a filing hearing?---Yes.
13:26:09 32
13:26:10 33 Once the charges had been laid and the filing hearing had
13:26:14 34 occurred, did the OPP then take carriage of the
13:26:20 35 prosecution?---Yes. Yes, that's fair to say.
13:26:25 36
13:26:28 37 You gave evidence in the committal hearing in the [REDACTED]
13:26:34 38 murder that you were the Sergeant in charge of the overall
13:26:38 39 investigation of the three murders, being [REDACTED] and the
13:26:42 40 [REDACTED] and [REDACTED] murders?---Yes.
13:26:44 41
13:26:45 42 So once the charges had been laid in relation to those
13:26:49 43 three murders, did you - and the OPP had carriage of the
13:26:55 44 prosecutions, carriage of the proceedings in court, did you
13:26:59 45 have any substantive role in relation to the conduct of the
13:27:04 46 legal proceedings and, if you did, what was your role?---I
13:27:10 47 didn't have a substantive role but I guess as an informant

.02/12/19

10110

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13:27:14 1 in any case you're there to respond to subpoenas and
13:27:19 2 provide any background advice to the prosecutors should
13:27:23 3 they require it, but in terms of how those committals and
13:27:27 4 trials are conducted, no, we don't have a role.

13:27:31 5
13:27:32 6 Were you the informant in relation to the three
13:27:35 7 murders?---Look, I think we ended up sharing that around,
13:27:38 8 so I don't think I was. I can't remember which charges I
13:27:42 9 signed, we worked very collaboratively as a team and I was
13:27:48 10 in charge of that team. But we did each sign charge
13:27:53 11 sheets.

13:27:53 12
13:27:55 13 Yes. You've said the OPP had carriage of the prosecutions
13:27:59 14 or the proceedings, was it Geoff Horgan QC and Andrew
13:28:06 15 Tinney as Mr Horgan's junior who had the carriage of the
13:28:11 16 prosecutions of [REDACTED] and Carl
13:28:16 17 Williams in relation to those murders?---Certainly Geoff
13:28:19 18 Horgan for the entirety of that. I think Justice Tinney
13:28:24 19 came to it a little bit later but he was certainly there
13:28:28 20 for the majority of the prosecutions.

13:28:30 21
13:28:30 22 Yes. Do you recall whether Mr Horgan was a senior Crown
13:28:37 23 Prosecutor at the time he was prosecuting those
13:28:40 24 matters?---Yes, and a former magistrate.

13:28:42 25
13:28:45 26 Did you regard Mr Horgan as an experienced, competent and
13:28:49 27 diligent prosecutor?---Yes, he was. I thought he was
13:28:52 28 terrific.

13:28:53 29
13:28:56 30 How about Mr Tinney, did you regard him as experienced,
13:29:01 31 competent and diligent?---Likewise, yes.

13:29:04 32
13:29:04 33 Throughout the prosecutions did you ever have any concerns
13:29:10 34 about the way in which they were prosecuting the
13:29:13 35 matters?---No. I think there's a couple of notes of me,
13:29:17 36 you know, expressing that I didn't want the [REDACTED]
13:29:20 37 charged withdrawn. I'm not sure what weight that carried,
13:29:25 38 I doubt very much at all. But, you know, I was never
13:29:30 39 concerned with the way they conducted the trial. I had
13:29:35 40 complete faith in what they were doing.

13:29:37 41
13:29:38 42 Did they appear to be devoting sufficient time to the
13:29:41 43 matters?---They were dedicated to this full-time, as far as
13:29:48 44 I'm aware anyway.

13:29:50 45
13:29:50 46 You didn't have any concerns about the integrity of
13:29:53 47 Mr Horgan or Mr Tinney?---None whatsoever.

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13:29:56 1
13:29:58 2 After Purana had completed its work of compiling the
13:30:02 3 evidence and charging those responsible for the [REDACTED]
13:30:08 4 murder and the [REDACTED] and [REDACTED] murders, did you trust
13:30:12 5 Mr Horgan and Mr Tinney to do their jobs in prosecuting the
13:30:17 6 matters?---Yes, of course. Yes.
13:30:20 7
13:30:20 8 Did you trust them to deal with any issues that arose in
13:30:23 9 the conduct of the prosecutions?---Yes.
13:30:26 10
13:30:27 11 Did you trust them to spot issues as they might
13:30:30 12 arise?---Yes.
13:30:31 13
13:30:34 14 Were they instructed by a solicitor at the OPP?---Yes.
13:30:38 15
13:30:38 16 Do you remember who that was?---At various times it was
13:30:42 17 Vaile Anscombe and Kylie Van Den Akker, later to become
13:30:49 18 Kylie Duffy.
13:30:50 19
13:30:50 20 Did you consider those solicitors to be experienced,
13:30:54 21 competent and diligent?---Yes, I did.
13:30:55 22
13:30:56 23 As the people with the carriage of the proceedings, did you
13:31:01 24 consider it the responsibility of the lawyers with the
13:31:04 25 carriage of the proceeding, rather than the police, to deal
13:31:09 26 with issues directly related to the conduct of the
13:31:13 27 proceeding?---Yes.
13:31:15 28
13:31:16 29 We know from paragraph 4 of your supplementary statement -
13:31:20 30 do you have that with you?---Yes, I do.
13:31:22 31
13:31:28 32 We know from paragraph 4 that Mr Horgan and the OPP knew by
13:31:35 33 at least [REDACTED] 2004 that Ms Gobbo was acting for [REDACTED]
13:31:43 34 [REDACTED] Do you see that in paragraph 4?---Yes.
13:31:47 35
13:31:47 36 Moving to paragraph 6, we can see that prior to [REDACTED]
13:31:53 37 2004 Mr Horgan had had contact with Ms Gobbo as defence
13:32:01 38 counsel for [REDACTED]?---Yes, I understand that to be the
13:32:04 39 case.
13:32:05 40
13:32:05 41 And that was in relation to [REDACTED] plea in relation to
13:32:09 42 the [REDACTED] murder?---Yes.
13:32:11 43
13:32:11 44 And in cooperating with the police?---Yes.
13:32:17 45
13:32:17 46 If we move to paragraph 7, we can see that by no later than
13:32:22 47 [REDACTED] 2004 Mr Horgan and the OPP had [REDACTED]

.02/12/19

10112

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13:32:27 1 statements?---Yes.
13:32:30 2
13:32:31 3 And were those statements in relation to the [REDACTED]
13:32:37 4 murder and the [REDACTED] and [REDACTED] murders?---Yes.
13:32:40 5
13:32:42 6 Did [REDACTED] in one of those statements implicate [REDACTED]
13:32:48 7 [REDACTED] in the murders of [REDACTED] and [REDACTED]?---Yes.
13:32:50 8
13:32:52 9 Then if you move to paragraph 10. We know from that
13:32:56 10 paragraph - and from some transcript that Mr Winneke
13:33:00 11 referred to last week - that about two months later, so
13:33:05 12 that's two months after the OPP got [REDACTED] witness
13:33:10 13 statements, about two months later Ms Gobbo started
13:33:14 14 appearing for [REDACTED]---Yes.
13:33:17 15
13:33:18 16 And Mr Horgan appeared for the Crown?---Correct.
13:33:22 17
13:33:23 18 And we know that the appearances included Ms Gobbo acting
13:33:28 19 for [REDACTED] in the [REDACTED] and [REDACTED] prosecution?---Yes.
13:33:34 20
13:33:35 21 And that Mr Horgan appeared for the Crown on those
13:33:39 22 occasions?---Yes.
13:33:40 23
13:33:42 24 And we know that Ms Gobbo's former client, [REDACTED]
13:33:46 25 [REDACTED]---Yes.
13:33:46 26
13:33:46 27 Was to be a Crown witness against [REDACTED]---Correct.
13:33:49 28
13:33:49 29 At that point. And then we can see from paragraphs 32
13:33:57 30 through to 33 that Ms Gobbo in fact appeared for [REDACTED]
13:34:06 31 [REDACTED]---Yes.
13:34:07 32
13:34:07 33 Ms Gobbo actually appeared for [REDACTED] when he entered
13:34:11 34 his guilty plea to the [REDACTED] murder?---Yes.
13:34:15 35
13:34:15 36 And that Mr Horgan also appeared on that occasion?---Yes.
13:34:19 37
13:34:26 38 So it appears from those paragraphs of your supplementary
13:34:30 39 statement?---Yes.
13:34:30 40
13:34:30 41 That Mr Horgan and the OPP knew that it was [REDACTED] who
13:34:36 42 had implicated [REDACTED] in the [REDACTED] and [REDACTED] murders
13:34:41 43 and that Ms Gobbo had acted for [REDACTED] in relation to
13:34:45 44 that matter?---Yes.
13:34:46 45
13:34:46 46 Is that right?---Yes.
13:34:47 47

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13:34:51 1 And at paragraph 43 you explain that if Mr Horgan had
13:34:59 2 concerns about Ms Gobbo acting for [REDACTED] then you would
13:35:04 3 have expected him to raise those concerns directly with
13:35:09 4 defence counsel for [REDACTED], being Ms Gobbo?---Yes.

13:35:13 5
13:35:13 6 And you wouldn't have expected to be involved in those
13:35:16 7 discussions between counsel?---No, I don't think I would or
13:35:19 8 would need to be. So I certainly would have thought they
13:35:24 9 were conversations that would have taken place between
13:35:26 10 counsel.

13:35:27 11
13:35:30 12 So if Mr Horgan comes along to give evidence at this Royal
13:35:34 13 Commission and his evidence is that he did raise with
13:35:37 14 Ms Gobbo on a number of occasions that she may have a
13:35:41 15 conflict in acting for [REDACTED], then is it your evidence
13:35:44 16 that that's exactly what you would have expected him to
13:35:48 17 do?---Yes, and I wouldn't be surprised if he did just that.

13:35:52 18
13:35:53 19 If he'd handled the potential conflict in that way, that is
13:35:56 20 raising it directly with [REDACTED] counsel, do you think
13:36:00 21 there was anything further for you to do?---No, no.

13:36:04 22
13:36:04 23 Or anything at all for you to do?---No, I couldn't think of
13:36:08 24 anything else I could do.

13:36:09 25
13:36:10 26 Do you have any recollection of Mr Horgan telling you he
13:36:13 27 had raised with Ms Gobbo that she was potentially
13:36:17 28 conflicted out of acting for [REDACTED]?---I don't have any
13:36:21 29 memory. You know, when I read through this, some of these
13:36:26 30 transcripts that I mentioned in the supplementary
13:36:29 31 statement, you know, I think I would say that he must have
13:36:33 32 or he would have because it seems like there's some
13:36:37 33 conversation that's taken place behind the scenes but I
13:36:39 34 don't know that for sure.

13:36:40 35
13:36:41 36 When you say behind the scenes, you mean between Mr Horgan
13:36:44 37 as the senior Crown Prosecutor and Ms Gobbo as the defence
13:36:47 38 counsel?---Yes, not in the court.

13:36:49 39
13:36:49 40 Yes?---Yes.

13:36:50 41
13:36:50 42 Do you have any recollection of Mr Horgan asking you to
13:36:53 43 take any steps in relation to Ms Gobbo being potentially
13:36:58 44 conflicted out?---No.

13:36:59 45
13:37:00 46 Do you have any recollection of Mr Tinney or anyone at the
13:37:03 47 OPP raising the matter with you?---No.

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13:37:05 1
13:37:07 2 In the 30 years that you've been a police officer, have you
13:37:12 3 ever been told by a superior officer or have you ever
13:37:17 4 understood that police duties include keeping a look out
13:37:25 5 for defence counsel acting in a prosecution when they might
13:37:32 6 have a conflict of interest because they've acted for
13:37:35 7 someone else?---No.
13:37:36 8
13:37:38 9 Have you ever received training that you should be on the
13:37:40 10 look out for such a thing?---No.
13:37:43 11
13:37:44 12 Have you ever received any training as to what to do if you
13:37:47 13 spot a potential conflict?---No.
13:37:49 14
13:37:52 15 Do you have a recollection of ever raising with a
13:37:57 16 prosecutor or the court that a barrister is potentially
13:38:03 17 conflicted out of acting as defence counsel due to having
13:38:07 18 acted for someone else in the past?---No.
13:38:10 19
13:38:13 20 Do you think you failed, do you think you failed in your
13:38:17 21 police duties to not find time in the 16 hour days that you
13:38:25 22 were working during the time at Purana investigating 14-odd
13:38:32 23 murders, to think about whether Nicola Gobbo had received a
13:38:37 24 brief or instructions that she was ethically obliged to
13:38:42 25 refuse?---No, I - I mean I think I said this the first time
13:38:49 26 I was here back in July, I never considered that that was
13:38:52 27 something for police officers to be involved in.
13:38:55 28
13:38:57 29 We can see from your supplementary statement that when
13:39:01 30 Ms Gobbo went on to act for ██████████ in relation to the
13:39:04 31 ██████████ and ██████████ murders, that a lot of people knew that
13:39:09 32 she had previously acted for ██████████ when he made
13:39:15 33 statements implicating ██████████?---Yes.
13:39:17 34
13:39:18 35 We can see that Magistrate Gray knew that?---Yes.
13:39:21 36
13:39:21 37 We can see that Mr Horgan knew, Mr Tinney knew, Mr Silbert
13:39:26 38 knew if he had prepared the PII argument?---Yes.
13:39:30 39
13:39:31 40 We can see that Justice King knew and we can see that the
13:39:35 41 OPP knew?---And the Director.
13:39:36 42
13:39:37 43 And the Director. So in those circumstances do you think
13:39:40 44 that you as a Detective Sergeant, whose job it was to
13:39:45 45 investigate murders, do you think there was anything for
13:39:49 46 you to do?---I cannot imagine me saying to any of those
13:39:54 47 people, "Hey, hang on", I mean that was I believe their job

.02/12/19

10115

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13:39:59 1 and a job that they did ably.
13:40:03 2
13:40:04 3 We can see from paragraph 10 of your supplementary
13:40:09 4 statement if you've still got it there that - and paragraph
13:40:14 5 10 deals with a different conflict, or potential conflict.
13:40:21 6 You can see there that barrister Sean Grant appeared for
13:40:26 7 [REDACTED] at a mention hearing in relation to the
13:40:29 8 [REDACTED] murders?---Yes.
13:40:31 9
13:40:32 10 If you move to paragraph 18, you refer to Mr Grant
13:40:38 11 appearing at a subsequent mention hearing?---Yes.
13:40:43 12
13:40:44 13 In relation to the same matter?---Yes.
13:40:45 14
13:40:46 15 But on that occasion he didn't appear for [REDACTED] he was
13:40:49 16 there for Carl Williams?---Correct.
13:40:50 17
13:40:52 18 And do you have any recollection of you raising with
13:40:57 19 Mr Horgan or anyone at the OPP that Sean Grant might be
13:41:01 20 conflicted out of acting for Williams because he'd
13:41:04 21 previously acted for [REDACTED]?---No, and as I said before,
13:41:09 22 this was pretty common. There was a small group of lawyers
13:41:14 23 that seemed to represent all of these fellows and changed
13:41:18 24 between them.
13:41:18 25
13:41:18 26 We'll see that in a moment in relation to Solicitor 2. Do
13:41:24 27 you remember Mr Horgan or anyone at the OPP raising with
13:41:28 28 you that Mr Grant might have a conflict?---No.
13:41:32 29
13:41:35 30 Moving to Solicitor 2, do you recall raising with Mr Horgan
13:41:44 31 or anyone at the OPP that Solicitor 2 might be conflicted
13:41:48 32 out of acting for Carl Williams because she'd previously
13:41:52 33 acted for [REDACTED], who was to be a Crown witness against
13:41:55 34 Williams?---No, I know that was raised by others but I
13:42:00 35 don't remember raising it myself.
13:42:02 36
13:42:02 37 Do you remember if Mr Horgan or anyone at the OPP raised
13:42:05 38 that matter with you?---No.
13:42:06 39
13:42:14 40 Moving to a different but related topic, do you remember
13:42:19 41 last week, Mr Bateson, Mr Winneke took you to the
13:42:23 42 depositions in relation to the [REDACTED] murder?---Yes.
13:42:28 43
13:42:28 44 I might give you those folders. I'll take you to certain
13:42:54 45 parts in a moment but just to begin, do you remember some
13:42:59 46 time ago now, but I think it was early last week,
13:43:03 47 Mr Winneke put to you that those, that the depositions were

.02/12/19

10116

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13:43:08 1 an accurate record of the evidence that was tendered during
13:43:12 2 the committal hearing, including the police notes?---Yes.
13:43:16 3
13:43:17 4 And he put to you that the depositions didn't include a
13:43:21 5 relevant page from your day book?---Yes.
13:43:23 6
13:43:26 7 And do you recall that that page recorded contact with
13:43:32 8 Ms Gobbo over the weekend of 10 and 11 July 2004?---Yes.
13:43:39 9
13:43:41 10 It was a single page in your day book headed Saturday, 10
13:43:45 11 July 2004?---Yes.
13:43:47 12
13:43:47 13 There was a note and underneath that Sunday 11 July and a
13:43:52 14 note. Do you remember Mr Winneke put to you that it
13:43:54 15 followed from the fact that that page wasn't in the
13:43:58 16 depositions that you had not provided it to Magistrate Gray
13:44:02 17 during the committal or to the defence in any form?---I
13:44:06 18 remember him putting that to me, yes.
13:44:08 19
13:44:09 20 And do you remember him putting to you or he seemed to put
13:44:13 21 to you that you had deliberately concealed the page, that
13:44:18 22 page, from the magistrate so that no one other than the
13:44:22 23 Crown would know that Ms Gobbo had provided legal advice to
13:44:25 24 [REDACTED] in relation to his witness statements?---It was
13:44:32 25 certainly the flavour of it. I think he acknowledged that
13:44:35 26 she was involved at some point through other notes, but
13:44:39 27 yes, I got that flavour of that allegation, yes.
13:44:41 28
13:44:43 29 And your response was, "No, I didn't deliberately conceal
13:44:47 30 it" and you didn't accept that in fact that page hadn't
13:44:51 31 been given to the magistrate?---Correct.
13:44:53 32
13:44:55 33 I want to ask you some questions about the production of
13:44:59 34 police notes in that committal proceeding and the
13:45:02 35 preparation of the depositions. So starting with the
13:45:06 36 hand-up brief that was served, do you recall whether the
13:45:10 37 hand-up brief contained police notes?---The hand-up brief
13:45:14 38 wouldn't have contained police notes but documents not
13:45:19 39 forming part of the brief that were served at the same time
13:45:22 40 would have, I believe.
13:45:23 41
13:45:24 42 So at the time the hand-up brief is served is your
13:45:28 43 recollection that some police notes would have been served
13:45:31 44 at that time?---I think so, yes.
13:45:33 45
13:45:35 46 And then is it the case that a subpoena was issued by the
13:45:39 47 defence?---Yes.

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13:45:41 1
13:45:41 2 For all relevant police notes?---Yes.
13:45:45 3
13:45:46 4 Did you then collate the police notes in response to that
13:45:51 5 subpoena?---I certainly was in charge of doing so. Whether
13:45:56 6 I did or one of my team but certainly it's my
13:45:58 7 responsibility.
13:46:00 8
13:46:00 9 So either - do you think you would have reviewed your own
13:46:04 10 notes?---Yes.
13:46:06 11
13:46:06 12 And I can see from the depositions that there are notes in
13:46:08 13 there for Mark Hatt and a number of other police
13:46:12 14 members?---Yes.
13:46:12 15
13:46:14 16 Would you have looked through their diaries for relevant
13:46:18 17 notes or do you think they would have done that
13:46:21 18 work?---They would have done that work.
13:46:22 19
13:46:22 20 And then is it the case that either they would have given
13:46:25 21 you their notes and you would have compiled them or you
13:46:29 22 would have given someone all the notes and they would have
13:46:32 23 compiled them?---Yes.
13:46:33 24
13:46:33 25 Do you know which one?---No, I don't.
13:46:36 26
13:46:38 27 We saw last week that some of the police notes contained
13:46:42 28 redactions for relevance and PII?---Yes.
13:46:45 29
13:46:46 30 The notes that are in the depositions are in the redacted
13:46:50 31 form of course. I'll take you through them in a moment.
13:46:57 32 We saw from the transcript of the committal hearing that
13:47:05 33 the original notes were provided to Magistrate Gray,
13:47:10 34 together with a redacted form, is that right?---I doubt
13:47:15 35 they were the original, they would have been photocopies
13:47:18 36 unredacted I would imagine.
13:47:20 37
13:47:20 38 Yes, I'm sorry, yes. You had photocopied the relevant
13:47:23 39 entries, let's say in your diary?---Yes.
13:47:26 40
13:47:26 41 And provided to Magistrate Gray the unredacted
13:47:32 42 photocopies?---Correct.
13:47:32 43
13:47:34 44 Together with a redacted form?---Correct.
13:47:37 45
13:47:37 46 And was the purpose of doing that so that Magistrate Gray
13:47:41 47 could see the relevance claims that you were making?---Yes.

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1
2 And the PII claims?---Yes.
3
13:47:45 4 And could rule on those claims?---Yes.
13:47:47 5
13:47:50 6 If you can find in one of those folders, it's probably
13:47:54 7 folder 2, p.2288. Volume 3 I think?---Volume 3, is it?
13:48:04 8
13:48:05 9 Yes. I only have two volumes so I'm not sure which one it
13:48:18 10 is?---Sorry, what page number?
13:48:21 11
13:48:21 12 2288?---Yes, I've found it.
13:48:29 13
13:48:40 14 So 2288 is the first page, the first entry in your diary
13:48:49 15 for Friday 9 July?---Yes.
13:48:51 16
13:48:51 17 2004. You started work that day at 7.30 in the
13:48:57 18 morning?---Correct.
13:48:58 19
13:48:59 20 Could the operator please bring up on the screen document
13:49:04 21 VPL.0005.0058.0114. That's it, thank you. You'll see that
13:49:33 22 the page on the screen is the unredacted version of p.2288
13:49:41 23 in the depositions?---Yes.
13:49:42 24
13:49:47 25 So if you compare that page on the screen to the redacted
13:49:50 26 page in the depositions?---Yes.
13:49:52 27
13:50:03 28 So you'll see almost in the middle of the page there's an
13:50:11 29 entry, "Allowed to read statement to see if true,
13:50:17 30 correct"?---Yes.
13:50:17 31
13:50:18 32 "Account" and then the last part of that sentence is
13:50:21 33 redacted?---Yes.
13:50:22 34
13:50:22 35 "Won't sign before going to Nicola for approval"?---Yes.
13:50:27 36
13:50:28 37 That bit was redacted and did you redact that on PII
13:50:32 38 grounds?---Yes.
13:50:32 39
13:50:33 40 And so Magistrate Gray would have been provided with, would
13:50:38 41 he not, that page in unredacted form?---Yes.
13:50:41 42
13:50:41 43 And the redacted form?---Yes.
13:50:43 44
13:50:43 45 And so he would see from the unredacted note that Nicola,
13:50:52 46 that [REDACTED], you can see his initials there at
13:50:57 47 11.25?---Yes.

.02/12/19

10119

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13:50:57 1
13:50:57 2 [REDACTED] wanted Nicola to see his statements before they
13:51:03 3 were approved?---Yes.
13:51:08 4
13:51:13 5 And is it your recollection that Magistrate Gray allowed
13:51:16 6 that redaction?---I believe so, yes, because Ms Gobbo was
13:51:25 7 not known to be doing that, yes.
13:51:27 8
13:51:28 9 Does it follow from the fact that that redaction is in the
13:51:32 10 depositions?---Yes.
13:51:33 11
13:51:33 12 That he's allowed the redaction?---Yes.
13:51:35 13
13:51:37 14 Then if you go to p.2291?---Yes.
13:51:43 15
13:51:44 16 If the operator could please bring up VPL.0005.0058.0108.
13:52:09 17 If the operator could please just go back a page to Monday
13:52:14 18 the 12th, two pages. That's it, thank you. The page on
13:52:22 19 the screen should be the page at 2291 of the
13:52:26 20 depositions?---Yes.
13:52:27 21
13:52:28 22 And the section that he's redacted in the depositions is at
13:52:35 23 17:40, "Spoke to Nicola Gobbo re changes to
13:52:41 24 statement"?---Yes.
13:52:41 25
13:52:43 26 Do you think that Magistrate Gray got that page in
13:52:46 27 unredacted form?---Yes.
13:52:48 28
13:52:49 29 And do you think from looking at the depositions that
13:52:54 30 Magistrate Gray allowed that, the redaction that you made
13:52:57 31 to Nicola Gobbo, the reference to Nicola Gobbo
13:53:01 32 there?---Yes, I believe that to be true.
13:53:03 33
13:53:09 34 If Magistrate Gray got that page as well as the page for 9
13:53:12 35 July, does that show that Magistrate Gray knew that
13:53:18 36 Ms Gobbo was involved in the witness statement process or
13:53:24 37 the taking of the witness statement from [REDACTED] ---Yes.
13:53:26 38
13:53:34 39 Having revisited the two pages of the day book that
13:53:42 40 Magistrate Gray did see in unredacted form, what would
13:53:51 41 there, what would there have been to gain for you in not
13:53:56 42 providing Magistrate Gray the page of the diary containing
13:53:59 43 contact with Ms Gobbo in relation to [REDACTED] on the 10th
13:54:03 44 and the 11th of July?---I can't see any gain for me or
13:54:09 45 Ms Gobbo.
13:54:10 46
13:54:16 47 Do you say that the pages recording contact on the 10th and

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13:54:21 1 11th of July 2004 contains similar information to
13:54:25 2 that?---Yes, very similar.
13:54:27 3
13:54:27 4 Recorded on the 9th and the 12th?---Yes, very similar.
13:54:31 5
13:54:35 6 It appears from the transcript that Magistrate Gray ruled
13:54:38 7 on the redactions to the notes on the second day of the
13:54:43 8 committal hearing?---Yes.
13:54:44 9
13:54:45 10 We also know from the transcript that Ms Gobbo appeared the
13:54:49 11 previous day, so the first day of the committal?---Yes.
13:54:52 12
13:54:53 13 For [REDACTED]?---Yes.
13:54:56 14
13:54:57 15 So was the situation this: Ms Gobbo was sitting at the Bar
13:55:01 16 table on the first day of the committal for [REDACTED] and
13:55:04 17 on the second day of the committal Magistrate Gray was
13:55:07 18 ruling on redactions over parts of your day book that
13:55:17 19 referred to Ms Gobbo having advised [REDACTED] about his
13:55:21 20 statements and the statements implicated [REDACTED]?---That
13:55:25 21 appears to be the case but I think I've said this before, I
13:55:29 22 don't remember Ms Gobbo being there on the first day.
13:55:32 23
13:55:33 24 Yes?---But the transcript seems to indicate that, so yes, I
13:55:38 25 do believe that's the case.
13:55:39 26
13:55:39 27 Do you have any recollection of Magistrate Gray or Gavin
13:55:46 28 Silbert QC, who appeared for the Chief Commissioner of
13:55:51 29 Police in relation to the redactions on the first day, do
13:55:54 30 you have any recollection of either of them raising any
13:55:57 31 concern about Ms Gobbo being at the committal for [REDACTED]
13:56:00 32 [REDACTED]?---No.
13:56:00 33
13:56:05 34 I've had a look at your diary notes, as opposed to your day
13:56:10 35 book entries, for the weekend of 10 and 11 July 2004. I'll
13:56:15 36 bring them up on the screen. They are at
13:56:26 37 VPL.0005.0058.0801. Do you see this appears to be the page
13:57:01 38 of your diary, rather than your day book, for July 2004,
13:57:08 39 June appears to be an error because I've checked the
13:57:12 40 calendar?---Yes.
13:57:13 41
13:57:13 42 And you'll see Saturday the 10th, rest day?---Yes.
13:57:17 43
13:57:17 44 And then Sunday the 11th, rest day?---Yes.
13:57:20 45
13:57:20 46 So it appears that the day - Ms Gobbo called you on those
13:57:25 47 two days but you were in fact on rest days?---Yes.

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13:57:28 1
13:57:33 2 If it's the case that you didn't produce the page of your
13:57:37 3 day book for 10 and 11 July 2004, could that be explained
13:57:44 4 by the fact that your diary recorded you as being on rest
13:57:48 5 days?---Possibly. I don't know that for certain but
13:57:54 6 possibly. Yeah, I'm not sure.
13:58:00 7
13:58:07 8 Now, Mr Winneke also put it to you last week that it was
13:58:15 9 clear that the day book, the page from the day book?---Yes.
13:58:18 10
13:58:18 11 For that weekend, hadn't been produced in response to the
13:58:23 12 subpoena during the committal, or prior to the committal,
13:58:29 13 because the transcript shows that Mr Lovitt, who was there
13:58:34 14 for [REDACTED] ---Yes.
13:58:36 15
13:58:38 16 Didn't cross-examine you about that note?---Correct.
13:58:40 17
13:58:42 18 Could the operator please bring up that page of the day
13:58:46 19 book which is VPL.0005.0058.0111. That's it, thank you.
13:59:11 20 If you can just read that page of the day book from 14:00
13:59:16 21 through to the bottom?---"Mark Hatt attends office of
13:59:22 22 Nicola Gobbo allowed same to read statements."
13:59:25 23
13:59:25 24 You can read it to yourself?---Sorry. Yes.
13:59:31 25
13:59:33 26 Can you see that Ms Gobbo is referred to throughout that
13:59:38 27 page?---Yes.
13:59:39 28
13:59:42 29 So if you had produced that page to Magistrate Gray, which
13:59:48 30 parts do you think would have contained PII claims? What
13:59:56 31 would the redactions have looked like?---It would have, it
14:00:02 32 would have been redacted, having looked at the other things
14:00:05 33 that I redacted, Nicola Gobbo's involvement in that, so I
14:00:10 34 would assume most, a lot of that would have been redacted.
14:00:14 35
14:00:14 36 Yes. If Magistrate Gray had allowed - if a lot of that had
14:00:20 37 been redacted, that page, and Magistrate Gray had allowed
14:00:23 38 those redactions consistently with his ruling in relation
14:00:26 39 to the 9 July entry and the 12 July entry?---Yes.
14:00:29 40
14:00:31 41 Then Mr Lovitt would have received a very black page,
14:00:35 42 wouldn't he?---Yes.
14:00:36 43
14:00:37 44 And could that be an explanation for why Mr Lovitt didn't
14:00:40 45 cross-examine on the page, because there was nothing to
14:00:42 46 cross-examine on?---Yes.
14:00:44 47

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14:00:48 1 Now, is it your understanding that the OPP compiled those
14:00:51 2 depositions?---I assume that's the process. That's my
14:00:55 3 understanding of what happens.
14:00:57 4
14:00:59 5 And is it your understanding that the OPP is to include in
14:01:02 6 the depositions all the exhibits tendered at the
14:01:06 7 committal?---Yes.
14:01:07 8
14:01:13 9 We can see from the transcript of the committal that
14:01:16 10 Mr Lovitt tendered police notes without specifying which
14:01:23 11 ones. Do you remember that happening?---Yes.
14:01:25 12
14:01:29 13 Do you know if he tendered all of the notes that were
14:01:33 14 provided to defence at the time the hand-up brief was
14:01:36 15 served, plus all of the notes produced in response to the
14:01:39 16 subpoena, plus all of the further notes that were produced
14:01:44 17 at the start of the committal?---No, and I think that's
14:01:48 18 one, one of the things I questioned when Mr Winneke was
14:01:51 19 asking me about that because it appears he produced the
14:01:54 20 folder and one or two notes that were unredacted by
14:02:00 21 Magistrate Gray. So I'm not satisfied that he's produced
14:02:05 22 everything.
14:02:06 23
14:02:06 24 So there were three sets of notes, there were the notes
14:02:10 25 hand served at the time the hand-up brief is served?---Yes.
14:02:13 26
14:02:14 27 Notes provided to defence in response to the subpoena, and
14:02:17 28 then some additional notes?---That's my understanding of
14:02:20 29 it.
14:02:20 30
14:02:24 31 So let's assume for the moment that Mr Lovitt did, that he
14:02:29 32 did tender all of those notes. When he said, "I tender the
14:02:34 33 notes" that that was understood to be the tendering of all
14:02:42 34 the notes that had been produced at different times. For
14:02:46 35 the depositions to be an accurate record of all the police
14:02:51 36 notes tendered, then we're relying, aren't we, on the OPP
14:02:55 37 having understood what had been tendered and then having
14:03:00 38 compiled the depositions without making any errors?---Yeah,
14:03:04 39 I would have thought that they'd get the exhibits returned
14:03:07 40 to them at the completion of the committal and they then
14:03:11 41 compile the depositions from that.
14:03:13 42
14:03:13 43 Yes?---I don't know that for certain, but that's what I
14:03:18 44 would have thought would happen.
14:03:19 45
14:03:19 46 Yes. If that's right, then the accuracy of the depositions
14:03:23 47 depends upon two things: the court correctly compiling the

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14:03:29 1 exhibit?---Yes.
14:03:29 2
14:03:29 3 And understanding that that exhibit was to comprise three
14:03:33 4 lots of notes?---Yes.
14:03:34 5
14:03:34 6 And then the OPP compiling the depositions once the OPP
14:03:39 7 receives the police notes from the court?---Yes.
14:03:41 8
14:03:42 9 Can you please go to p.1921?---19 and 21 of the
14:03:57 10 depositions?
14:03:57 11
14:03:58 12 Page 1921 of the depositions, volume 2 I'm told. Do you
14:04:12 13 have that page?---I'm not far off it. I have 1921, yes.
14:04:20 14
14:04:21 15 And that page appears to contain some handwritten
14:04:26 16 notes?---Yes.
14:04:26 17
14:04:29 18 And what's the next page you have, what number?---1923.
14:04:36 19
14:04:38 20 Is 1922 missing?---It appears to be, yes.
14:04:42 21
14:04:49 22 If you go to p.1928?---Yes, 1929 also appears to be
14:05:07 23 missing.
14:05:08 24
14:05:16 25 If you go to 1933. Is 1933 a handwritten note?---Yes.
14:05:24 26
14:05:25 27 And do you have a 1934?---No, I do not.
14:05:27 28
14:05:28 29 Is that missing?---It appears to be.
14:05:29 30
14:05:38 31 Go to 1942. Is 1942 a handwritten note?---Yes, running
14:05:51 32 sheet.
14:05:51 33
14:05:51 34 Do you have a 1943?---No, it appears to be missing.
14:05:55 35
14:06:06 36 Go to 1949. Is that a handwritten note?---Yes, it's a duty
14:06:14 37 return, yes.
14:06:14 38
14:06:15 39 And do you have a 1950?---No, it appears to be missing.
14:06:18 40
14:06:23 41 1952, is that a handwritten note?---Yes.
14:06:27 42
14:06:27 43 Is 1953 missing?---Yes, it appears to be missing.
14:06:30 44
14:06:37 45 Go to 1966, is that a handwritten note?---Yes.
14:06:41 46
14:06:42 47 Do you know whose notes they are?---It appears to be Acting

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14:06:50 1 Senior Sergeant Brown.
14:06:50 2
14:06:50 3 And do you have a p.1967?---No, it appears to be missing.
14:06:56 4
14:07:03 5 1972, is that a handwritten note?---Yes.
14:07:07 6
14:07:08 7 Do you have a 1973?---No, it appears to be missing.
14:07:12 8
14:07:18 9 1976, is that a handwritten note?---Yes.
14:07:23 10
14:07:23 11 Do you have a 1977?---No, it appears to be missing.
14:07:26 12
14:07:37 13 1980 is a handwritten note, can you find that one?---Yes.
14:07:42 14
14:07:42 15 Have you got a 1981?---No, it appears to be missing.
14:07:45 16
14:07:46 17 I won't go through any more, Mr Bateson, but those tabs
14:07:51 18 there record all the missing pages. If we go to
14:07:56 19 p.2143?---2143?
14:07:57 20
14:07:58 21 Yes?---It's in another folder, it will just take me a
14:08:08 22 second. Yes.
14:08:28 23
14:08:28 24 Do you see at 2143 there's a page from your, it appears to
14:08:35 25 be a page from your day book?---Yes.
14:08:37 26
14:08:37 27 Is that what it is?---Yes.
14:08:39 28
14:08:40 29 That's a page recording notes made on 29 August
14:08:45 30 2003?---Yes.
14:08:45 31
14:08:47 32 If you flick through the folder, you'll see that the next
14:08:53 33 page is September, September, then we move into
14:09:15 34 October?---Yes.
14:09:16 35
14:09:16 36 At p.2208, if we get to October?---Yes, then it goes back
14:09:22 37 to 24 August.
14:09:24 38
14:09:24 39 Yes. So your notes - so the notes as compiled by the OPP
14:09:32 40 in the depositions, sorry, your day book notes, they start
14:09:38 41 in August, they move to September, October and then they
14:09:40 42 for some reason go back to August?---Back to August.
14:09:43 43
14:09:43 44 In the same year. Then you'll see at p.2210 we go back to
14:09:48 45 October?---Yes.
14:09:52 46
14:09:53 47 Then if we look at Mark Hatt's notes, if we go to

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14:10:10 1 1670?---Sorry, I've just pulled half these pages out.
14:10:30 2
14:10:30 3 At 1670 you should have Mr Hatt's notes starting in June
14:10:34 4 2004?---Yes.
14:10:38 5
14:10:39 6 If you flick through to p.1683, if you look at each page
14:10:43 7 through to 1683, you'll see there are some June notes, some
14:10:48 8 July 04 notes, then we jump?---Yes.
14:10:56 9
14:10:57 10 We jump from July, August, then we jump from August to
14:11:07 11 October?---Yes.
14:11:07 12
14:11:08 13 There's one page of notes recorded in November?---Yes.
14:11:10 14
14:11:11 15 Then we jump to 2005?---Yes.
14:11:13 16
14:11:13 17 Do you think, looking at those notes there, there's only
14:11:20 18 maybe a dozen pages, do you think that more notes than that
14:11:26 19 would have been produced for the second half of 2004 for
14:11:30 20 Mr Hatt?---I would have thought so, yes.
14:11:35 21
14:11:42 22 There are other parts I could take you to, Mr Bateson, but
14:11:45 23 I won't. Having taken you just to the parts I've taken you
14:11:52 24 to, do you think that the depositions are a reliable record
14:11:55 25 of all the exhibits, including the police notes, tendered
14:12:01 26 during the committal hearing?---No.
14:12:03 27
14:12:16 28 That's the depositions. I just have a few more topics.
14:12:20 29 The next topic is [REDACTED] statements. You'll remember
14:12:24 30 Mr Winneke asked you a lot of questions about the taking of
14:12:28 31 statements from [REDACTED]---Yes.
14:12:29 32
14:12:32 33 I can see that your name's in the acknowledgement on
14:12:36 34 [REDACTED] statements in relation to the [REDACTED]
14:12:40 35 murders?---Yes.
14:12:40 36
14:12:41 37 Do you recall that to be the case?---Yes.
14:12:45 38
14:12:49 39 When Mr Winneke was cross-examining last week we could see
14:12:52 40 that Mark Hatt's name was in the acknowledgement on [REDACTED]
14:12:55 41 [REDACTED] statement in relation to the [REDACTED]
14:12:57 42 murder?---Correct.
14:12:58 43
14:12:59 44 Now, does that tell us anything about who was responsible
14:13:04 45 for taking each of the statements?---Yes, what that tells
14:13:08 46 you is the person typing at the time is either Mr Hatt or
14:13:13 47 me, so for the [REDACTED] statement it's Mr Hatt.

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14:13:18 1
14:13:19 2 And for [REDACTED] it was you?---Yes.
3
14:13:22 4 If Mr Hatt was typing [REDACTED] statement in relation to
14:13:25 5 the [REDACTED] murder, based on the fact that his name was in
14:13:31 6 the acknowledgement, would you have been sitting next to
14:13:34 7 him looking over his shoulder at him typing up that
14:13:37 8 statement?---No.
14:13:38 9
14:13:38 10 What was your role in the room when the statement was being
14:13:42 11 taken?---I would have been sitting on the other side of the
14:13:45 12 table. So I think, you know, generally speaking Mr Hatt
14:13:49 13 might sit opposite [REDACTED] and I'll sit on the angle to
14:13:55 14 that, but I certainly wouldn't be looking over his
14:13:59 15 shoulder, you know, that's just not what we do. It would
14:14:02 16 be extremely distracting to have someone doing that.
14:14:05 17
14:14:06 18 You'll remember last week you gave some evidence about the
14:14:10 19 note in your diary recording, in which you summarised
14:14:17 20 changes that had been made to [REDACTED] statement in
14:14:20 21 relation to the [REDACTED] murder?---Yes.
14:14:22 22
14:14:22 23 Do you remember what that note recorded?---Yes, some
14:14:28 24 changes re his belief.
14:14:29 25
14:14:30 26 If you weren't the person typing that statement and you
14:14:33 27 weren't looking over Mr Hatt's shoulder as he was typing
14:14:37 28 it, could that explain why that entry in the day book
14:14:40 29 you've just recalled was fairly brief?---Yes.
14:14:44 30
14:14:44 31 Would you expect Mr Hatt to keep a detailed record of the
14:14:51 32 changes made?---He'd certainly be more aware of the changes
14:14:55 33 that he made, I wouldn't have been sitting there watching
14:15:00 34 him type, so yes, he would have been more aware.
14:15:02 35
14:15:03 36 Is he then more likely to keep the detailed note of the
14:15:06 37 changes made?---I would think so, yes. I'm not sure
14:15:11 38 whether he did or not.
14:15:12 39
14:15:12 40 I haven't checked that either. In relation to the printing
14:15:21 41 of the statements?---Yes.
14:15:22 42
14:15:23 43 Did I understand your evidence last week correctly that it
14:15:27 44 wasn't you who printed [REDACTED] two statements and took them to
14:15:34 45 Ms Gobbo for review?---No.
14:15:35 46
14:15:35 47 Was that Mark Hatt?---Yes, it was.

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14:15:37 1
14:15:38 2 And did I understand your evidence correctly that had you
14:15:46 3 in fact printed the two statements, so say it wasn't
14:15:52 4 Mr Hatt, it was you, had you printed the statements for
14:15:55 5 Ms Gobbo to read, which we know you've given evidence that
14:15:59 6 you didn't, then was it your evidence that in accordance
14:16:02 7 with usual practice you would have securely destroyed the
14:16:06 8 printed copies and any other unsigned copies that you might
14:16:11 9 have and just kept the final signed copy on the
14:16:15 10 file?---Yes.
14:16:15 11
14:16:15 12 That was evidence about your usual practice, was it?---Yes.
14:16:17 13
14:16:18 14 As opposed to what you did in relation to [REDACTED]
14:16:21 15 statements?---I thought we had done it that way but, yes,
14:16:25 16 that's my usual practice.
14:16:26 17
14:16:31 18 So is it the case that you didn't personally have the
14:16:34 19 printed versions of [REDACTED] statements because you weren't the
14:16:38 20 person who had printed them and gave them to Ms Gobbo, so
14:16:40 21 you didn't personally have the printed statements?---No.
14:16:43 22
14:16:44 23 Of [REDACTED] statements and therefore you couldn't have destroyed
14:16:49 24 them because you didn't have them?---It appears that, yes.
14:16:52 25
14:16:53 26 Have you ever received in the 30 years that you've been in
14:16:56 27 Victoria Police any training to the effect that you must
14:16:59 28 keep all printed versions of witness statements that are
14:17:07 29 unsigned?---No, in fact the usual practice was that the
14:17:11 30 signed copy is the exhibit, the one to be retained.
14:17:15 31
14:17:15 32 So the signed copy goes on the brief?---Yes.
14:17:18 33
14:17:19 34 And would you then get together all the, any unsigned
14:17:24 35 versions that you had and shred those?---Any redundant
14:17:28 36 versions, yes, would go.
14:17:30 37
14:17:32 38 Mr Bateson, the last topic I want to ask you about is the
14:17:38 39 transcripts of your, the conversations that you had with
14:17:42 40 [REDACTED] and the conversations that you and Jim O'Brien
14:17:46 41 had with [REDACTED] ---Yes.
14:17:48 42
14:17:48 43 You recall that Mr Winneke put to you that those
14:17:54 44 transcripts were given to the SDU for the SDU to show
14:17:59 45 Ms Gobbo so that she could then pressure [REDACTED] into
14:18:04 46 cooperating with police, do you remember that?---Yes, I
14:18:06 47 remember Mr Winneke putting that to me.

.02/12/19

10128

BATESON RE-XN - IN CAMERA

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14:18:10 1
14:18:11 2 I think it was put to you that by going, taking that route,
14:18:15 3 taking that path through the SDU, you would be able to
14:18:19 4 conceal the fact that it had occurred. I think that's what
14:18:24 5 was being put?---I'm not sure if he put that to me but it
14:18:28 6 certainly felt like he was going down that track. I'm not
14:18:33 7 sure if that was the allegation or not but - - -
14:18:36 8
14:18:37 9 Yes. You gave evidence of your understanding that the SDU
14:18:40 10 was a unit that recorded everything?---Yes.
14:18:42 11
14:18:43 12 Everything that happened?---Yes.
14:18:43 13
14:18:44 14 The SDU recorded all relevant events?---Yes.
14:18:48 15
14:18:48 16 So if it was, if you did have this naughty idea of giving
14:18:57 17 the transcripts to the SDU so that they could then show
14:19:02 18 them to Ms Gobbo in order for her to put pressure on
14:19:06 19 [REDACTED] and that you'd go through the SDU, then conceal
14:19:10 20 it and no one would ever know about it, wouldn't it be
14:19:15 21 easier if you had that, if you wanted to do that, wouldn't
14:19:20 22 it be easier just to rather than go through the SDU, which
14:19:24 23 is a unit that records everything, presumably would record
14:19:28 24 that event, wouldn't it be easier just to meet with
14:19:33 25 Ms Gobbo and give her the transcripts and then say, "Hey,
14:19:37 26 can you go and pressure you client" and then not record it
14:19:41 27 in your diary?---Yes, that would have been a much better
14:19:45 28 idea if I had been of ill-intent.
14:19:47 29
14:19:48 30 If you were minded to do that that would have been perhaps
14:19:51 31 a more effective way of doing it?---Yes.
14:19:55 32
14:19:59 33 They're the only questions I have for Mr Bateson,
14:20:03 34 Commissioner?---Thank you.
14:20:03 35
14:20:03 36 COMMISSIONER: Yes, Mr Winneke.
14:20:05 37
14:20:05 38 <RE-EXAMINED BY MR WINNEKE:
14:20:05 39
14:20:08 40 Mr Bateson - - - ?---Could I just hand these back.
14:20:12 41
14:20:13 42 We need them. You were asked questions about your dealings
14:20:21 43 with Mr Horgan and Mr Tinney in relation to the processes
14:20:27 44 whereby [REDACTED] has in effect rolled and come on board
14:20:34 45 and decided to assist the police?---Yes.
14:20:36 46
14:20:38 47 And Ms Enbom has suggested that the OPP had the carriage of

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14:20:48 1 proceedings, I'm not too sure exactly when it was suggested
14:20:55 2 but certainly it was after the 464B application, it was
14:20:58 3 suggested that the OPP then became involved and had the
14:21:02 4 carriage of it. Now you say, well look, they certainly had
14:21:06 5 an involvement and were running, were running the
14:21:12 6 prosecution as I understand it, that's right, is it?---From
14:21:16 7 the filing hearing really, yes, they appear at the filing
14:21:19 8 hearing.

14:21:19 9
14:21:21 10 I think it was the Monday after the arrest, it would have
14:21:23 11 been about [REDACTED], is that right?---Yes.

14:21:26 12
14:21:29 13 Whilst they had the carriage of the prosecution you were
14:21:33 14 responsible for in effect providing the witnesses to
14:21:37 15 prosecute the proceeding, correct?---Yes.

14:21:41 16
14:21:41 17 And so it was your involvement with [REDACTED] and Ms Gobbo
14:21:57 18 which ultimately, I suggest, led to the proposition that
14:22:00 19 [REDACTED] became a witness in the prosecution against Carl
14:22:05 20 Williams, [REDACTED]. Is that a fair enough
14:22:10 21 proposition?---No, I think what, what is fair to say about
14:22:15 22 [REDACTED] is the overwhelming evidence we had against him
14:22:18 23 was the primary motivation in him becoming a witness.

14:22:21 24
14:22:21 25 It was a primary motivation in him in effect I suppose
14:22:27 26 pleading guilty. As to whether he becomes a witness,
14:22:30 27 that's another issue again?---No, I disagree with that. I
14:22:33 28 think I've said this before in my evidence, he wanted to
14:22:38 29 reduce his sentence and that, he wouldn't have wanted to do
14:22:43 30 that and cooperate had we not had overwhelming evidence
14:22:47 31 against him.

14:22:48 32
14:22:48 33 Yes, okay. It was a very strong case against [REDACTED]
14:22:52 34 that's the point that you make?---Yes.

14:22:54 35
14:22:57 36 And as to the question of Ms Gobbo's involvement, obviously
14:23:04 37 this is the area that I'm interested in, it's been
14:23:08 38 suggested look, Mr Horgan and Mr Tinney knew all about her
14:23:12 39 involvement. They knew she was involved in, certainly
14:23:16 40 Mr Horgan knew she was involved in acting for [REDACTED] at
14:23:19 41 a time that [REDACTED] in effect rolls and indeed makes the
14:23:26 42 statements that we're talking about that were signed on 13
14:23:29 43 July 2004?---Yes.

14:23:30 44
14:23:33 45 I'm obviously focusing on, and the Commission's concerned
14:23:37 46 about what occurs on 9, 10, 11 and 12 July 2004, do you
14:23:44 47 follow that?---Yes.

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14:23:44 1
14:23:45 2 Do you accept that that is a significant point in time
14:23:48 3 because up until the 9th the view was that the statement
14:23:54 4 that he had prepared in effect didn't fully grapple or
14:23:58 5 didn't fully make it plain that he was aware that a murder
14:24:04 6 was going to take place. Do you accept that
14:24:08 7 proposition?---To a certain extent, yes.
14:24:13 8
14:24:13 9 And over the next couple of days a significant, I suggest,
14:24:19 10 matter occurred and that was the statement became
14:24:23 11 significantly clearer in that it was then apparent that he
14:24:28 12 was saying that he did know a murder was going to take
14:24:31 13 place. Now, do you accept that proposition?---I think he
14:24:34 14 says that on the morning he accepts it when, just before it
14:24:39 15 happens.
14:24:39 16
14:24:39 17 Yes?---I didn't really think it was a particularly
14:24:42 18 significant event at the time but certainly I agree that
14:24:46 19 there was changes, some changes to his belief.
14:24:49 20
14:24:50 21 And we've seen that there were a number of passages changed
14:24:54 22 in the statement which in effect beefed it up, if I can use
14:24:57 23 that expression?---I think it gave further clarity to his
14:25:03 24 belief.
14:25:03 25
14:25:06 26 What I'm suggesting - can I ask you this: did you tell
14:25:09 27 Mr Horgan about the events which had occurred on the 10th
14:25:16 28 and 11th and 12th of July in which Ms Gobbo was quite
14:25:22 29 closely involved in that process? Did you make that plain
14:25:26 30 to Mr Horgan?---Look, I'm not sure, I'd have to go back
14:25:31 31 over my notes of when I had conversations with Mr Horgan.
14:25:36 32 But certainly I can't see why I would keep that from him.
14:25:41 33
14:25:41 34 No. So what you say is, "Look, there's no reason why I
14:25:45 35 would have kept it from him" and you say, "Look, I would
14:25:48 36 have told him that we took the statements in to see
14:25:50 37 Ms Gobbo. Ms Gobbo expressed a view about what was in the
14:25:56 38 statement", so that process you say would have, you would
14:25:59 39 have told Mr Horgan about that in, in clear enough terms to
14:26:04 40 make it abundantly clear to Mr Horgan exactly what had
14:26:07 41 occurred, do you say that?---Yeah, I'm pretty sure
14:26:11 42 Mr Horgan shared our scepticism about his knowledge of it.
14:26:17 43
14:26:17 44 Did you make a note of that discussion with Mr Horgan?---On
14:26:20 45 9 July I updated Mr Horgan re the visit and then he goes on
14:26:28 46 the 10th. Express scepticism. I don't have a note of
14:26:39 47 having a conversation with him after the 9th.

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14:26:45 1
14:26:46 2 This is at VPL.0005.0058.0110 about the discussion with
14:26:56 3 Mr Horgan regarding a bail application concerning
14:27:00 4 Dobson?---Sorry, what date was that?
14:27:02 5
14:27:03 6 That's on 12 July, the Monday after the meeting, the very
14:27:07 7 first thing after the events which I'm concerned about on
14:27:10 8 10 and 11 July of 2004. I suggest to you that there is no
14:27:18 9 note of you saying to Mr Horgan or telling Mr Horgan about
14:27:20 10 the events which had occurred on the weekend?---12th of
14:27:45 11 July. Sorry, where was the section on Mr Dobson?
14:28:01 12
14:28:01 13 Have a look in your day book on 12 July 2004 in the morning
14:28:07 14 at 7.50 at the office, "Rang Geoff Horgan"?---Sorry, I was
14:28:08 15 looking in my diary, apologies.
14:28:10 16
14:28:10 17 It's on the screen in front of you, do you see
14:28:12 18 there?---Yeah, sorry.
14:28:13 19
14:28:26 20 Do you agree with me?---I'm sorry?
14:28:28 21
14:28:28 22 Do you agree with the proposition that you don't, at least
14:28:31 23 you don't make a note of talking to Mr Horgan about what
14:28:33 24 had occurred on 10 and 11 July 2004, that is on a
14:28:39 25 weekend?---It doesn't appear that I have a note of that.
14:28:41 26
14:28:41 27 Nor that you'd made arrangements for Ms Gobbo to go out and
14:28:46 28 see [REDACTED] on the Sunday, there doesn't seem to be a
14:28:51 29 note of you telling him that?---No, there doesn't seem to
14:28:54 30 be a note.
14:28:54 31
14:28:55 32 Can I just ask you, if you go down to the bottom of the
14:28:59 33 page, you'll see at 10 am [REDACTED] enters the room and
14:29:10 34 then you say, "Some changes made to [REDACTED]'s statement
14:29:14 35 regarding his belief"?---Yes.
14:29:15 36
14:29:16 37 "Only changes re [REDACTED]'s statement was [REDACTED]."
14:29:23 38 Those notes were redacted out of the materials that were
14:29:26 39 provided to the defence, right?---Initially.
14:29:30 40
14:29:30 41 In any event that which is in the depositions shows that
14:29:34 42 those were blacked out, okay?---Yeah, I think that's one of
14:29:37 43 the ones that we, we sort of went back and forth.
14:29:40 44
14:29:40 45 We're not clear about that. You say you're not certain
14:29:43 46 whether or not it was provided, okay?---Yes.
14:29:45 47

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14:29:48 1 Those changes which were made were made, were they, at the
14:29:52 2 time out at the prison in the statement?---I assume so,
14:29:56 3 yes.
14:29:56 4
14:29:57 5 And were they made by Mr Hatt, do you say?---Yes, I would
14:30:01 6 assume that to be the case.
14:30:02 7
14:30:03 8 Do you know whether Mr Hatt had with him any notes of any
14:30:06 9 discussions that he'd had or any marks or adjustments to a
14:30:13 10 statement which Ms Gobbo had been shown, do you know about
14:30:16 11 that?---No.
14:30:17 12
14:30:17 13 Do you say it did occur or didn't occur?---I just don't
14:30:24 14 have a memory of it.
14:30:28 15
14:30:29 16 If you have a look at the depositions that have been
14:30:32 17 provided, if we can put these up, it's - I think my learned
14:30:38 18 friend said it was p.2288, is that the one? Deposition
14:30:49 19 p.2288. I wonder if we can put that up on the screen too.
14:30:57 20 I might say, can I put this to you also: the words "some
14:31:00 21 changes made to [REDACTED]'s statement re his belief" do not
14:31:04 22 appear in any of the cross-examination of you or [REDACTED]
14:31:07 23 in the committal proceeding?---I haven't checked it
14:31:11 24 thoroughly but it would be a matter of record.
14:31:13 25
14:31:13 26 In any event it will be a matter of record, okay?---I do
14:31:29 27 know I think he was cross-examined about that, his belief,
14:31:33 28 because of the 464B application where he says that he
14:31:37 29 doesn't know it was going to be a murder. So I think
14:31:40 30 Mr Lovitt does cross-examine him on that subject, or maybe
14:31:46 31 even Mr Heliotis, but he certainly was cross-examined about
14:31:49 32 his belief.
14:31:50 33
14:31:52 34 I'm just talking about the note and I'm suggesting to you
14:31:54 35 that the words don't find their way into the transcript at
14:31:57 36 the committal or the trial?---Right.
14:31:59 37
14:31:59 38 Do you accept that or not?---I'd have to have a look, I
14:32:02 39 don't know.
14:32:03 40
14:32:03 41 All right then. If you have a look at 2288, you'll see
14:32:16 42 that's 9 July 2004. There appears to be the no.9 at the
14:32:21 43 top of the page. Do you see that?---Yes.
14:32:24 44
14:32:25 45 And at the bottom of the page there's a number underneath
14:32:29 46 the 2288?---There appears to be, yes.
14:32:33 47

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14:32:35 1 The numbers at the bottom of the page, I think you
14:32:38 2 mentioned that there were quite a number of, hundreds of
14:32:42 3 pages of notes which were provided prior to the committal
14:32:45 4 proceeding commencing?---Yes.
14:32:48 5
14:32:49 6 If you look at the next entry which you provide, I'm sorry,
14:32:54 7 which is in the depositions, 2289. Can we have a look at
14:32:59 8 2289, we see the number at the top of the page is number
14:33:04 9 8?---Yes.
14:33:05 10
14:33:05 11 And there's another number at the bottom of the page and
14:33:08 12 obviously we'd have to look closely at those numbers at the
14:33:12 13 bottom of the page, right?---Yes.
14:33:14 14
14:33:14 15 Can I suggest to you that the numbers, the pages in the
14:33:17 16 depositions which have the numbers at the bottom of the
14:33:21 17 page, and indeed the numbers at the top of the page, were
14:33:26 18 documents which were provided to the defence prior to the
14:33:30 19 committal proceeding commencing, do you accept
14:33:36 20 that?---Possibly. I don't know why there's two different
14:33:41 21 numbers on those.
14:33:41 22
14:33:41 23 Yes?---As I think I explained the other day, we did make
14:33:46 24 some attempt to paginate the notes.
14:33:50 25
14:33:51 26 In any event if you look at the numbers at the top of the
14:33:54 27 page and the bottom of the page what I suggest is you'll
14:33:57 28 see they're consecutive numbers and obviously pay close
14:34:03 29 attention, which I suggest to you when you photocopied the
14:34:09 30 relevant pages of your day book to provide to the defence
14:34:12 31 you didn't photocopy the events which occurred on 10 and 11
14:34:17 32 July. Assuming they're consecutive numbers that would
14:34:21 33 follow, wouldn't it?---Yes.
14:34:22 34
14:34:22 35 Because you photocopied them out and paginated them and
14:34:26 36 provided them?---Yes.
14:34:28 37
14:34:28 38 Is it the case that what really occurred at the committal
14:34:31 39 proceeding was there were extra pages provided subsequent
14:34:35 40 to the earlier provision in relation to which there was a
14:34:39 41 debate about redactions or otherwise?---Yes.
14:34:43 42
14:34:44 43 And at the time the committal commenced the defence had in
14:34:51 44 effect said, "Look, we accept your redactions insofar as
14:34:54 45 what has been provided to us already", is that right or
14:34:58 46 not?---No, I think the magistrate had looked over there. I
14:35:01 47 think when he talks about - I'd have to be taken back to

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14:35:06 1 the transcript but I think he says, "We adopted the same
14:35:09 2 process of last week".
14:35:11 3
14:35:12 4 Right. Well, so do you say what occurred after the
14:35:16 5 commencement of the proceeding, the committal proceeding
14:35:20 6 occurred with respect to different notes?---Yes.
14:35:24 7
14:35:25 8 So there's been some suggestion that there were either 25
14:35:28 9 or 28 pages of notes which were the subject of further
14:35:32 10 argument during the course of the committal
14:35:34 11 proceeding?---Yes, 28 is the number. I'm not sure if it
14:35:39 12 relates to pages or 28 different parts of notes, I'm not
14:35:43 13 sure.
14:35:43 14
14:35:43 15 In any event, if you do go through - I'm not going to go
14:35:44 16 through the exercise now because the documents will speak
14:35:47 17 for themselves. But if you do go through the depositions
14:35:51 18 there are a number of entries or a number of pages of your
14:35:52 19 notes which don't have those numbers either at the top or
14:35:56 20 the bottom of the page suggesting that they'd recently been
14:35:59 21 provided, they hadn't been paginated?---Right.
14:36:01 22
14:36:01 23 Would that make sense? Those pages which you photocopied
14:36:05 24 whilst you were at the court were the ones which had
14:36:08 25 subsequently been provided to the court after the committal
14:36:11 26 started?---I don't know about that.
14:36:13 27
14:36:14 28 But you accept the proposition if there are no paginated
14:36:18 29 numbers either at the top or the bottom of the page, it
14:36:22 30 would indicate they had been provided at a different stage
14:36:25 31 in a different tranche?---A different stage, yes. I just
14:36:31 32 don't understand the 8 and the bigger number down the front
14:36:35 33 so I'd have to chat to the crew about that, but yeah, I
14:36:39 34 don't - - -
14:36:40 35
14:36:40 36 You don't know, all right. I suggest to you that if it
14:36:49 37 appears to be the case that no one is aware - look, when I
14:36:56 38 say the defence are a not aware of Ms Gobbo's involvement
14:37:00 39 in the changing of the statement on the 10th, 11th and the
14:37:04 40 12th, then that is something that would not have been
14:37:07 41 revealed to the defence?---Sorry, can you put that question
14:37:11 42 to me again?
14:37:12 43
14:37:12 44 If there's no cross-examination about that process, the
14:37:16 45 changing of the statement, Ms Gobbo's involvement in it, it
14:37:20 46 would seem to be, would you accept the proposition that
14:37:23 47 they weren't aware of that?---No, not necessarily.

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14:37:26 1
14:37:26 2 No, all right. I suggest to you that if Mr Lovitt or
14:37:31 3 Mr Heliotis was aware that there were changes, significant
14:37:34 4 changes made to the statement on 10, 11 and 12 July it
14:37:41 5 would have been the subject of cross-examination, do you
14:37:42 6 accept that proposition?---Not necessarily, no.
14:37:45 7
14:37:45 8 Okay, you don't accept that. But what you say is, "In any
14:37:51 9 event I told Mr Horgan about that"?---About the statements
14:38:00 10 being shown to Ms Gobbo?
14:38:02 11
14:38:02 12 And the changes which we've seen, the changes to the
14:38:06 13 statement which were made on the 9th and the 12th, you say
14:38:10 14 Mr Horgan was aware of that?---Well I don't know if he was
14:38:12 15 aware of that. I don't have a note of it. As I said
14:38:15 16 before, I can't see why I wouldn't talk to him about that.
14:38:19 17 I'm certain he would have known she was reading them and of
14:38:23 18 course he was having conversations with her around this
14:38:26 19 time as well.
14:38:27 20
14:38:28 21 What about the, Ms Enbom has suggested to you, well look,
14:38:33 22 Mr Horgan was aware about all the business about [REDACTED]
14:38:38 23 if there was an issue about conflict that's something that
14:38:42 24 the prosecution would have been aware of, that's
14:38:45 25 effectively what you're saying to the Commission, is that
14:38:47 26 right?---Yes.
14:38:48 27
14:38:49 28 Did you say that you made it plain to Mr Horgan that
14:38:53 29 Ms Gobbo was provided with the transcripts of the
14:38:56 30 discussions which you had had, you and Mr O'Brien had had
14:39:00 31 with [REDACTED] on 22 February and 15 March and then in June
14:39:05 32 and so forth - I withdraw that. The March and the February
14:39:10 33 discussions. Do you say that you told the prosecution
14:39:14 34 about all of those matters?---I don't know. They certainly
14:39:21 35 became produced at later trials.
14:39:24 36
14:39:24 37 But the important issue is this: did you say to them,
14:39:27 38 "Look, this is what we did. We gave Ms Gobbo the
14:39:31 39 transcripts of our discussions with [REDACTED], which we had
14:39:36 40 taken surreptitiously when we were out at the prison in
14:39:39 41 February and March of 2006, we gave those to Ms Gobbo, not
14:39:46 42 to her solicitor, but Ms Gobbo, so she could go and speak
14:39:50 43 to him", did you tell the prosecution that?---I don't have
14:39:52 44 a note of it. I don't know whether Mr O'Brien or Mr Ryan
14:39:57 45 did. I don't have a memory of doing it, but once again it
14:40:00 46 would have been something that I would have had no problem
14:40:04 47 telling Mr Horgan had I had a conversation with him around

.02/12/19

10136

BATESON RE-XN - IN CAMERA

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14:40:07 1 that time because, as I said, you know, they were provided
14:40:09 2 to her on the basis that she was his legal practitioner.
14:40:14 3
14:40:14 4 Right?---But I don't think I have a note of that
14:40:17 5 conversation with Mr Horgan or Mr Tinney.
14:40:20 6
14:40:20 7 Do you accept that it would be significant information, if,
14:40:23 8 for example, they had known that you had provided this
14:40:26 9 material to Ms Gobbo's handlers, because of course she was
14:40:30 10 a registered informer at that stage, to enable her to go
14:40:36 11 out and speak to him, that would be significant information
14:40:38 12 that Mr Horgan and Mr Tinney would have wanted to have been
14:40:41 13 aware of in order for them to make up their minds as to
14:40:45 14 whether or not it was appropriate for Ms Gobbo to continue
14:40:49 15 to be involved, do you accept that proposition?---I'm not
14:40:50 16 sure that they didn't know.
17
14:40:53 18 So you say they did know about that, do you?---No, no. I
14:40:55 19 said I'm not sure if they didn't know. I don't know
14:40:56 20 whether they did or they didn't know. I don't know that I
14:40:57 21 consider it to be that significant as you do. So certainly
14:41:02 22 I have no note of a conversation telling them about that,
14:41:07 23 but most of the communication was done by Mr Ryan and
14:41:10 24 Mr O'Brien at that stage, so they would have had
14:41:12 25 conversations with the OPP and the Director as well.
14:41:14 26
14:41:15 27 Mr O'Brien effectively said, "This had nothing to do with
14:41:19 28 me, this was Mr Bateson's inquiry with Mr Ryan, this was
14:41:22 29 their investigation", that was the effect of what he was
14:41:24 30 saying?---I don't accept that.
14:41:25 31
14:41:25 32 You don't accept that. If that's what he said, he's not
14:41:30 33 telling the truth?---No, I think he's mistaken because I
14:41:34 34 have a clear memory of Mr O'Brien being very involved in
14:41:37 35 that conversation.
14:41:38 36
14:41:38 37 Right. But what is clear though, I suggest to you, is that
14:41:43 38 the provision of these notes to the SDU, that is Ms Gobbo's
14:41:48 39 handlers, was not something which was made clear to the
14:41:52 40 prosecution?---No, I'm not sure if I can - I feel like - -
14:41:59 41 -
14:41:59 42
14:42:00 43 Do you say that the prosecution was aware that Ms Gobbo was
14:42:02 44 a registered informer at this time?---I don't know if they
14:42:05 45 were. I certainly didn't tell them.
14:42:07 46
14:42:07 47 No. Are you able to say whether, as far as you were aware,

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14:42:12 1 Mr O'Brien or Mr Ryan told Mr Horgan or Mr Tinney that
14:42:16 2 Ms Gobbo was a registered informer?---I don't know.
14:42:18 3
14:42:20 4 Do you honestly say that? Are you not prepared to say,
14:42:23 5 "No, they wouldn't have told them that"?---I wouldn't think
14:42:26 6 they would tell them but I don't know. I'm sure they would
14:42:30 7 be able to - if they didn't answer that, but I can't speak
14:42:33 8 for them of course.
14:42:33 9
14:42:34 10 All right. I think you mention in your evidence that there
14:42:49 11 were some tensions with Mr O'Brien in so far as the
14:42:58 12 investigations were concerned, do you recall saying
14:43:01 13 that?---I don't recall saying it.
14:43:02 14
14:43:03 15 Is that your recollection, that there were some
14:43:05 16 tensions?---From time to time there were some tensions,
14:43:07 17 yes, I guess that was - we were all under pressure, it
14:43:09 18 wasn't to be unexpected.
14:43:11 19
14:43:11 20 You don't recall having any significant disagreement with
14:43:15 21 Mr O'Brien about the way in which matters should proceed.
14:43:27 22 If we go to ICR p.258. Go to 258. There's a phone call, a
14:43:59 23 discussion with you and the handler. You provide an
14:44:03 24 opinion that, "Vaile Anscombe would be likely to gossip
14:44:07 25 about Ms Gobbo re today's matter". That's on the 21st,
14:44:12 26 this is the so-called conflict hearing?---I don't accept
14:44:16 27 that I said that because I don't feel that way about
14:44:20 28 Ms Anscombe. I had faith in her integrity and honesty so I
14:44:29 29 can't imagine that I would say that about her.
14:44:31 30
14:44:31 31 If we move on, "Horgan likewise as he is not totally aware
14:44:36 32 of Ms Gobbo's situation regarding this". Now, can I
14:44:42 33 suggest to you that that's a reference to Ms Gobbo's
14:44:47 34 position as an informer or a police agent?---Could be, but
14:44:54 35 I don't know that it is.
14:44:55 36
14:44:56 37 Effectively you're saying, "He's not totally aware of her
14:44:59 38 situation", is that right?---That's what the ICR records.
14:45:04 39 What I actually said I don't recall, and I'm not sure even
14:45:10 40 reading those words how to interpret those words.
14:45:13 41
14:45:13 42 "Outside court when within earshot of unknown others
14:45:17 43 Mr Horgan asked Ms Gobbo when is [REDACTED] going to plead.
14:45:20 44 There was an unknown other senior woman from [REDACTED] Prison
14:45:25 45 there. Ms Gobbo asked her if she could still visit [REDACTED]
14:45:29 46 [REDACTED] This woman replied, 'We run the prison, not the
14:45:30 47 police'. Ms Gobbo wanted you to tell Vaile Anscombe that

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14:45:34 1 she knows about [REDACTED] and that it's okay". Then you
14:45:38 2 provide the opinion to the handler. Do you accept that
14:45:47 3 that's more or less the effect of the discussion?---No, I
14:45:51 4 don't. I accept that's what's written on the page, I don't
14:45:56 5 accept that's what was said.

14:45:58 6
14:45:59 7 Do you say that you would have made it clear to Mr Horgan
14:46:02 8 and/or Mr Tinney that on 13 July 2006 Ms Gobbo had been
14:46:12 9 brought in to see [REDACTED] whilst he was in the custody of
14:46:18 10 Victoria Police after it had been, there had been
14:46:21 11 discussions about [REDACTED] not being totally truthful? Do
14:46:25 12 you think that was something that you would have told the
14:46:28 13 prosecutors about?---I can't see why I wouldn't. Once
14:46:32 14 again I don't remember having a note about that, but
14:46:35 15 certainly I know Mr Horgan was talking to Ms Gobbo at the
14:46:40 16 same, around the same time, so I'm sure he was aware that
14:46:44 17 she was acting for him because they have discussions about
14:46:48 18 him pleading.

14:46:49 19
14:46:49 20 But the point I'm making is, do you say that he was made
14:46:53 21 aware that she had been, Ms Gobbo had been brought in to
14:46:59 22 the St Kilda Road, or the Victorian Police Centre to speak
14:47:06 23 to [REDACTED] around the time that he was making statements,
14:47:09 24 would he have been made aware of that?---I can't see why
14:47:13 25 not.

14:47:13 26
14:47:13 27 Would he have been made aware of the fact that on 18 July
14:47:18 28 2006 Ms Gobbo was ushered into St Kilda Road and shown
14:47:23 29 copies of various statements made by [REDACTED] prior to
14:47:26 30 them being signed, would he have been made aware of
14:47:30 31 that?---I'm certain he knew that she got an opportunity to
14:47:35 32 review them because that was normal procedure.

14:47:37 33
14:47:38 34 You believe that you would have told him what you were
14:47:40 35 doing on 13 and 18 July 2006?---13 July, what was that one?

14:47:45 36
14:47:45 37 13 July is the day she's brought in?---I can't see why we
14:47:49 38 wouldn't have told him that. You know, it's just normal
14:47:52 39 course for a person that is becoming a Crown witness to
14:47:55 40 seek advice from their legal practitioner, so I can't see
14:47:59 41 why. I don't know that I have a note of it and I don't
14:48:02 42 know whether Gavan Ryan or Jim O'Brien have a note of a
14:48:06 43 conversation with, about that, but I can't see why we
14:48:10 44 wouldn't have discussed it.

14:48:11 45
14:48:11 46 All right. And likewise on 18 July when she has apparently
14:48:16 47 come in, been provided with a red pen and Post-It Notes and

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14:48:20 1 made markings and suggestions with respect to a number of
14:48:23 2 statements. You say that is something that would have been
14:48:27 3 made plain to the OPP as well?---I'm not sure that I'm
14:48:30 4 willing to accept the beginning of that proposition, but
14:48:33 5 I'm certain that the same thing, why would we not let him
14:48:37 6 know that she was reviewing the statements? That was the
14:48:39 7 normal course of business.

14:48:40 8
14:48:41 9 When you say here that he's not, I suggest when it appears
14:48:44 10 that you've said here that he wasn't totally aware of
14:48:48 11 Ms Gobbo's situation re this, what I'd suggest is you were
14:48:52 12 not providing the full story to the prosecution?---Well I
14:48:56 13 don't know what those words mean. I don't accept that I
14:48:58 14 said them because I certainly didn't feel that way about
14:49:02 15 Vaile Anscombe, so I'm very, you know, that makes me think
14:49:10 16 that I didn't say those things. I didn't feel that way
14:49:12 17 about it.

14:49:12 18
14:49:13 19 Do you accept this proposition, that you did say to
14:49:18 20 Ms Gobbo's handlers that Mr Horgan was not aware of the
14:49:24 21 full picture with respect to Ms Gobbo's involvement with
14:49:27 22 Victoria Police?---Possibly. Possibly.

14:49:32 23
14:49:32 24 All right. Thanks very much Commissioner. Just one other
14:49:38 25 thing. Insofar as your notes are concerned, I think you
14:49:41 26 said at the committal proceeding that you did have a
14:49:44 27 decision, there was a consciously made decision to keep
14:49:49 28 your notes to a minimum?---Yes.

14:49:50 29
14:49:50 30 And that was the position with respect to Purana, was
14:49:54 31 it?---I can't speak for all of Purana.

14:49:56 32
14:49:56 33 But as far as you were concerned you made a conscious
14:50:00 34 decision to keep your notes to a minimum?---I read that in
14:50:03 35 the transcript of the committal, yes.

14:50:05 36
14:50:05 37 What was the reason for keeping your notes to a
14:50:09 38 minimum?---We knew that our notes could get people killed.
14:50:12 39 So we were very aware of that and it was important for us,
14:50:15 40 I thought, for operational security to keep those things to
14:50:19 41 a minimum and be aware of, aware of the possible
14:50:24 42 consequences of people reading our notes or in fact our
14:50:29 43 diaries going missing, et cetera.

14:50:31 44
14:50:31 45 But if there were notes which had been made, I mean - I'll
14:50:36 46 start again. The purpose of notes is to set out and to
14:50:40 47 give you an ability to refer to and recall that which has

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14:50:44 1 occurred?---Yeah, the notes are there to refresh our
14:50:49 2 memories and that's what we do them for.
14:50:52 3
14:50:52 4 Yes. And if in due course you're asked questions about
14:50:56 5 certain matters of importance, you would be able to refer
14:50:58 6 to your notes and say, "I can tell you what happened
14:51:01 7 because I refer to it in my notes", correct?---Yes.
14:51:04 8
14:51:05 9 If you don't have a note about it, I suppose you'd be
14:51:09 10 answering questions like I've asked you, "I've got no note
14:51:12 11 of that, I don't know. I don't know anything. I can't
14:51:13 12 tell you about that"?---My notes have never been a
14:51:18 13 comprehensive record of everything I've done during my
14:51:20 14 police duties. But certainly during Operation Purana we
14:51:24 15 were very aware that our notes could get people killed.
14:51:28 16
14:51:28 17 What you say is your notes if subpoenaed and if any claim
14:51:32 18 for public interest immunity is not upheld, because the
14:51:36 19 court says the notes should be provided, in those
14:51:39 20 circumstances there could be consequences?---That's one
14:51:44 21 situation. Notes could go missing, diaries could be viewed
14:51:48 22 by other people. All those sorts of things are a potential
14:51:52 23 possibility, so yes, we were careful on recording things
14:51:56 24 that put people in danger.
14:51:58 25
14:52:00 26 Do I take it then when you say that notes were kept to a
14:52:03 27 minimum, that is you would record matters of significance
14:52:06 28 as a matter of course in your notes, correct?---Yes.
14:52:09 29
14:52:09 30 But your decision to keep notes to a minimum means that you
14:52:12 31 would not record matters of significance that you might
14:52:16 32 otherwise record?---No.
14:52:17 33
14:52:17 34 What do you mean you keep your notes to a minimum
14:52:20 35 then?---Basically I've answered that as best I can. But if
14:52:25 36 there was other significant things that I still wanted to
14:52:28 37 keep out of my notes because of those reasons, for security
14:52:32 38 reasons, there would be an IR submitted, an information
14:52:36 39 report submitted so, you know, that's in a secure, or not
14:52:41 40 that secure, but certainly at that time when we moved to
14:52:44 41 Interpose in 2005 it became an audible system, prior to
14:52:49 42 that it was just on a computer, but yeah, that's, that's, I
14:52:53 43 think the best I think I can explain it.
14:52:58 44
14:52:58 45 Thanks very much. Commissioner, there's some material that
14:53:01 46 I need to take Mr Bateson through but in a different
14:53:05 47 environment.

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14:53:08 1
14:53:08 2 COMMISSIONER: Yes, as I understand it I now have to make
14:53:11 3 an order whilst a particular topic is discussed, whilst
14:53:18 4 this witness is examined about a particular topic. So
14:53:23 5 pursuant to s.24 of the *Inquiries Act*, access to the
14:53:28 6 inquiry during the following evidence of Mr Bateson
14:53:32 7 relating to Mr MacCallum is limited to legal
14:53:36 8 representatives and staff assisting the Royal Commission,
14:53:39 9 the following parties with leave to appear in the private
14:53:41 10 hearing and their legal representatives, namely the State
14:53:45 11 of Victoria, Victoria Police including Craig Thornton, DPP
14:53:49 12 and the OPP, the Commonwealth Director of Public
14:53:52 13 Prosecutions, the SDU handlers, Australian Federal Police,
14:53:57 14 and legal representatives of the Herald and Weekly Times,
14:54:01 15 Pty Ltd, Nationwide News Pty Ltd, The Age Company Ltd and
14:54:07 16 the Australian Broadcasting Corporation. The hearing is to
14:54:10 17 be recorded but not streamed or broadcast. There is to be
14:54:13 18 no publication of this portion of this witness's evidence
14:54:18 19 until further. A copy of this order is to be posted on the
14:54:22 20 door of the hearing room.

21
14:54:25 22 Before we start it will be necessary to have another
14:54:28 23 adjournment so that the required changes to the equipment
14:54:30 24 can be made, so it will only be a short adjournment.

14:54:35 25
14:54:35 26 (Short adjournment.)

27
28 (IN CAMERA CONFIDENTIAL HEARING FOLLOWS)

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