

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria
On Friday, 20 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
Counsel for State of Victoria	Mr T. Goodwin
Counsel for Nicola Gobbo	Mr R. Nathwani
Counsel for DPP/SPP	Mr P. Doyle
Counsel for CDPP	Ms Mitchelmore SC Ms A. Haban-Beer
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for AFP	Ms I. Minnett
Counsel for Chief Commissioner of Police	Mr G. Coleman QC Mr P. Silver
Counsel for Noel Ashby and Paul Mullett	Ms J. Condon SC
Counsel for Simon Overland	Mr J. Gleeson QC Ms G. Coleman
Counsel for Paul Dale and Peter Lalor	Mr G. Steward

08:51:21 1 COMMISSIONER: Appearances are as they were yesterday, save
09:36:19 2 that we have a directions hearing in respect of a second
09:36:23 3 statement from Mr Jeffrey Pope and Mr Dollard is appearing
09:36:28 4 on that directions hearing. And Mr Woods you're appearing
09:36:33 5 on that.
09:36:34 6
09:36:34 7 MR WOODS: Yes, Commissioner. The situation - would you
09:36:34 8 like me to address on that, Commissioner?
9
09:36:37 10 COMMISSIONER: No, I'm familiar. I've read the material of
09:36:39 11 the long history of the solicitors assisting attempting to
09:36:44 12 get Mr Jeffrey Pope's second statement and it's been
09:36:48 13 promised and then not delivered, and promised and not
09:36:52 14 delivered, and promised and not delivered, so I've been
09:36:53 15 asked to mention it this morning to see what the position
09:36:55 16 is or will we just have to issue a Notice to Attend in the
09:37:01 17 New Year and have Mr Pope come along?
09:37:03 18
09:37:04 19 MR WOODS: I'll let Mr Dollard address you on that.
09:37:06 20
09:37:07 21 MR DOLLARD: Commissioner, it has been Mr Pope's intention
09:37:09 22 all along to provide a second statement and the sole issue
09:37:11 23 that's prevented that has been the issue of his past legal
09:37:18 24 fees being paid. It's unsatisfactory I understand from the
09:37:21 25 Commission's perspective, also from our perspective. We
09:37:25 26 are very close to resolving that and I've just had
09:37:28 27 discussions with the Commission's solicitors and on that
09:37:31 28 basis Mr Pope will be able to provide a statement by 21
09:37:33 29 January.
30
09:37:34 31 COMMISSIONER: Well if it doesn't happen a Notice to
09:37:37 32 Attend will be issued and he'll just have to come along
09:37:43 33 without the statement and be examined at large.
09:37:46 34
09:37:47 35 MR DOLLARD: I understand, Commissioner.
09:37:47 36
09:37:48 37 COMMISSIONER: All right then, thank you. Mr Overland is
09:37:48 38 in the box and we'll continue with his cross-examination.
39
09:37:54 40 MR WINNEKE: Thanks, Commissioner. Can I just make this
41 point: 21 January seems to be fairly late.
42
09:37:57 43 COMMISSIONER: It's a pathetic.
44
45 MR WINNEKE: We're recommencing hearings then and I would
46 have thought - - -
47

09:37:58 1 COMMISSIONER: It's absolutely pathetic but there you are.
09:38:01 2 That's what I'm told. Well, if it isn't provided there'll
09:38:05 3 be a Notice to Attend on the 22nd and he'll be examined at
09:38:13 4 large.
5
09:38:15 6 MR WINNEKE: Thanks Commissioner.
09:38:16 7
09:38:16 8 <SIMON JAMES OVERLAND, recalled:
9
09:38:19 10 MR WINNEKE: Mr Overland, we were dealing with the period
09:38:21 11 at the end of 2008 around the decision-making process
09:38:25 12 whereby Ms Gobbo has spoken to Mr Dale, the conversation's
09:38:33 13 been recorded, et cetera?---Yes.
14
09:38:36 15 You've been giving evidence about the, I think the word
09:38:42 16 vehement has been used, view of the SDU that they did not
09:38:45 17 believe she ought be a witness?---Yes.
18
09:38:48 19 And you accept that, at the end of 2008 you were aware of
09:38:53 20 their vehement view?---Yes.
21
09:38:57 22 The evidence is that there were discussions between an SDU
09:39:08 23 [REDACTED] by the name of Black, a person we're
09:39:14 24 calling Black - I think you have the list there in front of
09:39:17 25 you?---Yes.
26
09:39:18 27 You know who that is?---I do.
28
09:39:20 29 Had you met that officer before?---I think maybe once or
09:39:25 30 twice but, yeah.
31
09:39:27 32 All right. As a consequence of those discussions between
09:39:36 33 Mr Black and fellow members of his Unit, the SDU, including
09:39:43 34 the controller, if you like, of Ms Gobbo, Mr Sandy White,
09:39:49 35 other [REDACTED] in that group had spoken to Mr Biggin and
09:39:57 36 they had put together, or at least Mr Black put together an
09:40:03 37 analysis, which is described as a SWOT analysis, strengths,
09:40:09 38 weaknesses, opportunities and threats. That was provided
09:40:17 39 to Mr Biggin on 31 December 2008. You're aware of that
09:40:26 40 now?---I'm aware of it now, yes.
41
09:40:28 42 And then it seems what has occurred is that Mr Biggin
09:40:40 43 obviously read that analysis and provided a cover letter or
09:40:46 44 a cover note on that analysis, you're aware of that now I
09:40:56 45 take it?---Can I just be clear. So the version I've been
09:41:00 46 shown has a front sheet on it but it's really just to
09:41:05 47 record the movement of the file. There was no comment from

09:41:07 1 Mr Biggin in the version I've seen.
2
09:41:09 3 Yes. In any event, just to follow it through, that is then
09:41:14 4 provided to Mr Porter. Were you aware of that?---No, I
09:41:21 5 wasn't aware of that.
6
09:41:23 7 And Mr Moloney?---I was aware that it had gone to
09:41:29 8 Mr Moloney based on the version that I've seen.
9
09:41:31 10 Right. It seems that it was provided to Mr Porter and
09:41:37 11 Mr Moloney on 2 January 2009?---Right.
12
09:41:43 13 And then ultimately there's a meeting of the steering
09:41:51 14 committee, the Petra steering committee, on 5 January
09:41:54 15 2009?---So I understand.
16
09:41:57 17 I take it you accept that there was such a meeting on 5
09:42:02 18 January?---Again I've now seen a record of that meeting so,
09:42:07 19 yes, I accept there was a meeting then.
20
09:42:11 21 Leading into that meeting obviously it's around the early
09:42:16 22 New Year period. Despite that things don't stop at the
09:42:19 23 Police Force?---No.
24
09:42:20 25 And these issues as to what to do with Ms Gobbo are being
09:42:27 26 considered?---Yes.
27
09:42:30 28 Your investigators are in the process of taking a statement
09:42:32 29 from Ms Gobbo?---Yes.
30
09:42:34 31 I take it you're aware that they were taking a statement
09:42:36 32 from her?---I was aware of that.
33
09:42:40 34 And as I understand it that statement was being taken out
09:42:43 35 of town, I think - - - ?---Look, I accept that. I don't
09:42:47 36 know whether I was aware of that at the time, but yes.
37
09:42:50 38 I think Ms Gobbo drove to a location out of town, it might
09:42:57 39 have been on the Bellarine peninsula, I can't recall
09:43:00 40 exactly, but somewhere like that?---I don't recall that
09:43:02 41 either, but that's probably what happened. Yes, that's
09:43:05 42 what happened, sorry.
43
09:43:06 44 Perhaps if we have a look at Mr O'Connell's diary, 1 and 2
09:43:15 45 January, VPL.0100.0237.1790. You'll see a secure location,
09:43:25 46 "Spoke to person F, Senior Detective Sergeant Solomon, DSC
09:43:33 47 Davey attended re statement" it seems "from F". And then

09:43:37 1 the following day, "Received call from person F, spoke to
09:43:40 2 same re statement from 1 January"?---Yep.
3
09:43:47 4 In any event it seems that the statement is taken and is
09:43:50 5 available I think around the 2nd and 3rd of January,
09:43:55 6 right?---Yes.
7
09:44:01 8 At that stage it hadn't been signed, are you aware of
09:44:04 9 that?---I don't recall but I accept that.
10
09:44:10 11 It's something again - I mean you're aware by this stage of
09:44:16 12 the meeting of the 7th of December, you're aware of what
09:44:21 13 was said in the meeting, a matter of some significance, and
09:44:25 14 so you would have been following, I suggest, the process of
09:44:27 15 the statement, et cetera, do you agree?---Well generally,
09:44:31 16 yes.
17
09:44:36 18 We've got evidence that Detective Stephen Smith spoke to
09:44:43 19 you on 3 January 2009. If we have a look at this document,
09:44:46 20 VPL.0005.0065.0001. At 11.15 he speaks to O'Connor. He
09:44:59 21 calls it Loris, and I think we discussed this yesterday,
09:45:03 22 whether it was Loris or Petra, effectively we're talking
09:45:06 23 about the same thing?---The same thing, I accept that.
24
09:45:09 25 And spoke - it seems that there's a discussion with DC
09:45:20 26 Overland re Witness F. So you're being updated about
09:45:26 27 that?---I assume so, yeah. I accept that, yep.
28
09:45:29 29 And no further relevant information. Then on 5 January
09:45:44 30 there's a meeting of the Task Force steering committee and
09:45:48 31 perhaps if we have a look at this note here, there's a
09:45:53 32 diary entry from Mr Hollowood, VPL.0005.0215.0041 at p.41.
09:46:08 33 It seems that at 4 o'clock there's reference to a Task
09:46:13 34 Force meeting, a briefing, and the attendees are - what it
09:46:26 35 says is, "Petra Task Force joint management committee
09:46:30 36 briefing: Overland, Moloney, Ashton, DI Smith per weekly
09:46:36 37 update", do you see that?---I do.
38
09:46:38 39 That appears to commence at 4 pm?---Right.
40
09:46:40 41 If we then have a look at the note of Mr Smith. Can I tell
09:46:55 42 you this: there is a note of Mr Smith's, we may not be
09:46:58 43 able to put it up at this stage, the note is to this
09:47:01 44 effect, 15:50, it seems to say, "Out VPC. Attend Petra
09:47:08 45 steering committee meeting DC's office at above to 17:45".
09:47:18 46 So it appears that the meeting, if we accept that
09:47:24 47 Mr Hollowood's note indicates that the meeting commences at

09:47:28 1 4 pm, it seems that the meeting goes to 17:45. That's what
09:47:32 2 the note suggests. "At about to", and his next note is
09:47:38 3 "17:45 clear above FIF", whatever that might mean. So it
09:47:45 4 seems that there is a meeting on 5 January which goes from
09:47:48 5 around, let's say, 4 o'clock to somewhere around 17:45,
09:47:54 6 5.45?---Right.
7
09:47:55 8 That would seem to be a fairly lengthy meeting?---It would
9
09:48:01 10 And in the usual course, as we understand it, these
09:48:04 11 meetings were scheduled to go for about half an
09:48:06 12 hour?---Yes.
13
09:48:06 14 They seemed to be the regular - - - ?---Yeah, that's about
09:48:07 15 the pattern, yeah.
16
09:48:08 17 So it does seem to be a reasonably lengthy meeting for this
09:48:11 18 sort of, or this type of steering committee meeting, you
09:48:15 19 accept that, if that's the case?---Well if that's the case.
09:48:19 20 Look, the only qualification I'd say is when he said
09:48:23 21 "clear", whether he did something else in the centre before
09:48:25 22 he left, but I don't recall. So it's difficult to know.
23
09:48:29 24 I understand that. All we can do is rely on these
09:48:31 25 contemporaneous notes?---And I accept what you're saying to
09:48:35 26 me.
27
09:48:48 28 All right. The issue of what to do with Ms Gobbo, do you
09:48:56 29 accept, would have been discussed at that meeting?---It
09:48:59 30 must have been, almost certainly, yes.
31
09:49:02 32 Can we have a look at this SWOT analysis, the briefing
09:49:10 33 note, Exhibit 518, and just see if, having looked at it,
09:49:15 34 you can refresh your memory. Is that the cover sheet that
09:49:22 35 you recall seeing?---Well that's - so I only recall seeing
09:49:24 36 this document very recently.
37
09:49:26 38 Yes?---That is the cover sheet that I've seen and, as I
09:49:30 39 say, it doesn't indicate, I don't think, that it's gone to
09:49:33 40 Mr Porter but maybe it does on another page. But anyway, I
09:49:37 41 remember seeing that cover sheet on the version I was shown
09:49:39 42 recently, yes.
43
09:49:40 44 You say you believe that you've only seen this cover sheet
09:49:44 45 very recently?---That's my recollection, yes.
46
09:49:47 47 Do you think your recollection may be inaccurate and that

09:49:51 1 you may have seen it somewhere around 5 January
09:49:55 2 2009?---Well look, I may have. I think this is the
09:49:59 3 document that I was asked about at some length in IBAC.
4
09:50:03 5 Yes?---And the document was never shown to me by IBAC
6
09:50:06 7 Yes?---And to the best of my recollection then I hadn't
09:50:09 8 seen it. I don't now recall having seen it. If it assists
09:50:14 9 though, I agree with everything that's contained within it.
09:50:17 10 I think it's a reasonable document in terms of setting out
09:50:20 11 the situation.
12
09:50:21 13 All right. Let's just go through it. The next page is - -
09:50:30 14 - ?---Okay.
15
09:50:31 16 - - - what appears to be an issue cover sheet?---I don't
09:50:33 17 think I've seen that in the recent documents that were
09:50:35 18 shown to me.
19
09:50:36 20 Right. What that appears to be is a document prepared by
09:51:04 21 Tony Biggin?---Yes.
22
09:51:08 23 It's an issue cover sheet?---Yes.
24
09:51:10 25 And it talks about a bit of the background of
09:51:14 26 Ms Gobbo?---I've seen it, I've read it.
27
09:51:19 28 It says that she's been placed in contact with Detective
09:51:23 29 Sergeant Shane O'Connell of the Petra Task Force, been
09:51:26 30 registered since 16 September 2005, formally registered as
09:51:31 31 human source 3838. "Attached is a briefing paper submitted
09:51:37 32 by [REDACTED] Black setting out a strategic
09:51:43 33 analysis on the source based on the SWOT analysis. This
09:51:46 34 provides good background ultimately if the source signs the
09:51:49 35 statement and becomes a witness, then that is an issue for
09:51:52 36 the source and investigators. Source has been a very
09:51:55 37 productive human source, highly intelligent, well
09:52:00 38 educated", et cetera. Further down it talks about these
09:52:11 39 matters: firstly, that she's responsible for
09:52:16 40 investigations and she's due for a reward. A number of
09:52:20 41 organisational risks to Victoria Police. The SDU are
09:52:24 42 prepared to expand upon these to Task Force management.
09:52:28 43 Now Task Force management would clearly be, I assume, the
09:52:34 44 steering committee?---I would assume so, yes.
45
09:52:35 46 "The purpose of the paper, to ensure decision makers are in
09:52:39 47 possession of relevant information to allow proper

09:52:41 1 decisions to be made. Decisions made today have long-term
09:52:46 2 implications for Victoria Police". Now that was a
09:52:52 3 prescient statement back in apparently 2 January 2009, do
09:52:58 4 you accept that?---I do.
5

09:53:04 6 If we go to the recommendation he says, "Forwarded for
09:53:08 7 information, consideration and transmission to AC Moloney,
09:53:12 8 please". Then if you go to the next page you'll see that
09:53:17 9 he's dated that 2 January 2009 and he has effectively
09:53:25 10 requested it be distributed to two people?---Yes, I see
09:53:28 11 that.
12

09:53:29 13 I think that's Acting Commander Intelligence and Covert
09:53:33 14 Support Department Mark Porter?---Yes.
15

09:53:35 16 And then Assistant Commissioner Moloney Crime
09:53:40 17 Department?---Yes.
18

09:53:41 19 "Approved/not approved", do you see that?---Yes.
20

09:53:44 21 The date on that distribution of 5 January 2009 and the
09:53:51 22 signature suggests that at least Mr Porter has signed it on
09:53:57 23 that date?---Yes.
24

09:53:59 25 And Mr Moloney hasn't signed it?---Yes.
26

09:54:06 27 Then if we keep going down. Ultimately, I should say this,
09:54:14 28 that Mr Moloney has provided a statement to the effect that
09:54:18 29 as far as he was concerned it didn't need approval from him
09:54:22 30 and it was something that needed to be provided to the
09:54:27 31 steering committee, indeed to you, do you accept that?---If
09:54:31 32 you tell me that's his statement I accept that, yes.
33

09:54:34 34 Indeed, what he says in his statement is that he provided
09:54:40 35 it to you, he elevated it to you I think was the word he
09:54:45 36 used. I can be clear about that. What do you say about
09:54:56 37 that?---I have no recollection of having ever seen this
09:55:01 38 document or the cover note from Superintendent Biggin.
39

09:55:04 40 Right. Do you accept that you may have seen it?---I can't
09:55:16 41 exclude the possibility that I have but it just doesn't
09:55:19 42 accord - I, you know, I have no recollection of seeing this
09:55:24 43 document. I think it is something I would recall had I
09:55:29 44 seen it.
45

09:55:29 46 I'd suggest it is a document you'd recall seeing?---If I
09:55:33 47 had seen it, yes, I think I would.

1
09:55:36 2 Can I suggest to you that it is a document that you would
09:55:38 3 know whether you'd seen, you'd either know that you'd seen
09:55:42 4 it or know that you hadn't seen it?---As I said, I don't
09:55:46 5 believe I've seen it.
6
09:55:47 7 This document here is in effect a bomb. This document, can
09:55:50 8 I suggest to you, is a document which could potentially
09:55:56 9 make your position, and your potential position as Chief
09:56:00 10 Commissioner of Police in Victoria, untenable. Do you
09:56:04 11 accept that proposition?---No, I don't accept that.
12
09:56:07 13 If you had seen that document you would remember it?---I
09:56:10 14 think so.
15
09:56:11 16 Without a question?---Well I think I would, yes.
17
09:56:13 18 It's not a document where you simply say, "I don't recall
09:56:16 19 seeing it"?---Well, look, I'm trying to do my best here.
09:56:22 20 I'm looking at things - I haven't seen this full document
09:56:25 21 before. This is the first time I've seen parts of this
09:56:28 22 document.
23
09:56:28 24 Yes?---I'm trying to do the best to give evidence to this
09:56:32 25 Commission to the best of my recollection. You're showing
09:56:34 26 me things in the room. I'm doing my absolute best to say,
09:56:39 27 you know, have I seen this before? I don't believe I have,
09:56:42 28 right. I don't believe I have.
29
09:56:44 30 You say that you don't believe you've seen this document,
09:56:48 31 aside from in the lead-up to this Royal Commission in
09:56:51 32 preparing to give evidence?---I saw a version of it within
09:56:55 33 the last week I think, which is the first occasion I've
09:56:57 34 seen it, and I have not seen this full version until just
09:57:00 35 now.
36
09:57:01 37 So if we go through it?---I've seen the SWOT bit, I have
09:57:06 38 seen that. And I saw the cover sheet that you put up the
09:57:09 39 front. I don't believe I've seen the other documents.
40
09:57:12 41 Obviously we look at the various aspects of the document
09:57:19 42 and we see that there are strengths, and the strengths are
09:57:23 43 obviously as set out there, and you would support the
09:57:28 44 strengths in the analysis?---I do
45
09:57:29 46 That is the possible prosecution against Paul Dale?---Yes.
47

09:57:35 1 The weaknesses include, "Possible OPI government review
09:57:38 2 into legal ethical implications"?---Yes.
3

09:57:43 4 "Disclosure of the long-term relationship with the SDU."
09:57:46 5 Then there's references to Ms Gobbo's credibility, "HS
09:57:50 6 credibility, acquaintances, criminal associates and sexual
09:57:55 7 relationships". There's references to Ms Gobbo's prior
09:57:57 8 inconsistent statements verbal, SDU re relationship with
09:58:01 9 Dale and failure to disclose the bogus mobile phone
09:58:05 10 numbers". I take it you would have been aware of those
09:58:11 11 matters, that is the prior inconsistent statements and the
09:58:17 12 bogus phone numbers, even at that stage?---Yes.
13

09:58:22 14 "Threats, judicial review of police actions in tasking and
09:58:29 15 deploying one of their own"?---Yes.
16

09:58:32 17 "Public interest immunity. Ms Gobbo well connected in
09:58:35 18 Victorian legal fraternity". There are health issues.
09:58:38 19 "The SDU source contact reports and [REDACTED] being
09:58:42 20 disclosed." Would you have been aware that there were
09:58:48 21 source contact reports and also [REDACTED] at that
09:58:52 22 stage?---I don't know specifically that I understood. I
09:58:59 23 thought the general methodology was to make sure they're
09:59:03 24 accurate records, yes, so I would expect there to be such.
25

09:59:10 26 Then the next one is, "OPI review. Serving barrister
09:59:13 27 assisting police. Consideration of unsafe verdicts and
09:59:16 28 possible appeals. Prosecutions current, Mokbel and
09:59:20 29 future?"?---Yes.
30

09:59:22 31 Obviously those are significant considerations.
09:59:27 32 Effectively what the SDU are conveying to the steering
09:59:32 33 committee is that as far as they're concerned there is the
09:59:37 34 possibility of appeals, unsafe verdicts and current and
09:59:46 35 future prosecutions of Mokbel in doubt?---Yes, so I
09:59:50 36 understood that was always a risk in using a barrister as a
09:59:53 37 human source, that that was always a general risk that
09:59:57 38 could be attacked in a criminal proceeding. It's an
10:00:00 39 obvious line of attack.
40

10:00:01 41 Right. You considered at the outset when you found out
10:00:08 42 that Ms Gobbo had been engaged that there was that
10:00:10 43 potential?---Absolutely.
44

10:00:13 45 What this document suggests is that the people who were
10:00:19 46 handling Ms Gobbo were of the view that there is - if this
10:00:28 47 goes to - if this is analysed, if what they had done is

10:00:33 1 examined, these are the possibilities?---Yes, I understand
10:00:38 2 that.
3
10:00:39 4 And there's another reference to OPI investigation,
10:00:43 5 implications of Ms Gobbo's involvement with a particular
10:00:46 6 human source?---Right.
7
10:00:56 8 As I say, what Mr Moloney will say is this, "I note that
10:01:05 9 the briefing note itself lists me on the distribution and
10:01:09 10 authority list and bears the notation 'approved/not
10:01:13 11 approved'. Despite that notation appearing, this document
10:01:17 12 did not need to be approved or not approved. The document
10:01:20 13 was a briefing note. It did not require approval. Rather,
10:01:23 14 it was necessary that it be distributed to others for their
10:01:26 15 consideration. This is why I elevated it to DC Overland
10:01:30 16 with the note 'Petra steering committee consideration',
10:01:34 17 right? That's what he will say?---Okay.
18
10:01:36 19 That's consistent, can I suggest, with his comment, if we
10:01:40 20 go to the cover page, we see the note here, "5109
10:01:57 21 destination DC Overland, Petra steering committee
10:02:00 22 consideration"?---Yes.
23
10:02:01 24 And his name there. So effectively it appears that he has
10:02:06 25 forwarded it to you?---I accept that's what appears, yes.
26
10:02:11 27 Can you look at that folder there, please. Can you
10:02:29 28 identify that document, that folder?---No.
29
10:02:35 30 And the documents in it?---In what sense? In terms of have
10:02:38 31 I seen this before or - - -
32
10:02:40 33 Yes, have you seen it before?---I don't believe so.
34
10:02:44 35 Are you able to go through those documents briefly. What
10:02:51 36 appears there are documents in plastic sleeves which are
10:02:57 37 documents which I suggest were provided to you and in some
10:03:00 38 of them there are your handwriting, or handwritten notes on
10:03:06 39 them?---Well I have to accept that unless you want me to go
10:03:10 40 through, I mean it's a bit document
41
10:03:12 42 No, I understand that?---Big folder. So, yes, it appears to
10:03:16 43 be - well, the first page appears to have Petra Task Force
10:03:20 44 updates in it from 1 September 2008.
45
10:03:23 46 If you go to the very back of the folder you'll see what
10:03:26 47 appear to be initiating documents for the Petra steering

10:03:28 1 committee, or the Petra Task Force?---Right.
2
10:03:31 3 If we can put up VPL.0100.0129.0001?---Yeah, I see that.
4
10:03:44 5 In the meantime have a look at those?---Yes.
6
10:04:21 7 Do you want to take some time to look at it and look at
10:04:23 8 some of the documents in it to confirm that you are
10:04:26 9 satisfied that you had - that there is your handwriting in
10:04:29 10 original on some of those documents?---Well if you can take
10:04:33 11 me to the documents, but I'm - look, I'm happy to keep
10:06:14 12 going but I haven't come across anything that's got
10:06:17 13 handwriting on it yet.
14
10:06:20 15 Look perhaps what I'll do is hand you the second
10:06:24 16 folder?---Sorry, there's one here that's got - on 20
10:06:27 17 October there's one that's my handwriting, but it's just a
10:06:37 18 name. There's one there a bit later that's got my
10:06:53 19 handwriting on it.
20
10:06:54 21 All right. If you have a look at the second folder there.
10:07:07 22 What appears to be the case is that the documents in each
10:07:11 23 of the plastic sleeves are placed one upon the other so
10:07:16 24 that the first document is the earliest document and as
10:07:19 25 documents are added they pile up. So if you go to - could
10:07:23 26 have a look at the back document in that second folder
10:07:27 27 which is apparently - which is number 157, and that appears
10:07:32 28 to be a steering committee update of 3 November?---Yes.
29
10:07:37 30 Right. If you have a look at that and then turn it over on
10:07:41 31 to the back, do you see handwriting on that?---Yes, I do.
32
10:07:45 33 Is that your handwriting?---Yes, it is.
34
10:07:47 35 And it appears to be original handwriting?---I think so.
10:07:53 36 Yes, it does.
37
10:07:55 38 They're your handwritten notes, can I suggest, on that
10:07:59 39 update, that 3 November 2000 and - - - ?---That's my
10:08:03 40 handwriting, yes.
41
10:08:04 42 Then can you go to the next document, which is document
10:08:18 43 158?---Yes.
44
10:08:20 45 Can you describe that document?---It says a "Timeline
10:08:30 46 strategy".
47

10:08:31 1 Yes. Can you explain what that document is?---It seems to
10:09:03 2 be, as it says, a timeline strategy or a plan around the
10:09:21 3 investigation.
4
10:09:23 5 All right. I wonder perhaps if could just for a moment,
10:09:28 6 just hand that folder back to me?---Sure. Is it all right
10:09:32 7 if I keep looking at this?
8
10:09:36 9 Yes, by all means. Can I suggest to you that it's a Petra
10:10:09 10 Task Force Operation Loris timeline strategy. It's got
10:10:12 11 your handwriting on it?---Yes, it does.
12
10:10:15 13 And there's a reference to a number of events, witness C to
10:10:20 14 complete one signed statements in relation to the Hodsons,
10:10:24 15 and that's between the 22nd of the 12th 2008 and the 28th
10:10:30 16 of the 12th, and then there's, "Dates, objective outcomes
10:10:35 17 to obtain full account of his evidence in relation to the
10:10:38 18 murders of Terrence and Christine Hodson". That's
10:10:42 19 Mr Williams' - - - ?---I assume that to be the case, yes.
20
10:10:47 21 Then there are further events which are identified. If we
10:10:53 22 have a look at number 4, it's to obtain a statement from
10:10:59 23 Witness F. Obviously that's Ms Gobbo. On 1 January 2009
10:11:04 24 and 2 January 2009. Can we bring up p.509 of the document
10:11:13 25 that you've got there on the screen, 509. I think this
10:11:26 26 should be on Mr Overland's representatives'
10:11:34 27 screen?---Actually that - the dates I think are used that
10:11:37 28 relate to ■, I think there's a note over here that says on
10:11:41 29 the 7th in relation to Witness ■.
30
10:11:43 31 Can we go to the top of the document. No, the first page
10:11:48 32 of the document, please. It's about four pages back from
10:12:00 33 the point that we were at. 506 it is. You'll see witness
10:12:10 34 ■, the expectation or the dates there?---Yes.
35
10:12:15 36 And then that's your handwriting on the bottom
10:12:19 37 there?---Yes.
38
10:12:21 39 Scroll through it. Then you've got witness ■ again. Keep
10:12:29 40 going?---Yes.
41
10:12:36 42 There's other references there with respect to other
10:12:40 43 matters?---Yes.
44
10:12:41 45 Keep going. Now if we stop there?---Okay, sorry, yeah, I
10:12:44 46 see that.
47

10:12:45 1 Do you see that?---I do.
2
10:12:46 3 Okay. The existence of the statement. There are risks
10:12:50 4 associated with it?---Yes.
5
10:12:51 6 Right. You've got the dates. Do you see that, the dates
10:12:58 7 that the statements are going to be taken?---Yes.
8
10:13:01 9 Then you've got outcomes, objectives and outcomes, do you
10:13:06 10 see that? That's the third column. If we go to the top of
10:13:11 11 that document, that's what the third column says?---Okay, I
10:13:14 12 accept that.
13
10:13:16 14 Then the next column is "Risks", and, "Witness at a later
10:13:20 15 date declines to sign statement or recants statement either
10:13:24 16 fully or in part. Existence of the statement becomes known
10:13:27 17 prior to signing", do you see that? I withdraw
10:13:35 18 that?---Sorry, I can't - - -
19
10:13:38 20 No, I'm sorry?---Yeah, I can't see that.
21
10:13:41 22 I'm reading the wrong page, I apologise, if you're the
10:13:42 23 screen. "Existence of statement is revealed prematurely.
10:13:47 24 Suspect threatens or harm Witness F", do you see
10:13:50 25 that?---Yes.
26
10:13:50 27 You've made notes I think on that page at the bottom,
10:13:56 28 "Immediately relocation"?---"Source to Crown witness."
29
10:14:01 30 It says actions against, or under "Actions proposed", "It's
10:14:05 31 proposed to meet with Witness F at an undisclosed location
10:14:09 32 and statement written and signed. Statement in relation to
10:14:12 33 the murder of the Hodsons. Statement will not be disclosed
10:14:15 34 and will remain secret until agreed at an appropriate time.
10:14:18 35 Preparations will commence with Witsec to have Witness F
10:14:21 36 placed in program at appropriate time. These initial
10:14:26 37 preparations will commence as soon as practicable.
10:14:30 38 Statement has since been completed and not signed. Witness
10:14:33 39 F has agreed to meet with investigators on Wednesday 7
10:14:35 40 January 09 and seek clarification in relation to safety and
10:14:39 41 risk issues. If these are adequately covered Witness F
10:14:42 42 will sign statement at this meeting"?---Yes.
43
10:14:46 44 And then I think you've made a note "immediate
10:14:50 45 relocation"?---Yes.
46
10:14:58 47 It seems that, certainly at the time that that document was

10:15:03 1 prepared, the statement had been taken?---Well it looks
10:15:08 2 like one of those documents that's a bit dynamic so that
10:15:11 3 it's updated periodically I think.
4
10:15:14 5 Yes?---So it doesn't always - yeah, it's not always - - -
6
10:15:19 7 What I might do is hand you the folder back and ask you to
10:15:26 8 look at - - -
9
10:15:38 10 COMMISSIONER: Is this the folder you've called the first
10:15:40 11 or the second folder?
12
10:15:42 13 MR WINNEKE: This is the second folder.
14
10:15:44 15 COMMISSIONER: Thanks.
16
10:15:45 17 MR WINNEKE: What that folder appears to be is a folder
10:15:49 18 containing your documents which have been stored in plastic
10:15:53 19 sleeves, they haven't been punched in the sense there's no
10:15:56 20 holes in them, they've been stored in the plastic sleeves
10:16:00 21 with numbers on the plastic sleeves suggesting that the
10:16:02 22 documents are added to the folder when they're received and
10:16:06 23 then stored in that way. Would that be reasonable?---Well
10:16:10 24 I'm not sure about that. I mean it's an Ethical Standards
10:16:14 25 Department file.
26
10:16:14 27 Yes?---So I can't account for that. I mean at the time I
10:16:18 28 left Victoria Police I left in circumstances where I didn't
10:16:22 29 get to pack up my office and other people did that.
30
10:16:25 31 Yes?---So I don't know what happened.
32
10:16:28 33 No?---With all of that material. My recollection was I
10:16:31 34 kept it in a safe, I think a four drawer safe. I don't
10:16:38 35 remember storing it this way. It wouldn't have been stored
10:16:41 36 as an Ethical Standards Department file.
37
10:16:45 38 No?---So unless someone's stored this stuff subsequent to
10:16:47 39 my departure or - Mr Cornelius was also a member of the
10:16:51 40 steering committee.
41
10:16:52 42 Yes?---So it may be his record. I don't know.
43
10:16:56 44 They certainly seem to be documents with your handwriting
10:16:59 45 on them in an original form?---Yeah, I accept that, I
10:17:03 46 accept that. But I didn't store them this way.
47

10:17:05 1 How did you store them, do you recall?---I stored them in a
10:17:11 2 folder but it was just a, you know, one of these - I don't
10:17:16 3 recall it being marked and it was, as I say, kept in a
10:17:20 4 safe.
5
10:17:20 6 One assumes in plastic sleeves, because if you look at the
10:17:26 7 documents they're not hole punched?---No, no, probably ,
10:17:29 8 yep. I honestly don't know.
10:17:29 9
10:17:31 10 And so it would seem likely, albeit if you look at the
10:17:34 11 documents they have, they've got staple marks in the top
10:17:38 12 left corner?---Yes.
13
10:17:39 14 Which suggests that they were stapled at one stage and no
10:17:42 15 doubt they've been removed and photocopied because we have
10:17:48 16 them in an electronic form, so one can assume they've been
10:17:51 17 photocopied?---Yes, I accept that.
18
10:17:51 19 Otherwise the fact that there's no hole punch suggests
10:17:57 20 they've been stored in plastic sleeves?---I accept that,
10:18:00 21 but, please, I'm seeing this for the first time in a long
10:18:03 22 time and I'm just trying to make sense of it all.
23
10:18:06 24 All right, I follow that. As to what's on the folders, are
10:18:10 25 there markings on the folders, on the spines of the folders
10:18:16 26 with any indication at all? No?---No, as I say, well, one
10:18:30 27 of the folders has got "Task Force Landow" on it. It looks
10:18:38 28 like it was previously used - then that's Task Force
10:18:39 29 Landow. I don't know what that Task Force is
10:18:42 30
10:18:43 31 MR HOLT: Just for everyone's reference that's the
10:18:44 32 financial records put on by those assisting the police in
10:18:46 33 the Royal Commission which identifies where the folder is
10:18:49 34 in Landow's holdings. It's very recent, Commissioner.
10:18:55 35
10:18:55 36 WITNESS: As I say, this may have been compiled subsequent
10:18:57 37 to me leaving Victoria Police but I don't - I haven't seen
10:19:01 38 it in this form before.
39
10:19:04 40 MR WINNEKE: Save to say what you can say is that you
10:19:06 41 believe that you did store those documents?---I did.
42
10:19:10 43 In a folder of some sort?---Yes.
44
10:19:13 45 Potentially in plastic sleeves and potentially stored one
10:19:18 46 on top of the other as documents came in?---Well that would
10:19:22 47 be - yes. Without specifically recalling I assume that

10:19:25 1 would be something that I would do.
2
10:19:26 3 All right, all right. If you have a look at the next
10:19:29 4 document coming forward?---Is it 159?
5
10:19:34 6 Yes?---Yes.
7
10:19:35 8 If we can bring up p.518. Is that a Petra Q and A
10:19:48 9 document?---The one I've got here appears to be that, yes.
10
10:19:52 11 It's a statement Q and A and can you describe that
10:19:57 12 document?---It looks to me - - -
13
10:20:02 14 Scroll up, scroll up?--- - - - like a document being
10:20:07 15 prepared for the eventuality of the charging of Paul Dale.
16
10:20:13 17 It's effectively a proposed media statement if you
10:20:18 18 like?---Correct, yes.
19
10:20:19 20 It's got your handwriting on it?---It does.
21
10:20:21 22 "Victoria Police has today charged an X year old
10:20:24 23 man"?---Yes.
24
10:20:25 25 "Ex-policeman", in your handwriting, "with the murder of",
10:20:27 26 et cetera?---Yes.
27
10:20:29 28 You've obviously made some alterations to that document on
10:20:34 29 the basis that you preferred what you've set out?---Well,
10:20:41 30 some minor changes, yes.
31
10:20:42 32 It would have been prepared by your media department I
10:20:45 33 assume?---It says prepared by Nicole McEachnie, who was the
10:20:49 34 Media Director at the time.
35
10:20:51 36 All right. If we can then go to the next document. Keep
10:20:53 37 scrolling up. Questions and answers talking about the
10:20:57 38 case. "Does this now prove a culture of corruption that
10:21:00 39 only a Royal Commission could effectively deal with?" Do
10:21:04 40 you see that?---Yes.
41
10:21:07 42 And there are suggested statements there. "Ethical
10:21:12 43 Standards Department has a high conviction rate", et
10:21:14 44 cetera, "for police", do you see that?---I do.
45
10:21:16 46 "We work closely with the Office of Police Integrity to
10:21:20 47 ensure that resources", et cetera?---Yes.

1
10:21:23 2 Can we just keep going through that. Questions about the
10:21:30 3 Briars Task Force, do you see that?---Yes.
4
10:21:37 5 Keep going. There's references to leaked SSU files?---Yes.
6
10:21:45 7 And so forth. Effectively these are proposed responses to
10:21:50 8 questions which might be asked?---Correct.
9
10:21:54 10 If we keep scrolling through, please. Go to p.523. Next
10:22:01 11 document. Can you have a look at the next
10:22:14 12 document?---That's in the folder here?
13
10:22:16 14 In the folder. It seems to be the Petra Task Force weekly
10:22:21 15 update?---Yes.
16
10:22:22 17 5 January 2009?---Yes.
18
10:22:26 19 If we just scroll through that, please. It seems that
10:22:39 20 there's your handwriting there?---Yes, that's my
10:22:41 21 handwriting.
22
10:22:42 23 If we keep going through. There's more handwriting
10:22:49 24 identifying that you'd marked that page and so
10:22:58 25 forth?---Yes.
26
10:23:04 27 Can we go to p.530, please. That's the document that I've
10:23:19 28 just been taking you to?---Yes.
29
10:23:21 30 Can we scroll through that. Do you see the front page, you
10:23:28 31 see the issue cover sheet? That's in the next plastic
10:23:32 32 sleeve. Just stop scrolling, thank you?---Yes.
33
10:23:54 34 Does that appear to be the original document?---It does,
10:23:58 35 yes.
36
10:23:59 37 With handwriting on it?---Yes.
38
10:24:03 39 Can we keep scrolling through. You'll see the handwritten
10:24:18 40 signature of Mr Black at the bottom there?---Yes, I do.
41
10:24:22 42 If you could pop that back into its plastic sleeve and then
10:24:26 43 move to the next document?---Right.
44
10:24:40 45 Can I suggest that that's an unsigned statement of Nicola
10:24:45 46 Gobbo?---It is.
47

10:24:46 1 And that's - if we scroll through it, there's the place for
10:25:08 2 a signature but no signature and at that stage no date on
10:25:13 3 it. Do you accept that that appears to be consistent with
10:25:21 4 the timeline document that I took you to earlier, that at
10:25:25 5 this stage a statement has been signed, sorry, taken but
10:25:29 6 not signed?---It does appear to be, yes.
7
10:25:34 8 Perhaps if we just go to the next document. There's Petra
10:25:42 9 Task Force weekly updates for 22 January 2009. If we can
10:25:48 10 scroll through that. Stop there. Do you see that writing
10:26:28 11 on the page there? That seems to be a Post-it Note on the
10:26:31 12 front?---Right.
13
10:26:33 14 Do you know whose handwriting that is?---No, I don't.
15
10:26:37 16 It seems to be a reference to [REDACTED], whatever
10:26:46 17 that might be, mother and sister, medical treatment, et
10:26:51 18 cetera. If we keep going. Is that your handwriting
10:26:55 19 there?---Yes.
20
10:26:57 21 That seems to be - it says David Ryan drafting agreement to
10:27:06 22 or from Finn McRae?---This is a letter I think I received
10:27:09 23 some time down the track from Ms Gobbo.
24
10:27:12 25 Right. Do you recall when it was that you received that?
10:27:19 26 We'll find out?---No, I don't.
27
10:27:21 28 Okay. If we keep going. There's a Petra Task Force weekly
10:28:01 29 update, 27 January. I take it you were appointed to the
10:28:11 30 position of Chief Commissioner in about March of 2009; is
10:28:17 31 that right?---That's right.
32
10:28:18 33 Did you continue to attend meetings up until that
10:28:24 34 time?---Well I now understand based on documents I saw as
10:28:27 35 recently as last week, I think I did my last meeting at the
10:28:30 36 end of March.
37
10:28:32 38 Right. If we keep going through. Perhaps if we just keep
10:28:37 39 going through. Just stop there. That seems to be again
10:29:02 40 your handwriting there, Rod Sykes, I assume; is that
10:29:11 41 right?---That is my writing.
42
10:29:19 43 Keep going. I think perhaps if you could pass that folder
10:29:28 44 back to me, Mr Overland, if I may. That metadata of the
10:29:52 45 letter that you received or you believe you received from
10:29:55 46 Nicola Gobbo, insofar as this is of any use, the metadata
10:30:03 47 suggests that it was saved on 19 January 2009, around that

10:30:08 1 period of time?---I don't recall but it would make sense in
10:30:14 2 the overall chronology.
3
10:30:18 4 Suggesting that it's around the time that negotiations are
10:30:22 5 going on or at least commencing between Victoria Police and
10:30:27 6 Ms Gobbo?---That's consistent with my recollection, yes.
7
10:30:33 8 If we look at this folder we see that there's a Petra Task
10:30:37 9 Force weekly update of 23 February 2009 and there seem to
10:30:43 10 be a number of empty plastic sleeves and then the next
10:30:53 11 document appears to be a Petra Task Force weekly update
10:31:00 12 with Briars material also on 18 May and it's a document
10:31:08 13 dated 1 June 2009. If you can have a look at this
10:31:43 14 document. Perhaps we'll keep it in the same order but just
10:31:47 15 see if you can identify your handwriting in any of those
10:31:49 16 pages. If you have a look at the back of one of the pages
10:31:53 17 you might find your handwriting.
18
10:31:56 19 COMMISSIONER: Is this a document from one of the folders?
20
10:32:00 21 MR WINNEKE: It is, Commissioner. It's tab number 178.
22
10:32:02 23 COMMISSIONER: Yes.
24
10:32:30 25 MR WINNEKE: Is there any reason why it can't be put on the
10:32:32 26 screen?
27
10:32:35 28 COMMISSIONER: It's not on any screens.
10:32:39 29
10:32:40 30 WITNESS: There is handwriting of mine on one of the pages
10:32:42 31 but I note there's handwriting that is not mine on other
10:32:45 32 pages.
33
10:32:46 34 MR WINNEKE: Yes, I follow that.
35
10:32:47 36 COMMISSIONER: They need the VPL number.
37
10:32:49 38 MR WINNEKE: Could we go to 625.
10:32:52 39
10:32:53 40 MS COLEMAN: Before we move on, can we just identify that
10:32:57 41 document by the VPL number, please.
42
43 COMMISSIONER: That's what I just asked to happen.
44
10:33:05 45 MR WINNEKE: It's the same document, Commissioner. If we
10:33:08 46 can find the first page of it. Tab 178 and the first page
10:33:12 47 is 616 and I think - just stop there. Go back there. That

10:33:18 1 handwriting there, which is at p.625, that's the
10:33:22 2 handwriting which isn't yours; is that correct?---That's
10:33:26 3 not my handwriting. There's I think a name later on that
10:33:30 4 is mine.
5
10:33:31 6 That is your handwriting. The handwriting of yours, does
10:33:34 7 it appear to be in original pen or is it a
10:33:38 8 photocopy?---Sorry, I'll just go and have a look. No, it
10:33:46 9 appears to be original.
10
10:33:51 11 Yes, thanks very much. I wonder if we could have that back
10:33:55 12 and I'll put it back in the sleeve, thanks. Can I suggest
10:33:57 13 to you that the documents that we've gone through appear to
10:34:08 14 be documents that were in your possession around - I
10:34:18 15 withdraw that. Documents that had been in your possession,
10:34:22 16 being Task Force update and other relevant documents,
10:34:28 17 relevant to the Petra file?---Clearly some of the documents
10:34:36 18 I will have seen.
19
10:34:37 20 Yes?---Some of the documents that have my handwriting,
10:34:41 21 particularly original handwriting, are clearly documents
10:34:44 22 I've seen.
23
10:34:45 24 Yes?---My difficulty is I have not seen them in this form
10:34:49 25 together. I haven't compiled this, so someone else has.
26
10:34:53 27 No?---There's documents in there that clearly have other
10:34:57 28 handwriting on them, so it looks to me as if it's a
10:35:01 29 compilation of things. So I can't say with certainty,
10:35:03 30 other than the documents where my handwriting appears, what
10:35:06 31 I have seen and what I haven't.
32
10:35:08 33 Yes?---I don't recall seeing the document you're asking
10:35:10 34 about. I don't actually recall seeing the statement
10:35:13 35 either, the unsigned statement. And I know it's all in
10:35:16 36 there, but I don't recall having seen that.
37
10:35:21 38 It may be open to conclude that what that series of
10:35:26 39 documents is, and we might need to get more evidence about
10:35:31 40 this, but it may well be open to conclude on the current
10:35:36 41 state of evidence that these are documents which have come
10:35:39 42 into your possession around the time that each of the
10:35:47 43 documents is dated and has been filed - those documents
10:35:52 44 have been filed by you, in whatever system that you had,
10:35:56 45 whether it be in that folder or different folders, but in
10:36:02 46 generally that way, suggesting that the documents there
10:36:06 47 were in your possession at the relevant times?---I can't

10:36:11 1 say that.
2
10:36:11 3 No, all right?---I honestly can't say. I mean I think you
10:36:16 4 need to talk to whoever compiled the folder because it does
10:36:20 5 look to me, at least in part, that some of the documents in
10:36:23 6 there are probably not mine because there's other
10:36:25 7 handwriting on them.
8
10:36:26 9 As we can see on that document there, there's handwriting
10:36:30 10 which isn't yours?---Yes.
11
10:36:31 12 But within that sleeve there is your handwriting on some of
10:36:34 13 the documents?---And it's in the same sleeve, so.
14
10:36:38 15 It may be - I mean we'd be speculating as to how someone
10:36:42 16 else happened to write on that document. You say you don't
10:36:45 17 identify that - you can't identify that handwriting?---I
10:36:48 18 don't know whose handwriting it is, no.
19
10:36:54 20 The documents around early January, being the Task Force
10:36:59 21 update of 5 January, the documents in late December, the
10:37:04 22 timeline, et cetera, all seem to be documents which would
10:37:07 23 have progressively been provided to you?---Yes. Yes, I
10:37:10 24 agree.
25
10:37:11 26 As these events unfolded?---I agree about that, yes.
10:37:15 27
10:37:15 28 Can I suggest to you that it's likely that, for example, if
10:37:19 29 you have asked for a statement to be provided by Ms Gobbo
10:37:22 30 and there's a note to the effect that a statement has been
10:37:25 31 taken, it's not yet signed, it would not be surprising that
10:37:30 32 you would be provided with that statement if it was
10:37:32 33 available to enable you to assess the strength of the
10:37:35 34 evidence of Ms Gobbo in order for you to make a decision as
10:37:38 35 to whether or not she should be called?---It's possible.
36
10:37:43 37 Yes?---As I say, I don't recall having seen it.
38
10:37:46 39 All right. Do you accept that if you are to make a proper
10:37:50 40 decision, the best decision available requires you to have,
10:37:54 41 firstly, a very clear idea about the evidence that she can
10:37:58 42 give, do you accept that?---Well it's not me actually
10:38:01 43 bringing the charges at the end of the day, it's the
10:38:04 44 detectives running the Task Force. They need to be
10:38:07 45 satisfied about that.
46
10:38:08 47 I understand that but you seem to be - - - ?---And I need

10:38:09 1 to be appropriately briefed by them around their belief and
10:38:14 2 their comfort with actually undertaking that course of
10:38:18 3 action.
4

10:38:19 5 But as I understand it, it's your decision ultimately, or
10:38:22 6 the steering committee's decision ultimately as to whether
10:38:26 7 or not this significant decision with respect to Ms Gobbo
10:38:29 8 should be made, that is should she be utilised as a
10:38:33 9 witness?---Correct, and there were discussions with her
10:38:34 10 about that. There was a process of negotiation. She was
10:38:38 11 reluctant, understandably, but my recollection is she then
10:38:42 12 agreed.
13

10:38:43 14 Yes?---She provided the statement. There was a process
10:38:45 15 gone through to obtain the statement. I do remember being
10:38:48 16 briefed about the statement and what it actually said, I
10:38:51 17 certainly remember that.
18

10:38:53 19 It would seem sensible also that in making a decision about
10:38:59 20 whether to use Ms Gobbo as a witness, she having been a
10:39:03 21 human source for quite a number of - or a number of years
10:39:06 22 by that stage, it would be sensible to weigh up the risks
10:39:12 23 of doing so?---Absolutely.
24

10:39:15 25 The benefits to Victoria Police and the risks to
10:39:20 26 Ms Gobbo?---Absolutely.
27

10:39:21 28 And also the risks to Victoria Police, the organisational
10:39:25 29 risks?---Absolutely.
30

10:39:26 31 Those are the sorts of things that you would want to
10:39:28 32 consider?---Absolutely.
33

10:39:30 34 Mr Biggin had prepared a document which as far as he was
10:39:35 35 concerned was a document which should go to those making
10:39:39 36 decisions about whether Ms Gobbo should be utilised as a
10:39:43 37 witness?---I understand that.
38

10:39:45 39 So that you've got a senior officer saying this is a
10:39:48 40 document that should go to the management committee?---Yes,
10:39:51 41 I understand that.
42

10:39:52 43 You've got the Assistant Commissioner of Crime at that
10:39:55 44 stage saying, "This is a document which needs to go to the
10:39:58 45 steering committee for it to properly make a decision about
10:40:03 46 Ms Gobbo's use", do you accept that?---I understand, yes, I
10:40:07 47 do.

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You have Mr Moloney, who is indeed on that committee, in the Task Force committee who is part of the process of making that decision, do you accept that?---I accept that.

And he has noted on the cover sheet of the document that it should be provided to the steering committee for their analysis?---I accept that, yes.

He's a part of that steering committee?---Yes.

The document, can I suggest, he said in his statement - we haven't heard from him yet - that the document was provided to you?---I understand that.

Can I suggest to you that you did see that document?---Well, all I can say is I don't recall seeing it. I agree with what the contents say. I mean I was certainly aware of all of those issues. My recollection is I was aware of all of those issues because of ongoing discussions that I'd been having with Mr Biggin, with Mr Moloney, with others for a period of time. So I don't - I accept, I accept what is put in that document in terms of the issues that needed to be thought through.

Yes?---In making a decision around whether Ms Gobbo transitioned to a witness.

So do you say that you were aware as at - indeed even prior to 5 January, that the OPI, I'm sorry, that the handlers, those handling Ms Gobbo, were concerned about the potential for judicial inquiries?---Yes.

And the potential for convictions to be set aside?---I believe so, that's my recollection.

You have a belief that as at 5 January you were aware that the SDU considered that there was a risk of appeals and verdicts being set aside?---I was aware of that risk.

Right?---My understanding of the risk was around the general proposition of having used a barrister as a human source. And I always understood there were issues, legal issues associated with that and that that may well be an issue at trial. So that was my understanding of the risk that was being put to me.

10:42:17 1 Were you aware that, I'll put it quite clearly, were you
10:42:30 2 aware that the decision that was to be made as to whether
10:42:37 3 or not Ms Gobbo would be used as a witness could have
10:42:42 4 long-term implications for Victoria Police?---Absolutely.
5
10:42:46 6 You were aware of that?---Yes.
7
10:42:50 8 Were you aware that one of the weaknesses of doing so was
10:42:55 9 the possibility of OPI governmental review into legal
10:42:58 10 ethical implications, were you aware of that at that
10:43:02 11 time?---Absolutely, yes.
12
10:43:03 13 Were you aware at the time that one of the threats of
10:43:06 14 Ms Gobbo becoming a witness was a judicial review of police
10:43:11 15 actions in tasking and deploying one of their own?---Yes, I
10:43:15 16 understood that could be a risk.
17
10:43:17 18 Were you aware that there was a question of public interest
10:43:20 19 immunity and Ms Gobbo was well connected in the Victorian
10:43:22 20 legal fraternity, you were aware of that?---Yes.
21
10:43:26 22 Were you aware that there was the potential of an OPI
10:43:29 23 review on the basis of a serving barrister assisting
10:43:32 24 police?---Yes.
25
10:43:32 26 Were you aware of that?---Yes.
27
10:43:35 28 Were you aware of the consideration of there being unsafe
10:43:38 29 verdicts and possible appeals?---Well as I said I always
10:43:41 30 understood the fact that we'd used a barrister as a human
10:43:45 31 source could be the basis for challenge in any legal
10:43:47 32 proceedings.
33
10:43:48 34 Were you aware that there was at least a concern about
10:43:52 35 prosecutions current with respect to Mokbel, and future,
10:43:55 36 were you aware of that?---Again, I understood that that
10:43:59 37 could be an issue at trial for anyone where Ms Gobbo had
10:44:05 38 provided information.
39
10:44:06 40 Right. Were you aware - - - ?---Because I assumed
10:44:11 41 disclosure had been followed and so that may become an
10:44:17 42 issue at trial.
43
10:44:18 44 Were you aware that there was a risk of current Mokbel
10:44:22 45 prosecutions being in doubt?---I was aware that - well, I
10:44:29 46 had a general understanding that the proposition that a
10:44:32 47 barrister had been involved in providing evidence against

10:44:37 1 criminals could be the basis for prosecutions failing or
10:44:42 2 for convictions being challenged. That was always a risk.
3
10:44:46 4 Can I say that at this stage you knew very well that
10:44:50 5 Ms Gobbo's role as a human source and her involvement in
10:44:55 6 the gathering of evidence in relation to Mokbel proceedings
10:44:58 7 and the like had not been disclosed at this stage to the
10:45:01 8 prosecution?---No, I didn't.
9
10:45:02 10 Or any of the prosecuting authorities?---No, I didn't.
11
10:45:05 12 You didn't know that?---No, I didn't know that.
13
10:45:08 14 Did you ever ask to satisfy yourself that there had been
10:45:11 15 disclosure?---No, because that's not - that's not my
10:45:14 16 responsibility. That is the responsibility of very senior,
10:45:18 17 experienced detectives in whom I had complete confidence.
10:45:22 18 That was an issue for them to deal with.
19
10:45:24 20 Right. You were aware that there was vehement opposition
10:45:29 21 on the part of the SDU to Ms Gobbo being used?---Yes.
22
10:45:37 23 Did you find out, did you satisfy yourself by asking
10:45:40 24 Mr Biggin why the vehement opposition?---Yes.
25
10:45:44 26 And what did he tell you?---He ran through the sorts of
10:45:47 27 issues that you've just run through.
28
10:45:49 29 Right. Did you discuss those matters with Mr Ashton?---I
10:45:56 30 believe so.
31
10:45:57 32 Did you say to Mr Ashton that, "It appears that the people
10:46:02 33 who are handling Ms Gobbo are concerned that if she is
10:46:07 34 exposed and our role with respect to Ms Gobbo is exposed,
10:46:12 35 there is the risk that there will be OPI governmental
10:46:16 36 review into the legal and ethical implications of using
10:46:20 37 her", did you use those sorts of words to
10:46:23 38 Mr Ashton?---Look, I don't recall.
39
10:46:25 40 Would you have?---Look, I don't recall. I understood
10:46:28 41 Mr Ashton was well aware of the opposition of the SDU.
42
10:46:33 43 Right. Did you say to Mr Ashton, "Look, the people who
10:46:37 44 have been managing her are concerned and vehemently opposed
10:46:41 45 to the use of Ms Gobbo because her exposure may well lead
10:46:45 46 to an OPI review because of a serving barrister assisting
10:46:49 47 police, there may well be a consideration of unsafe

10:46:53 1 verdicts and possible appeals and current prosecutions of
10:46:56 2 Mokbel and future may be the subject of question marks".
10:47:00 3 Did you say those sorts of things to Mr Ashton?---I don't
10:47:03 4 recall.
5
10:47:04 6 Right. If you have a look at the second dot point in
10:47:14 7 "Weaknesses", p.533 of the document. So if you're aware of
10:47:35 8 all of these issues it may well be that you had been
10:47:38 9 provided with this document, because you say, "Well look,
10:47:40 10 none of this stuff surprises me in any event"?---No. No, I
10:47:43 11 don't recall seeing the document.
12
10:47:44 13 Right?---But as I explained yesterday, the process of
10:47:48 14 Ms Gobbo transitioning from a source to a witness to my
10:47:53 15 recollection was a lengthy process.
16
10:47:56 17 Yes?---There was a lot of consideration given to it. There
10:48:00 18 were discussions about it. I've said to you quite clearly
10:48:06 19 for me the pivotal moment was the occasion where she had
10:48:09 20 the conversation with Dale which was recorded and she then
10:48:12 21 had that evidence. I was very aware and very conscious and
10:48:17 22 very focused on the sorts of issues that you're talking
10:48:20 23 about. This was a hugely significant decision. It's not a
10:48:25 24 decision that was made quickly. It's not a decision that
10:48:27 25 was made lightly. So I genuinely do not recall seeing that
10:48:31 26 document.
27
10:48:32 28 Yes?---But I don't disagree with anything that's contained
10:48:35 29 within it.
30
10:48:36 31 Nothing would you disagree with in it?---No.
32
10:48:39 33 Including that one of the weaknesses was the disclosure of
10:48:42 34 the long-term relationship with Ms Gobbo?---Yes, because my
10:48:48 35 view was she was always going to be - by that time I
10:48:51 36 thought it was - if her role as a source had not already
10:48:56 37 been discovered, and I think there were some suggestions
10:49:00 38 around at that time that it had been, that it almost
10:49:04 39 certainly would be. So she was compromised anyway which -
10:49:07 40 by that I mean her identity was to become known and her
10:49:11 41 role as a human source was going to become known.
42
10:49:13 43 Do you accept therefore that at this stage you were aware
10:49:16 44 that there had not been any disclosure of role to
10:49:19 45 date?---No. No, I don't.
46
10:49:20 47 Given your awareness of all of these matters, your

10:49:24 1 awareness of the vehement opposition of the SDU, the desire
10:49:27 2 that these matters be given very careful consideration,
10:49:32 3 would you not have prepared some written document setting
10:49:35 4 out the reasons why you make the decision to use
10:49:39 5 Ms Gobbo?---No, I didn't do that.
6
10:49:41 7 You accept that the making of this decision has huge
10:49:46 8 implications for Ms Gobbo personally?---Absolutely, and my
10:49:51 9 recollection of what happened is that the investigators
10:49:53 10 went and spoke with her and there was a process whereby
10:49:59 11 understandably she was reluctant, but she then agreed to
10:50:04 12 that course of action.
13
10:50:08 14 Yeah?---So - sorry.
15
10:50:10 16 Can I suggest to you that this document here should have
10:50:19 17 been provided immediately to the regulator, the OPI, what
10:50:27 18 do you say about that?---To the OPI? Well if it had come
10:50:34 19 to the steering committee Mr Ashton would have seen it.
20
10:50:38 21 Right. Mr Ashton, he says he doesn't recall seeing this
10:50:41 22 document either?---Right. Well I don't either. I don't
10:50:45 23 believe it came to the steering committee.
24
10:50:49 25 Do you recall having a discussion with Mr Moloney at the
10:50:52 26 steering committee meeting about the pluses and minuses of
10:50:57 27 Ms Gobbo being a human source?---I don't - I don't recall,
10:51:02 28 I don't recall the meeting of 5 January.
29
10:51:04 30 Yes?---I don't recall what actually took place there. I've
10:51:08 31 seen the notes that have been provided.
32
10:51:10 33 Yes?---I have no independent recollection as to what
10:51:14 34 happened. You tell me it's a meeting that may have gone
10:51:17 35 for an hour and 45 minutes. That's a long meeting, it's
10:51:21 36 much longer than Task Force meetings would normally go.
37
10:51:25 38 Yes?---I, even in my own mind, question whether it actually
10:51:27 39 went that long because that would be highly unusual. I'm
10:51:30 40 sorry, I can't take this any further.
41
10:51:32 42 Do you accept that it's likely at that meeting that a
10:51:35 43 decision was made that Ms Gobbo would be utilised as a
10:51:39 44 witness?---I don't - I find it difficult to pinpoint an
10:51:42 45 exact moment in time. Because, as I say, the process from
10:51:45 46 there was the investigators went to talk to her.
47

10:51:47 1 Yes?---About becoming a witness. Now if she at the end of
10:51:51 2 the day said, "No, I'm not going to give you a statement,
10:51:54 3 I'm not going to do anything", there was still an issue for
10:51:59 4 us, well, do we just call her? Because in one sense the
10:52:02 5 only thing we needed her to do was to say, "My name's
10:52:06 6 Nicola Gobbo. On this date I met with Paul Dale and I
10:52:11 7 recorded the conversation" or "I produced the tape".
10:52:12 8 That's all we needed from her to get the tape in.
9
10:52:15 10 Can I ask you this: let's just assume that you had
10:52:16 11 received this document and read the document. Having read
10:52:20 12 it and looked at it, would you say that that is a document
10:52:22 13 that should be provided to the Chief Commissioner?---I'm
10:52:32 14 sure I would have been talking to the Chief Commissioner
10:52:33 15 about these issues at that time, so yes.
16
10:52:37 17 Well, do you say that you were talking to the Chief
10:52:41 18 Commissioner about the risks associated with using Ms Gobbo
10:52:46 19 as a witness at this time, is that what you're
10:52:48 20 saying?---No, what I'm saying is that because of the - and
10:52:50 21 I think it's referred to in the media plan there, I mean
10:52:54 22 this is obviously a huge - if Paul Dale was charged with
10:52:57 23 the murder of the Hodsons - - -
24
10:52:59 25 Yes?---- - - this was a hugely significant issue that was
10:53:01 26 going to become public.
27
10:53:03 28 Yes?---The Chief Commissioner would need to know about that
10:53:05 29 and be appropriately briefed.
30
10:53:08 31 If Ms Gobbo became a witness and therefore became exposed
10:53:14 32 and therefore was then subject to the risk of - well, the
10:53:20 33 physical risk, the harm and so forth, the necessity for
10:53:22 34 being protected?---M'mm.
35
10:53:25 36 Surely that's something that should have been discussed
10:53:27 37 with the Chief Commissioner?---Well I think that may have
10:53:34 38 been because I would spoken to her about the fact of the
10:53:38 39 arrests happening and the publicity that would be
10:53:46 40 associated with that.
41
10:53:47 42 Yes?---Now, look, the thing I'd ask you to bear in mind is
10:53:51 43 that this is January of 2009. In early February 2009 the
10:53:55 44 world in Victoria changed.
45
10:53:57 46 That's in early February, we're talking early
10:54:00 47 January?---Well, you know, I assumed, without recalling I

10:54:04 1 assumed - the Chief Commissioner would have known that we
10:54:07 2 were close to making an arrest of Paul Dale.
3
10:54:09 4 That's not the issue. What I'm talking about is Ms Gobbo,
10:54:12 5 her role as a human source, and you say you're appreciative
10:54:15 6 of all of the risks which are set out in the SWOT analysis
10:54:18 7 regardless of whether you saw it, correct?---Yes.
8
10:54:21 9 On the basis of that can I suggest to you it would have
10:54:23 10 been absolutely essential to speak to the Chief
10:54:25 11 Commissioner and tell her about these potential
10:54:27 12 organisational risks?---Yes, so the - well look, I don't
10:54:34 13 recall exactly, I don't recall whether I did. I assume I
10:54:37 14 did have a conversation with the Chief Commissioner about
10:54:38 15 this.
16
10:54:39 17 And tell her that Ms Gobbo was a human source?---I don't
10:54:42 18 recall whether I did that or not, but the issue would have
10:54:46 19 been an important witness going into witness security and
10:54:50 20 the processes that were in place to manage her safety and
10:54:54 21 security. Which, to be frank, by that stage I thought was
10:54:57 22 a much better way of trying to ensure that she stayed
10:55:01 23 alive.
24
10:55:03 25 Can I suggest this to you, Mr Overland, that this document,
10:55:13 26 given the way in which it was generated and the hands
10:55:17 27 through which it passed, the time at which it was
10:55:21 28 generated, suggests that it got to you. I want to put that
10:55:25 29 to you?---I know it suggests that it got to me.
30
10:55:28 31 Yes?---I understand that.
32
10:55:29 33 And you say it may have got to you?---Well I can't exclude
10:55:32 34 that possibility, but what I say is I have no recollection,
10:55:36 35 I do not believe that I have seen that document.
36
10:55:39 37 Can I suggest to you that if that document got to you, it
10:55:43 38 should have been formally provided, firstly, to the Chief
10:55:47 39 Commissioner and, secondly, to the regulator, to
10:55:50 40 Mr Strong?---Well if - - -
41
10:55:52 42 I make those suggestions?---If it got to me it would have
10:55:56 43 got to Mr Ashton and therefore it would have been disclosed
10:55:58 44 to the OPI. I don't accept that it was then necessarily a
10:56:03 45 matter of briefing the Chief Commissioner. She tended not
10:56:07 46 to be involved in operational matters, and I think for very
10:56:11 47 good reasons, and I think these are issues that were being

10:56:14 1 dealt with at the highest levels of the organisation and in
10:56:17 2 a set of very difficult circumstances, we're all trying to
10:56:21 3 do our best.
4

10:56:22 5 Can I suggest to you that it was this document which
10:56:25 6 ultimately formed part of I think what's been described as
10:56:30 7 the extra scope or outside of scope analyses of Mr Comrie
10:56:35 8 and ultimately is one of the documents, the significant
10:56:39 9 documents that leads us to where we are here?---Okay.
10

10:56:43 11 Can I suggest to you that anyone looking at that document
10:56:46 12 would be cognisant of the fact that it was a significant
10:56:50 13 document which raised significant issues for the
10:56:54 14 organisation of Victoria Police?---And I've said to you
10:56:57 15 repeatedly that I understood those issues. I do not
10:57:00 16 believe, I do not recall having seen that document but I
10:57:04 17 well understood the issues because of the process that we
10:57:07 18 went through in determining whether Ms Gobbo should
10:57:11 19 transition from a source to a witness.
20

10:57:13 21 Yes. Can I suggest to you that this document sets out not
10:57:19 22 merely issues with respect to the operation of Petra, but
10:57:24 23 it sets out issues which are clearly within areas that the
10:57:29 24 Chief Commissioner would want to know about, OPI inquiries,
10:57:33 25 judicial inquiries, potential verdicts being upset, et
10:57:37 26 cetera, those sorts of issues are issues of great
10:57:39 27 significance?---If they happened.
28

10:57:42 29 If they happened. Surely that document raises sufficient
10:57:46 30 concern to anyone who reads it that there should be a
10:57:53 31 proper analysis or a proper investigation into what these
10:57:56 32 concerns are about, do you accept that proposition?---No, I
10:58:00 33 don't accept that proposition.
34

10:58:02 35 No, all right.
36

10:58:04 37 COMMISSIONER: Would a Chief Commissioner not expect to be
10:58:07 38 informed of serious risks to the organisation?---That's a
10:58:15 39 difficult question to give a precise answer to. I mean are
10:58:19 40 obviously occasions where you try and keep the Chief
10:58:23 41 Commissioner briefed. But, Commissioner, my view of the
10:58:25 42 risks identified to me, I was well aware of those risks. I
10:58:28 43 thought those risks had existed for some time. I thought
10:58:31 44 we were managing them. I thought the most sensible to do
10:58:36 45 at that point in time in all the circumstances was to
10:58:39 46 transition Ms Gobbo from a source to a witness and to get
10:58:43 47 her into witness security so that she was protected. I had

10:58:49 1 no knowledge of the matters that have been brought to my
10:58:51 2 attention in the last few days about the conflict of
10:58:53 3 interest and the lack of discovery and those sorts of
10:58:57 4 things. I wasn't trying to cover anything up here. I was
10:59:00 5 simply trying to deal with a very difficult situation. I
10:59:02 6 was a Deputy Commissioner of Police at that time. I think
10:59:05 7 I was at an appropriate level to be dealing with these
10:59:08 8 issues and to the extent did I mention these things to the
10:59:13 9 Chief Commissioner? Not necessarily. I thought they were
10:59:17 10 matters that I was managing, the OPI was involved in
10:59:20 11 managing them, Mr Cornelius was involved in managing them,
10:59:23 12 so I thought they had a sufficient level of focus at a
10:59:26 13 sufficiently senior level in the organisation.

14
10:59:29 15 MR WINNEKE: Mr Overland, had you been interviewed at this
10:59:32 16 stage for the position of Chief Commissioner?---Yes, I
10:59:37 17 think so.

18
10:59:38 19 And had you been you told that you had that position by
10:59:42 20 this stage?---I don't believe so.

21
10:59:45 22 Can I suggest to you that this document here, if the
10:59:52 23 concerns in it had any basis in fact, would effectively
10:59:57 24 mean that you would never be Chief Commissioner?---I don't
11:00:00 25 accept that. And I don't accept the assumption that this
11:00:04 26 somehow influenced my decision-making around this. It just
11:00:08 27 simply didn't.

28
11:00:11 29 Did you at any stage call a meeting of the Command of the
11:00:21 30 SDU into your office, Mr Biggin, Mr White and say to them,
11:00:31 31 "I have got concerns about the possibility of convictions
11:00:35 32 being upset"? Did you ever call them into your office and
11:00:41 33 say to them, "Is there any basis for my concern"?---No.

34
11:00:52 35 Did you at any stage call them into your office and say,
11:00:55 36 "Look I've got concerns that there may be a risk with
11:00:56 37 respect to Mokbel, past and future, is there a basis for my
11:01:00 38 concern?" Did you do that at any stage - - - ?---No.

39
11:01:04 40 - - - with respect to Biggin, Sandy White, anyone else
11:01:06 41 there?---No. But as I've said repeatedly, I understood the
11:01:10 42 fact that Ms Gobbo had been used as a source, there was
11:01:14 43 always that potential.

44
11:01:15 45 You see, had you done so, and had you required them to
11:01:17 46 satisfy you that you had nothing to be concerned about, can
11:01:21 47 I suggest to you you would have been told that there was a

11:01:26 1 basis for concern?---You can suggest that to me.
2
11:01:30 3 Do you accept that proposition?---I don't know, it never
11:01:33 4 happened.
5
11:01:37 6 You accept that they are vehemently opposed and there are -
11:01:41 7 albeit, you say, you haven't seen this document?---No, and
11:01:44 8 I recall having conversations with them. I understood they
11:01:47 9 were vehemently opposed. They had opportunities to tell me
11:01:50 10 all of this.
11
11:01:51 12 Were you aware that one of the reasons or some of the
11:01:54 13 reasons for their vehement opposition was the possibility
11:01:57 14 of OPI inquiries?---I was aware of that but the OPI by that
11:02:05 15 stage knew about Ms Gobbo's involvement and role.
16
11:02:09 17 Did they know, did the OPI know that the SDU were
11:02:14 18 vehemently opposed because of their concern about an OPI
11:02:17 19 inquiry?---I don't know. You'd have to ask Mr Ashton or
11:02:22 20 the OPI that question.
21
11:02:24 22 Do you think you might have got this document but made a
11:02:26 23 determination not to provide it to Mr Ashton?---No. No, I
11:02:30 24 do not think at all.
25
11:02:32 26 If you provided it to Mr Ashton, Mr Ashton would be forced
11:02:35 27 to take it to Mr Strong?---And I have no issues with that.
28 Happy for Mr - - -
29
11:02:40 30 You were not concerned about that?---No, not concerned
11:02:43 31 about it in the slightest.
32
11:02:45 33 Did Mr Ashton know the full extent of Ms Gobbo's role?
11:02:49 34
11:02:49 35 MR COLEMAN: How can he answer that? I object to the
11:02:53 36 question.
11:02:53 37
11:02:54 38 MR WINNEKE: He's suggested, with respect, that Mr Ashton
11:02:55 39 knew all about Ms Gobbo. I'm asking whether he - he's able
40 to say that Mr Ashton.
41
11:02:57 42 COMMISSIONER: Yes, yes. Yes, I'll allow the question.
11:02:59 43
11:03:00 44 MR COLEMAN: I object to the question.
45
11:03:01 46 COMMISSIONER: I'm allowing the question.
11:03:02 47

11:03:03 1 WITNESS: I don't think Mr Ashton knew everything about
11:03:05 2 Ms Gobbo's role, as clearly I didn't. But he knew that she
11:03:08 3 was being used as a human source.
4

11:03:10 5 MR WINNEKE: He knew that much?---Yes.
6

11:03:12 7 Did you suggest to him it might be worthwhile to let
11:03:16 8 Mr Strong or Mr Brouwer know at any stage?---That's a
11:03:19 9 matter for Mr Ashton.
10

11:03:20 11 Why wouldn't you, as a matter of prudence, if you had all
11:03:24 12 of these concerns, formally notify the OPI about the fact
11:03:28 13 that you were using a barrister as a human source and about
11:03:32 14 the concerns that you say you were aware of?---Well we did.
11:03:36 15 Mr Ashton knew about it.
16

11:03:38 17 Did Mr Ashton know about Purana and Ms Gobbo's association
11:03:43 18 with Mokbel and associates?---Look, I don't know. You'd
11:03:48 19 have to ask Mr Ashton that question.
20

11:03:49 21 Did you tell him about those matters?---I don't recall
11:03:52 22 whether I did or I didn't.
23

11:03:54 24 Did you think you said to Mr Ashton, "Look, we had this
11:03:58 25 plan, it was to target Mr Mokbel, and we used Ms Gobbo to
11:04:03 26 do so and I've got a concern that Mr Mokbel was being
11:04:09 27 represented by Ms Gobbo at the time that she was providing
11:04:12 28 us with that information"?---I certainly didn't say that.
29

11:04:15 30 Why wouldn't you have told him that?---Because we've been
11:04:18 31 through this repeatedly.
32

11:04:25 33 Can I just ask you about this: when you started Briars,
11:04:32 34 which had effectively ceased in late 2008, it got a bit of
11:04:38 35 a kick along subsequently with the addition of a potential
11:04:48 36 new witness, do you remember that?---No, I actually don't
11:04:51 37 remember that. As I said, I remember very little about
11:04:54 38 Briars until more recently where I've seen some
11:04:59 39 correspondence. I understand that to be the case but I
11:05:01 40 think by the time the new witness became available I was
11:05:04 41 the Chief Commissioner, I wasn't sitting on the management
11:05:06 42 group. So whilst I have a general recollection of Briars
11:05:10 43 restarting I don't believe I was intimate with the detail
11:05:14 44 of that.
45

11:05:14 46 All right. You are aware of the importance of proper risk
11:05:20 47 analyses before important decisions are made?---Yes.

1
11:05:24 2 Can we have a look at this document, VPL.0100.0013.2358 at
11:05:31 3 p.11.
11:06:20 4
11:06:21 5 MR HOLT: This document, Commissioner, shouldn't come up on
11:06:23 6 anyone else's screens for the reasons that are obvious.
7
11:06:27 8 COMMISSIONER: All right then, we'll try and manage that as
11:06:28 9 best we can so people can follow the cross-examination.
10
11:06:32 11 MR WINNEKE: No, it's p.11. If we go to p.11 in this. Can
11:06:39 12 we turn this around? This is an Operation Briars scenario
11:06:46 13 discussion, do you see that?---I do.
14
11:06:49 15 Do you recognise that document?---Can I have a bit more of
11:06:55 16 a look at it?
17
11:06:56 18 Yes, can we just scroll through it. Stop there. Its
11:07:07 19 purpose is - - - ?---Yes.
20
11:07:08 21 - - - "In recognising the significant organisational
11:07:12 22 reputational risks in understanding the investigation into
11:07:15 23 links between corruption and organised crime. The idea is
11:07:18 24 to assist and develop options and solutions with the Chief
11:07:23 25 Commissioner of Police on strategic management issues and
11:07:24 26 risks"?---Yes.
27
11:07:26 28 This is I think in March of 2007?---Yes.
29
11:07:30 30 There's a CCP reference group, do you see that?---I do.
31
11:07:38 32 Who was on that, do you know?---Oh, I don't recall now. I
11:07:43 33 think there may be a list of membership later on.
34
11:07:47 35 Can we just keep scrolling through to the next page,
11:07:51 36 please. These are risks which aren't operational risks,
11:08:01 37 these are organisational risks?---Yes.
38
11:08:03 39 There are scenarios that are presented. Do you remember
11:08:10 40 that?---I do.
41
11:08:11 42 What were the scenarios?---Look, well - sorry, I remember
11:08:16 43 there were scenarios. I don't now remember what the
11:08:19 44 scenarios were.
45
11:08:20 46 Keep going. These are scenarios one, two and three and
11:08:31 47 there's a time frame as we go through it. Can I suggest to

11:08:34 1 you that this is an analysis of various consequences if
11:08:42 2 something goes wrong leading to various outcomes, and
11:08:46 3 that's generally what these sorts of risk analyses
11:08:51 4 are?---Yes.
5
11:08:52 6 They're careful analyses made to in effect manage risks and
11:08:57 7 protect Victoria Police from risks and prepare for the
11:08:59 8 eventualities if risks eventuate?---Yes.
9
11:09:02 10 One of the risks here, if we keep scrolling on - - -
11:09:13 11
11:09:13 12 MR HOLT: Commissioner, if our friend is just staying in
11:09:16 13 the PowerPoint part of it can go on the screen.
14
15 MR WINNEKE: That's all I'm going to do.
16
11:09:19 17 MR HOLT: It was the other part of the document I was
11:09:21 18 concerned about.
19
11:09:22 20 COMMISSIONER: Sure. It can go on all screens.
21
11:09:26 22 MR WINNEKE: Have a look at scenario 3, "Uncontrolled
11:09:29 23 release of information, unconfirmed link between corruption
11:09:32 24 and killings, investigation failed and compromised,
11:09:35 25 increasing pressure on government and Victoria Police to
11:09:38 26 agree to a Royal Commission"?---Yes.
27
11:09:39 28 So these are the sorts of careful analyses which Victoria
11:09:44 29 Police was carrying out around 2007 into risks?---Yes.
30
11:09:50 31 These are the sorts of things that the Chief Commissioner
11:09:53 32 was concerned about, about this time, when it came to
11:09:59 33 organisational risk?---Yes .
34
11:10:01 35 And you were aware of her concerns?---Well I think I put
11:10:04 36 this document together.
37
11:10:06 38 So you were aware of her concerns about anything that may
11:10:09 39 lead to allegations of impropriety, corruption and the
11:10:15 40 potential of a Royal Commission?---Correct.
41
11:10:18 42 I tender that document, Commissioner.
43
11:10:22 44 COMMISSIONER: What do we call that?
45
11:10:24 46 MR WINNEKE: Just before we do, in fact I do want to
11:10:27 47 continue because there's another matter I want to deal

11:10:29 1 with.
2
11:10:30 3 COMMISSIONER: Yes.
4
11:10:33 5 MR WINNEKE: Keep scrolling. Keep scrolling. Keep going.
11:10:43 6 Keep going. Turn that around please. What we can see
11:10:56 7 there is, that was a meeting on Thursday 1 March 2007,
11:11:06 8 conference room. We can see that you and the Chief
11:11:10 9 Commissioner were there?---Yes.
10
11:11:12 11 Issues were the recruitment of Mr Costigan, the former
11:11:17 12 Royal Commissioner?---Yes.
13
11:11:20 14 To provide advice to the group?---Yes.
15
11:11:24 16 Around management of risk?---Yes.
17
11:11:25 18 Can I suggest that that's the sort of way in which serious
11:11:31 19 organisational risks were being managed at this
11:11:33 20 time?---Yes.
21
11:11:33 22 Can I suggest to you that Christine Nixon, the Chief
11:11:37 23 Commissioner's expectation is that you would have told her
11:11:38 24 about the sorts of risks which you say you were aware of
11:11:42 25 and the sorts of risks revealed in the SWOT
11:11:49 26 analysis?---Yes, I understand the issue that you're making.
11:11:53 27 This proposal to get this group up and running didn't
11:11:56 28 really work for a variety of reasons. So certainly if I
11:12:03 29 had the view that I thought those risks were going to
11:12:06 30 materialise I would have made her aware of them.
31
11:12:08 32 Yes?---But I didn't believe those risks would materialise.
33
11:12:14 34 You didn't believe these risks would materialise?---No, I
11:12:17 35 didn't believe the risks that were being - I understood
11:12:21 36 there was a risk that some of those thing may materialise,
11:12:24 37 but I thought that risk had been present for a period of
11:12:27 38 time and I thought those issues were being appropriately
11:12:29 39 managed.
40
11:12:30 41 But at no stage had you passed on your concern about those
11:12:33 42 risks to the Chief Commissioner?---I don't recall doing
11:12:36 43 that, no.
44
11:12:53 45 In relation to the situation of Ms Gobbo, did you prepare
11:12:59 46 or develop a media strategy to deal with the potential that
11:13:03 47 the risks that had been identified by the SDU you say to

11:13:11 1 you would be appropriately dealt with?---No, because the
11:13:16 2 intention was to move her into the witness protection
11:13:20 3 program and protect her that way.
4
11:13:23 5 What about the organisational risks, the potential of
11:13:26 6 inquiries, the embarrassment and those sorts of matters,
11:13:30 7 what sort of contingency did you put in place there?---If
11:13:35 8 they had materialised then obviously we'd have dealt with
11:13:38 9 those issues as they materialised.
10
11:13:42 11 So not the sort of planning which we see has gone into this
11:13:45 12 potential risk here?---No, but bearing in mind I
11:13:48 13 transitioned out of involvement in these issues a short
11:13:52 14 time later on becoming Chief Commissioner. But as I say,
11:13:56 15 the risks were there. If they started to materialise then
11:14:02 16 we obviously would have done that planning.
17
11:14:04 18 COMMISSIONER: The date on that document is 1 March 2007.
19
11:14:09 20 MR WINNEKE: Yes, Commissioner. This is a document which
21 concerned - - -
22
23 COMMISSIONER: That's well before, well before you became
24 Chief Commissioner.
25
11:14:11 26 WITNESS: It is, Commissioner, yes. So this was at the
11:14:11 27 outset of heading into Briars and heading into - you know,
11:14:15 28 I was aware Petra was likely to come along. It was a
11:14:19 29 significant period of time for Victoria Police. It was the
11:14:21 30 end of 2007, there'd been a spate of killings, really
11:14:26 31 uncontrolled up until sort of mid-2004. The media had for
11:14:31 32 a long time been more than speculating, almost insisting
11:14:36 33 that there was a connection between police corruption and
11:14:39 34 those murders, and here we were with two homicides where
11:14:42 35 that connection had been made.
36
11:14:47 37 I tender that document, Commissioner.
38
11:14:49 39 COMMISSIONER: Is it the Operation Briars scenario
11:14:54 40 discussion PowerPoint dated 1 March 07?
11:14:56 41
11:14:56 42 MR WINNEKE: Yes.
11:14:57 43
11:14:58 44 #EXHIBIT RC928A - (Confidential) Operation Briars scenario
11:14:54 45 discussion PowerPoint 1/03/07.
11:14:59 46
11:14:59 47 #EXHIBIT RC928B - (Redacted version.)

11:15:01 1
11:15:04 2 As Briars developed you became aware that it was proposed
11:15:08 3 to get a statement from her, I take it, throughout 2009?
11:15:13 4 In 2009, albeit you were Chief Commissioner, were you not
11:15:16 5 aware of that?---A statement from Ms Gobbo in 2009?
6
11:15:20 7 Subsequent to - after Petra, I'm talking about
11:15:23 8 Briars?---Briars, yeah, no, I understand that.
9
11:15:25 10 And you recall that I think Mr Iddles and Mr Waddell went
11:15:29 11 to Bali and saw Ms Gobbo when she was over there and took a
11:15:34 12 statement, commenced to take a statement from her?---I know
11:15:37 13 they did, but as I said earlier by that stage I was no
11:15:41 14 longer part of the management group, I was the Chief
11:15:43 15 Commissioner by then, yes.
16
11:15:45 17 At that stage you would have been very cognisant of the
11:15:48 18 possibility of organisational risks arising from Ms Gobbo's
11:15:52 19 role as a witness in that case?---Well, yes, but it would
11:15:56 20 seem to me they'd be the same risks that had already arisen
11:16:01 21 in relation to her use in Petra.
22
11:16:03 23 You understood, I take it, that she was to provide a
11:16:07 24 statement about her connection, knowledge of Mr Waters,
11:16:12 25 Person █████ Mr Lalor, those sorts of issues you understood
11:16:18 26 that she'd be providing a statement about?---No, I don't
11:16:22 27 think I understood exactly what the issues were. On my
11:16:25 28 recollection it was about something else I thought.
29
11:16:28 30 Yes, all right. Could we have a look at an email dated 25
11:16:32 31 March 2009 from Mr Waddell to Mr Wilson attaching an
11:16:38 32 investigation plan. It's VPL.6155.0057.2684 and the plan.
11:17:03 33 You'll see that that's an email, as I suggested, and what
11:17:07 34 it says is, "On another matter, I spoke to Sandy White
11:17:11 35 today and he seems to think that the person we're
11:17:13 36 interested in will make a statement. He also seems to
11:17:16 37 think that she does not have any admissions, which is
11:17:26 38 obviously different to all of our recollections. The SDU
11:17:29 39 do not want any link back to the historical activities if
11:17:33 40 that can be helped as it obviously opens up a whole can of
11:17:37 41 worms. I discussed with him credit issues", et cetera.
11:17:44 42 What appears to be the situation is this, that the
11:17:48 43 expectation at this stage was that Ms Gobbo's role as a
11:17:53 44 human source could be avoided, or the disclosure of that
11:17:56 45 could be avoided because there'd been a barrier between her
11:18:01 46 role as a human source and as a witness in the Dale
11:18:05 47 proceeding?---Yes.

1
11:18:06 2 You understand that?---I understand that.
3
11:18:08 4 We discussed that yesterday and you agreed with that
11:18:11 5 proposition with respect to Petra, right?---Yes.
6
11:18:17 7 Yes. But the view was insofar as Briars was concerned,
11:18:24 8 because the statement itself - well, I withdraw that. Her
11:18:28 9 involvement in Briars was very much as a human source and
11:18:32 10 providing information as a human source, you understood
11:18:35 11 that, didn't you?---So again, I think in 2008 she knew a
11:18:49 12 number of the persons of interest in Briars and she would
11:18:54 13 occasionally do things I think to try and [REDACTED]
11:18:57 14 [REDACTED] that might be picked up on [REDACTED]
11:19:00 15 [REDACTED].
16
11:19:01 17 That would ultimately mean that it could not be hidden, her
11:19:05 18 role as a human source could not be hidden in any
11:19:08 19 proceeding in which she was a witness?---Yes.
20
11:19:10 21 That's obviously different to the situation with respect to
11:19:13 22 Briars?---Yes.
23
11:19:14 24 Sorry, Petra. Because the Petra investigators - - -
11:19:20 25 ?---Well she was a witness in Petra.
26
11:19:22 27 Were you aware of these views about the problems, the can
11:19:24 28 of worms that her use in Briars might - - - ?---No.
29
11:19:29 30 As a witness might reveal?---No.
31
11:19:31 32 No, right. You say you were aware of the plans for Waddell
11:19:35 33 and Iddles to travel to Bali. Would you have been aware of
11:19:39 34 that?---Well I know they did. But again by this time I was
11:19:50 35 Chief Commissioner and not - well, I don't think involved
11:19:56 36 in the management of these Task Forces. And to be quite
11:20:01 37 frank, consumed by dealing with issues associated with the
11:20:06 38 bushfires and other matters.
39
11:20:08 40 Who was your chief of staff at that stage?---I think it was
11:20:16 41 Rod Wilson.
42
11:20:19 43 Clearly this is a communication from Waddell to Rod
11:20:23 44 Wilson?---Well yes, but he'd also I think had been the head
11:20:28 45 of Briars.
46
11:20:29 47 Do you think he might have discussed it with you in any

11:20:32 1 event?---Well look he may have but I just don't, I don't
11:20:35 2 recall.
3
11:20:35 4 All right. Can we have a look at this document,
11:20:43 5 VPL.0005.0012.3547. This appears to be handwritten notes
11:20:53 6 of briefing by Smith to Cornelius?---Right.
7
11:20:58 8 What it suggests is there's discussions - "Firstly day one
11:21:02 9 preliminaries, day two less than expected but growing in
11:21:06 10 strength. Point, not complete, smoking gun but significant
11:21:12 11 value. Point, assess tomorrow for signature. Had received
11:21:16 12 three death threats via text. Notified and briefed COS,
11:21:23 13 chief of staff, Wilson from 2008, Nixon, then
11:21:29 14 Overland"?---I can't see that.
15
11:21:32 16 He was Ms Nixon's chief of staff and then yours,
11:21:38 17 correct?---I think that's right, yes.
18
11:21:40 19 And then CCP?---Yes, I see that.
20
11:21:51 21 Just go back the other direction, please.
22
11:21:57 23 COMMISSIONER: Is there a legal professional privilege
11:22:00 24 claim on this?
11:22:01 25
11:22:02 26 MR HOLT: I have to take those instructions, Commissioner.
11:22:05 27 Sorry, I wasn't given notice of this document.
28
11:22:09 29 MR WINNEKE: I'm simply going to say - - -
11:22:13 30
11:22:14 31 MR HOLT: It's in a privileged section.
32
33 MR WINNEKE: It is.
34
11:22:15 35 MR HOLT: And I haven't had a chance to take a note of it.
36
11:22:18 37 MR WINNEKE: I simply want to point out those - I'm not
11:22:21 38 going to go into - - -
11:22:22 39
11:22:23 40 MR HOLT: It's a yellow section.
41
42 MR WINNEKE: I understand that.
43
11:22:25 44 MR HOLT: And I haven't had an opportunity to see if
11:22:28 45 privilege is waived. I'll do that as quickly as I can but
11:22:34 46 can't do it now for obvious reasons.
47

11:23:00 1 COMMISSIONER: Will we take the break now?
2
11:23:02 3 MR WINNEKE: Yes, Commissioner.
4
11:23:04 5 COMMISSIONER: We'll take the break.
6
7 <(THE WITNESS WITHDREW)
8
9 (Short adjournment.)
11:33:34 10
11:45:26 11 COMMISSIONER: Yes Mr Winneke.
12
11:45:27 12
11:45:39 13 MR WINNEKE: Thanks Commissioner. I'm just trying to find
14 the page I was at which was concerning to Mr Holt.
15
11:45:46 15
11:45:47 16 MR HOLT: Commissioner, in the way our friend attempts to
17 do it, it won't breach privilege.
18
11:45:54 18
11:45:54 19 COMMISSIONER: It shouldn't be up on the screens. Do you
20 have any problem with it being up on the screens?
21
11:46:01 21
11:46:01 22 MR HOLT: No, Commissioner, not for present purposes. It's
23 not being referred to.
24
11:46:03 24
11:46:03 25 COMMISSIONER: If you can bring that document back up on
26 all the screens please, thank you.
27
11:46:10 27
11:46:11 28 MR HOLT: Commissioner, my friend has been kind enough to
29 show me two ahead and we've resolved issues in relation to
30 those as well.
31
11:46:18 31
11:46:19 32 COMMISSIONER: Thanks very much.
33
11:46:19 33
11:46:20 34 MR WINNEKE: Just to go back, had received three death
35 threats via text over the past 24 hours from seeming false
36 name and notify and brief Chief of Staff, that's Mr Wilson,
37 and Chief Commissioner of Police and Finn McCrae at
38 3 pm?---Right.
39
11:46:51 39
11:46:51 40 Now, do you recall being briefed about these matters and
41 the meeting that was had with those people?---No, I don't.
42
11:47:01 41
11:47:04 42
11:47:04 43 You don't. You don't suggest that you wouldn't have
44 been?---No, no, no. I'm not arguing, I just don't recall
45 it.
46
11:47:12 45
11:47:12 46
11:47:12 47 You would have been inquiring, you would have asked them at

11:47:16 1 the meeting, you would have asked for as much information
11:47:19 2 as you could get about these issues, would that be
11:47:22 3 fair?---About which issues?
11:47:25 4
11:47:25 5 About the issues that are raised in the notes here?---It
11:47:32 6 depends what I was told but I think if Finn was there, and
11:47:41 7 then there's a reference below that to Commander Hart, so
11:47:48 8 my sense is that's all part of the process of getting her
11:47:50 9 into witness security.
11:47:52 10
11:47:54 11 Right. If we can move to 28 May, the following day.
11:48:00 12 Mr Iddles has made a statement, Ron Iddles, and he refers
11:48:05 13 to a number of matters and you understand that he was
11:48:11 14 overseas getting a statement from Ms Gobbo?---I understand
11:48:14 15 that he was, yes.
11:48:15 16
11:48:15 17 That's how these issues have arisen?---Yes.
11:48:20 18
11:48:21 19 He says when they took the statement from her the only way
11:48:25 20 that she could recall specific dates in making the
11:48:29 21 statement was by using SDU material which had been supplied
11:48:34 22 to Mr Iddles and Mr Waddell I think before they went
11:48:37 23 away?---Right.
11:48:38 24
11:48:39 25 And then it was clear, according to Mr Iddles, that if
11:48:44 26 Ms Gobbo became a witness in criminal proceedings her past
11:48:49 27 role as a human source would come out and her life would be
11:48:52 28 in extreme danger?---Yes.
11:48:54 29
11:48:56 30 Were you aware of Mr Iddles' concerns at these times, do
11:49:01 31 you recall?---I don't believe I was and Mr Iddles has
11:49:04 32 actually spoken about these matters in the media on a
11:49:07 33 number of occasions and been, and said things that to be
11:49:11 34 quite frank I just don't recall.
11:49:12 35
11:49:13 36 Right?---I don't recall having a conversation with him
11:49:17 37 about these matters. I don't disagree with the sentiment
11:49:19 38 that he was expressing, I understood that absolutely her
11:49:23 39 life was in danger and hence the need to have her in
11:49:27 40 witness security.
41
11:49:30 42 You've also heard him expressing the concern that it may
11:49:35 43 lead to a Royal Commission, the exposure of the role of
11:49:39 44 Ms Gobbo?---I've read those comments in the media.
11:49:42 45
11:49:42 46 Yes?---And again I just refer back to previous answers, I
11:49:45 47 understood that was a risk because of the general

11:49:48 1 proposition around using a barrister as a source.
11:49:51 2
11:49:52 3 You know that Mr Waddell was in Bali with Mr Iddles and
11:50:04 4 they were experiencing, or they were having these concerns
11:50:09 5 and then a communication was made with you. Do you recall
11:50:17 6 having any involvement at this time?---No, I don't.
11:50:20 7
11:50:21 8 Do you recall speaking to Mr Wilson and finding out from
11:50:28 9 him that there were concerns being expressed by Waddell and
11:50:30 10 Iddles in Bali?---I do remember some concerns about the
11:50:38 11 arrangements in Bali.
11:50:39 12
11:50:39 13 Yes?---I remember that.
11:50:42 14
11:50:42 15 What were the arrangements that you were aware of?---I
11:50:46 16 think Ms Gobbo was concerned about some of her security,
11:50:52 17 the security arrangements in that location.
11:50:55 18
11:50:55 19 How did you become aware of that?---Well I don't, I don't
11:50:59 20 now remember but if you're saying that was through Waddell
11:51:03 21 and Iddles talking to Mr Wilson, that may be how I became
11:51:09 22 aware of it.
11:51:09 23
11:51:10 24 Right. According to Mr Iddles Ms Gobbo told him about
11:51:16 25 information that she'd provided Purana in relation to the
11:51:19 26 Mokbels and that she had constantly breached privilege and
11:51:24 27 acted in the best interests of Victoria Police rather than
11:51:27 28 her client, and Mr Iddles thought that might blow up and
11:51:34 29 lead into an inquiry, a Royal Commission?---I don't recall
11:51:37 30 being told that at all.
11:51:38 31
11:51:39 32 Mr Waddell made a diary note, VPL.0100.0066 - the effect of
11:51:48 33 the diary note is, "On duty, 08:00 hours. Received
11:51:56 34 statement, then updated Superintendent Wilson. Liaison
11:52:00 35 Petra personnel" and he waited for a response. He and
11:52:10 36 Waddell, that is Mr Iddles and Waddell decided to seek
11:52:14 37 further advice and they did so and they waited for a
11:52:16 38 response. This is what Mr Iddles is saying. Do you follow
11:52:24 39 that?---I do, yes.
11:52:26 40
11:52:26 41 And the response came back and the direction was that they
11:52:30 42 should take the statement and that that direction came from
11:52:34 43 you?---Right.
11:52:38 44
11:52:38 45 Would that, do you think that's a reasonable
11:52:46 46 likelihood?---I'm trying to recall. They spoke to
11:52:53 47 Mr Wilson - so they were seeking - - -

11:52:56 1
11:52:56 2 They were seeking instructions. They had concerns and so
11:53:00 3 they, they call home and they indicate that they need
11:53:05 4 instructions, they need to know whether or not to proceed
11:53:08 5 to take the statement because they've got concerns about
11:53:10 6 taking the statement?---So again, I'm sorry, so they were
11:53:14 7 talking to Mr Wilson about this or - - -
11:53:16 8
11:53:17 9 According to Mr Iddles they had concerns about having her
11:53:20 10 sign the statement and you understand Mr Iddles has said,
11:53:23 11 "I did not want her to sign the statement", that's what he
11:53:26 12 said publicly?---I understand publicly that's what he said,
11:53:30 13 yes.
11:53:30 14
11:53:31 15 What he is suggesting is that they telephoned Mr Wilson and
11:53:34 16 waited for a response?---Right.
11:53:36 17
11:53:36 18 And there is a note at least in Mr Waddell's diary that he
11:53:41 19 did call Mr Wilson. That's as much as it notes?---I don't,
11:53:46 20 I don't recall it and what I do recall when Mr Iddles made
11:53:51 21 those comments in the media, and I think he first made them
11:53:56 22 quite some time ago, I really didn't understand what he was
11:53:59 23 talking about.
11:53:59 24
11:53:59 25 All right. It may well be that you did speak to Mr Wilson
11:54:05 26 and said to Mr Wilson, "No, look they need to take the
11:54:08 27 statement"?---Well it may be, but I don't recall doing
11:54:11 28 that.
11:54:11 29
11:54:12 30 Okay. And you don't have a recollection of having a
11:54:16 31 discussion with Mr Wilson about Ms Gobbo in Bali?---No. As
11:54:21 32 I say, my recollection about that time was, I think about
11:54:27 33 concerns she had about her security arrangements or the
11:54:30 34 arrangements in Bali. I remember that.
11:54:32 35
11:54:32 36 One assumes you get that from Mr Wilson?---Well possibly.
11:54:37 37 I might have got it from Mr Hart, I might have got it from
11:54:40 38 Mr McRae.
11:54:41 39
11:54:42 40 Your expectation was that she would make a statement?---I
11:54:46 41 think I was being told things at this stage. As I say I
11:54:49 42 was out of the management of this.
11:54:51 43
11:54:51 44 Yes?---But obviously being kept updated to a degree, which
11:54:56 45 was appropriate because there was both the issue around
11:54:59 46 taking a statement but there was more the issue around
11:55:01 47 getting her into witness security.

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Right?---Which to be quite frank was my bigger concern at this point in time because I felt it was essential in order to guarantee her safety.

I assume if you took the view that her evidence may have been of significance in prosecuting Waters, then it would be important to get a statement from her?---It would be important to get a statement. Can I also suggest that occasionally staff officers speak on behalf of their boss without actually speaking to their boss, that's not unheard of. Mr Wilson had prior involvement in these matters, because he of course had been head of the Task Force. He may have taken it on himself to give those instructions.

They returned to Australia on the 29th and Mr Wilson, it seems Mr Wilson spoke to them. He spoke to Waddell and Iddles, according to his diary, regarding the statement at 9.20 in the morning, so very shortly after they arrived, and then at 10.40 Mr Wilson says he speaks to Mr Cornelius with respect to safety issues around Ms Gobbo and at 12.30 he says that he briefed you as well?---But that accords with my recollection about the briefings at that time being about safety issues.

Right?---So I do have a recollection of that.

You may also have been briefed about the statement?---Well I may have been, but I don't particularly recall that. I recall the safety issues, I don't recall the issues about the statement.

It would be surprising - - - ?---I go back to the comment I made earlier where Iddles made those public comments. I was mystified at the time as to what he was talking about, so it didn't ring a bell with me that that had previously been brought to my attention.

But you were aware that Iddles and Waddell had been over in Bali with a view to getting a statement from Ms Gobbo?---I think so, yes. I must have been because - well, I must have been because the feedback I got was around safety concerns.

You must have been briefed to the effect that she hadn't signed a statement, a statement hadn't been taken from her?---Probably, yes.

11:57:21 1
11:57:21 2 And a statement hadn't been completed and hadn't been
11:57:24 3 signed, so you would have been aware of that. Surely you
11:57:27 4 would have asked them about that process given she's over
11:57:30 5 there and two detectives have gone over to Bali for the
11:57:33 6 very purpose of getting a statement from her?---As I say my
11:57:36 7 primary recollection is around the safety issues, so that
11:57:40 8 was probably mentioned to me but I don't really have a, I
11:57:43 9 don't have a recollection of that.
11:57:45 10
11:57:46 11 Can I suggest there were a number of issues that arose
11:57:48 12 around this time, around Briars and Ms Gobbo. The first
11:57:52 13 one clearly you would say was protection and threat issues,
11:57:57 14 you accept that?---Yes.
11:57:57 15
11:57:57 16 There was another issue, and that was the SDU's concern
11:58:00 17 which they expressed previously with respect to Petra.
11:58:04 18 They were now expressing it with respect to Briars. That
11:58:07 19 was another issue that was emerging. Were you aware of
11:58:10 20 that?---Who were they expressing that view to about Briars?
11:58:13 21
11:58:13 22 I'll take you to that in due course?---Right.
11:58:16 23
11:58:16 24 But there was a growing concern again coming from the SDU.
11:58:19 25 Now do you say you were aware of that or not?---About
11:58:23 26 Briars?
11:58:24 27
11:58:24 28 About Briars and statement taking from Ms Gobbo?---Again
11:58:30 29 I'm trying to recall that time.
11:58:35 30
11:58:36 31 You don't recall?---I don't recall.
11:58:37 32
11:58:38 33 Another issue was Mr Waddell, the investigator, wanted to
11:58:43 34 get more information from the SDU to assist him in
11:58:50 35 determining what could go into the statement and whether
11:58:52 36 the statement would be of any use?---Right.
11:58:54 37
11:58:55 38 Do you recall that being an issue?---No, I don't.
11:58:57 39
11:58:57 40 Can we have a look at Mr Black's diary, VPL.2000.0001.4676.
11:59:12 41 Page 10. Again this is 29 May, the day they return. What
11:59:17 42 that sets out is a meeting between Detective Senior
11:59:20 43 Sergeant Iddles and Mr Black, [REDACTED] Black, who
11:59:25 44 was at that stage the controller, a controller at the SDU.
11:59:30 45 Now, obviously Ms Gobbo was no longer registered at this
11:59:36 46 stage and she had been moved out of the SDU, do you accept
11:59:39 47 that?---I do.

11:59:40 1
11:59:41 2 And what we see there is a set of dot points which were
11:59:45 3 raised in the meeting with Detective Senior Sergeant
11:59:49 4 Iddles, you'll see those?---I do.
11:59:50 5
11:59:51 6 Awareness that Command had decided to approach Ms Gobbo for
11:59:54 7 a statement. She's now a witness for Petra so she can now
11:59:57 8 be a witness for Briars. SDU replied the circumstances are
12:00:01 9 very different?---Sorry, what date is this, can you just
12:00:04 10 remind me?
12:00:06 11
12:00:06 12 The date of Mr Iddles' return he speaks to Mr Black at the
12:00:10 13 SDU?---Right.
12:00:11 14
12:00:11 15 The same date that you're briefed about, about matters
12:00:17 16 concerning the statement, but later on in the day, in fact
12:00:19 17 in the evening, do you see that, 5.30?---I do see that.
12:00:24 18
12:00:24 19 Right. And there are circumstances relevant to the Briars'
12:00:30 20 perspective, that she's, her statement is still being
12:00:34 21 requested. There's concern about her disclosure as a human
12:00:40 22 source. There's concern about dual responsibility about
12:00:43 23 giving legal advice to clients. Disclosure will initiate a
12:00:48 24 Royal Commission with perceived unsafe verdicts. And
12:00:54 25 current arrests that Ms Gobbo involved with may be subject
12:00:57 26 to review. And then there's a section SDU response.
12:01:03 27 Includes a number of things but the strategy for Ms Gobbo
12:01:07 28 to become a witness was strategic, this was in the case of
12:01:10 29 Petra, to separate two distinct roles from being a human
12:01:14 30 source to that of a Crown witness. And a process adopted
12:01:20 31 severed the individual's role from being a source to being
12:01:24 32 a witness. Were you aware of these issues at this time
12:01:33 33 that were being discussed?---No, I don't believe so. I say
12:01:36 34 again I wasn't part of the management group at that time, I
12:01:39 35 was out of it. My recollection is that my, to the extent I
12:01:44 36 was involved in any of this, it was mainly around security
12:01:49 37 and witness protection issues and getting her into the
12:01:51 38 witness security program.
12:01:52 39
12:01:53 40 All right?---And I wasn't dealing with that but I remember
12:01:55 41 being briefed about that.
12:01:56 42
12:01:57 43 You were being briefed about that, right?---Yep.
12:01:59 44
12:01:59 45 What appears to be the case is that the SDU maintains its
12:02:04 46 concerns and they progress their concerns up the chain of
12:02:08 47 Command?---I understand that.

12:02:09 1
12:02:10 2 Both with respect to the I&CS area and also insofar as the
12:02:17 3 crime area, so they're pursuing their concerns down two
12:02:20 4 paths?---I understand that.
12:02:21 5
12:02:21 6 You follow that?---Yep.
12:02:22 7
12:02:22 8 Then if we have a look at RCMPPI.0090.0001.0001 at p.698. I
12:02:39 9 just want to take you to this page. Do you know Inspector
12:02:53 10 Glow?---No.
12:02:53 11
12:02:55 12 You didn't know him?---I don't believe so, no.
12:02:57 13
12:02:58 14 All right. 698. Right. Now you see this is I think -
12:03:15 15 just go back to the previous page. This is 3 June, so
12:03:19 16 about four days later. Can we just highlight the bottom
12:03:26 17 there, please. "A call by DI Glow, will follow up from
12:03:34 18 Ms Gobbo. Requested OIC to schedule a meeting with
12:03:39 19 Command, at least with the CSR", Central Source Registrar,
20 "Superintendent Porter and include SDU to discuss issues
12:03:45 21 with DI Waddell", and the issues outlined are to follow and
12:03:52 22 you'll see these matters, "Briars has already been provided
12:03:57 23 with our ISYS hits on Ms Gobbo and Waters. Waters has
12:04:03 24 detailed his defence to Ms Gobbo which is detailed in IBR
12:04:09 25 but never disseminated", ICR it should be. "Gobbo appears
12:04:14 26 to be using an ICR as notes to refresh memory whilst making
12:04:20 27 a statement to Briars. Meeting with Waters was never
12:04:23 28 evidentiary. Perception that revisiting old CIB Drug Squad
12:04:26 29 experiences where they're trying to change [REDACTED]
12:04:29 30 purchase into an [REDACTED]", do you understand the
12:04:31 31 point that they're trying to make there?---Yeah, I do I
12:04:37 32 think, yes.
12:04:38 33
12:04:39 34 Then, "Undeclared material" - what do you understand that
12:04:44 35 to be, the concern there?---Well, an evidentiary purpose is
12:04:51 36 there'd need to be authorisation and there'd need to be
12:04:55 37 sort of appropriate continuity so you'd be able to prove,
12:04:58 38 prove it in court I think. I think that's what it's
12:05:01 39 talking about.
12:05:01 40
12:05:01 41 Effectively what they're saying is the information comes
12:05:07 42 through a human source, it's really intelligence, it's not
12:05:10 43 evidence, and what they're trying to do is turn this
12:05:13 44 intelligence into evidence. It may not be the best analogy
12:05:18 45 but I think you understand the point?---The difference
12:05:19 46 between intelligence and evidence is a fine line.
12:05:21 47

12:05:22 1 In any event there are concerns they express but what I
12:05:25 2 want to point out is, "Disclosure of individual's
12:05:28 3 assistance to Victoria Police as tasked source who's an
12:05:30 4 active barrister visiting clients, clients think they've
12:05:34 5 got privilege, clients who believe they're speaking with
12:05:38 6 their legal representative, that very person who then
12:05:41 7 passes the information to police". If we keep going to
12:05:44 8 points 7 and 8. Seven, "The human source then continues to
12:05:55 9 act for that client, and furthermore the human source
12:05:59 10 convinces the client to plead guilty", do you see that?---I
12:06:03 11 do.

12:06:03 12
12:06:03 13 That's the concern they're expressing?---I do.

12:06:06 14
12:06:06 15 About what might happen if Ms Gobbo is exposed as a human
12:06:10 16 source?---I see that.

12:06:11 17
12:06:11 18 And those very issues, as we obviously now know, were live
12:06:18 19 issues because of the conduct with respect to
12:06:21 20 [REDACTED]?---Yes.

12:06:21 21
12:06:22 22 And so forth?---Yes.

12:06:23 23
12:06:23 24 Right. Now, did that information filter through to
12:06:29 25 you?---No.

12:06:29 26
12:06:30 27 If we then move on you'll see - can we scroll down. Can I
12:06:45 28 suggest this to you: Mr Porter has a meeting on 9 June
12:06:55 29 with Mr Moloney and Superintendent Gerry Ryan and Mr Porter
12:07:01 30 says in his statement at paragraph 51 that he met with
12:07:04 31 Moloney and Ryan and discussed the issue of Ms Gobbo
12:07:08 32 becoming a witness, right. So we suggest - and further the
12:07:15 33 matter was then elevated to Mr Cornelius. Perhaps if we,
12:07:21 34 just to put you further in the picture, if we go to, back
12:07:24 35 to where we were before and go through to p.699 to 700.
12:07:36 36 Just follow this through. Scroll up. Other way. Sorry,
12:07:47 37 the other way. There we are, stop. You'll see at 15:00
12:07:54 38 there's a meeting with Mr Black, Porter, Glow - - -

12:08:00 39
12:08:01 40 MR HOLT: Can this not be made large, thank you. It has
12:08:04 41 names in it.

12:08:05 42
12:08:05 43 COMMISSIONER: Thank you.

12:08:06 44
12:08:09 45 MR WINNEKE: Smith, the SDU, HSMU, Waddell, Iddles, and it
12:08:15 46 includes reference to Purana, Witness F, that's her name in
12:08:19 47 Petra, "Warned re health, honesty, prior inconsistent

12:08:25 1 statements, reference to deployment against Dale as a
12:08:28 2 witness, Waters as a source", so the difference between the
12:08:31 3 two, "Reference Gobbo intelligence and being a tool to
12:08:35 4 arrest the Mokbel family, the involvement of [REDACTED] arrest
12:08:40 5 and then his [REDACTED] Reference to matters to escalate
12:08:43 6 to AC Moloney to ensure decision to have statement taken
12:08:50 7 made with all the facts", do you see that?---I do.
12:08:54 8
12:08:54 9 A similar process is occurring here with respect to Briars
12:08:58 10 as occurred with Petra?---Yes.
11
12:08:59 12 Do you follow that?---I do.
12:09:01 13
12:09:01 14 Apparently then the meeting does occur, or a meeting occurs
12:09:05 15 on 9 June 2009 and Mr Porter speaks to Moloney and
12:09:10 16 Superintendent Gerry Ryan as I suggest?---Right.
12:09:13 17
12:09:13 18 Do you recall being briefed about these sorts of issues,
12:09:19 19 points one to eight and the deployment, et cetera?---No.
12:09:22 20
12:09:22 21 Would you expect to have been informed about those matters
12:09:27 22 by your Assistant Commissioners?---I think if those matters
12:09:31 23 were reported to them they needed to be followed up.
12:09:34 24
12:09:35 25 Right. And would that include briefing you?---It may do,
12:09:39 26 it depends really on the circumstances.
12:09:41 27
12:09:41 28 What follow up would be required?---Well to establish
12:09:45 29 whether there's veracity to those issues.
12:09:48 30
12:09:48 31 And what would need to be done in order to do that?---That
12:09:51 32 would be a matter for them but I would imagine they would
12:09:54 33 need to go and talk to the relevant people and just
12:09:57 34 establish exactly what had gone on.
12:10:00 35
12:10:00 36 That would be a sensible thing to do, wouldn't it?---I'd
12:10:03 37 have thought so.
12:10:04 38
12:10:04 39 Can I suggest that's exactly the sort of thing that should
12:10:07 40 be done, those people should have been spoken to and they
12:10:12 41 should have been drilled about it, what are their concerns,
12:10:15 42 what are these points 1 to 8, why are you concerned about
12:10:18 43 it, do you agree with that?---I do, but - I do.
12:10:24 44
12:10:24 45 Do you agree that this is, albeit perhaps a little bit more
12:10:30 46 extreme, the very sort of concerns that you say you were
12:10:33 47 aware of with respect to Petra?---That's right, I did.

12:10:36 1
12:10:36 2 What did you do to drill into it and satisfy yourself these
12:10:40 3 concerns didn't exist?---I didn't know this, so I didn't
12:10:43 4 know this information.
12:10:43 5
12:10:44 6 No. What I'm suggesting is these sorts of concerns are not
12:10:47 7 entirely dissimilar to the sorts of concerns that you had,
12:10:51 8 you say you had, back in December, early January of
12:10:59 9 2009?---Well no, that I didn't have this specific
12:11:03 10 information, so when we ran through that SWOT analysis.
12:11:08 11
12:11:08 12 Yes?---I told you what my understanding of that SWOT
12:11:11 13 analysis was.
12:11:12 14
12:11:12 15 Yes?---It doesn't go to these matters.
12:11:14 16
12:11:14 17 Well it doesn't have the points 1 to 8 where it's spelt out
12:11:17 18 in black and white, does it?---No, it doesn't, no.
12:11:20 19
12:11:21 20 So you say the difference is, "Well, look, because it's
12:11:24 21 spelt out in black and white I would expect these people to
12:11:27 22 go back to the SDU and say, what is it you're talking about
12:11:30 23 because this is very concerning"?---Correct. But my
12:11:33 24 understanding, as I said previously, about the issues
12:11:35 25 around inquiries and so on and so forth, is about the
12:11:40 26 general proposition of a barrister being used as a human
12:11:44 27 source. I'd always understood the risks around that and I
12:11:48 28 understood that could well result in some sort of inquiry
12:11:51 29 and I was prepared to defend that, sorry.
12:11:54 30
12:11:55 31 What about, for example, reference to specific cases, such
12:11:58 32 as Mokbel cases?---But she'd been used those cases so
12:12:02 33 obviously. Look, you know, very senior barrister,
12:12:07 34 Mr Winneke, you understand the way these things work in
12:12:10 35 criminal trials, particularly around serious criminal
12:12:14 36 charges, every point is taken by the defence, every point,
12:12:17 37 every conceivable point is taken by the defence.
12:12:20 38
12:12:21 39 This would be a pretty good one, wouldn't it?---If there
12:12:23 40 was a basis to it, it would be, yes.
12:12:25 41
12:12:26 42 If there was even a basis for it you would want to
12:12:29 43 know?---Well if there was a basis for it you would.
12:12:31 44
12:12:31 45 You thought, well, this is just a hypothetical concern,
12:12:36 46 there's no basis for their suggestion or their concerns
12:12:39 47 that there might be - - - ?---I was never made aware of the

12:12:42 1 specifics that you are putting to me. Had I been made
12:12:46 2 aware of the specifics I would have done something about
12:12:48 3 it.
12:12:48 4
12:12:49 5 Even a reference to or a concern that there might be an OPI
12:12:52 6 inquiry into the conduct of the SDU wouldn't cause you to
12:12:56 7 go to the SDU and say, "What's your concern about
12:13:00 8 her"?---No.
12:13:00 9
12:13:00 10 No?---No.
12:13:01 11
12:13:02 12 All right?---Not put in those terms, no.
12:13:04 13
12:13:04 14 Not put in what terms?---Well in general terms, no.
12:13:07 15
12:13:08 16 What, there is a concern if this is exposed that there will
12:13:11 17 be an OPI inquiry?---And I at that time would have had
12:13:15 18 nothing to fear from, I believed I would have nothing to
12:13:18 19 fear from an OPI inquiry.
12:13:20 20
12:13:20 21 A judicial inquiry?---Nothing to fear from a judicial
12:13:22 22 inquiry.
12:13:22 23
12:13:24 24 Do you think you might want to just to be certain go and
12:13:25 25 say to them, "Look, what's this about? What's the
12:13:28 26 exposure"?---I believed these issues were being
12:13:31 27 appropriately managed at all times.
12:13:32 28
12:13:32 29 You made that assumption, did you?---Well I had reasonable
12:13:35 30 grounds to, I think I had a reasonable basis for believing
12:13:39 31 that they were. These were very senior and experienced
12:13:42 32 detectives, both in the SDU and running the investigations.
12:13:45 33
12:13:47 34 Now, ultimately I take it you were made aware that Ms Gobbo
12:14:06 35 did not sign a statement?---Well to put it colloquially, I
12:14:14 36 think the wheels fell off at some point, I'm aware that
12:14:18 37 happened, yes.
12:14:19 38
12:14:19 39 What was your understanding as to the reason for that?---I
12:14:21 40 think she became increasingly concerned about the prospect
12:14:25 41 of going into witness security, her frustration about the
12:14:27 42 process of getting her into witness security and she became
12:14:31 43 more and more difficult to manage and engage in that
12:14:34 44 process and a part of that process she then refused to sign
12:14:39 45 statements and I think withdrew, withdrew from the prospect
12:14:43 46 of being a witness.
12:14:44 47

12:14:46 1 How did you find that out, through discussions with - -
12:14:49 2 -?---I don't recall, but I'd have been made aware of that
12:14:52 3 possibly through Mr McRae, possibly through Mr Hart from a
12:14:58 4 witness security point of view, possibly through Mr Wilson
12:15:00 5 just as an update as a staff officer.
12:15:02 6
12:15:03 7 Did you ever have any discussions with Mr Moloney about - -
12:15:09 8 - ?---About this matter?
12:15:10 9
12:15:11 10 Yes?---Look I may have done, I may have spoken to
12:15:15 11 Mr Cornelius. I mean they were on the - - -
12:15:17 12
12:15:18 13 Did Mr Cornelius indicate to you that he'd heard any
12:15:21 14 concerns about - - - ?---No, I don't recall him doing that.
12:15:24 15
12:15:25 16 - - - the SDU or coming from the SDU?---I don't recall him
12:15:27 17 doing that, no.
12:15:28 18
12:15:28 19 If Mr Cornelius had been made aware of the sorts of issues
12:15:34 20 that the SDU were raising, you would expect to be told
12:15:38 21 about it I assume, would you?---I would assume he would
12:15:41 22 follow them up and if he felt it necessary he would tell
12:15:45 23 me.
12:15:45 24
12:15:45 25 If Mr Moloney had been made aware of the sorts of issues
12:15:50 26 that I've talked about, would you expect him to follow it
12:15:53 27 up?---Similarly I'd expect him to follow it up and if
12:15:56 28 necessary tell me about it.
12:15:57 29
12:15:58 30 And if necessary tell you about it?---(Witness nods.)
12:16:01 31
12:16:01 32 Your expectation is that he would go to the SDU and say,
12:16:04 33 "What's all this about"?---Not necessarily. I mean he
12:16:07 34 might go to whoever was in charge of the intel covert
12:16:11 35 support area at that time. I would expect him to follow it
12:16:14 36 up if he had a concern, but it would be a matter for him as
12:16:17 37 to how he did that.
12:16:19 38
12:16:19 39 Who were the Deputy Commissioners reporting to you at that
12:16:23 40 stage?---In June 2000 and - - -
12:16:27 41
12:16:27 42 2009?---At that stage it would have been Kieran Walsh and
12:16:33 43 Ken Lay.
12:16:34 44
12:16:34 45 And the Assistant Commissioners, were they reporting
12:16:40 46 through the Deputies or were they reporting direct to
12:16:45 47 you?---I did change the reporting lines, because I mean

12:16:55 1 previously I think Christine operated the system where she
12:16:59 2 had 25 or 26 people reporting directly to her. I found
12:17:03 3 that quite frankly to be unmanageable.
4
12:17:05 5 Yes?---And I did change the arrangements. I think I
12:17:08 6 formally changed them towards the end of 2009, I'm not sure
12:17:12 7 whether I was trying to unwind those processes. It wasn't
12:17:17 8 a simple thing to do because everyone likes to report to
12:17:20 9 the Chief Commissioner, and so the process of unwinding
12:17:23 10 that needed to be done sensitively. So I don't recall
12:17:26 11 exactly what the reporting arrangements were at that time.
12:17:28 12
12:17:29 13 At that stage there would have been no issue with Assistant
12:17:33 14 Commissioner Moloney reporting directly to you?---No, well
12:17:37 15 look, I didn't operate that way. I thought if one of my
12:17:40 16 Senior Command needed to speak to me they would pick up the
12:17:43 17 phone or they'd make an appointment.
12:17:46 18
12:17:47 19 The IC&S, Rod Journing I think was Acting Commander at that
12:17:48 20 stage, he had no issue in picking up the phone and speaking
12:17:52 21 to you?---I wouldn't have thought so, I knew Rod, I'd dealt
12:17:56 22 with him.
12:17:56 23
12:17:57 24 And likewise Luke Cornelius would equally have been able to
12:17:59 25 pick up the phone and call you if he had any
12:18:03 26 concerns?---Yes.
12:18:03 27
12:18:03 28 Did any of them ever pick up the phone as far as you can
12:18:08 29 recall and tell you about their concerns?---No.
12:18:09 30
12:18:12 31 You had dealings directly with Ms Gobbo, I think she
12:18:19 32 contacted you?---Well when you say directly I think she
12:18:22 33 wrote to me, yes. I want to be very clear about that.
12:18:26 34 I've never met or dealt directly with Ms Gobbo.
12:18:31 35
12:18:31 36 I wasn't going to suggest that?---No, but many people have.
12:18:34 37
12:18:35 38 I think she wrote to you on 7 September 2009?---Again I
12:18:39 39 don't recall the details but I know she did write.
12:18:44 40
12:18:44 41 Let's pop it up. VPL.0005.0012.3299. There were various
12:18:51 42 letters which were by way of, "We need to sort this issue
12:18:56 43 out" and they became more and more strident and ultimately
12:19:00 44 they led into litigation, I'm not going to go through them
12:19:02 45 all?---They did.
12:19:02 46
12:19:02 47 I think this is a letter that you had. That's your

12:19:07 1 handwriting on it, it seems?---No, it's not.
12:19:09 2
12:19:10 3 It's not?---No.
12:19:12 4
12:19:13 5 All right. In any event you will have seen the letter I
12:19:15 6 assume?---I assume so but, look, at that point - was that
12:19:22 7 the first letter?
12:19:23 8
12:19:23 9 Yes, the first letter?---Okay, then I assume I did see it,
12:19:26 10 yeah.
12:19:26 11
12:19:26 12 If we just scroll through to paragraph 11. There we are.
12:19:34 13 She's referring to, "Previous unprecedented assistance
12:19:40 14 between 2005 and 2009 which I provided to Vic Police
12:19:45 15 voluntarily absent any inducement or reward, including but
12:19:48 16 not limited to the successful prosecution of numerous
12:19:51 17 significant organised crime figures", do you see
12:19:54 18 that?---Yes.
12:19:54 19
12:19:54 20 And if we go through to paragraphs 33 to 4. She's talking
12:20:00 21 about wanting protection of legislation to claim public
12:20:08 22 interest immunity as she doesn't want to be left in a
12:20:10 23 position where VicPol claim PII over a huge amount of
12:20:15 24 material relating to and involving herself. Do you see
12:20:17 25 that? Perhaps if we can just highlight 33 and 34. The
12:20:25 26 particular legislation she's referring to may mean that she
12:20:31 27 doesn't need to claim PII because it's a witness protection
12:20:36 28 legislation?---Well, yes. I don't know that's an absolute
12:20:39 29 protection but anyway.
12:20:41 30
12:20:41 31 What she's saying is she believes she's covered by the Act,
32 she'll be protected and not need to claim PII which would
12:20:45 33 be a confirmation of her role as an informer, do you see
12:20:49 34 that?---Yeah, I do see that. I'm not sure that's right,
12:20:52 35 but anyway.
12:20:53 36
12:20:53 37 At that stage at least it's her expectation that her role
12:20:57 38 as an informer would need to be protected?---Well as with
12:21:02 39 any informer we would do our best to protect her role.
12:21:06 40
12:21:06 41 Yes?---But, you know, as I've said repeatedly, I was very
12:21:11 42 cognisant of the fact that particularly the length of time
12:21:15 43 she'd been involved, the number of cases she'd been
12:21:18 44 involved, I thought it was inevitable that her role would
12:21:21 45 be discovered if it hadn't already been discovered by that
12:21:24 46 time.
12:21:24 47

12:21:24 1 Clearly enough you would have understood in reading that
12:21:28 2 communication that by this stage it hadn't come out?---Well
12:21:31 3 I'm not sure I agree with that, I think some people had
12:21:35 4 worked it out. I think there's evidence we've talked about
12:21:38 5 previously where some people had worked out that she was
12:21:42 6 informing.

12:21:42 7
12:21:42 8 Mr Williams for one?---Correct.

12:21:45 9
12:21:45 10 But not the people VicPol were prosecuting, for example,
12:21:50 11 Paul Dale at this stage?---Paul Dale maybe not, but I
12:21:55 12 always thought it likely that the Mokbel syndicate would
12:21:58 13 work out she'd been an informer because of her role there.
12:21:59 14 So I understood it would come out. So I guess I note what
12:22:01 15 she was saying but to a certain extent these are all
12:22:04 16 matters that would have to be dealt with through any
12:22:07 17 prosecution process.

12:22:08 18
12:22:08 19 You understand what she's concerned about is not the fact,
12:22:11 20 well she may be concerned about the fact that she'd been
12:22:14 21 involved in acting for [REDACTED] 1 and so
12:22:21 22 forth, and that may well have been what the people out in
12:22:25 23 [REDACTED] Prison were aware of, but there was another issue
12:22:28 24 which hadn't come to light and that was her role as a
12:22:31 25 registered human source from 2005 through to 2009?---That's
12:22:37 26 what I'm suggesting. I understood that people would work
12:22:40 27 that out but I was less concerned about that from a
12:22:43 28 security point of view if we actually had her in witness
12:22:46 29 security because she would be, and my view at that time was
12:22:50 30 the only way we could seriously protect her was to have her
12:22:53 31 in witness security. I thought leaving her at large or
12:22:56 32 leaving her as a source was highly likely to finish up with
12:23:00 33 her being killed.

12:23:00 34
12:23:02 35 I mean you know that the prosecution of Dale went to
12:23:05 36 committal and at that stage there hadn't been any
12:23:08 37 disclosure, were you aware of that?---No, I'm not aware of
12:23:11 38 that.

12:23:11 39
12:23:12 40 You're not?---No.

12:23:12 41
12:23:14 42 What, even today you hadn't been aware that there was
12:23:17 43 issues with respect to disclosure to - - - ?---I don't, I
12:23:22 44 haven't followed any of these matters, I don't know what
12:23:24 45 was disclosed, what wasn't disclosed.

12:23:26 46
12:23:27 47 All right. Now, can I just briefly ask you this, it seems

12:23:36 1 that in September 2009 Mr Pope returned to Victoria Police,
12:23:42 2 Jeff Pope?---I take your word for it if it's that time
12:23:46 3 frame, yes.
12:23:46 4
12:23:46 5 You sat on a panel which reviewed his application, didn't
12:23:50 6 you, you and Deputy Commissioner Jones?---I'm sure I did,
12:23:54 7 yeah.
12:23:55 8
12:23:55 9 And he was brought in to deal with issues, including
12:24:01 10 matters concerning Ms Gobbo, management of human sources,
12:24:06 11 at least?---He was brought into I think head the
12:24:11 12 intelligence area of the organisation, which at that time
12:24:14 13 included the SDU.
12:24:15 14
12:24:16 15 At that stage there was a brewing issue with respect to
12:24:18 16 Ms Gobbo, well brewed already by that stage?---Well in
12:24:22 17 relation to her use as a witness and entry into witness
12:24:25 18 security, yes.
12:24:26 19
12:24:26 20 And her history as a human source?---And her history as a
12:24:31 21 human source. At that stage my focus was more on the
12:24:35 22 security aspects and on her use as a witness.
12:24:38 23
12:24:39 24 When do you first recall, or do you recall ever hearing
12:24:42 25 from Mr Pope that he had previously registered or accepted
12:24:48 26 information from Ms Gobbo as a human source?---I never knew
12:24:50 27 that.
12:24:51 28
12:24:52 29 Do you say that at no stage subsequent to September of 2009
12:24:57 30 did Mr Pope say to you in conversation, "Look, I should say
12:25:02 31 I have accepted information from Ms Gobbo as a human
12:25:08 32 source"?---I was never told that information.
12:25:10 33
12:25:10 34 He said in his evidence before this Commission that he did
12:25:15 35 in conversation declare to you that he did have a previous
12:25:19 36 - - - ?---He told me I think that he had dealt with her in
12:25:22 37 the past.
12:25:22 38
12:25:22 39 Right?---When he was in the Fraud Squad.
12:25:25 40
12:25:25 41 Right. He told you that, did he?---Yes.
12:25:28 42
12:25:29 43 When did he tell you that?---I thought he told me that when
12:25:32 44 he - he was my - look, my recollection is he was my staff
12:25:44 45 officer when I was AC Crime. I thought he told me at that
12:25:48 46 time he dealt with her as a witness.
12:25:49 47

12:25:50 1 As a witness or as an informer?---No, as a witness around
12:25:54 2 some proceeds of crime - proceeds matters, I think.
12:25:56 3
12:25:59 4 I'm talking about the time that he came back to Victoria
12:26:02 5 Police?---Never. No, he never told me that.
12:26:05 6
12:26:05 7 He was aware that when he was coming back that there were
12:26:07 8 going to be matters concerning Ms Gobbo and he had
12:26:09 9 discussions with a number of people, including yourself,
12:26:12 10 about the fact that he had a relationship, in a policing
12:26:20 11 sense, with Ms Gobbo?---I remember him telling me that he
12:26:25 12 had dealt with her in the past, I do remember that. I do
12:26:28 13 not believe and I do not recall him telling me that she was
12:26:32 14 a human source. I'm pretty clear about that. I mean as I
12:26:36 15 understand it that fact really only became known at the
12:26:39 16 start of this Royal Commission. And I must admit I was
12:26:43 17 surprised by that information so I don't believe I was ever
12:26:46 18 told.
12:26:46 19
12:26:46 20 You would say Mr Pope didn't tell you that?---I would say
12:26:50 21 that.
12:26:50 22
12:26:51 23 Ms Gobbo wrote another letter, I think the second letter
12:26:54 24 she wrote to you on 28 September. And - - - ?---Again I
12:27:02 25 don't recall. I just recall there was some correspondence.
12:27:05 26 I think at this time most of it was just being referred on
12:27:09 27 to Finn McCrae to deal with.
12:27:11 28
12:27:11 29 I follow that. Can I ask you about another letter, I think
12:27:15 30 it's a third letter which was sent to you on 21 January
12:27:17 31 2010?---Right.
12:27:19 32
12:27:20 33 And this is VPL.0002.0001.1595. If we can just have a look
12:27:28 34 at paragraphs 7 and 8. One assumes if you were, if she
12:27:37 35 sends you the letters you may well pass it on to Finn
12:27:42 36 McCrae but one assumes you did read it?---I'm not sure I
12:27:44 37 did at that stage. I think that I was just really
12:27:48 38 referring them on to Finn because Finn was managing these
12:27:52 39 issues and, you know, I was Chief Commissioner and whilst I
12:27:55 40 thought I'd been busy as an Assistant Commissioner and
12:28:00 41 Deputy Commissioner this was a whole new level of
12:28:04 42 busy-ness.
12:28:05 43
12:28:06 44 In any event we'll just have a look at it. What she says
12:28:06 45 is, "as a former Deputy Commissioner for Crime I'm sure
12:28:06 46 that I need not remind you of the difficulties that
12:28:09 47 Victoria Police will encounter if some or any of my past

12:28:12 1 assistance is disclosed in the course of the prosecution of
12:28:14 2 Dale. As matters currently stand such disclosure will
12:28:18 3 appear to be inevitable. Leaving aside the impact such
12:28:21 4 disclosure will have on my personally, the difficulties
12:28:25 5 Victoria Police will encounter will extend well beyond the
12:28:27 6 obvious embarrassment and damage that will be done to the
12:28:32 7 Dale prosecution. I have for many months now repeatedly
12:28:34 8 stated that the best way to avoid jeopardising the Dale
12:28:37 9 prosecution is to ensure that evidentiary protections
12:28:40 10 afforded under the Witness Protection Act be granted to
12:28:44 11 me", and she's alarmed about it, Dale is anticipated to
12:28:49 12 serve subpoenas on Monday, 25 January 2010 and VicPol still
12:28:54 13 to determine the issue with respect to Witsec, do you see
12:28:58 14 that?---I do.
12:28:58 15
12:28:58 16 You say that you may not have read that?---No, but having
12:29:02 17 read it now, I mean I think there's a general reference - I
12:29:05 18 would take that as a general reference to the sorts of
12:29:07 19 concerns I've expressed in the past about the mere fact
12:29:12 20 that as a barrister she had been informing. And clearly
12:29:14 21 it's related to, you know, her frustration about the
12:29:18 22 difficulties of entering the Witness Protection Program and
12:29:21 23 I would have referred this on to Jim Hart and/or Finn
12:29:25 24 McCrae to have them sort it out.
12:29:27 25
12:29:27 26 Would you have at least been concerned about the other
12:29:29 27 matters that she's referring to, what might that mean?---I
12:29:32 28 don't - look, at this stage I would have been saying,
12:29:38 29 "Finn, Jim, here it is, you need to sort this out".
12:29:41 30
12:29:42 31 Are you still blissfully unaware of the potential problems
12:29:47 32 - - -?---I'm unaware of any of the specifics that you've
12:29:51 33 put to me over the last four or five days.
12:29:54 34
12:29:54 35 And you weren't aware and you didn't ask what the issues
12:29:57 36 might be if disclosure was made?---No, I thought I
12:30:00 37 understood what the issues were.
12:30:01 38
12:30:02 39 You would expect, one assumes, your director of legal
12:30:06 40 services to ask or inquire as to those issues?---I would,
12:30:12 41 Finn I found to be a very diligent and capable director of
12:30:16 42 legal services. I would expect he was well capable of
12:30:19 43 dealing with these issues.
12:30:20 44
12:30:21 45 If he did have a concern about what other matters beyond
12:30:27 46 the Dale prosecution might be affected, what would he
12:30:33 47 do?---Look, I think you'd need to ask him about that but,

12:30:39 1 you know, I found Finn to be a very competent legal
12:30:47 2 advisor.
12:30:47 3
12:30:47 4 The fact that she's a lawyer, she is in effect warning you
12:30:52 5 that there may be other issues?---Well, we were also - you
12:30:58 6 know, it is a bit of a lawyer's letter. I understood it
12:31:01 7 was part of a process of negotiation and she was, you know,
12:31:04 8 trying to get terms that were acceptable to her to allow
12:31:07 9 her to go into witness security.
12:31:09 10
12:31:11 11 Are you suggesting you would have just regarded that as
12:31:14 12 sort of background?---Look, I'd have read it, if I did read
12:31:17 13 it, with that in mind but my main recollection by this time
12:31:21 14 in particular is I was just referring these things through
12:31:23 15 to Finn and/or Jim to deal with.
12:31:26 16
12:31:27 17 But you were seen to be a litigant in proceedings, would
12:31:30 18 you not have been interested to know what she was talking
12:31:32 19 about and what this was all about?---No, because I didn't
12:31:36 20 believe I had anything to worry about. I just believed
12:31:39 21 that Finn and Jim were appropriately equipped to deal with
12:31:43 22 this, that we needed to get her into the Witness Protection
12:31:48 23 Program and have her give evidence.
12:31:49 24
12:31:51 25 There was a committal proceeding in March of 2010, Dale and
12:31:56 26 Collins were charged with the murders of Terrence and
12:32:00 27 Christine Hodson?---Yes.
12:32:01 28
12:32:02 29 A significant matter?---Very significant.
12:32:03 30
12:32:03 31 You would have been getting updates about that
12:32:06 32 surely?---No.
12:32:06 33
12:32:06 34 No, not at all?---No.
12:32:08 35
12:32:08 36 You wouldn't have been speaking to anyone about, who had an
12:32:12 37 involvement in that matter?---Not at that time.
12:32:14 38
12:32:15 39 Were you looking at the news?---No, I wasn't looking at the
12:32:18 40 news, I wasn't reading - I had even less time to look and
12:32:21 41 read the news as Chief Commissioner.
12:32:22 42
12:32:22 43 Were you told there were any issues about disclosure at
12:32:26 44 that stage in relation to Dale?---No.
12:32:27 45
12:32:29 46 All right. Look, you were interested enough in September
12:32:40 47 the previous year to find out what the situation was with

12:32:43 1 respect to Mr Dale's bail conditions?---Was I?
12:32:47 2
12:32:47 3 Can we have a look at this document, VPL.0100.0237.1790.
12:33:03 4 10 September 2009, if we could go there. What I suggest to
12:33:06 5 you is there's - all right. Can I suggest to you that
12:33:15 6 notes reveal that you got a briefing about Mr Dale's bail
12:33:19 7 application?---From whom?
12:33:21 8
12:33:24 9 We'll find out. I'll move on. Do you accept that there is
12:33:35 10 an obligation on the part of the Chief Commissioner to
12:33:40 11 report to either the OPI or to Government about operational
12:33:45 12 risks faced by Victoria Police?---On operational matters?
12:33:51 13
12:33:51 14 Sorry, organisational matters?---Well it depends on the
12:33:55 15 nature of the risk and it depends on the circumstances as
12:33:58 16 to who and where you should report. I do make the
12:34:04 17 observation at that time there were a number of oversight
12:34:08 18 bodies who had interests in Victoria Police, so it could
12:34:11 19 depend very much on what the issue was as to where you
12:34:14 20 needed to go and happily when things went wrong I had a
12:34:19 21 number of them lined up at my door wanting to help.
12:34:22 22
12:34:22 23 Right. I take what you're saying to the Commissioner is at
12:34:26 24 no stage in your role as either Assistant Commissioner,
12:34:29 25 Deputy Commissioner or Chief Commissioner did you think it
12:34:31 26 necessary or appropriate to notify the OPI about any
12:34:36 27 concerns around the use of Ms Gobbo as a human
12:34:39 28 source?---No.
12:34:40 29
12:34:42 30 Did you understand what the trigger was to make such a
12:34:47 31 report?---Yes.
12:34:48 32
12:34:48 33 What was it?---Well it depended on the circumstances but I
12:34:52 34 made a number of reports to oversight bodies during my time
12:34:55 35 at Victoria Police.
12:34:56 36
12:34:56 37 Are you able to explain in brief compass why it would be
12:35:00 38 that you would make such a report?---Well, if you are aware
12:35:05 39 of illegal conduct that's something that would be reported
12:35:09 40 to the OPI.
12:35:09 41
12:35:10 42 Illegal conduct?---Well, illegal conduct. There was a -
12:35:16 43 the reason I'm just trying to think is there was the
12:35:18 44 Ethical Standards Department so they would often deal with
12:35:20 45 these - they could deal with these sorts of issues.
46
12:35:22 47 Yes?---I think there was a statutory obligation that if it

12:35:25 1 was a commissioned officer, if it related to a commissioned
12:35:29 2 officer it had to be reported to the OPI.
12:35:31 3
12:35:31 4 Illegal conduct or otherwise disreputable or improper
12:35:35 5 conduct?---I think probably that broad gamut, so any
12:35:41 6 allegation of impropriety on the part of a commissioned
12:35:44 7 officer had to be reported. I'm going off memory here. So
12:35:46 8 look, there were some statutory provisions to it but at the
12:35:50 9 end of the day there's also some judgment issues around
12:35:53 10 what got reported.
12:35:54 11
12:35:54 12 All right. In any event what you say is as far as this
12:35:55 13 matter is concerned - - - ?---That was never triggered for
12:35:58 14 me.
12:35:58 15
12:36:04 16 Now, could we move on. 29 April 2010 there was civil
12:36:11 17 litigation commenced by Ms Gobbo against you, the former
12:36:15 18 Chief Commissioner and State of Victoria?---Yes, I remember
12:36:18 19 that.
12:36:18 20
12:36:19 21 Did you read out - did you read the statement of claim?
12:36:32 22 You were a defendant?---Yeah, I was but I'm not sure I did
12:36:36 23 because I was a party to that.
12:36:38 24
12:36:39 25 Sorry?---I was a named party.
12:36:40 26
12:36:40 27 Yes?---So my reference is I pretty much delegated the
12:36:44 28 handling of that to Mr McRae.
12:36:46 29
12:36:46 30 But you were personally named as a defendant in the
12:36:48 31 proceeding?---Correct.
12:36:49 32
12:36:49 33 Did you not think to read the document?---I don't think I
12:36:53 34 did.
12:36:53 35
12:36:58 36 Did you have any discussion with anyone about the document
12:37:00 37 whereby you were, where it was explained to you what was
12:37:05 38 being alleged against you?---I'm sure I got briefed on it
12:37:10 39 but as I was a named party and had been involved it I
12:37:15 40 pretty I much delegated the whole thing to - and it was a
12:37:18 41 suit, a lawsuit, I sent it through to Mr McRae to deal
12:37:23 42 with.
12:37:23 43
12:37:32 44 We can scroll through it but I don't think we need to.
12:37:35 45 Have you ever seen the statement of claim?---I probably - I
12:37:39 46 may have seen it but I don't, I don't particularly recall.
12:37:42 47

12:37:43 1 I take it you would have been aware that within the
12:37:46 2 statement of claim there was no allegation or factual
12:37:50 3 assertion that she had been involved as a human source from
12:37:55 4 about 2005 through to 2009?---Um - - -
12:38:04 5
12:38:04 6 Were you aware that - - ?---Yeah, I think so.
12:38:06 7
12:38:07 8 - - - were you aware the statement of claim or her claim
12:38:09 9 included in effect outing herself as a human source?---Well
12:38:14 10 I recall that being the concern, that it would lead to that
12:38:19 11 outcome. I don't specifically recall whether it was in the
12:38:21 12 statement of claim or not, but I recall very definitely
12:38:25 13 that was a concern.
12:38:26 14
12:38:26 15 Yes. And I take it you had some briefings with Mr McRae
12:38:31 16 and I think Mr Peter Lardner and Ken Jones, do you recall
12:38:36 17 having meetings about it?---I do recall, I do recall being
12:38:40 18 periodically briefed about it, yes.
12:38:42 19
12:38:43 20 We've got a note of Mr Lardner's VPL.0005.0195.0964. I
12:38:58 21 take it you wanted to defend the case?---Well, I wanted to
12:39:04 22 get advice on it so I was conscious that I had, I was a
12:39:09 23 named party and obviously had involvement in this matter,
12:39:13 24 so I referred it through to Finn to manage and whilst he
12:39:18 25 briefed me I really left it up to him to work out when he
12:39:22 26 needed to talk to me and not. I thought it important to be
12:39:28 27 as arm's length from it as I possibly could.
12:39:30 28
12:39:31 29 I follow that. We see here that there was an overview of
12:39:34 30 issues provided. There was a note, "Don't do a Finn
12:39:38 31 defence. Sir Ken to be provided with all suppression
12:39:42 32 orders", et cetera. Do you have any recollection of this
12:39:46 33 business about the Finn defence?---No, I don't. I don't
12:39:50 34 know what it means.
12:39:51 35
12:39:52 36 "Doug Fryer has approval by the Chief Commissioner of
12:39:56 37 Police to" - - - ?---"Be across" is it? "Be across
12:40:02 38 databases", yep.
12:40:02 39
12:40:03 40 "Databases of all operations"?---Yes.
12:40:04 41
12:40:05 42 "And lastly, witness statement re Mokbel? Sir Ken will
12:40:10 43 follow up to get back to me." Do you recall any discussion
12:40:14 44 about witness statements re Mokbel and what that might
12:40:17 45 relate to?---This is in June of 2010.
12:40:25 46
12:40:25 47 Yes, 3 June 2010?---Sorry, I'm just trying - no, I don't,

12:40:31 1 sorry.
12:40:32 2
12:40:33 3 You don't know what that might be about, "Witness
12:40:35 4 statements re Mokbel"?---No, I don't. I don't.
12:40:38 5
12:40:43 6 Do you recall that there was a whiteboard utilised for the
12:40:54 7 purposes of going through the issues raised in the
12:40:57 8 statement of claim? Mr McRae had a whiteboard, there were
12:41:02 9 a lot of things being written on the whiteboard?---Look,
12:41:05 10 there's some information that's been brought to my
12:41:07 11 attention in the last week or so. I think I recall that.
12:41:10 12 If you'd asked me about it before I probably would have
12:41:15 13 struggled but I'm pretty sure that happened.
12:41:17 14
12:41:19 15 Let's have a look at this document, VPL.0005.0195.0953,
12:41:25 16 p.14. We understand that there was a whiteboard. It was
12:41:34 17 possible to print off what was on the whiteboard and this
12:41:38 18 is the print off of what was - - - ?---So my recollection,
12:41:40 19 if I'm right, I think this happened in Mr McRae's office
12:41:44 20 because he was sensitive about who saw the information but
12:41:47 21 he wanted to use the whiteboard. So I think that's, I
12:41:51 22 think that's what that relates to.
12:41:53 23
12:41:53 24 It seems that there's discussions about the causes of
12:41:55 25 action on the left-hand side?---Yes.
12:41:57 26
12:41:59 27 "Contract estoppel, fiduciary duty", et cetera?---Yes.
12:42:04 28
12:42:04 29 Then if we can focus and perhaps highlight the middle
12:42:09 30 matter, the middle box. There's a reference to issues and
12:42:12 31 there's damages, pre-existing injury, et cetera?---Yep.
12:42:18 32
12:42:18 33 And there's a reference to the stroke in 2004, aggravation,
12:42:23 34 alleged conduct, commenced on the 5th of the 3rd 08 and
12:42:27 35 then not included, do you see that?---Yes.
12:42:30 36
12:42:30 37 So it seems that someone has raised the issue that certain
12:42:36 38 matters were not included in the statement of claim, one of
12:42:38 39 which was human source registered?---Yep.
12:42:41 40
12:42:41 41 Do you see that, 2005 to 2008?---Yep.
12:42:46 42
12:42:49 43 So do you recall who it was who raised in the meeting the
12:42:52 44 fact that what had not been included in the claim was that
12:42:57 45 she was a human source and registered between 2005,
12:43:01 46 2008?---I think it must be Mr McRae, it's his writing. I
12:43:06 47 think it's his writing.

12:43:07 1
12:43:08 2 One assumed that there was a discussion going on?---No, my
12:43:12 3 recollection is it was a briefing, Finn was walking us
12:43:16 4 through a briefing that he was conducting.
12:43:18 5
12:43:18 6 So do you say that when you came into the room this was
12:43:22 7 already there up on the whiteboard or not?---No, I think he
12:43:24 8 was sort of doing it as we went.
12:43:26 9
12:43:28 10 Right. And so when you come in there the whiteboard is
12:43:31 11 clean and as he's going through the statement of claim he's
12:43:36 12 up there writing the stuff up?---Actually, no, I don't know
12:43:38 13 that it was clean. I think there was some stuff up there.
14
12:43:38 15 Something was there?---Yeah, something was there.
12:43:41 16
12:43:41 17 On the left-hand side perhaps, cause of action?---I don't
12:43:44 18 Now recall that detail.
12:43:45 19
12:43:45 20 Let's assume what he did know at that stage was he had the
12:43:49 21 statement of claim, so what's recorded on the left-hand
12:43:52 22 side would be the cause of action and would it be correct
12:43:54 23 to say that that information was already there?---Look, my
12:43:59 24 recollection is that it was Finn doing the briefing.
25
12:44:03 26 Right?---He had all the information because it was the
12:44:05 27 process of, I think leading towards trying to settle the
12:44:11 28 matter and so he was just walking through the issues as he
12:44:14 29 saw them.
12:44:14 30
12:44:15 31 Mr McRae will say in due course as we understand it he
12:44:18 32 didn't know that Ms Gobbo was registered from 2005?---Okay.
12:44:21 33
12:44:21 34 To 2008?---Right.
12:44:23 35
12:44:24 36 Is it conceivable that you might have mentioned - - - ?---I
12:44:28 37 might have, as I say, I clearly I don't recall doing that.
12:44:32 38
12:44:32 39 You were certainly aware of it?---I was aware of it, yes.
12:44:35 40
12:44:35 41 It may well be that - well did you consider that it might
12:44:39 42 have been relevant to her statement of claim?---Well it
12:44:46 43 wasn't in a statement of claim but obviously it was a
12:44:49 44 relevant factor to how we dealt with the statement of
12:44:52 45 claim.
12:44:52 46
12:44:53 47 In what way would it be relevant?---Well around trying to

12:44:57 1 ensure that these legal proceedings didn't inadvertently
12:45:02 2 disclose the fact that she was a human source.
12:45:03 3
12:45:04 4 Might it also be relevant, for example, insofar as she was
12:45:07 5 making claims for significant amounts of money and her
12:45:11 6 capacity to earn significant amounts of money in the
12:45:15 7 future, might it be relevant, for example, to say, "Look,
12:45:18 8 this person had been acting as a police agent at the same
12:45:23 9 time as representing people, she really doesn't have a
12:45:27 10 future as a barrister"?---Well she didn't have a future by
12:45:30 11 virtue of going into the witness security program.
12:45:33 12
12:45:33 13 But in any event before going into the witness security
12:45:37 14 program wouldn't it be possible to argue, "How can she
12:45:39 15 continue to act as a barrister when she's been doing this
12:45:43 16 sort of stuff"?---Well, yes, that would be an issue if it
12:45:46 17 were to come out. But as I say this was about the matters
12:45:50 18 around the witness security program.
12:45:52 19
12:45:53 20 It might have been a good defence, mightn't it?---What's
12:45:56 21 that?
12:45:56 22
12:45:56 23 How could a person who undertakes to the court to comply
12:46:01 24 with various duties and so forth, how could that sort of
12:46:07 25 person claim to be entitled to earn and work into the
12:46:10 26 future as a barrister - - - ?---I see.
12:46:13 27
12:46:15 28 - - - and be a judge if they've got this sort of history
12:46:18 29 behind them?---Well, it might have been, might have been a
12:46:21 30 defence. I'm not sure it's one we would have wanted to
12:46:24 31 use.
12:46:24 32
12:46:24 33 Why not?---Because it would mean disclosing her role as a
12:46:28 34 human source.
12:46:28 35
12:46:28 36 You say it was inevitable because there was the prosecution
12:46:32 37 of Paul Dale coming up it would have come out
12:46:36 38 anyway?---That's right.
12:46:36 39
12:46:37 40 Why wouldn't you have run that as a defence?---Because I
12:46:39 41 think that would be unethical.
12:46:40 42
12:46:41 43 Why?---We're using the fact that she had worked as a human
12:46:45 44 source against her in civil proceedings?
12:46:47 45
12:46:47 46 What you're saying in due course is that, "We're going to
12:46:50 47 have to disclose all of this to Paul Dale because we're

12:46:54 1 going to prosecute him and we're going to bring these
12:46:57 2 proceedings, it's going to come out". It's all happening
12:47:00 3 about the same time?---Look, I'm not sure it's consistent
12:47:02 4 with model litigant principles but you'd really need to go
12:47:07 5 and talk to Mr McRae or others about that.
12:47:09 6
12:47:12 7 Well what do you say the relevance of this was for the
12:47:15 8 purposes of this discussion?---Clearly I thought, if it was
12:47:19 9 me, I thought Finn needed to know it.
12:47:21 10
12:47:22 11 Was there an issue about legal professional privilege and
12:47:24 12 discovery? Do you see that under - do you see that "risk"
12:47:33 13 immediately under 2005 to 2008?---Yes.
12:47:36 14
12:47:36 15 There's the word "risk", or it seems to be "risk". What
12:47:41 16 did you understand that risk to mean in that discussion.
12:47:47 17 There are three risks, discovery, LPP, legal professional
12:47:51 18 privilege, and safety. Do you see that?---I do.
12:47:54 19
12:47:54 20 What did you understand the question of discovery to
12:48:02 21 mean?---Probably her discovery as a role as a human source.
12:48:06 22
12:48:06 23 And legal professional privilege, what was that
12:48:16 24 about?---Look, I'm now trying to interpret these notes of a
12:48:19 25 conversation that happened some time ago and I haven't seen
12:48:22 26 these notes for some time.
12:48:25 27
12:48:25 28 I understand that?---So, well again it may be back to the
12:48:33 29 general issue around legal professional privilege, whether
12:48:35 30 it was breached in the process or in the course of her
12:48:38 31 being a human source.
12:48:39 32
12:48:39 33 And you would have been quite satisfied on the basis of
12:48:42 34 everything that you knew and your assumptions that - -
12:48:46 35 -?---I was.
12:48:46 36
12:48:47 37 - - - that wouldn't have occurred?---I was.
12:48:49 38
12:48:49 39 Did you make any effort at this stage to find out whether
12:48:55 40 those issues were live issues?---No.
12:48:57 41
12:48:59 42 Mitigation, it seems to say, defence refers only to Petra
12:49:08 43 and pending. Sorry, pleading. Do you recall what that was
12:49:14 44 about?---No, I don't, sorry.
12:49:16 45
12:49:17 46 All right, okay. Options, defence to include - so there
12:49:29 47 seems to be some consideration as to whether the defence,

12:49:33 1 it could be, whether that matter could be raised but then
12:49:36 2 suppressed in the proceeding, would that be something that
12:49:39 3 was being considered?---I don't, I don't recall whether
12:49:43 4 that was or wasn't.
12:49:45 5
12:49:46 6 If that's the case - if that's what's recorded do you think
12:49:51 7 that that was what was being discussed?---Possibly, but
12:49:57 8 look, I think really you'd have to ask Mr McRae about this.
12:50:01 9
12:50:01 10 But you were there?---I know, but I don't recall much about
12:50:04 11 it other than, you know, I've become recently aware of the
12:50:09 12 fact that such a briefing took place. My understanding now
12:50:13 13 is that it was part of the process of leading to settlement
12:50:16 14 of the claim.
12:50:17 15
12:50:17 16 All right, yep?---So, you know, I'm doing my best.
12:50:20 17
12:50:21 18 Now the last thing appears to be witness - before I move to
12:50:25 19 there, public interest immunity and suppression issues, do
12:50:29 20 you see that?---Yeah, I do.
12:50:30 21
12:50:30 22 So was there, do you think there might have been a
12:50:33 23 discussion about public interest immunity?---I'm sure there
12:50:35 24 would have been because I think there were potential public
12:50:37 25 interest immunity issues in relation to this claim.
12:50:39 26
12:50:40 27 Now finally witness management standards, that seems to be
12:50:43 28 recorded there. And underneath, "OPI review, Witsec, other
12:50:50 29 witnesses, human sources". What do you recall those
12:50:53 30 matters were about?---Look I think there'd been a lot of
12:50:59 31 focus on witness security as an issue for quite a number of
12:51:02 32 years. I think there'd been various inquiries by
12:51:06 33 Ombudsman. I think the OPI might have had some statutory
12:51:10 34 role in relation to it, I'm not quite sure.
12:51:12 35
12:51:13 36 What would that have to do with Ms Gobbo?---Because every
12:51:16 37 time - well, in the past when Victoria Police had issues
12:51:21 38 with witnesses going into witness security and where things
12:51:26 39 had not gone well there was often some kind of review
12:51:29 40 around that, and my recollection is there had been a number
12:51:35 41 of reviews about such issues and that recommendations had
12:51:38 42 been made around the way to improve the operation of the
12:51:42 43 Witness Protection Program.
12:51:43 44
12:51:44 45 Was someone in the meeting expressing the view that there
12:51:47 46 could be an OPI review should this proceeding go ahead and
12:51:54 47 be defended in court?---Well I think so but again I think,

12:51:59 1 I think so but other than, I mean I've already explained
12:52:03 2 why I think that might be the case.
12:52:05 3
12:52:05 4 Right?---But I can't really take it any further than that.
12:52:08 5
12:52:09 6 All right, okay. Now, is it the case that - well we
12:52:20 7 understand that the Dale prosecution was withdrawn in June
12:52:24 8 of 2010 subsequent to the murder of Carl Williams?---Yep.
12:52:27 9
12:52:29 10 Could you just have a look at this document, I've spoken to
12:52:31 11 Mr Holt about this, VPL.0013.0001.0375. There's an email
12:52:41 12 chain. If you have a look at, and I'm not going to go
12:52:48 13 through it in any detail, just have a look at the first
12:52:51 14 communication between Mr Cornelius and Mr Jones and Emmett
12:53:03 15 Dunne, Danye Moloney, do you see that? Copied to Steve
12:53:06 16 Smith and Finn McCrae and ultimately you see it because you
12:53:10 17 get the next one, do you see that?---Yep.
12:53:12 18
12:53:13 19 What that is about is that Mr Cornelius has asked Finn to
12:53:21 20 instruct the VGSO to have a further letter to F ready to go
12:53:26 21 following the DPP's expected withdrawal of Dale 's
12:53:32 22 prosecution, do you see that?---Yep.
12:53:34 23
12:53:34 24 And then, I don't need to go through the rest of that. But
12:53:34 25 if you then move to the next email - I'm not going to go
12:53:45 26 through it. If you can read it to yourself and you've read
12:53:50 27 it?---Which one am I reading.
12:53:52 28
12:53:53 29 The bottom email?---The bottom email, yes, I've read that.
12:53:56 30
12:53:56 31 Then that is forwarded to you by Ken Jones, or at least to
12:54:01 32 Luke Cornelius and you're CCed?---Yes.
12:54:06 33
12:54:06 34 And what he says is, "Hi Luke, thanks. We need to sort out
12:54:10 35 the particular allegation" and then further on, "Looking
12:54:16 36 further, she also needs to understand that her activities
12:54:19 37 since 2004? must at some stage emerge and that will change
12:54:27 38 the equation totally", do you see that?---Yeah, I do.
12:54:30 39
12:54:30 40 What we can, or what you would have been able to see from
12:54:34 41 that is that at the end of the Dale prosecution or at least
12:54:40 42 after the Dale prosecution there still hadn't been
12:54:43 43 disclosure. Nothing had come out, you would have been
12:54:49 44 aware of that at that stage?---Well yeah, I see what you're
12:55:06 45 saying. Well did it mean it hadn't been disclosed or it
12:55:13 46 just meant it hadn't come out? I mean they're two
12:55:16 47 different things. The disclosures to the Crown.

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12:55:19 2 Yeah?---That's not a problem.

12:55:20 3

12:55:20 4 Can I suggest to you there hadn't been disclosure at this
12:55:25 5 stage?---Well, but I don't think I can infer that from that
12:55:29 6 email because I've always said to you disclosure needed to
12:55:34 7 be to the Crown. There are always good arguments around
12:55:37 8 legal professional privilege and all the other things
12:55:38 9 around why it shouldn't be disclosed to the defence.

12:55:42 10

12:55:42 11 Yes?---So the fact that it hadn't come out to now doesn't
12:55:45 12 mean disclosure hasn't been made. It just means it hasn't
12:55:50 13 come out now.

12:55:53 14

12:55:53 15 Looking further, "She also needs to understand that her
12:56:01 16 activities since 2004 must at some stage emerge and it will
12:56:02 17 change the equation totally"?---I think that's inconsistent
12:56:05 18 with what I've been saying to you all along, which is at
12:56:06 19 some stage I expected that it would come out.

12:56:09 20

12:56:09 21 Right?---Either in single proceedings or at cross
12:56:11 22 proceedings where it would become absolutely clear that the
12:56:14 23 people against whom she had informed had worked that out,
12:56:17 24 and I agree, it was always going to change the game when
12:56:21 25 and if that happened.

12:56:22 26

12:56:22 27 Did you find out whether there had been disclosure to the
12:56:30 28 VGS0 at this stage?---No.

12:56:32 29

12:56:33 30 What about to the OPP?---No.

12:56:35 31

12:56:37 32 No?---It wasn't for me to do.

12:56:38 33

12:56:43 34 All right. I tender that document, Commissioner.

12:56:47 35

12:56:48 36 #EXHIBIT RC929A - (Confidential) Email chain of 3/6/2010.

12:56:53 37

12:56:54 38 #EXHIBIT RC929B - (Redacted version.)

12:56:56 39

12:57:04 40 The proceedings in which you were a litigant resolved in
12:57:07 41 August of 2009?---They did. 2010.

12:57:12 42

12:57:12 43 I'm sorry, 2010. Could we have a look at a briefing paper
12:57:42 44 - okay, no, we'll take that down for the moment. What I
12:57:49 45 might do - I take it by this stage it would have been
12:57:56 46 apparent to you that the defence to the claim did not
12:58:00 47 involve an assertion that Ms Gobbo was a human

12:58:05 1 source?---Um, again I'm not sure it was. I, as I explained
12:58:12 2 earlier, was trying to stay arm's length from this. I
12:58:16 3 recall becoming involved right at the end because I needed
12:58:19 4 to in terms of getting some delegations from the Minister,
12:58:23 5 but even then I think Finn did most of the work around
12:58:28 6 making sure that the Minister was briefed.

7
12:58:29 8 Right?---And I think I just signed some paperwork that I
12:58:32 9 needed to sign in order to facilitate that process. But I
12:58:35 10 really was trying to stay, you know, at arm's length from
12:58:39 11 this whole process.

12:58:40 12
12:58:40 13 Do you accept that if that had been pleaded as a defence it
12:58:46 14 may have impacted significantly upon her claim or her
12:58:49 15 capacity, her claim for loss of earning capacity?---Well
12:58:55 16 look we've been through this. I mean I wasn't handling the
12:58:59 17 claim. I understand, well Finn was, I understand he would
12:59:05 18 have got a whole range of advice on it. At the end of the
12:59:09 19 day, you know, I just facilitated a process with the
12:59:12 20 Minister where there was a delegation ahead of the
12:59:17 21 conference that I think led to the settlement of the claim.

12:59:20 22
12:59:20 23 All right. Could we just - could we have a look at the
12:59:39 24 ministerial approval for settlement. Did you understand
12:59:43 25 that ministerial approval was required before settling the
12:59:48 26 claim, at the amount that was being - - - ?---The
12:59:54 27 delegation was above my delegation as Chief Commissioner so
12:59:58 28 it had to go to the Minister.

13:00:00 29
13:00:01 30 Right. Do you accept that the approval asked you to advise
13:00:04 31 on strategies - - -?---Yes, I do.

32
13:00:05 33 - - - to mitigate the risk of such an issue arising
13:00:12 34 again?---Yes, I do.

13:00:12 35
13:00:13 36 That's SOV.0001.0001.0011. Yes?---I've accepted that, yes.

13:00:20 37
13:00:20 38 I tender that.

13:00:23 39
13:00:24 40 #EXHIBIT RC930A - (Confidential) Document number
13:00:13 41 SOV.0001.0001.0011

13:00:29 42
13:00:29 43 #EXHIBIT RC930B - (Redacted version.)

13:00:31 44
13:00:31 45 Can we have a look at VPL.0005.0195.1212, which is a memo
13:00:38 46 from you to Assistant Commissioner Jeff Pope who was the
13:00:44 47 Assistant Commissioner for I&CS. This is a letter to you,

13:00:56 1 following a memo from you following the requirement from
13:01:03 2 the Minister, "Writing and confirming a verbal direction I
13:01:08 3 gave on Thursday, 12 August 2010 for members of the Petra
13:01:11 4 Task Force to not contact Ms Nicola Gobbo. I understand
13:01:15 5 you've passed that direction on however I need all members
13:01:17 6 of the Task Force to be absolutely clear about the
13:01:20 7 prohibition on initiating any further contact with Ms Gobbo
13:01:23 8 to that end. Appreciate you bringing this written
13:01:26 9 direction to the attention of the Task Force managers. In
13:01:29 10 the event that Ms Gobbo makes contact with any member of
13:01:32 11 the Task Force they are instructed to advise her that she
13:01:35 12 can only contact the manager of the Source Development Unit
13:01:38 13 or his delegate and only then if it relates to her personal
14 security. Under no circumstances is any information,
13:01:45 15 intelligence or evidence to be solicited or taken from
13:01:46 16 Ms Gobbo by any member of the Petra Task Force. Please
13:01:50 17 ensure these instructions are followed to the letter". And
13:01:53 18 you appreciate confirmation by 23 August 2010?---So I
13:01:59 19 actually recall that this letter was actually initiated by
13:02:03 20 a request or a discussion with Mr McRae.
13:02:05 21
13:02:05 22 Yes?---Because we were in the process of trying to settle
13:02:09 23 the legal proceedings he made me aware that this contact
13:02:13 24 was continuing and that that just posed an unacceptable
13:02:16 25 risk to Victoria Police.
13:02:18 26
13:02:18 27 Yes?---And it was on his request that I issued the verbal
13:02:21 28 instruction and then followed it up with a written
13:02:23 29 instruction.
13:02:24 30
13:02:24 31 You understood the sense of it?---I did.
13:02:28 32
13:02:29 33 That there should be absolutely no contact with
13:02:32 34 Ms Gobbo?---Yes.
13:02:32 35
13:02:32 36 And no receipt of any information at all?---Correct.
13:02:35 37
13:02:38 38 By any member of the Petra Task Force?---That's what I
13:02:42 39 recall being asked by Mr McRae to do.
13:02:45 40
13:02:45 41 Did you understand that that related only to Petra or what
13:02:49 42 about other people to whom Ms Gobbo might be moved to
13:02:52 43 provide information?---I did what Finn asked me to do,
13:02:58 44 which was he was of the understanding that Petra was
13:03:01 45 continuing to talk to her in circumstances where this
13:03:04 46 litigation had happened and I think it probably just
13:03:07 47 settled by that date, is that right, have I got the order

13:03:10 1 of things right? I think that's right. And so we just
13:03:14 2 needed to cut, we just needed to cut the contact because it
13:03:18 3 was clearly not tenable in the situation that Victoria
13:03:22 4 Police was in.
13:03:22 5
13:03:23 6 All right. Did you write to the Minister, Mr Cameron, on
13:03:29 7 16 August, that same day, VPL.0005.0010.1974?---It appears
13:03:40 8 I did, yes.
13:03:41 9
13:03:41 10 Did you say that you would do everything possible to ensure
13:03:43 11 that there is no repeat of such a claim against Victoria
13:03:46 12 Police?---Yes.
13:03:47 13
13:03:47 14 And as you know, you say, "I've appointed an AC to a new
13:03:52 15 role, in charge of the I&CS department?---Yes.
13:03:57 16
13:03:57 17 And, "He's progressively reviewing all processes",
13:04:02 18 et cetera?---Yes.
13:04:03 19
13:04:03 20 Did you make any policy improvements such that it would be
13:04:08 21 made known throughout Victoria Police that they should not
13:04:09 22 use any information from Ms Gobbo?---Did I send that
13:04:13 23 information - - -
13:04:13 24
13:04:13 25 Yes, did you instruct that there be a policy put into train
13:04:16 26 to that effect?---No.
13:04:17 27
13:04:19 28 Did you instruct that a policy be put into place to the
13:04:23 29 effect that it was made known that legal advice should be
13:04:26 30 taken before using any of Ms Gobbo's information?---No.
13:04:29 31
13:04:30 32 Did you put into place or instruct that there be any policy
13:04:34 33 improvements such that it was made known to Victoria Police
13:04:39 34 that you shouldn't use lawyers as human sources?---No.
13:04:42 35
13:04:44 36 Do you think that what you said to the Minister was
13:04:49 37 absolutely correct?---It is. What I'm saying there is I
13:04:55 38 have appointed an Assistant Commissioner into this role and
13:04:58 39 asked him to review all of these processes and to make sure
13:05:05 40 that any issues identified are rectified.
13:05:08 41
13:05:09 42 Okay. Were you aware that there was a development of an
13:05:15 43 SOP which concerned the way in which Victoria Police
13:05:20 44 officers would relate to Ms Gobbo?---No.
13:05:23 45
13:05:24 46 You didn't know, you didn't follow that up to ensure that
13:05:28 47 your instructions had been put into place?---Well I, I was

13:05:33 1 told - well my understanding was that my instruction was
13:05:39 2 being followed.
13:05:41 3
13:05:42 4 Did you ask Mr Pope whilst he was carrying out his duties
13:05:47 5 to investigate whether there had been any concerns about
13:05:54 6 the use of Ms Gobbo as a human source, given that she was a
13:05:59 7 barrister?---I don't, I don't recall whether I did or I
13:06:06 8 didn't.
13:06:06 9
13:06:06 10 Right. You'd expressed concerns at the very outset about
13:06:11 11 the use of a barrister as a human source?---I had.
13:06:14 12
13:06:14 13 Do you think it was time to instruct Mr Pope, who was the
13:06:18 14 head of this unit, to conduct a very close analysis to
13:06:21 15 determine indeed whether there had been any problems
13:06:24 16 associated with Ms Gobbo's use as a human source?---So part
13:06:27 17 of the reason Mr Pope was recruited into the organisation
13:06:31 18 was to conduct a fundamental review of that department.
13:06:35 19
13:06:35 20 Yes?---That included all aspects of that department.
13:06:39 21
13:06:39 22 Right?---So I would expect, as he was a diligent officer,
13:06:42 23 that he would do that, that he would work his way through.
13:06:46 24 Clearly there were, you know, lessons that could be learnt
13:06:50 25 from any situation, but particularly the situation with
13:06:52 26 Ms Gobbo, and my understanding and expectation is that that
13:06:57 27 is what Mr Pope was doing.
13:06:58 28
13:06:59 29 You didn't think it appropriate to say to Mr McRae, "Can
13:07:04 30 you speak with Mr Pope, a number of officers over the
13:07:08 31 period of time, the last few years have expressed their
13:07:11 32 concerns to me about whether or not Ms Gobbo had perhaps
13:07:21 33 been providing information against clients or in relation
13:07:24 34 to people for whom she was acting, can you have a close
13:07:27 35 look at the files and see if there's any concerns
13:07:31 36 there"?---As I've said repeatedly I didn't have that
13:07:34 37 information. Mr McRae dealt with the settlement. I'm sure
13:07:40 38 Mr Pope as the head of that area would be aware of those
13:07:43 39 issues, would be aware the human source was under his
13:07:46 40 command. My tasking to him was to fundamentally review the
13:07:51 41 operation of that area because we did have significant
13:07:54 42 issues with our intelligence capability in the
13:07:57 43 organisation, but as part of that he would have looked very
13:07:59 44 closely I'm sure at the operations of the HSU.
13:08:03 45
13:08:03 46 At that stage at the conclusion of the litigation you
13:08:06 47 personally had no concern at all that any case might have

13:08:11 1 been affected as a result of the conduct of the SDU or your
13:08:14 2 investigators?---I had no specific information that
13:08:17 3 suggested to me that was the case.
13:08:18 4
13:08:19 5 All right?---I always understood there was a potential for
13:08:22 6 that argument to be run but I had no specific information.
13:08:24 7
13:08:25 8 All right. Can we just have a brief look at this document,
13:08:29 9 VPL.0005.0171.0010. Now this is the Source Development
13:08:45 10 Unit standard operating procedure "Before contact with
13:08:49 11 Witness F", Ms Gobbo, you say you never saw this
13:08:54 12 document?---I don't think I did, I don't recall seeing it.
13:08:57 13 I'm not sure why I would.
13:08:58 14
13:08:58 15 If we can go over to the second page, it's dated 29 August.
13:09:03 16 And what it says is, "It is understood that Witness F in
13:09:06 17 her professional capacity may at some stage provide advice
13:09:10 18 to suspects in police custody within the constraints of
13:09:13 19 s.464 of the Crimes Act. The following options may apply
13:09:17 20 to information received from Witness F. Information may
13:09:21 21 not be acted on for reasons which may jeopardise Witness
13:09:25 22 F's safety or security, issues of identification,
13:09:28 23 et cetera, will be major considerations in this aspect.
13:09:33 24 The SDU Detective Inspector to advise Witness F that
13:09:41 25 information received may or may not be acted upon.
13:09:45 26 Information after sanitisation may be directed to
13:09:48 27 appropriate investigative units. Information is not to be
13:09:52 28 sourced to Witness F", do you see that?---Yeah.
13:09:54 29
13:09:55 30 That's a concern, isn't it?---Yeah, it is.
13:09:57 31
13:09:57 32 "Investigators are to be advised that information has been
13:10:00 33 received from a person who cannot be identified." Do you
13:10:05 34 think that that standard operating procedure was consistent
13:10:09 35 with what you understood your instruction to be?---No.
13:10:13 36
13:10:15 37 Do you think it was consistent with your assurances that
13:10:17 38 you'd given to the Minister?---My - well, my assurances to
13:10:24 39 the Minister were about reviewing the system.
13:10:26 40
13:10:27 41 Yes?---And that's what - - -
13:10:28 42
13:10:28 43 And ensuring that nothing like this could ever happen
13:10:32 44 again?---Well to the best of one's ability, yes.
13:10:35 45
13:10:38 46 Now, Mr Biggin gave evidence in this case, sorry, in the
13:10:43 47 Commission, I think he said at transcript 7796 when asked

13:10:53 1 this question, "And you accept that you have to take some
13:10:56 2 of the responsibility for the failure to identify and
13:10:58 3 enforce those boundaries from that date onwards" and he
13:11:05 4 said, "I do". We're talking about from April 2006 and
13:11:12 5 following. "And as at 1 July 2006 when you took functional
13:11:17 6 control it would have been even more so from that date,
13:11:21 7 correct? I've already, I think I said to you, the buck
13:11:24 8 stops with me. Sorry, I didn't catch that? I said the
13:11:28 9 buck stops with me. Yes, okay, thank you. I accept my
13:11:30 10 failings and my responsibilities. I don't step away from
13:11:35 11 that and never will". Now, do you accept any
13:11:41 12 responsibility for where we are today?---I do.
13:11:48 13
13:11:49 14 And what is the nature of that responsibility that you
13:11:52 15 accept?---Well, I reiterate again the point I've made
13:11:57 16 countless times, I had no specific information of the
13:11:59 17 nature that you've put to me over the last four or five
18 days.
19
13:12:03 20 Right?---I wish I had.
13:12:04 21
13:12:04 22 Yes?---I wish I had done more to support the HSU and the
13:12:09 23 investigators in dealing with these issues.
13:12:11 24
13:12:11 25 Yes?---It is an anathema to me to think that serious
13:12:18 26 organised criminals may have their convictions overturned
13:12:22 27 because of irregularity in police procedures. It's not
13:12:25 28 what I've stood for all my life, it's not what I've worked
13:12:29 29 to achieve. And I understand from a Command point of view
13:12:32 30 that I have to accept some of the responsibility for that.
13:12:35 31
13:12:35 32 Well, effectively what you're saying is you weren't told by
13:12:40 33 your officers, you having made it clear to them that they
13:12:45 34 were not to accept information from Ms Gobbo in relation to
13:12:49 35 people she was acting for, you simply weren't told
13:12:52 36 that?---No, I wasn't.
13:12:53 37
13:12:53 38 Yes. Do you believe that you could have done more to
13:12:59 39 prevent this occurring?---Um, I wish I had done more but at
13:13:07 40 the time this was one of many, many significant issues with
13:13:11 41 which I was dealing. I don't for a moment downplay the
13:13:16 42 significance of this issue, it was a significant issue.
13:13:19 43
13:13:19 44 Yes?---But in my time in Victoria Police I was, I was
13:13:24 45 dealing with many, many, many significant issues across a
13:13:29 46 range of matters and, you know, there's always cause for
13:13:34 47 reflection and there's always cause to say maybe I should

13:13:37 1 have paid a bit more attention to that, but at the time I
13:13:41 2 believed that my investigators and the SDU, they were very
13:13:45 3 senior people, they were very experienced people, I assumed
13:13:50 4 they knew what they were doing, I assumed that they were
13:13:52 5 acting consistent with my belief that it was commonly
13:13:55 6 understood that she wouldn't breach legal professional
13:13:58 7 privilege and that she wouldn't act for people against whom
13:14:01 8 she was informing. I note yesterday it seems that some
13:14:04 9 members of the SDU were certainly aware of the second leg
13:14:07 10 that I've talked about. There was reference in material
13:14:11 11 that you put to me where clearly they understood that, so
13:14:14 12 to a certain extent it was understood. I still can't
13:14:19 13 explain why it wasn't followed.

13:14:20 14
13:14:21 15 You saw the risks of using a barrister as a human
13:14:24 16 source?---I did.

13:14:25 17
13:14:25 18 From the very outset?---I did.

13:14:28 19
13:14:28 20 Do you accept that you didn't do nearly enough to ensure
13:14:31 21 that those risks were mitigated?---I think you, you can say
13:14:37 22 that now, and I accept responsibility, I'm not trying to
13:14:39 23 walk away from my responsibility. What I have tried to
13:14:44 24 suggest to you constantly is that I thought there was a
13:14:48 25 shared understanding about the risks and about the way
13:14:51 26 those risks needed to be managed and I had confidence in my
13:14:56 27 investigators and in the SDU and, you know, I'm very proud
13:15:02 28 of the work that they did in general and their achievements
13:15:08 29 and I was in a situation where I thought it was appropriate
13:15:11 30 to delegate to them responsibilities for those matters.
13:15:15 31 And I hasten to add there was also chain of command between
13:15:20 32 me and them. I was not directly managing those areas.
13:15:23 33 There were Superintendents, there were, there was a
13:15:27 34 Commander, at later points there was an Assistant
13:15:32 35 Commissioner between myself and those areas. I never
13:15:35 36 directly managed the SDU. I certainly accept
13:15:39 37 responsibility around the operations of the investigations.
13:15:43 38 But there was a chain of command in place that, you know,
13:15:47 39 should have done better.

13:15:49 40
13:15:49 41 Right. So effectively whilst you say you ultimately accept
13:15:49 42 responsibility you're really sheeting home blame to your
13:15:52 43 inferior officers?---No, I'm not.

13:15:54 44
13:15:54 45 And you're really suggesting that they were aware of your
13:15:58 46 concerns but ultimately they failed you?---Well, I've
13:16:02 47 always said I believed they were aware of my concerns.

13:16:04 1 I'll leave it for others to judge whether they've failed
13:16:08 2 Victoria Police or not, that's not my role.

13:16:10 3
13:16:10 4 Thanks Mr Overland.

13:16:13 5
13:16:13 6 COMMISSIONER: It's pretty well timed, we'll adjourn now
13:16:17 7 and have lunch and resume at 2 o'clock.

13:16:44 8
13:16:45 9 LUNCHEON ADJOURNMENT

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13:53:08 1 UPON RESUMING AT 2.00 PM:
2
14:08:46 3 COMMISSIONER: I gather a lot's happened since we last met.
14:08:49 4 I now understand Mr Nathwani has had personal reasons why
14:08:53 5 he couldn't stay this afternoon, is that correct?
6
14:08:57 7 MR WINNEKE: That's correct, Commissioner, he's unable to
14:08:59 8 be here. There's another reason which has arisen which
14:09:02 9 Mr Holt wants to raise with you.
10
14:09:04 11 COMMISSIONER: Yes, Mr Holt.
14:09:05 12
14:09:06 13 MR HOLT: Thank you, Commissioner. The situation that's
14:09:08 14 arisen is that - perhaps I'll go through the background.
15
14:09:12 16 COMMISSIONER: Yes.
14:09:12 17
14:09:13 18 MR HOLT: Mr Overland's diaries were searched for on
14:09:17 19 Victoria Police's archive system, as for all potential
14:09:21 20 witnesses, in February this year, and no records of any
14:09:24 21 diaries were indicated in Victoria Police's archive system.
14:09:27 22 On the first day of Mr Overland's evidence, when he was
14:09:30 23 giving evidence about record keeping, his former chief of
14:09:33 24 staff had a recollection, passed it to Task Force Landow at
14:09:39 25 Victoria Police, which was that he recalled when he packed
14:09:41 26 up Mr Overland's office after Mr Overland's resignation,
14:09:45 27 that there were three PB13's, that's the blue diaries the
14:09:51 28 Commission will be familiar with, in that office. As a
14:09:53 29 result of that there was an ability to search through a
14:09:57 30 different mechanism to see whether that recollection was
14:09:58 31 correct or not and a record which indicated that there were
14:10:00 32 three such diaries, one from 2003, one from 2004 and one
14:10:04 33 from 2007 was found. That information was immediately
14:10:07 34 shared with those assisting you and with counsel for
14:10:10 35 Mr Overland and we indicated that we would then do what we
14:10:15 36 could to see whether the physical diaries themselves could
14:10:18 37 be located. Again, a search indicated no electronic record
14:10:22 38 which would indicate where those diaries were.
39
14:10:24 40 I'm instructed that what Victoria Police Task Force
14:10:31 41 Landow then did was to send staff to the Laverton archive
14:10:34 42 centre, to identify the physical part of the centre where
14:10:39 43 those things were Mr Overland's office were stored were
14:10:42 44 and they went through the laborious process of going
14:10:44 45 through boxes. An unmarked box or a box marked something
14:10:46 46 helpful like "miscellaneous" had within it another
14:10:50 47 officer's day books not relevant to the Commission, and the

14:10:52 1 three blue diaries which were allocated to Mr Overland.
14:11:08 2 Excuse me a moment, may I just approach my friend. I'm
14:11:10 3 permitted to say, Commissioner, that we've had the person
14:11:13 4 who recovered those, they've only been in possession of
14:11:16 5 Task Force Landow for about an hour and a half, has taken
6 some photographs of some sample pages which we have seen
14:11:24 7 and shared with Mr Gleeson of Queen's counsel. With Mr
14:11:26 8 Winneke's consent they've been shown to Mr Overland and at
14:11:29 9 least on the basis of poor photographs, and they appear to
14:11:31 10 be consistent with Mr Overland's handwriting.

11
14:11:33 12 Can I indicate though that also on the very limited
14:11:35 13 basis of a look at those diary pages, the samples that have
14:11:39 14 been sent through to us now, they do not appear to be
14:11:42 15 extensive records by any stretch. They appear to be more
14:11:47 16 of the kind that the Commission will recall Sir Ken Jones
14:11:52 17 had in his diary. Now I indicate that's on a very
18 preliminary basis having looked at some sample documents.

19
14:11:53 20 COMMISSIONER: Yes. Well the witness has never said he
14:11:55 21 kept comprehensive diaries.

14:11:57 22
14:11:57 23 MR HOLT: No. No, he hasn't. But in case people were
14:11:59 24 thinking there was a trove of information, there are a
14:12:01 25 three diaries based over 2003 to 2007 issued. On a
14:12:06 26 preliminary look at sample pages they appear to have on the
14:12:09 27 face of it very innocuous entries.

28
14:12:12 29 COMMISSIONER: There might be something important in them.

14:12:14 30
14:12:15 31 MR HOLT: There might, and I can't say to the contrary,
14:12:18 32 Commissioner. That's the background. It's hard to see how
14:12:21 33 that situation could be avoided but for better record
14:12:23 34 keeping when they were archived. That's the position. I
14:12:24 35 obviously apologise for the timing but things have been
14:12:26 36 done in the circumstances as quickly as they can. I ought
14:12:30 37 be absolutely clear, on the basis of everything we've
14:12:33 38 looked at none of this appears to be in any sense
14:12:40 39 attributable to Mr Overland at all because they were
40 archived post his resignation and from somebody else
41 clearing out his office. That's as much information as I
42 give.

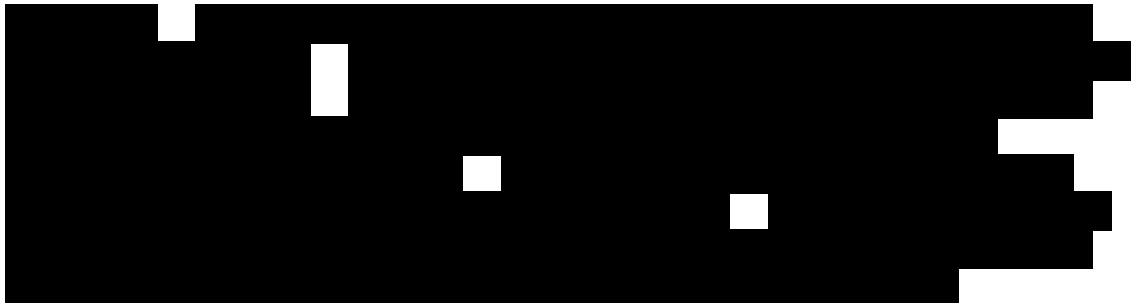
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14:12:42 44 COMMISSIONER: Consistent with, well, not the best of
14:12:47 45 record keeping.

14:12:49 46
14:12:49 47 MR HOLT: In this instance, Commissioner, the electronic

14:12:51 1 records system did not indicate whose diaries these were,
14:12:55 2 and so I accept that criticism.
3
14:12:57 4 COMMISSIONER: What it all means is even if the
14:13:00 5 cross-examination was to finish this afternoon, which it
14:13:03 6 couldn't because Mr Nathwani is indisposed, so the witness
14:13:10 7 will have to come back, I'm afraid, next year.
14:13:14 8
14:13:14 9 MR HOLT: I think that was probably inevitable in light of
14:13:17 10 the timing, Commissioner.
11
14:13:18 12 COMMISSIONER: It was probably inevitable.
14:13:19 13
14:13:20 14 MR HOLT: But the reason why we've done so much over the
14:13:22 15 lunch break to inform people and attempt to inform
14:13:25 16 ourselves obviously is that whilst the entries may be
14:13:28 17 innocuous, there is also significance to certain dates and
14:13:33 18 the presence at certain meetings.
19
14:13:35 20 COMMISSIONER: Yes, it needs to be carefully considered.
21
14:13:37 22 MR HOLT: We don't want matters to proceed on a basis other
14:13:40 23 than fully informed.
24
25 COMMISSIONER: But nevertheless there's - obviously the
14:13:45 26 afternoon can be used usefully by cross-examining.
14:13:45 27
14:13:45 28 MR HOLT: That's in your hands Commissioner, others may
14:13:48 29 wish to be heard on that. I'm not in a position to ask for
14:13:52 30 anything I don't think in the present circumstances.
14:13:54 31
32 COMMISSIONER: Yes, Mr Gleeson.
33
14:13:54 34 MR GLEESON: We're obviously very unhappy about this.
35
14:13:57 36 COMMISSIONER: No less so than me.
14:13:59 37
14:14:00 38 MR GLEESON: That's probably right. Mr Overland might
14:14:03 39 reasonably have expected that those diaries, even if they
14:14:08 40 contain the limited entries as early indications suggest,
14:14:11 41 that he would have had them available to him when he was
14:14:14 42 preparing his evidence and certainly when he was being
14:14:16 43 cross-examined. So we are very unhappy about it but we
14:14:20 44 hear what our friend says about the way in which the matter
14:14:24 45 has unfolded. We don't think that cross-examination of a
14:14:31 46 certain type should proceed this afternoon until we
14:14:33 47 understand what the diaries contain, but we accept that

14:14:38 1 some cross-examination might fairly proceed,
14:14:41 2 notwithstanding the fact that nobody at the moment knows
14:14:44 3 what's in these diaries.
4
14:14:45 5 COMMISSIONER: Yes, true enough. I think - and also the
14:14:48 6 time constraints that are on the Commission. I'll get
14:14:53 7 people to do, really to do whatever cross-examination needs
14:14:56 8 to be done and if it turns out that it has to be redone
14:15:00 9 because of what's in the diaries, so be it. But I think we
14:15:03 10 should try and use the afternoon fruitfully.
14:15:06 11
14:15:07 12 MR GLEESON: Yes, very well. Thank you.
13
14:15:08 14 COMMISSIONER: Yes, all right then. I'm sorry that you
14:15:13 15 will have to come back, Mr Overland?---That's all right,
14:15:16 16 Commissioner.
17
14:15:18 18 But probably not as sorry as you are. All right then. I
14:15:22 19 think there's an application for leave to cross-examine
14:15:25 20 from you, Mr Steward.
14:15:26 21
14:15:26 22 MR STEWARD: Yes, Commissioner, on behalf of Mr Lalor and
14:15:28 23 Mr Dale.
24
14:15:29 25 COMMISSIONER: Yes. It's been discussed with counsel
14:15:36 26 assisting. Do you have an attitude, Mr Winneke?
27
14:15:38 28 MR WINNEKE: I understand Mr Steward has mentioned to me,
14:15:44 29 in fact provided a document which provides the areas in
14:15:48 30 which he wants to cross Mr Overland about concerning
14:15:52 31 Mr Dale. I'm not too sure what the situation is with
14:15:55 32 respect to Mr Lalor so I can't - - -
33
14:16:01 34 COMMISSIONER: You'll have to be very specific about what
14:16:04 35 you want to cross-examine about, Mr Steward.
14:16:06 36
14:16:08 37 MR STEWARD: Well, in relation to Mr Lalor it'll be largely
14:16:16 38 about the involvement of [REDACTED]. It will be
14:16:28 39 suggested that Mr Overland, in having recourse to
14:16:38 40 [REDACTED] - - -
41
14:16:40 42 COMMISSIONER: I think it was [REDACTED], or
14:16:45 43 [REDACTED].
14:16:49 44
14:16:50 45 MR STEWARD: Person [REDACTED], I'm sorry. Person [REDACTED]. That the
14:16:52 46 use of Person [REDACTED] was - - -
14:16:59 47

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COMMISSIONER: We'll take from the transcript any reference to - we'll be more specific. I think it's - - -

MR HOLT: Lines 39 and 40, Commissioner.

COMMISSIONER: Line 39 after the full stop.

MR HOLT: Perhaps to 47, Commissioner. So my comment as well.

COMMISSIONER: Yes.

MR HOLT: To line 47. That goes from the transcript and from the streaming and there's to be no publication in respect of it.

MR HOLT: Thank you, Commissioner.

COMMISSIONER: We know what you're talking about.

MR STEWARD: Person [REDACTED] his involvement in Briars with Nicola Gobbo, with the knowledge of Victoria Police, having recourse to Person [REDACTED] in circumstances that were inconsistent with good or ethical policing in an attempt to obtain evidence from a highly unreliable criminal in an attempt to secure convictions against Mr Lalor.

COMMISSIONER: So you say that's relevant to the Terms of Reference because of Nicola Gobbo's involvement in it?

MR STEWARD: Yes Commissioner.

COMMISSIONER: And in respect of Mr Dale it's just a matter of you wanting to put on the record that he was acquitted of - was never convicted of any of the wrongdoing that this witness has alleged against him, is that what you're wanting to say?

14:19:30 1 MR STEWARD: Yes, and that the allegations made by
14:19:32 2 Mr Overland in his statement and before you, Commissioner,
14:19:36 3 are outrageous, biased and contrary to evidence. And
14:19:42 4 findings of courts.
5
14:19:50 6 COMMISSIONER: That should take you five minutes to put
14:19:52 7 that, shouldn't it?
14:19:54 8
14:19:55 9 MR STEWARD: Maybe seven.
10
14:19:56 11 COMMISSIONER: What about the other matter, the Lalor
14:20:02 12 matter, how long will that take?
14:20:05 13
14:20:07 14 MR STEWARD: I understand that time is of the essence. I
14:20:11 15 think I can finish in 20 minutes all up. I said half an
14:20:15 16 hour yesterday but I've been advised that it's the view of
14:20:21 17 the Commission that this ought to be done expeditiously and
14:20:25 18 I intend to do so as expeditiously as I can.
19
14:20:32 20 COMMISSIONER: You're going to have to be very careful
14:20:35 21 about what you say in public hearing in respect of the
14:20:38 22 Lalor matter, obviously. There are suppression orders and
14:20:43 23 other orders that apply in respect of Person [REDACTED] So you
14:20:50 24 have to be very careful. It may be it will have to go into
14:20:54 25 closed hearing. What do you say, Mr Holt?
14:20:57 26
14:20:57 27 MR HOLT: I'm bound to say just even on the basis of the
14:21:00 28 indication given by Mr Steward as to the topics he wishes
14:21:07 29 to cover, it's difficult to see how it's conceivably
30 possible not to breach the tending to identify aspect of
14:21:08 31 the order that the Commission's made and - - -
14:21:09 32
14:21:10 33 MR STEWARD: Commissioner, could I - - -
14:21:11 34
14:21:12 35 MR HOLT: Could I just finish my submission, please. And
14:21:14 36 it may just be more prudent with respect that it be done in
14:21:18 37 private. We could start but at some point I suspect it may
14:21:21 38 need to go into private.
39
14:21:24 40 COMMISSIONER: Did anybody wish to speak against
14:21:27 41 Mr Steward's application?
14:21:28 42
14:21:29 43 MR HOLT: Commissioner, we struggle, with respect, to see
14:21:32 44 the link to the Terms of Reference but if, Commissioner,
14:21:34 45 you and counsel assisting are satisfied then we take it no
46 further than that.
47

14:21:36 1 COMMISSIONER: The Dale matter, it's in his statement.
14:21:41 2
14:21:41 3 MR HOLT: No, I understand, and I don't wish to take time.
4
14:21:43 5 COMMISSIONER: The other matter, he said there's a link to
14:21:46 6 Nicola Gobbo.
14:21:47 7
14:21:48 8 MR HOLT: Had he not used that name I would have made a
14:21:52 9 firmer submission. We'll see how it plays out.
10
11 COMMISSIONER: Absolutely, and I think I'd have ruled in
14:21:53 12 favour of you but his claims are that there's an
14:21:55 13 involvement with her in it.
14:21:56 14
14:21:56 15 MR HOLT: I understand the claim and we'll see if it's made
16 good, Commissioner. Thank you.
17
14:21:59 18 COMMISSIONER: We will. We will.
14:21:59 19
14:22:01 20 MR GLEESON: Commissioner, from our perspective we'll keep
14:22:01 21 on eye on the questions for relevance and object if we
14:22:04 22 think they become irrelevant.
23
14:22:05 24 COMMISSIONER: Yes.
14:22:06 25
14:22:08 26 MR GLEESON: My instructions are clear, Mr Overland is
14:22:11 27 happy to any questions put him on behalf of Mr Dale and
14:22:16 28 Mr Lalor.
29
14:22:17 30 COMMISSIONER: We'll see how we go and the clock's ticking,
14:22:23 31 Mr Steward.
14:22:24 32
14:22:24 33 MR STEWARD: You would understand the importance of the
14:22:26 34 presumption of innocence in the criminal justice system in
14:22:28 35 our State, wouldn't you?---Yes.
36
14:22:30 37 And adherence to it?---Yes.
38
14:22:32 39 And you completely disavow adherence to it in relation to
14:22:36 40 Paul Dale, don't you?---No.
41
14:22:38 42 Yes. You make a statement where you refer to it as being a
14:22:44 43 fact that Paul Dale was involved in the Dublin Street
14:22:50 44 burglary, a fact?---Where do I - - -
45
14:22:53 46 Not an allegation?---Where do I do that?
47

14:22:58 1 I'll come to that. You refer to him as having organised
14:23:06 2 the murders of two people?---I do.
3
14:23:12 4 Not even taking Carl Williams at his best, if such a status
14:23:18 5 exists, Williams suggest that Mr Dale sought him out for
14:23:27 6 the murder of Christine Hodson, do you understand?---I do.
7
14:23:32 8 And he was never charged with the murder of Christine
14:23:34 9 Hodson, was he?---I don't now recall whether he was or he
14:23:43 10 wasn't.
11
14:23:44 12 Well he wasn't?---I accept that.
13
14:23:46 14 But you just willy-nilly add another body, add another
14:23:50 15 human being who you accuse him of being involved in their
14:23:55 16 murder when he wasn't even charged?---I do.
17
14:23:58 18 Would you tell the Commissioner about Paul Dale's criminal
14:24:01 19 history, please?---I don't - - -
20
14:24:05 21 What is it?---I don't know his criminal history.
22
14:24:07 23 He has none; does he?---I don't know that.
24
14:24:09 25 You don't know?---No.
26
14:24:11 27 Is that a serious answer?---Yes.
28
14:24:13 29 You don't know whether Paul Dale has a criminal
14:24:17 30 history?---I don't.
31
14:24:25 32 The charges in relation to the Dublin Street burglary were
14:24:28 33 withdrawn, correct?---Against Paul Dale, yes, they were.
34
14:24:32 35 The charge of murder against Paul Dale in relation to
14:24:36 36 Terrence Hodson was withdrawn, was it not?---It was.
37
14:24:39 38 He was totally absolved of any involvement in the murder of
14:24:44 39 Carl Williams, was he not?---I don't know.
40
14:24:46 41 You don't know that?---No, I don't.
42
14:24:48 43 And is that a serious answer?---Yes, it is.
44
14:24:50 45 Right. He stood trial once in his life in the Supreme
14:24:56 46 Court when he was charged with 12 counts of giving false
14:25:01 47 and misleading evidence, correct?---I don't know the exact

14:25:05 1 number but I understand he was charged for giving false and
14:25:08 2 misleading evidence, yes.
3
14:25:10 4 Prosecuted with all the might of the Commonwealth DPP by
14:25:16 5 Christopher Beale QC, as he then was, with Krista Breckweg
14:25:26 6 and now Supreme Court Justice Beale, he was found not
14:25:31 7 guilty of 12 counts by a Supreme Court jury unanimously,
14:25:37 8 correct?---I don't know.
9
14:25:40 10 There was much reliance placed in that trial on the Gobbo
14:25:44 11 tape, wasn't there?---I don't know, I wasn't - I haven't
14:25:48 12 followed those proceedings at all.
13
14:25:50 14 You didn't know that people that gave evidence against him
14:25:55 15 were George Williams and [REDACTED]?---No, I
14:26:08 16 didn't follow those proceedings.
17
14:26:09 18 Did you know that there was an Inquest - - -
14:26:12 19
14:26:12 20 MR HOLT: Sorry, Commissioner, that's the sort of bio data
14:26:15 21 that we haven't been doing in public hearing, linking
14:26:19 22 people to certain proceedings.
23
14:26:20 24 COMMISSIONER: I thought Mr Winneke had used that term.
14:26:24 25
14:26:24 26 MR HOLT: He did, it's the bio data being linked to that
14:26:27 27 term, Commissioner.
28
14:26:29 29 MR WINNEKE: Commissioner, look, we've certainly used that
14:26:32 30 expression in public on a number of occasions.
14:26:35 31
14:26:35 32 MR HOLT: It's not the expression. It's given to a
14:26:39 33 particular proceeding.
34
14:26:41 35 MR WINNEKE: All right.
36
14:26:41 37 COMMISSIONER: All right. Is it line 44 that's the
14:26:48 38 problem?
14:26:48 39
14:26:48 40 MR HOLT: Yes, Commissioner.
41
14:26:50 42 COMMISSIONER: Line 44.
14:26:51 43
14:26:51 44 MR HOLT: Line 44 and 45.
45
14:26:55 46 COMMISSIONER: All right. Take out lines 44 and 45 on
14:27:01 47 11914 from the transcript and the live hearing. Just be

14:27:06 1 careful about bio data please while we're in public
14:27:10 2 hearing.
14:27:11 3
14:27:12 4 MR STEWARD: Yes, Commissioner. You directed a lot of
14:27:15 5 attention in your statement to Paul Dale, didn't you?---Oh,
14:27:18 6 some attention.
7
14:27:24 8 You described him as being, amongst other things, brazen,
14:27:29 9 violent and corrupt?---I did.
10
14:27:36 11 Ever spoken to Paul Dale?---Yes.
12
14:27:39 13 Socially or - - - ?---No.
14
14:27:41 15 Right. Have you interviewed him?---No.
16
14:27:44 17 Have you investigated him personally?---Personally, no.
18
14:27:50 19 Have your dealings with him been limited?---Yes.
20
14:27:57 21 To whom has he been unlawfully violent?---I would say he's
14:28:01 22 been unlawfully violent to the Hodsons.
23
14:28:04 24 Both of them?---Yes.
25
14:28:06 26 You can't help yourself, can you? And that's based on Carl
14:28:13 27 Williams, is it?---That's based on all the evidence that
14:28:16 28 was gathered in the course of Operation Petra.
29
14:28:19 30 Carl Williams?---There was more evidence than that.
31
14:28:22 32 By the way, you said yesterday that the tipping point in
14:28:28 33 relation to Dale was the Gobbo conversation, correct?---The
14:28:35 34 tipping point in relation to a decision to call her as a
14:28:38 35 witness was the tape, yes.
36
14:28:40 37 And prosecute Dale?---Well, he was potentially going to be
14:28:46 38 prosecuted anyway, but yes.
39
14:28:48 40 You told the Commission that he made inculpatory statements
14:28:54 41 in that call?---That's my recollection of the tape.
42
14:28:59 43 Well, I suggest to you he did no such thing. What do you
14:29:03 44 say about that?---Well that's not my recollection.
45
14:29:06 46 Right. And you would say inculpatory in relation to the
14:29:14 47 Hodson murders; is that right?---Yes.

1
14:29:21 2 Is the Gobbo tape easily available?
3
14:29:26 4 COMMISSIONER: I don't think so.
14:29:31 5
14:29:33 6 MR HOLT: The transcript has been tendered, Commissioner,
14:29:35 7 as I recall but I don't have the number.
8
14:29:37 9 COMMISSIONER: We might be able to find the transcript of
14:29:39 10 it.
14:29:40 11
14:29:40 12 MR STEWARD: I'll only be reading some small parts of it,
14:29:43 13 Commissioner, if that's okay.
14
14:29:45 15 COMMISSIONER: Okay. Can we find what exhibit number the
14:29:49 16 transcript of the Gobbo/Dale tape is? But if you've got
14:29:55 17 the extracts there you might as well just go on and put it.
14:30:00 18
14:30:01 19 MR STEWARD: Thank you. By the way, I think you said
14:30:03 20 yesterday that a liar like Paul Dale would have recourse to
14:30:11 21 claiming privilege in any conversation with Nicola Gobbo,
14:30:15 22 do you remember saying that?---I don't know that I quite
14:30:18 23 said that. I do remember saying that I thought it was
14:30:21 24 likely that he would make such a claim.
25
14:30:24 26 At p.9 of the conversation he talks to her about how he
14:30:31 27 claimed privilege at the OPI in relation to his dealings
14:30:35 28 with her and she says, "But Paul, the reality is that, um,
14:30:42 29 you are entitled to talk to a lawyer about it". Dale, "I
14:30:48 30 tried to, I claimed privilege several times in relation to
14:30:52 31 me and you about that. They played a number of phone calls
14:30:56 32 between me, you and Carl Williams", right?---Yeah.
33
14:31:02 34 So it's clear before this conversation he had sought to
14:31:08 35 claim privilege vis-à-vis his relationship with Nicola
14:31:14 36 Gobbo, do you accept that?---Yes.
37
14:31:16 38 Can I suggest to you that what you hang your hat on is
14:31:23 39 this, in terms of it being incriminating - - -
40
14:31:26 41 COMMISSIONER: It's Exhibit 246.
14:31:29 42
14:31:29 43 MR STEWARD: Thank you, Commissioner. Page 9. Dale, "All
14:31:40 44 they're trying to show is that I had a relationship with
14:31:43 45 Carl, that's what they're trying to say. Carl's clear and
14:31:47 46 made a very in-depth statement against me". Gobbo,
14:31:50 47 "Accurate or not?" Dale, "Very accurate. Very accurate to

14:31:59 1 the point of every single time we met he seems to have
14:32:07 2 documented it as in it he's got". I suggest this is on
14:32:13 3 p.10, "Look, no, there was some things that came out that
14:32:19 4 clearly only him and me knew, um, but, um". That is the
14:32:25 5 entire basis for you saying, I suggest, that he implicated
14:32:34 6 himself or made incriminating comments in this
14:32:38 7 conversation; is that right?---Yes.
8
14:32:39 9 Right. Well, did you regard this as incriminating, p.22,
14:32:53 10 "Yeah, clearly it's come from someone, and I don't - look,
14:32:57 11 and the good thing about it, Nicola, it's a complete utter
14:33:01 12 load of crap. I've never been, I've never met Rod Collins,
14:33:06 13 I've certainly never had 400,000 to fuckin' someone, to
14:33:11 14 offer anyway. They're right up the wrong alley with that
14:33:15 15 fact and they thought they were in the right, well that's
14:33:18 16 what they, and when, when they arrested, when they got
14:33:22 17 charged, Collins and, they are of the opinion that Collins
14:33:26 18 is the shooter, they are of the opinion that he did the
14:33:28 19 murders, that I arranged it, um, and that's their theory.
14:33:33 20 It's been their theory for some time and whether they offer
14:33:36 21 that million dollars in rewards". Gobbo, "Yeah". Dale,
14:33:42 22 "And Overland said 'we are very close to making charges',
14:33:45 23 you know". Did you regard that as being
14:33:51 24 incriminating?---Well it was never suggested he'd met Rod
14:33:56 25 Collins and I think that would just be an issue that would
14:33:58 26 play out at trial.
27
14:33:59 28 Would you answer my question now. Did you regard that as
14:34:02 29 incriminating?---I refer to my previous answer.
30
14:34:05 31 Okay. Page 58. Gobbo, "I don't know, based on what you
14:34:12 32 said I can't, I don't understand it". Dale, "No, I can't
14:34:17 33 either but I think the only thing right now is the most
14:34:21 34 serious jeopardy that I feel I'm in right now will be some
14:34:25 35 fuckin' trumped up bullshit charges about misleading the
14:34:29 36 Examiner or perjury in an examination, but like". Did you
14:34:32 37 think that was incriminating of his role in the murder of
14:34:38 38 the Hodsons?---That comment doesn't actually relate to the
14:34:42 39 murder of the Hodsons.
40
14:34:44 41 Yeah, okay. Thanks again. So the answer's no?---No, the
14:34:50 42 answer is it doesn't relate to the murder of the Hodsons.
43
14:34:56 44 COMMISSIONER: In which case it couldn't have been
14:34:59 45 incriminating in respect to the murder of the
14:35:02 46 Hodsons?---No.
14:35:05 47

14:35:05 1 MR STEWARD: Page 70, this is Dale, "Yeah, look, to be
14:35:09 2 honest with you, like I should really take these things a
14:35:14 3 bit more seriously, but the only thing that fuckin', the
14:35:18 4 only thing that come out of it was they identified about
14:35:20 5 three sheilas that I was having an affair with". Did you
14:35:24 6 regard that as being incriminating of murder or
14:35:31 7 adultery?---It's not incriminating of murder.
8
14:35:33 9 No. "I should take these things more seriously." Did you
14:35:47 10 regard this as being incriminating, Mr Overland, p.76 -
14:35:56 11 sorry I should put the question from Gobbo. "So you have
14:35:59 12 been, have you been able to explain your point of view
14:36:01 13 about that or not?" Answer, "Many times but they didn't
14:36:07 14 want to listen it. They're not interested. I've said to
14:36:10 15 them many times that it's not in my interest for the
14:36:13 16 Hodsons to be killed. Not in my interest at all. We would
14:36:17 17 have went to committal and if it wasn't thrown out of
14:36:20 18 committal it certainly would have been at any trial,
14:36:23 19 subsequent trial". Did you regard that as being
14:36:26 20 incriminating, Mr Overland?---No.
21
14:36:32 22 What you referred to as being incriminating was him
14:36:35 23 confirming that Gobbo - I'm sorry, that Williams was right
14:36:39 24 about a number of occasions on which they'd met?---Yes.
25
14:36:44 26 Nothing to do with being involved in any murder?---Well I
14:36:47 27 think you've then got to refer back to Williams' statement
14:36:50 28 which says they were meeting about arranging murders.
29
14:36:54 30 You've got to go back to Williams' statement, do you, to
14:36:59 31 put some lead in the pencil. A mass murderer.
32
14:37:11 33 COMMISSIONER: I think you've made your point, Mr Steward.
14:37:13 34 There's no jury here.
35
14:37:16 36 MR STEWARD: Yes, Commissioner. You seem to suggest that
14:37:17 37 you knew of Mr Dale's corruption or suspected him of
14:37:20 38 corruption for a number of years?---Yes.
39
14:37:22 40 Yeah. And when did you first suspect that he was
14:37:25 41 corrupt?---In September of 2003.
42
14:37:29 43 September of 2003. All right. Do you know what happened
14:37:39 44 in August 2003, Mr Overland?---I think you're going to have
14:37:45 45 to ask me that question in a different way.
46
14:37:48 47 Do you know what happened on 13 August 2003?

1
14:37:52 2 COMMISSIONER: You tell him and ask him.
14:37:54 3
14:37:54 4 MR STEWARD: Have a look at this, please, Mr Overland, and
14:37:58 5 read it out. Can I just hand the Commissioner a copy.
14:38:02 6 Take your time, Mr Overland?---Yeah, it's a Chief
14:38:06 7 Commissioner's - - -
8
14:38:07 9 No, just a moment please?---I thought you were asking me to
14:38:10 10 read it out so I'm sorry.
11
14:38:12 12 Can you just wait until everybody has a copy?---I'm
14:38:15 13 certainly happy to wait.
14
14:38:16 15 Thank you. Take your time, read it out, would you?---What,
14:38:20 16 you want me to read the whole thing out?
17
14:38:24 18 Yes, I do.
19
14:38:25 20 COMMISSIONER: I think we haven't really got time for that.
14:38:28 21 In summary, it's the Chief Commissioner's
14:38:29 22 commendation?---It's a commendation, yes.
23
14:38:30 24 For the Lorimer Task Force, to Sergeant Paul Dale for
14:38:35 25 exemplary service citation?---Yes.
14:38:40 26
14:38:41 27 MR STEWARD: What's it dated?---It's dated 13 August 2003.
28
14:38:45 29 When did you suspect he was corrupt?---In September 2003.
30
14:38:49 31 He turned quickly, didn't he? This was an investigation
14:38:54 32 into the brutal slaying of two Victoria Police officers, of
14:39:00 33 which he was a member from start to finish which resulted
14:39:03 34 in the conviction of two offenders and he gets that,
14:39:11 35 correct?---Well it appears so, yes.
36
14:39:15 37 You say he's corrupt a month later?---On the basis of the
14:39:20 38 information I've set out in my statement I do.
39
14:39:23 40 Commissioner, would you just excuse me. Can I just say
14:39:26 41 this to you, you have got a completely closed mind in terms
14:39:32 42 of when it comes to Mr Dale?---No.
43
14:39:49 44 Paragraph 168 - I made a mistake and I apologise,
14:39:56 45 Mr Overland. It wasn't the Dublin Street burglary that you
14:40:01 46 referred to as a fact, it was - you say at paragraph 168,
14:40:08 47 "The fact that Dale approached Williams to commit the

14:40:11 1 double murder of two people is staggering"?---M'mm, it is.
2
14:40:16 3 The fact?---Yes.
4
14:40:18 5 And who says it was a fact?---That's the evidence that was
14:40:24 6 obtained during the Petra Task Force.
7
14:40:27 8 Could you answer the question. Who says - - - ?---I say
14:40:32 9 it's a fact.
10
14:40:34 11 Based on whose words?---Based on the evidence that was
12 - - -
13
14:40:37 14 Whose words?---If you actually let me answer the question,
14:40:40 15 it's actually based on the evidence that was discovered in
14:40:43 16 the Petra Task Force.
17
14:40:43 18 Who said that it had happened?---Well, actually Carl said
14:40:48 19 it happened and if you read the transcript Paul said that
14:40:51 20 they'd met on a number of occasions, so they'd clearly met
14:40:55 21 and knew one another.
22
14:40:57 23 Game, set, match?---No. No, there's a significant amount
14:41:00 24 of work that needed to be done and that's the work that was
14:41:03 25 done that actually led to him actually being charged with
14:41:07 26 that murder.
27
14:41:07 28 I apologise for asking you this again, but are you
14:41:10 29 serious?---I am very serious.
30
14:41:12 31 COMMISSIONER: Yes, all right. Twenty minutes is up and
14:41:14 32 you still haven't touched on the second aspect.
14:41:17 33
14:41:17 34 MR STEWARD: Yes, Mr Lalor.
35
14:41:19 36 COMMISSIONER: Yes.
14:41:20 37
14:41:20 38 MR STEWARD: Yes, very well, thank you, Commissioner.
39
14:41:21 40 COMMISSIONER: Yes.
14:41:22 41
14:41:24 42 MR STEWARD: What involvement did Nicola Gobbo have in the
14:41:31 43 preparation of the statements made by that person who was
14:41:39 44 the main witness in Briars?---Well I think I answered this
14:41:43 45 the other day. I didn't understand that she'd had any
14:41:46 46 involvement.
47

14:41:47 1 Did she not assist, was she not used by police for the
14:41:53 2 purposes of assisting that particular person for making his
14:41:56 3 statements?---Well if she did that was not known to me.
4
14:42:00 5 Had she not acted for him previously?---Again, I don't know
14:42:03 6 that.
7
14:42:05 8 You seem to want to distance yourself from Operation
14:42:10 9 Briars, I suggest?---No.
10
14:42:13 11 It caused you some angst, didn't it, with Mr Iddles,
14:42:18 12 because you wanted Mr Lalor charged with murder and
14:42:28 13 Mr Waters, based on what this particular witness had
14:42:35 14 said?---No.
15
14:42:35 16 In about six differing statements?---No, only if there was
14:42:39 17 sufficient evidence to put them on their charge.
18
14:42:42 19 There was a meeting on 12 September 2007, wasn't there, at
14:42:46 20 which Iddles was present, Waddell was present and Cornelius
14:42:51 21 was present and you had a disagreement with Iddles because
14:42:58 22 he was refusing to do what you wanted him to do, what you
14:43:03 23 were ordering him to do, namely to arrest and charge Waters
14:43:07 24 and Lalor with the murder of Chartres-Abbott?---No, well I
14:43:11 25 actually couldn't order him to do that. That would have
14:43:15 26 been an unlawful direction. Ultimately Ron, as the
14:43:17 27 investigator, needed to be satisfied that there was
14:43:19 28 sufficient evidence. That meeting I think has been
14:43:22 29 misrepresented. I remember, if it's the meeting I'm
14:43:27 30 thinking of, I remember that Luke Cornelius and I went to
14:43:31 31 meet with them, because I'd been told they were close to
14:43:34 32 considering charging and I wanted to actually understand
14:43:37 33 what the situation was. In my view there was never any
14:43:40 34 disagreement. When I was told that they didn't believe
14:43:43 35 there was sufficient basis at that time I accepted it.
36
14:43:50 37 You directed him to do so?---No, I did not.
38
14:43:55 39 You directed him to do so and he said to you that, "If you
14:43:57 40 want them charged you can sign the charge sheet"?---No, I
14:44:02 41 didn't direct them to do anything. I couldn't direct them,
14:44:02 42 it would have been an unlawful direction.
43
14:44:04 44 Before I conclude I want to put two things to you. One is
14:44:09 45 that we are basically here because of your ego, what do you
14:44:13 46 say about that?---Well I - no, I don't accept that.
47

14:44:21 1 Your self-serving secrecy?---I don't accept that.
2
14:44:25 3 Your desire to malign and eliminate threats or people who
14:44:32 4 did not hold a particularly high view of you?---I don't
14:44:36 5 think there's any evidence to support that suggestion.
6
14:44:39 7 It's all due, I suggest, to your naked ambition to become
14:44:43 8 Chief Commissioner?---That's just simply untrue.
9
14:44:46 10 Such that you were prepared to put Gobbo at risk, do you
14:44:50 11 agree?---No.
12
14:44:51 13 Cut corners?---No.
14
14:44:58 15 Effect vendettas?---No.
16
14:45:00 17 And act unprofessionally?---No.
18
14:45:11 19 And Lalor, finally, Lalor and Waters were supportive of
14:45:23 20 Mullett, correct?---I understand they had an association
14:45:28 21 and I understand there was a particularly close association
14:45:32 22 between Mr Lalor and Mr Mullett.
23
14:45:34 24 Not supportive of you?---Apparently not.
25
14:45:37 26 And Noel Ashby, until you came along, looked to be right in
14:45:42 27 the frame to be the next Chief Commissioner of Police,
14:45:46 28 didn't he?---I wouldn't say that.
29
14:45:50 30 What, you were in the frame, were you?---No.
31
14:45:55 32 And you did everything in your power to secure convictions
14:45:58 33 by shoddy means so that you could achieve your jewel in the
14:46:02 34 Crown?---No.
35
14:46:03 36 Thank you.
37
14:46:04 38 COMMISSIONER: Did you want to tender the Paul Dale
14:46:07 39 commendation?
14:46:08 40
14:46:08 41 MR STEWARD: Yes, I do.
14:46:10 42
14:46:11 43 #EXHIBIT RC931 - Paul Dale commendation.
14:46:14 44
14:46:14 45 MR STEWARD: Thank you, Commissioner.
46
14:46:16 47 COMMISSIONER: Mr Coleman, are you able to do any

14:46:18 1 cross-examination usefully today?
14:46:22 2
14:46:23 3 MR COLEMAN: No, is the answer. Others are going to go
14:46:25 4 before me. I can tell you why if you want.
5
6 COMMISSIONER: No, no that's all right, others are going
14:46:27 7 before you. So who was next?
14:46:27 8
14:46:28 9 MR HOLT: Commissioner, I think it might be sensible if I
14:46:32 10 try and deal with topics that can be dealt without the need
14:46:34 11 to deal with the diary.
12
13 COMMISSIONER: Yes.
14
15 MR HOLT: That will take us to the end of the day as I
16 understand we'll adjourn at 3.30 and there are topics I can
17 sensibly cover.
18
19 COMMISSIONER: Excellent. Thanks, Mr Holt.
14:46:38 20
14:46:38 21 <CROSS-EXAMINED BY MR HOLT:
22
23 Mr Overland, without wanting to relitigate - - -
14:46:39 24
14:46:46 25 MR STEWARD: Might I be excused, Commissioner?
14:46:47 26
27 COMMISSIONER: Yes, Mr Steward.
14:46:49 28
14:46:50 29 MR STEWARD: Probably to everyone's relief. Thank you.
14:46:50 30
14:46:54 31 MR HOLT: Without wanting to relitigate - - -
14:46:54 32
33 COMMISSIONER: No one's disagreeing with you.
14:46:57 34
14:47:02 35 MR HOLT: Without wanting to relitigate the Dale matter at
14:47:03 36 all, can I just ask you one question. Is the reality that
14:47:06 37 the Carl Williams statement which Ms Gobbo, where Mr Dale
14:47:09 38 said to Ms Gobbo was described as very accurate, in fact
14:47:15 39 described a long-standing and corrupt relationship
14:47:19 40 involving multiple meetings between Paul Dale and Carl
14:47:22 41 Williams, including, but not limited to, arrangements to
14:47:25 42 commit murder?---It did.
14:47:29 43
44 Thank you. Can we come back to a slightly more mundane
14:47:30 45 subject of record keeping. Without wanting to deal at all
14:47:38 46 with the detail of the diaries issue which has emerged this
14:47:40 47 afternoon, can I ask you some more general

14:47:42 1 questions?---Sure.
2
14:47:43 3 Firstly, you made general reference to it, but can we be
14:47:48 4 specific. At the time that you were Assistant
14:47:50 5 Commissioner, Deputy Commissioner and Chief Commissioner,
14:47:52 6 and indeed as you wouldn't be surprised to know now the
14:47:57 7 Victoria Police Manual exists which sets the parameters for
14:48:00 8 the way in which police officers operate?---Well there was
14:48:03 9 a Victoria Police Manual in my time and I assume there's
14:48:06 10 still such a thing.
11
14:48:07 12 It wouldn't surprise you, I suspect, given the evidence
14:48:09 13 that you've given previously, that there is a requirement
14:48:11 14 under that manual and was at the relevant times here for
14:48:14 15 police officers who are associated with Crime Command or
14:48:17 16 otherwise investigating criminal offences, an actual
14:48:22 17 requirement for them to keep one of the blue police
14:48:26 18 official diaries that we've seen?---I'll take your word for
14:48:29 19 it. I don't specifically recall it.
20
14:48:30 21 You might recall the flip side of that, which is that the
14:48:32 22 only requirement or the requirement on persons not in those
14:48:35 23 roles, and in particular for people of rank Inspector or
14:48:37 24 above, was to keep what are described as appropriate
14:48:41 25 records without any particular designation as to the form
14:48:44 26 of those records?---I think that sounds right to me, yep.
27
14:48:47 28 We've heard, for example, Mr Jones, Ken Jones, talking
14:48:52 29 about a practice he had of keeping very basic records in a
14:48:58 30 diary and others in a day book, the sort of practice you'd
14:49:02 31 be familiar with?---Yes.
32
14:49:03 33 And we've heard Mr Cornelius in particular, Assistant
14:49:07 34 Commissioner Cornelius in particular talk about keeping
14:49:09 35 records by reference to documents that have been created
14:49:13 36 for particular meetings?---Yes.
37
14:49:15 38 So, if necessary, handwritten notes on meeting updates,
14:49:18 39 those sorts of things?---Yes.
40
14:49:19 41 And again, would you agree that so long as appropriate
14:49:24 42 records are being kept, that any one of those forms is
14:49:28 43 going to be acceptable?---Yes.
44
14:49:30 45 But in terms of what gets written down and how, one of the
14:49:33 46 big themes, as I understand it, that's come through in your
14:49:36 47 evidence, and indeed in the evidence of others, is perhaps

14:49:38 1 unsurprising that police, particularly as you get more
14:49:42 2 senior, come into possession of highly sensitive
14:49:45 3 information?---Yes.
4
14:49:46 5 And information which highly sensitive (a) because it
14:49:50 6 relates to ongoing investigations of substantial
14:49:52 7 criminality?---Yes.
8
14:49:54 9 But also, highly sensitive because, for example, it might
14:49:59 10 reveal information which if known to certain persons could
14:50:03 11 put a person's life at risk?---Yes.
12
14:50:06 13 Or their physical safety short of losing life?---Yes.
14
14:50:09 15 And as I understand what you've said one of the massive
14:50:11 16 issues for you in your time at Victoria Police in
14:50:15 17 leadership roles within Victoria Police, probably not
14:50:18 18 unique to Victoria Police as a policing organisation, was
14:50:21 19 information security?---Yes.
20
14:50:23 21 And we've had a lot of talk in this Royal Commission about
14:50:26 22 the virtues of diary keeping. You've said there are
14:50:31 23 actually some issues with diary keeping per se because of
14:50:34 24 the insecure nature of those documents. Could you just
14:50:37 25 explain for us what you mean by that, please?---Well
14:50:39 26 they're not classified. They're often carried around so
14:50:45 27 they can be misplaced. I think one of the issues I did
14:50:48 28 refer to is that in the discovery process they can be
14:50:52 29 produced and much as the Commission has done when they've
14:50:59 30 combed through quite forensically, there can be all sorts
14:51:02 31 of entries that are missed that seem innocuous but might be
14:51:08 32 significant.
33
14:51:09 34 Indeed, one of the things that we've heard from other
14:51:10 35 witnesses in this case is in fact that some of the most
14:51:13 36 significant breaches of information security leading to
14:51:17 37 risk to human life have arisen precisely in those
14:51:17 38 circumstances, that is where diary entries - - - ?---Yes.
39
14:51:21 40 - - - are inadvertently disclosed or produced?---Yes.
41
14:51:24 42 In discovery processes?---And that's certainly been my
14:51:28 43 experience in the past where that has happened.
44
14:51:31 45 All right. Now, we've heard the phrase, it was used in
14:51:38 46 particular when Sir Ken Jones was giving evidence, of eyes
14:51:45 47 only documents, so documents that wouldn't be copied but

14:51:48 1 were only provided to you for a particular purpose?---Yes.
2
14:51:50 3 Again, I know in the context of a Royal Commission that can
14:51:53 4 sound like a horrible conspiracy, but is that kind of
14:51:57 5 concern to keep information limited legitimate at times
14:52:01 6 that you sought information?---Absolutely, absolutely. I
14:52:04 7 mean I think as I said in my evidence, even within Purana
14:52:08 8 there were sub-investigations where the information about
14:52:11 9 the sub-investigation was kept to the team and not shared
14:52:14 10 with the broader Purana team and so on and so forth. So
14:52:18 11 it's absolutely appropriate to have information security
14:52:21 12 protocols around investigations, around a whole series of
14:52:25 13 sensitive matters that Police Forces finish up dealing
14:52:28 14 with.
15
14:52:29 16 You hear on the one hand that concern, the concern - the
14:52:37 17 need to know principle, if I can put it that way?---Yeah.
18
14:52:40 19 And then on the other hand you see, as we've seen, as I'm
14:52:43 20 sure you'd now accept borne out in this Commission, the
14:52:46 21 kind of down side, the flip side risks of that kind of
14:52:49 22 strategy or policy which is that you can create silos or
14:52:53 23 islands of information where those who need to disclose
14:52:56 24 can't because they don't know?---Yes.
25
14:52:58 26 I'm just interested, in light of your experience in
14:53:01 27 policing and through Victoria Police, as to what you think
14:53:03 28 about that dichotomy, particularly as things have played
14:53:06 29 out in this case, that kind of challenge, on the one hand
14:53:10 30 information security needing to know, on the other hand
14:53:15 31 trying to make sure that, as the Commission will no doubt
14:53:15 32 want to do in terms of its recommendations, that those
14:53:15 33 kinds of principles, significant and important as they are,
14:53:20 34 don't lead to non-disclosure of important matters?---That's
14:53:26 35 a big question. I've certainly at times been frustrated by
14:53:29 36 not being told things.
37
14:53:30 38 Yes?---That I thought I perhaps should know and I think
14:53:34 39 again I spoke earlier on about I had no insight into the
14:53:39 40 Ceja investigation or matters that were being covered by
14:53:41 41 that. I thought, because of the assertions of potential
14:53:45 42 connection between corruption and the murders, I probably
14:53:47 43 should have, but I respected others had a different view.
14:53:50 44 And so I didn't have access to that. So I understand the
14:53:54 45 issue and I understand the frustrations and I understand
14:53:57 46 the tensions. I'm not sure how you resolve that because
14:54:01 47 equally there are some matters that you just can't allow

14:54:05 1 wide circulation or dissemination of that information. It
14:54:07 2 has to be controlled and it has to be kept within tightly
14:54:11 3 confined parameters. It does create the very risk that
14:54:14 4 you're talking to and it's a real, it's a dilemma as to how
14:54:18 5 you solve that.
6
14:54:19 7 One of the issues in particular that we'll get into a bit
14:54:22 8 later, maybe possibly very much later given the timing now,
14:54:27 9 is the question of how you deal with that problem out of,
14:54:30 10 specifically out of covert areas?---Yes.
11
14:54:33 12 And most particularly out of areas that are dealing with
14:54:35 13 human sources?---Yes.
14
14:54:36 15 And so I might just hold that topic because you'll get a
14:54:39 16 chance to reflect on that and we can talk about it a little
14:54:43 17 more later. But just, sorry, coming back to that eyes only
14:54:46 18 idea. Could we have a look please at VPL.0099.0103.0002.
14:54:53 19 It's the phase 1 Task Force Driver report. I'll leave that
14:55:01 20 up on the screen just so that it goes into your mind as
14:55:05 21 we're talking about the background. You obviously know
14:55:08 22 what Task Force Driver was?---Yes, I do.
23
14:55:10 24 And Task Force Driver was headed up, I mean in terms of
14:55:14 25 Command responsibility, by Ken Jones?---Yes, it was.
26
14:55:17 27 In his role as Deputy Commissioner?---Deputy Commissioner,
14:55:20 28 yes, that's right.
29
14:55:21 30 And obviously we know that he came in as Deputy
14:55:24 31 Commissioner on 1 July 2009?---Yes.
32
14:55:28 33 And that's at the point where you've been Chief
14:55:30 34 Commissioner I think only for a few months?---Three or four
14:55:34 35 months, yes.
36
14:55:35 37 And you're in the process of doing that executive
14:55:38 38 restructure that you talked about?---Yes.
39
14:55:40 40 Moving away from the 20-odd direct reports to the Chief
14:55:43 41 Commissioner, back to what one might describe as a more
14:55:49 42 orthodox line management structure?---Yeah, I would
14:55:50 43 describe it as a more orthodox structure and I think I did
14:55:51 44 that at the end of 2009.
45
14:55:53 46 Former Chief Commissioner Nixon described the reasons for
14:55:56 47 her creating that. Did you hear any of that evidence at

14:55:58 1 all?---No, I haven't. But I can anticipate what she might
14:56:01 2 have said.
3
14:56:03 4 She talked about - we don't need to go into it in detail,
14:56:05 5 but she talked about her perspective as an outsider coming
6 into the organisation at that point the need for her to
14:56:11 7 have access to that next tier of leadership and to create,
14:56:14 8 and one has the sense on a kind of, probably a transitional
14:56:17 9 basis, albeit over a reasonable period of time, a structure
14:56:20 10 which might not be seen as orthodox, to create those
14:56:24 11 organisational benefits. So I take it you'd accept that
14:56:27 12 that's a reasonable view for you to have?---Absolutely. I
14:56:29 13 think questions on structure - there's many possible
14:56:32 14 structures. I think it largely should be the choice of the
14:56:39 15 CEO as to what structure they want to adopt. I understood
16 Christine's reasons for adopting the approach that she did
14:56:46 17 and in many ways I agreed with it and I thought it was
14:56:47 18 appropriate for the times. But by the time I became Chief
14:56:51 19 Commissioner the organisation had moved on. There were
14:56:54 20 different issues that we needed to address. I was the
14:56:57 21 Chief Commissioner and I opted to take a different
14:56:57 22 approach. I'm not saying mine was better than hers. I
14:57:00 23 think mine was appropriate to the time. I think hers was
14:57:03 24 appropriate to the time.
25
14:57:04 26 Just zooming in on that a little bit in terms of specific
14:57:09 27 roles. Deputy Commissioner Jones was appointed, as we've
14:57:14 28 said, to commence on 1 July?---Yes.
29
14:57:17 30 Notwithstanding the fact that that restructure was still
14:57:20 31 formally underway, he took the monicker immediately, didn't
14:57:22 32 he, of Deputy Commissioner Crime?---Yes, he did.
33
14:57:26 34 As we've confirmed, I can show the org. chart if we need
14:57:31 35 to, but as Mr Jones confirmed, from the point at which he
14:57:35 36 came in he had, as Deputy Commissioner, responsibility for
14:57:37 37 a number of areas, obviously Crime Command with the AC
14:57:40 38 Crime reporting to him?---Yes.
39
14:57:42 40 ESD, so Ethical Standards Department reporting to
14:57:45 41 him?---Yes.
42
14:57:45 43 At some point we understand he got Legal as well?---That
14:57:48 44 was later. I think that was later in 2010 when that
14:57:52 45 happened but I stand to be corrected.
46
14:57:54 47 I think you might be right, some time in 2010. But from

14:57:57 1 the very beginning he also had Intel and Covert Support
14:58:02 2 Services?---Yes, he did.
3
14:58:03 4 Under which sat the Human Source Management Unit and the
14:58:06 5 Source Development Unit, albeit in different parts of that
14:58:09 6 Command?---Yes.
7
14:58:09 8 It's just that, and it's a theme I'll come back to, it's
14:58:13 9 just that the evidence from Mr Jones - have you read his
14:58:18 10 statement?---Yes, I have.
11
14:58:19 12 You well understand that he says that there was a
14:58:21 13 conspiracy of silence to prevent him from knowing about the
14:58:25 14 Nicola Gobbo affair, as he put it?---Yes, I've read that.
15
14:58:29 16 And indeed got to the point of suggesting that - not
14:58:32 17 suggesting, overtly saying that the civil proceedings were
14:58:36 18 a conspiracy between Nicola Gobbo and Victoria Police in
14:58:40 19 order to hide, in effect, her previous involvement by
14:58:45 20 finding a false means of paying her off, you understand
14:58:48 21 that's the allegation?---I understand that's the allegation
14:58:50 22 but I think I was shown an email shortly before Mr Winneke
14:58:58 23 finished with me that directly contradicted that evidence.
24
14:59:02 25 You were, and I'll take you to that in a little while. But
14:59:02 26 for present purposes, if it is suggested, as it sort of
14:59:05 27 seems to be at times, that even at the point that you took
14:59:08 28 over as Chief Commissioner, you were aware of this, to use
14:59:12 29 a phrase someone else has been using in the hearings, a
14:59:12 30 train coming down the path to Victoria Police and there was
14:59:15 31 some kind of conspiracy of silence, particularly in
14:59:18 32 relation to Mr Jones, can we be clear that Mr Jones from
14:59:23 33 day one had responsibility (a) for Crime Command, that is
14:59:26 34 the very operations where Nicola Gobbo had been and was
14:59:30 35 continuing to some extent to be used?---Yes.
36
14:59:33 37 And secondly, had responsibility for Intel Covert Support,
14:59:37 38 which includes the very Unit that had handled her over that
14:59:40 39 period of time?---Yes.
40
14:59:42 41 Did you, as Chief Commissioner, put into place any
14:59:45 42 directive, either overt or covert, to prevent Mr Jones from
14:59:50 43 being able to access information from those who sat within
14:59:53 44 his chain of command below him?---No.
45
14:59:56 46 Was it your expectation that had Mr Jones asked for
14:59:59 47 briefings on any issue associated with any of his Commands,

15:00:03 1 ESD, Intel and Covert Support, including the Source
15:00:08 2 Development Unit, Crime Command, that he would be provided
15:00:10 3 with anything other than full access to that
15:00:13 4 material?---Absolutely.
5

15:00:14 6 As Deputy Commissioner dealing with an area that you have
15:00:18 7 line management responsibility, let's use here the example
15:00:21 8 of covert areas within Intel and Covert Support, is
15:00:25 9 anything kept from you if you don't want it to be, if I can
15:00:30 10 put it that way? If you want to have access to some piece
15:00:33 11 of information are you ultimately able to get it?---I can
15:00:37 12 think of - almost no exceptions to that. No, I mean pretty
15:00:42 13 much you have open access to information, yes.
14

15:00:44 15 Thank you. Just looking at the document then on the page,
15:00:48 16 you'll obviously recall why Task Force Driver came into
15:00:52 17 existence following the murder of Carl Williams by Matthew
15:00:55 18 Johnson in prison?---I do.
19

15:00:57 20 You'll recall that Mr Jones set up Task Force Driver in
15:01:03 21 late April 2010 following the murder?---Yes.
22

15:01:05 23 And as he said, and I'm sure you'd agree, it was a heavily
15:01:09 24 resourced operation given the extraordinary significance
15:01:11 25 for all sorts of reasons of the Carl Williams
15:01:14 26 murder?---Yes.
27

15:01:14 28 Thank you. We can see here a document which - now at this
15:01:19 29 stage I think, in fact I think at all stages, but certainly
15:01:22 30 at this stage Mr Jones is on the same - in the same area,
15:01:26 31 the same building as the Chief Commissioner?---I think so.
15:01:29 32 I know I moved to bring the three deputies on to the same
15:01:32 33 floor as me so we each occupied a corner office on the same
15:01:36 34 floor.
35

15:01:37 36 How long after you started do you think that happened, just
15:01:39 37 in terms of - - - ?---I think it happened reasonably
15:01:41 38 quickly. There was a little bit of refurbishment that
15:01:44 39 needed to be done. But I think by the time Ken started
15:01:47 40 those arrangements were in place.
41

15:01:49 42 Was that a functional decision because of space
15:01:52 43 constraints, or was that an organisational decision made
15:01:55 44 for strategic reasons?---That was an organisational
15:02:00 45 decision. That was a conscious decision on my part. I
15:02:01 46 wanted the deputies close, basically, so that there could
15:02:04 47 be the - I mean there's a lot of value just in running into

15:02:08 1 someone in the office and that regular exchange of
15:02:11 2 information.
3
15:02:12 4 Understood. What we see here is, as he's confirmed,
15:02:20 5 Mr Jones' handwriting on p.1 of the Driver Task Force phase
15:02:24 6 1 report to CCP only underscore see - I can never remember
15:02:31 7 what those words are. In any event, his signature -
15:02:34 8 please, I think. There you go. Signed by Ken Jones and
15:02:38 9 then CCP, "Simon 'eyes only' discussions, significant
15:02:46 10 implications for us/government. Once you've reviewed we
15:02:51 11 can discuss. I have not taken a copy". Do you see
15:02:54 12 that?---I do.
13
15:02:54 14 Again, you would see it as being, when dealing with highly
15:02:57 15 sensitive information, as the Driver Task Force report then
15:03:01 16 did contain, much of it is now public, but then was, I
15:03:05 17 imagine, extraordinarily sensitive?---Yes, it was.
18
15:03:08 19 Because it dealt with, as Mr Jones notes, issues that were
15:03:12 20 potentially critical of numbers of arms that the executive
15:03:13 21 government, as well as agencies of the executive
15:03:15 22 government?---Yes.
23
15:03:16 24 So what he said is, "You've got the only copy Chief
15:03:20 25 Commissioner, I've made some notes on it, and then we can
15:03:24 26 have a discussion"?---Yes.
27
15:03:25 28 Again, do you see that in any sense, that kind of approach
15:03:29 29 to document security, as being in any sense
15:03:31 30 nefarious?---No.
31
15:03:32 32 Or appropriate management of sensitive information?---No, I
15:03:35 33 think it's appropriate management of very sensitive
15:03:38 34 information.
35
15:03:39 36 Even on the floor where the Chief Commissioner and the
15:03:42 37 Deputy Commissioners of Victoria Police were physically
15:03:42 38 located presumably with all sorts of fancy security
15:03:44 39 arrangements?---Yes.
40
15:03:46 41 He then says this, and if you can recall tell me, if you
15:03:49 42 want please do so, please say that. It says, "The issue we
15:03:57 43 discussed is not in here, Ken". Now I just want to be
15:04:00 44 cautious about this for the very information security
15:04:03 45 reasons we've been discussing. Did that relate to Nicola
15:04:06 46 Gobbo from your memory?---No, I'd read on and I was looking
15:04:10 47 at that. I'm trying to rack my brains to think what that

15:04:13 1 actually does relate to.
2
15:04:15 3 It's clear, and I won't take you to it in the interests of
15:04:17 4 time, through the course of this report, the Task Force
15:04:19 5 Driver phase 1 report, that Nicola Gobbo's name pops up in
15:04:23 6 various contexts but certainly not as a human source?---No.
7
15:04:25 8 So her name is associated with this report or contained in
15:04:28 9 this report for different reasons?---Yes.
10
15:04:32 11 Your answer may just still be the same, but do you think
15:04:34 12 it's at least reasonably possible that this was a
15:04:37 13 discussion about that issue?---I suspect it is but I can't
15:04:41 14 think what else it might be.
15
15:04:42 16 Again, I suppose this comes down to this question: were
15:04:44 17 you or was, to your knowledge, anybody else in senior
15:04:47 18 Command keeping from Sir Ken Jones anything to do with
15:04:56 19 Nicola Gobbo?---Certainly not to my knowledge and certainly
15:05:02 20 not on my instructions.
21
15:05:02 22 Thank you. I think that's already been tendered,
23 Commissioner. In fact I'm certain it has.
24
25 COMMISSIONER: 914.
26
15:05:03 27 MR HOLT: Thank you, I'm grateful. That can be taken down,
15:05:05 28 thanks. Again, dealing with issues that don't require
15:05:08 29 dates specifically, because I don't want you to be at a
30 disadvantage, Mr Overland, and I do apologise for the
15:05:13 31 situation you're in in relation to the diaries. Can I ask
15:05:14 32 you about this though, again, former Chief Commissioner
15:05:18 33 Nixon was taken by our learned friend Ms Tittensor through
15:05:22 34 something of the history of risk and the realisation of
15:05:28 35 risk associated with human sources in Victoria Police and
15:05:31 36 indeed elsewhere through policing organisations?---Yep.
37
38 We don't need to go through that in detail at all, I think
39 Ms Tittensor suggested that it might go all the way back to
15:05:59 40 the Eureka Stockade. Let's not do that?---I wasn't there.
15:05:59 41
15:05:59 42 What we know though seriously is that human sources are on
15:06:02 43 the one hand an absolutely critical way for police to both
15:06:07 44 detect and solve crime and also to prevent really serious
15:06:12 45 criminal activity from occurring, would you concur with
15:06:15 46 that?---I would, and I think I went to some of this in my
15:06:18 47 statement trying to suggest that they are, it's not perhaps

15:06:21 1 the most apt term but a necessary evil.
15:06:25 2
15:06:25 3 Using that phrase, picking up on the evil bit, the evil bit
15:06:29 4 is that as we know, and as Victoria Police knows through
15:06:34 5 bitter comparatively recent history, the relationship
15:06:39 6 between police informers is one susceptible to
15:06:44 7 corruption?---Absolutely.
15:06:44 8
15:06:45 9 Because what you're doing, at least prior to the reforms
15:06:49 10 that were intended by the SDU and the approach that was
15:06:51 11 taken with the implementation of the sterile corridor, is
15:06:51 12 you were dealing with putting police officers in regular
15:06:54 13 contact with often very serious and organised
15:06:58 14 criminals?---Yes.
15:06:59 15
15:06:59 16 And the risk of corruption there, obviously the vast
15:07:02 17 majority of police in those circumstances will not become
15:07:04 18 corrupted, but history tells us that some do?---Yes.
15:07:07 19
15:07:08 20 And the consequences of that are profound, they're not just
15:07:14 21 about loss of public confidence in the Police Force,
15:07:16 22 they're also about, as we've seen in Victoria, the loss of
15:07:20 23 human life?---Yes.
15:07:21 24
15:07:21 25 Again, we've seen through the history, as our learned
15:07:24 26 friend Ms Tittensor took Ms Nixon through, and I won't do
15:07:28 27 it in detail again, but through the Purton review or stuff
15:07:32 28 that happened with the drug squads, almost all of it has
15:07:36 29 its genesis in human source problems in effect?---Yes, it
15:07:40 30 did.
15:07:40 31
15:07:41 32 Do you think it's possible to underplay the significance of
15:07:44 33 that piece of cultural history to the way in which the
15:07:48 34 approach to human sources by Victoria Police was then done
15:07:51 35 in terms of the establishment of the SDU?---Yeah, I think -
36 - -
37
15:07:53 38 I put that badly but do you know what I mean?---No, no, I
15:07:54 39 know what you mean and I have reflected on this having
15:07:58 40 become aware of some of the evidence. I think we fell into
15:08:03 41 a trap that goes happen sometimes in a policy sense where
15:08:06 42 you approach things from a particular factual circumstance
15:08:10 43 or a set of facts and you occasionally miss things because
15:08:13 44 you are coming from a particular factual set of
15:08:16 45 circumstances.
15:08:17 46
15:08:17 47 Yeah. And can we just drill into that a little more

15:08:20 1 because might it be fair to say that the focus, probably
15:08:25 2 completely understandably in light of the history, was on
15:08:29 3 solving this problem of corrupt relationships between
15:08:32 4 police officers and human sources?---Well look it was, that
15:08:36 5 was the focus. Having had an opportunity to look at some
15:08:43 6 material and refresh my recollection, I mean there was a
15:08:45 7 genuine inquiry around trying to identify best practice
15:08:50 8 world wide and have that adopted.
15:08:52 9
15:08:53 10 Yes?---But I can't exclude in my own mind that certainly
15:08:57 11 the frame of reference was around the corrupting influence
15:09:01 12 between informant and handler.
15:09:05 13
15:09:06 14 Yeah. And indeed when you look at the critical - the
15:09:07 15 policy responses, right, that we're looking to deal with
15:09:11 16 the mischief that Victoria Police was trying to deal with,
15:09:13 17 and we've heard a lot about them, but in the main they were
15:09:18 18 dedicated specialist unit, highly trained and
15:09:19 19 expert?---Yeah, they were.
15:09:19 20
15:09:23 21 And the implementation of what we know as the sterile
15:09:27 22 corridor, sometimes called the partial sterile corridor,
15:09:30 23 but the idea effectively of the separation of investigator
15:09:32 24 from human source?---Yep.
15:09:32 25
15:09:36 26 And that seemed to be probably the main policy Driver
15:09:39 27 behind the move to what is considered to be the world's
15:09:41 28 best practice in that regard?---That was a major element.
15:09:47 29 I think the other element was the resourcing of the Source
15:09:47 30 Development Unit.
15:09:47 31
15:09:51 32 I was exactly going to come to that. So on the one hand
15:09:54 33 what happens is Victoria Police goes out and looks around
15:09:57 34 the world for best practice, and I think finds it in
15:10:01 35 effect, looks to implement it with highly qualified and
15:10:01 36 skilled staff in a particular unit?---Yep.
15:10:03 37
15:10:06 38 And we've heard that consistently from almost everybody in
15:10:10 39 this Commission. But then the question ultimately becomes
15:10:13 40 one of how well was that implemented within the
15:10:14 41 organisation?---Yes.
15:10:14 42
15:10:18 43 You've heard some of the criticisms that have been made in
15:10:22 44 the course of this Commission about the integration of the
15:10:25 45 Source Development Unit into Victoria Police on a few
15:10:30 46 heads. Firstly, in terms of it having secure resourcing,
15:10:30 47 so the evidence suggests that it was looking for

15:10:34 1 essentially non-recurrent sources of funding to fund
15:10:38 2 recurrent expenditure, and you well understand that's a
15:10:41 3 problem?---It is a problem.
15:10:42 4
15:10:42 5 And in addition we've also heard a lot of evidence about
15:10:45 6 the absence of a dedicated Inspector role, A, and then, B,
15:10:50 7 the absence of even the Inspector role that did exist that
15:10:54 8 was shared across other areas, the fact that over the very
15:10:56 9 critical time we're dealing with here, the person in that
15:11:00 10 role changed pretty regularly?---Yep.
15:11:02 11
15:11:03 12 I think someone might have said in the course of this
15:11:05 13 hearing, and if not I will, that in some ways in terms of
15:11:09 14 everything that's going on at the point that Nicola Gobbo
15:11:12 15 comes into the SDU, you're kind of talking almost about a
15:11:16 16 perfect storm in that regard, a group which is brand new,
15:11:20 17 we know establishing its SOPs, and having these issues in
15:11:25 18 terms of resourcing, just as she comes into the
15:11:28 19 organisation?---Yeah, I accept that.
15:11:31 20
15:11:31 21 Now, we've heard that there was this new kind of approach
15:11:37 22 to human source management was met really with two
15:11:41 23 different responses. The first was the kind of heavy
15:11:45 24 resistance response, I think to put it neutrally. You
15:11:49 25 know, the long standing detectives who had been running
15:11:51 26 sources for years basically saying, "Don't tell me what to
15:11:54 27 do"?---Yes.
15:11:54 28
15:11:55 29 Were you conscious of that?---Absolutely.
15:11:56 30
15:11:57 31 As a cultural piece within the organisation?---Yeah, no,
15:11:59 32 that was a huge issue, yes.
15:12:01 33
15:12:01 34 And we've also heard the other side of the coin and
15:12:05 35 predominantly, or in the context of this hearing from Jim
15:12:09 36 O'Brien, who you know obviously?---H'mm.
15:12:12 37
15:12:12 38 Those like Jim O'Brien who saw it as being a really
15:12:18 39 positive development, where again you're conscious of those
15:12:18 40 kind of two pieces?---Well that's not unusual in any
15:12:20 41 change. There are some people who think it's a good thing,
15:12:24 42 there are some people who are implacably opposed to it and
15:12:29 43 there's a whole bunch of people in the middle somewhere.
15:12:32 44
15:12:32 45 We know the evidence that Mr O'Brien has given from his
15:12:36 46 perspective in Purana and dealing with the receipt of
15:12:39 47 information from Gobbo?---H'mm.

15:12:41 1
15:12:41 2 What he has told the Commission is that he was a big fan of
15:12:46 3 this Source Development Unit approach with the sterile
15:12:49 4 corridor, because what he saw it as doing was, A, freeing
15:12:53 5 up resources for his team who didn't now have to do the
15:12:57 6 onerous work of source management?---Yes.
15:12:59 7
15:13:00 8 But also because he saw it as outsourcing the risk to a
15:13:03 9 dedicated and specialist unit who were trained in risk
15:13:08 10 assessment and trained in handling and those sorts of
15:13:10 11 things. Again, do you have any comment on that as a point
15:13:14 12 of view within the organisation that you were aware
15:13:18 13 of?---Well again, as I said, I mean I think there were some
15:13:22 14 people who understood the advantages and the benefits and
15:13:26 15 were supportive of it. I think perhaps a bit more in the
15:13:30 16 crime area where I was. I think, as just a generalisation,
15:13:33 17 perhaps a bit more in regional detectives they were a
15:13:36 18 little bit more resistant and a little bit more of the
15:13:38 19 view, "Well, you know, we've been doing it this way".
15:13:41 20 There was still this notion that the whole confidentiality
15:13:44 21 of sources extended to it's really just the handler and a
15:13:49 22 few people who knew about it and no one else knew about it.
15:13:51 23 And I think that's one of the things we were trying to
15:13:54 24 change to make sure that the organisation, if it needed to,
15:13:56 25 at least had some visibility around who was informing, you
15:14:01 26 know, with appropriate security around it because of course
15:14:04 27 you don't want to tell everyone, but there are risks in
15:14:08 28 having informers and, you know, in order to manage the risk
15:14:11 29 you need to know who you've got as an informer.
15:14:14 30
15:14:14 31 And can we just perch on that topic for a moment because I
15:14:14 32 suspect it is going to be important to the work that the
15:14:17 33 Commission is doing?---Yes.
34
15:14:18 35 Because on the one hand what we have seen I think it's fair
15:14:21 36 to say through the course of this Commission is police
15:14:24 37 officer after police officer after police officer who have
15:14:30 38 a profound commitment to the idea of never revealing the
15:14:33 39 name of a human source?---Yes.
15:14:35 40
15:14:36 41 That I take it is, A, something that you have seen as a
15:14:41 42 viewpoint for police?---Yes.
15:14:43 43
15:14:43 44 And B, something also that you'd see as being a genuinely
15:14:47 45 held and utterly understandable view, A, as a matter of
15:14:51 46 law, but B as a matter of the history of Victoria
15:14:53 47 Police?---I understand it as a view, but as I think I've

15:14:56 1 tried to indicate in my evidence I think there are all
15:14:59 2 sorts of problems with that view in the criminal justice
15:15:02 3 setting.
15:15:02 4
15:15:02 5 And that takes a sort of wicked problem which I think you
15:15:06 6 were perching on before, which is that if you've got
15:15:09 7 material which is held within a covert area, and let's just
15:15:13 8 say here, we know that the SDU had very powerful
15:15:16 9 information management systems, for example, protocols for
15:15:19 10 keeping this material secret?---Yep.
15:15:20 11
15:15:21 12 And a passionate desire to enforce, quite properly, to
15:15:27 13 enforce the non-disclosure of the names of human sources to
15:15:32 14 people who didn't need to know?---Yes.
15:15:34 15
15:15:34 16 And what you've said is there needs to be a way of ensuring
15:15:38 17 that there is some level of organisational visibility over
15:15:42 18 those issues at appropriate points in time?---Yes.
15:15:44 19
15:15:44 20 And so again I know I'm pressing on something which is just
15:15:49 21 really hard, but how do you think that gets achieved? Do
15:15:51 22 you think that's about independent oversight or do you
15:15:54 23 think that's about regular audit or training or all of
15:16:01 24 those things? And if you don't have a view that's fine,
15:16:04 25 but - - - ?---Well, I'm well out of this business nowadays
15:16:09 26 so I'm a little bit, a little bit loath to support a view.
15:16:13 27 I think, look, with any complex problem with this there's
15:16:18 28 no simple answer and there's no one answer, it's invariably
15:16:21 29 going to involve a combination of things. Having
15:16:24 30 appropriate levels of scrutiny, oversight and visibility of
15:16:28 31 this area needs to be traded off against the need for
15:16:30 32 secrecy and trying to find that balance is difficult, but
15:16:34 33 obviously really important given, you know, given what's
15:16:38 34 happened elsewhere and given what has happened in relation
15:16:41 35 to the matters being considered by this Royal Commission.
15:16:45 36
15:16:45 37 Do you understand that for the people who are on the ground
15:16:47 38 making those decisions, that they're not trading a
15:16:50 39 theoretical principle of revealing the name of a human
15:16:53 40 source as a matter of principle, what from their
15:16:57 41 perspective they're trading is the genuine risk that a real
15:17:02 42 person that they speak to on a day to day basis might
15:17:07 43 die?---Absolutely, I do understand that well.
15:17:08 44
15:17:08 45 Or that their children might die?---Yes.
15:17:11 46
15:17:11 47 You weren't involved in the AB proceedings, you'd long gone

15:17:13 1 by the time those proceedings - - - ?---I don't even know
15:17:14 2 what they relate.
15:17:16 3
15:17:16 4 This was the litigation?---I understand it was the
15:17:19 5 litigation. I don't even understand who the parties are.
15:17:22 6 I haven't followed it.
15:17:24 7
15:17:24 8 In that case I'll leave that topic alone. Now, moving then
15:17:30 9 specifically to the way in which information about
15:17:34 10 informers is recorded or discussed or disclosed to others.
15:17:41 11 We started this discussion with a discussion of the need to
15:17:43 12 know, what is described as the need to know principle, and
15:17:47 13 I think we agreed that it probably has its most profound
15:17:50 14 and acute application in the context of identifying who a
15:17:54 15 human source is, such that we've seen practices in the
15:17:57 16 course of this Royal Commission where some police officers
15:18:00 17 simply say, "If I'm having a discussion about a human
15:18:04 18 source I won't make a note about it at all"?---Yes.
15:18:06 19
15:18:06 20 Again, is that a position that you can understand?---I can
15:18:09 21 understand that position.
15:18:09 22
15:18:09 23 And others say, "Well I can do it but I'll only do it by
15:18:13 24 writing the number down, I'll never use the name"?---H'mm.
15:18:16 25
15:18:16 26 Again there are problems with that though, aren't there, at
15:18:18 27 times, because as was borne out horribly in the Hodson
15:18:22 28 case, the use of the same informer number of a person is
15:18:26 29 being used on multiple and regular occasions across
15:18:30 30 documents, you might as well tell people the name?---Again
15:18:33 31 I think I referred to that in my evidence that that's often
15:18:37 32 how the identity of a human source is established, it's
15:18:40 33 because people look across multiple investigations,
15:18:45 34 multiple documents and it's not hard to work out who
15:18:47 35 actually knew all that information, and so they can be
15:18:49 36 identified that way.
15:18:50 37
15:18:50 38 Indeed, one expects that if people breached information
15:18:54 39 security protocols or did things that might result in the
15:18:58 40 identification of a human source even indirectly, that that
15:19:01 41 could be a matter about which they might be the subject of
15:19:04 42 disciplinary proceedings, or at least counselling or
15:19:10 43 review?---Yes.
15:19:10 44
15:19:12 45 Indeed, we see through the course of the material we've
15:19:12 46 looked at in this Commission police officers telling each
15:19:13 47 other on regular occasions, mostly out of the area that

15:19:17 1 Mr Chettle's clients were operating in, "Look, you
15:19:22 2 mentioned this in an email, that's a high risk thing to
15:19:24 3 say. Please don't do it", and again you'd expect that to
15:19:26 4 be so?---Yes, I would. I would expect that area in
15:19:28 5 particular to be very sensitive about information
15:19:30 6 management.
15:19:30 7
15:19:30 8 You've been asked a lot of questions, you're not the first
15:19:34 9 person in this Commission to have been asked a lot of
15:19:37 10 questions which are getting at the perfectly legitimate
15:19:40 11 issue of who knew Nicola Gobbo was a source and when, you
15:19:43 12 understand you've been asked a lot of questions about
15:19:45 13 that?---I have.
15:19:45 14
15:19:46 15 I just want to see if we can contextualise that a little
15:19:50 16 bit. You haven't been here for the whole thing obviously,
15:19:53 17 only for the last few days, but a lot of people have talked
15:19:56 18 and been asked about what you knew and when and a lot of
15:19:58 19 people have given evidence about what they assumed or knew
15:20:01 20 or thought they knew and those assumptions, as you will
15:20:04 21 have personally experienced at times, can be completely
15:20:08 22 flawed, can't they?---Yes they can.
15:20:09 23
15:20:10 24 Just to drill into the reasons for that, one of the reasons
15:20:11 25 for that of course is the need to know principle, isn't it?
15:20:14 26 Because if you're sitting around a room with a whole lot of
15:20:17 27 people you might be going, "I think he should know", or, "I
15:20:21 28 think she should know", but if you don't know that they do
15:20:23 29 and that they're entitled to do, you certainly just don't
15:20:27 30 go around saying somebody is a human source?---No, you
15:20:30 31 don't do that.
15:20:30 32
15:20:31 33 So your instinctive position is to effectively assume that
15:20:34 34 the people around the table with you, or who you're dealing
15:20:37 35 with, don't know and aren't going to be told unless and
15:20:40 36 until that's appropriate to do so, authorised at an
15:20:44 37 appropriate level and in an appropriate way?---Yes.
15:20:46 38
15:20:48 39 May we take it that that extends right up the chain of
15:20:52 40 command as well, it's not a question of once you get to a
15:20:56 41 certain level of seniority you just know everything, right,
15:20:58 42 there are still - - - ?---Well you can't, for a start.
15:20:59 43
15:20:59 44 Of course?---I think there's, well there's good reasons.
15:21:04 45 It doesn't relate to seniority. I mean, as I say, I was an
15:21:08 46 Assistant Commissioner of Crime and I had no insight into
15:21:10 47 Ceja matters. Now, you know, I understand that, I think

15:21:14 1 there were good arguments for that. There was also stuff I
15:21:18 2 felt it may have been helpful for me to know, but I wasn't
15:21:21 3 in a position to ultimately judge that because I couldn't
15:21:24 4 see the information.
15:21:24 5
15:21:24 6 Yes. And we've heard evidence from numbers of people who
15:21:27 7 having, police officers who having since found out about
15:21:30 8 Nicola Gobbo's role and being involved in investigations
15:21:34 9 which had some relationship with Nicola Gobbo, are angry
15:21:38 10 and professionally hurt about the fact that they weren't
15:21:41 11 told?---Yeah, and I think that's in my experience quite
15:21:44 12 usual. I think police have an understandable desire to
15:21:50 13 know and, you know, to be frank some of them think if
15:21:53 14 they're not told they almost take it as a personal insult.
15:21:57 15
15:21:58 16 By way of example of the need to know principle, there is
15:22:00 17 evidence before this Commission in the form of statements
15:22:03 18 from Mr Davey and Mr Solomon, you know who I'm talking
15:22:05 19 about?---Yes, I do.
15:22:05 20
15:22:06 21 Who are Petra investigators?---Yes, I do.
22
15:22:08 23 Both of whom said in fact even though they were
15:22:10 24 investigators in Petra, that they were never told that
15:22:13 25 Nicola Gobbo was a human source?---Yes, I understand that.
15:22:16 26
15:22:17 27 And yet for all the world if you asked a dozen people
15:22:21 28 around them now, "Would Cam Davey and Sol Solomon have
15:22:26 29 known?" They'd probably say, "Of course they would, they
15:22:28 30 were involved in Petra"?---Yes.
15:22:29 31
15:22:30 32 And that's an example of the danger of assumptions about
15:22:32 33 knowledge of human sources, isn't it?---Yes, it is.
15:22:34 34
15:22:35 35 COMMISSIONER: Mr Holt, I think we've got quite a lot of
15:22:38 36 exhibits to tender, haven't we? Statements, are we doing
15:22:41 37 that now?
15:22:42 38
15:22:43 39 MR HOLT: I'm happy to leave that, Commissioner.
15:22:45 40
15:22:45 41 COMMISSIONER: I'll just check. I understood we were going
15:22:48 42 to do that and they'll take a little while, so if that's a
15:22:51 43 convenient time?
15:22:52 44
15:22:53 45 MR HOLT: Yes, of course. Thank you Commissioner.
15:22:53 46
15:22:53 47 COMMISSIONER: I have a list of exhibits here that you

15:22:55 1 wanted to tender.
15:22:57 2
15:22:57 3 MR WINNEKE: Commissioner, I've got a list of exhibits. I
15:23:02 4 am happy to hand it up, Commissioner, rather than reading
15:23:05 5 them out.
15:23:06 6
15:23:06 7 COMMISSIONER: I've got them.
15:23:08 8
15:23:09 9 #EXHIBIT RC932A - (Confidential) Operation Purana update
10 16/2/04.
11
12 #EXHIBIT RC932B - (Redacted version.)
13
15:23:09 14 #EXHIBIT RC932C - (Confidential) Operation Purana update
15 23/2/04.
16
17 #EXHIBIT RC932D - (Redacted version.)
18
15:23:09 19 #EXHIBIT RC932E - (Confidential) Operation Purana update
20 28/6/04.
21
22 #EXHIBIT RC932F - (Redacted version.)
23
15:23:09 24 #EXHIBIT RC932G - (Confidential) Operation Purana update
25 30/8/04.
26
27 #EXHIBIT RC932H - (Redacted version.)
28
15:23:09 29 #EXHIBIT RC932I - (Confidential) Operation Purana update
30 28/2/05.
31
32 #EXHIBIT RC932J - (Redacted version.)
33
15:23:09 34 #EXHIBIT RC932K - (Confidential) Operation Purana update
35 9/5/05.
36
15:23:15 37 #EXHIBIT RC932L - (Redacted version.)
15:23:15 38
15:24:01 39 COMMISSIONER: The diary entries of Jim O'Brien, which
15:24:03 40 haven't yet been tendered, just those specific entries that
15:24:09 41 were shown to Mr Overland?
15:24:12 42
15:24:12 43 MR WINNEKE: Commissioner, I think Mr O'Brien's diaries
15:24:15 44 have all been tendered.
15:24:17 45
15:24:18 46 MR HOLT: They have been.
15:24:18 47

15:24:19 1 MR WINNEKE: They have been. I'm told some but not all,
15:24:24 2 I'm afraid, Commissioner - - -
15:24:26 3
15:24:26 4 COMMISSIONER: The electronic summary has been tendered but
15:24:29 5 not the diaries themselves.
15:24:31 6
15:24:31 7 MR WINNEKE: Not the diaries. Well if that's the case then
15:24:33 8 I'd seek to tender the handwritten diary entries which are
15:24:37 9 12 September, 30 January, 18 April, 19 April and 6 June.
15:24:43 10 I'm sorry, that is Mr Cornelius.
15:24:47 11
15:24:49 12 #EXHIBIT RC933A - (Confidential) Handwritten diary entries.
15:24:51 13 of Jim O'Brien
15:24:51 14
15:24:51 15 #EXHIBIT RC933B - (Redacted version.)
15:24:54 16
15:24:54 17 MR WINNEKE: Diary entry of Mr Cornelius.
15:24:58 18
15:24:59 19 COMMISSIONER: His diaries haven't been tendered I'm told.
15:25:01 20
15:25:02 21 #EXHIBIT RC934A - (Confidential) Diary entry of Luke
15:25:03 22 Cornelius.
15:25:03 23
15:25:04 24 #EXHIBIT RC934B - (Redacted version.)
15:25:08 25
15:25:08 26 COMMISSIONER: Then the Petra Task Force weekly update, 24
15:25:11 27 April 2007 with the handwriting of Luke Cornelius at the
15:25:15 28 bottom of the document.
15:25:18 29
15:25:19 30 MR WINNEKE: I tender that.
15:25:20 31
15:25:21 32 #EXHIBIT RC935A - (Confidential) Petra Task Force weekly
33 update 24/4/07 with Luke Cornelius
15:25:22 34 handwriting at the bottom.
15:25:22 35
15:25:22 36 #EXHIBIT RC935B - (Redacted version.)
15:25:23 37
15:25:28 38 MR WINNEKE: Petra Task Force weekly update, 28 May 2007.
15:25:32 39
15:25:33 40 #EXHIBIT RC936A - (Confidential) Petra Task Force weekly
15:25:34 41 update 28/5/07.
15:25:34 42
15:25:35 43 #EXHIBIT RC936B - (Redacted version.)
15:25:40 44
15:25:52 45 #EXHIBIT RC937A - (Confidential) Briars Task Force update
15:25:42 46 30/7/07 to board of management from Rod
15:25:49 47 Wilson with handwriting of Luke

15:25:51 1 Cornelius on the bottom.
15:25:53 2
15:25:54 3 #EXHIBIT RC937B - (Redacted version.)
15:25:57 4
15:25:57 5 #EXHIBIT RC938A - (Confidential) Typed version of the
6 handwritten notes of Luke Cornelius,
15:26:03 7 Briars Task Force update 30/7/07.
15:26:03 8
15:26:04 9 #EXHIBIT RC938B - (Redacted version.)
15:26:07 10
15:26:15 11 #EXHIBIT RC939A - (Confidential) Purana Task Force T&C
15:26:10 12 minutes updated 5/11/07.
15:26:17 13
15:26:17 14 #EXHIBIT RC939B - (Redacted version.)
15:26:20 15
15:26:26 16 #EXHIBIT RC940A - (Confidential) Purana Task Force T&C.
15:26:23 17 minutes update 26/11/07.
15:26:27 18
15:26:28 19 #EXHIBIT RC940B - (Redacted version.)
15:26:29 20
15:26:30 21 COMMISSIONER: Petra Task Force weekly update, 1 December
15:26:33 22 2008.
15:26:34 23
15:26:34 24 #EXHIBIT RC941A - (Confidential) Petra Task Force weekly
15:26:32 25 update 1/12/08.
15:26:36 26
15:26:36 27 #EXHIBIT RC941B - (Redacted version.)
15:26:37 28
15:26:46 29 #EXHIBIT RC942A - (Confidential) Diary entry of Steve Smith
15:26:41 30 16/12/08, p.24 of the diary
15:26:47 31
15:26:48 32 #EXHIBIT RC942B - (Redacted version.)
15:26:49 33
15:26:55 34 #EXHIBIT RC943A - (Confidential) diary entries of Shane.
15:26:50 35 O'Connell dated 1-2/1/09.
15:26:56 36
15:26:57 37 #EXHIBIT RC943B - (Redacted version.)
15:26:58 38 #EXHIBIT RC944A - (Confidential) Diary entry of Steve Smith
15:27:01 39 3/1/09.
15:27:04 40
15:27:04 41 #EXHIBIT RC944B - (Redacted version.)
15:27:07 42
15:27:12 43 #EXHIBIT RC945A - (Confidential) Diary entry of Hollowood
15:27:10 44 5/1/09.
45
15:27:13 46 #EXHIBIT RC945B - (Redacted version.)
15:27:15 47

15:27:19 1 COMMISSIONER: We have the hard copy blue folders, two hard
15:27:24 2 copy blue folders with the plastic pockets the witness was
15:27:28 3 shown this morning.
15:27:29 4
15:27:29 5 MR HOLT: Commissioner, I don't think those are presently
15:27:32 6 subject to a Notice to Produce, because the Notice to
15:27:35 7 Produce required them to be produced, so I have no
15:27:37 8 difficulty with them being noted but if we could request a
15:27:42 9 Notice to Produce in that form, there are also some
15:27:44 10 documents in there that are irrelevant and highly
15:27:46 11 sensitive. I'm happy to discuss those with Mr Winneke but
15:27:51 12 we may ask for those to be removed before it's tendered.
15:27:51 13
15:27:52 14 MR WINNEKE: I'd seek, Commissioner, that all of the
15:27:53 15 documents be in the folders because those were the
15:27:57 16 documents, the folders that have been provided. Until we
15:28:00 17 get a statement which identifies the way in which, the
15:28:03 18 means by which those folders were put together, it's not
15:28:07 19 possible to say whether they're relevant or irrelevant.
15:28:10 20
15:28:10 21 MR HOLT: I understand the point. Perhaps, Commissioner,
15:28:12 22 could we seek an order that those folders in the meantime
15:28:16 23 be secured in a class C safe until that issue is resolved
15:28:22 24 to the Commission's satisfaction because there are highly
15:28:25 25 sensitive, which we say are irrelevant, I understand the
15:28:31 26 Commission will need to make its own assessment of that.
15:28:31 27
15:28:31 28 COMMISSIONER: I'll mark them for identification at the
29 moment then.
30
31 MR HOLT: Thank you Commissioner.
32
15:28:33 33 COMMISSIONER: I'll mark them for identification and
15:28:33 34 they're to be held in a secure safe until you've had time
15:28:37 35 to discuss this issue further.
15:28:39 36
15:28:40 37 MR HOLT: And obviously that shouldn't prevent those
15:28:44 38 assisting you from inspecting them but just in terms of
15:28:47 39 security.
15:28:47 40
15:27:24 41 #EXHIBIT MFI A - Hard copy blue folder 1 with plastic
15:27:26 42 pockets.
15:28:48 43
15:27:24 44 #EXHIBIT MFI B - Hard copy blue folder 2 with plastic
15:27:26 45 pockets.
15:28:54 46
15:28:54 47 COMMISSIONER: We'll deal with it in the New Year when

15:28:57 1 there's a little more known about them.
2
3 MR WINNEKE: Thank you Commissioner.
4
15:28:59 5 COMMISSIONER: You might want to issue a Notice to Produce
15:29:01 6 too by the sound of it.
15:29:01 7
15:29:02 8 MR WINNEKE: If we need to do so we'll do so.
15:29:06 9
15:29:06 10 MR HOLT: I'll liaise with those assisting, Commissioner,
15:29:08 11 it will be needed.
12
15:29:09 13 MR WINNEKE: Righto.
15:29:09 14
15:29:10 15 COMMISSIONER: The electronic diary entry of meeting 27 May
15:29:14 16 2009, handwritten notes from Steve Smith to Luke Cornelius.
15:29:19 17
15:29:19 18 #EXHIBIT RC946A - (Confidential) The electronic diary entry
15:29:11 19 of meeting 27/5/09, handwritten notes
15:29:17 20 from Steve Smith to Luke Cornelius.
15:29:20 21
15:29:21 22 #EXHIBIT RC946B - (Redacted version.)
15:29:23 23
15:29:23 24 COMMISSIONER: Letter to Chief Commissioner over from
15:29:26 25 Nicola Gobbo, 7 September 2009.
15:29:29 26
15:29:30 27 #EXHIBIT RC947A - (Confidential) Letter to Chief
15:29:26 28 Commissioner Overland from Nicola Gobbo
15:29:28 29 7/9/09.
15:29:31 30
15:29:32 31 #EXHIBIT RC947B - (Redacted version.)
15:29:33 32
15:29:39 33 #EXHIBIT RC948A - (Confidential) Letter 28/9/09.
15:29:40 34
15:29:40 35 #EXHIBIT RC948B - (Redacted version.)
15:29:41 36
15:29:52 37 #EXHIBIT RC949A - (Confidential) Letter 21/10/10.
15:29:53 38
15:29:54 39 #EXHIBIT RC949B - (Redacted version.)
15:29:57 40
15:30:04 41 #EXHIBIT RC950A - (Confidential) Statement of claim, Nicola
15:30:01 42 Gobbo v State of Victoria.
15:30:05 43
15:30:06 44 #EXHIBIT RC950B - (Redacted version.)
15:30:07 45
15:30:08 46 COMMISSIONER: And Victoria Police Legal Services
15:30:11 47 Department record of attendance file note, 3 June 2010, CCP

15:30:21 1 briefing conference venue Finn McCrae, Lardner, Ken Jones,
15:30:28 2 Simon Overland overview of issues provided.
15:30:32 3
15:30:33 4 MR HOLT: I thought that was tendered during the evidence
15:30:35 5 of Sir Ken Jones, Commissioner. If I can just ask that be
15:30:38 6 double-checked.
15:30:39 7
15:30:39 8 COMMISSIONER: We'll double-check that one.
15:30:41 9
15:30:41 10 MR HOLT: It may not have.
15:30:43 11
15:30:50 12 #EXHIBIT RC951A - (Confidential) Memo from Chief
15:30:45 13 Commissioner Simon Overland to Jeff Pope
14 CC to Ken Jones direction to members of
15:30:47 15 Petra Task Force 16/8/10.
15:30:52 16
15:30:53 17 #EXHIBIT RC951B - (Redacted version.)
15:30:55 18
15:31:04 19 #EXHIBIT RC952A - (Confidential) Letter from Simon Overland
15:30:57 20 to Mr Cameron, the Minister for Police
15:31:05 21 16/8/10.
15:31:05 22
15:31:06 23 #EXHIBIT RC 952B - (Redacted version.)
15:31:07 24
15:31:07 25 COMMISSIONER: Any luck on finding that - the whiteboard
15:31:30 26 printout apparently was tendered, but not this - - -
15:31:33 27
15:31:34 28 MR WINNEKE: Not the blue diary note.
15:31:38 29
15:31:38 30 #EXHIBIT RC953A - (Confidential) Blue diary note.
15:31:39 31
15:31:40 32 #EXHIBIT RC953B - (Redacted version.)
15:31:44 33
15:31:45 34 COMMISSIONER: Are we also tendering some statements?
15:31:48 35
15:31:48 36 MR WINNEKE: Ms Tittensor is going to deal with that.
15:31:51 37 There are typewritten copies of Mr Biggin's notes,
15:31:56 38 Mr Chettle tells me they haven't been tendered.
15:31:59 39
15:32:00 40 MR CHETTLE: You'll remember he had a summary of his
15:32:02 41 diaries which are referred to. I've got them here and I
15:32:03 42 don't believe they've got an exhibit number, I might be
15:32:07 43 wrong.
15:32:07 44
15:32:08 45 MR HOLT: My memory is may have been part of his statement
15:32:14 46 and therefore tendered on that basis but can we check and
15:32:15 47 we'll confirm the position.

15:32:15 1
15:32:16 2 COMMISSIONER: Yes, let's deal with that.
3
4 MR WINNEKE: Thanks very much, Commissioner.
5
15:32:16 6 COMMISSIONER: We're running short on time but this won't
15:32:19 7 take long, will it, Ms Tittensor?
15:32:21 8
15:32:22 9 MS TITTENSOR: No, Commissioner. I can read out the names
15:32:24 10 of a number of people who have made statements.
15:32:26 11
15:32:27 12 COMMISSIONER: We're up to 952, yes.
15:32:30 13
15:32:37 14 #EXHIBIT RC954A - (Confidential) Statement of Marlo
15
16 Baragwanath.
15:32:37 17 #EXHIBIT RC954B - (Redacted version.)
15:32:38 18
15:32:38 19 #EXHIBIT RC955A - (Confidential) Statement of David Ryan.
15:32:42 20
15:32:42 21 #EXHIBIT RC955B - (Redacted version.)
15:32:43 22
15:32:43 23 #EXHIBIT RC956A - (Confidential) Statement of Monica
15:32:47 24 Kepevska
25
15:32:37 26 #EXHIBIT RC956B - (Redacted version.)
27
15:32:37 28 #EXHIBIT RC957A - (Confidential) Statement of Shaun
29 Le Grand.
30
15:32:37 31 #EXHIBIT RC957B - (Redacted version.)
32
15:32:58 33 #EXHIBIT RC958A - (Confidential) Statement of Greg Elms.
15:32:59 34
15:32:59 35 #EXHIBIT RC958B - (Redacted version.)
36
37
15:32:37 38 #EXHIBIT RC959A - (Confidential) Statement of Peter
15:33:07 39 Stewart.
15:33:07 40
15:32:37 41 #EXHIBIT RC959B - (Redacted version.)
42
15:33:08 43 #EXHIBIT RC960A - (Confidential) Statement of John Cain.
15:33:12 44
15:33:14 45 #EXHIBIT RC960B - (Redacted version.)
15:33:16 46
15:33:16 47 #EXHIBIT RC961A - (Confidential) Statement of Dianne

15:33:20 1 Preston.
15:33:21 2
15:33:22 3 #EXHIBIT RC961B - (Redacted version.)
15:33:46 4
15:33:52 5 #EXHIBIT RC962A - (Confidential) Statement of Gerard.
15:33:53 6 Maguire.
15:33:53 7
15:33:53 8 #EXHIBIT RC962B - (Redacted version.)
15:33:57 9
15:33:57 10 #EXHIBIT RC963A - (Confidential) Statement of Ron Gipp.
11
15:34:00 12 #EXHIBIT RC963B - (Redacted version.)
15:34:02 13
15:34:03 14 #EXHIBIT RC964A - (Confidential) Statement of Michael Rush.
15:34:07 15
15:34:07 16 #EXHIBIT RC964B - (Redacted version.)
15:34:08 17
15:34:09 18 #EXHIBIT RC965A - (Confidential) Statement of Rowena Orr.
15:34:14 19
15:34:14 20 #EXHIBIT RC965B - (Redacted version.)
15:34:16 21
15:34:17 22 #EXHIBIT RC966A - (Confidential) Statement of Peter Hanks.
15:34:20 23
15:34:20 24 #EXHIBIT RC966B - (Redacted version.)
15:34:22 25
15:34:23 26 #EXHIBIT RC967A - (Confidential) Statement of Brian Dennis.
15:34:26 27
15:34:26 28 #EXHIBIT RC967B - (Redacted version.)
15:34:29 29
15:34:29 30 #EXHIBIT RC968A - (Confidential) Statement of Alistair
15:34:33 31 Grigor.
15:34:33 32
15:34:34 33 #EXHIBIT RC968B - (Redacted version.)
15:34:35 34
15:34:37 35 #EXHIBIT RC969A - (Confidential) Statement of Tony
15:34:39 36 Hargreaves.
15:34:42 37
15:32:37 38 #EXHIBIT RC969B - (Redacted version.)
39
15:34:43 40 #EXHIBIT RC970A - (Confidential) Statement of Con Heliotis
15:34:48 41
15:34:48 42 #EXHIBIT RC970B - (Redacted version.)
15:34:51 43
15:34:52 44 #EXHIBIT RC971A - (Confidential) Statement of Ian Hill.
45
15:32:37 46 #EXHIBIT RC971B - (Redacted version.)
15:34:55 47

15:34:56 1 #EXHIBIT RC972A - (Confidential) Statement of Alex
15:35:01 2 Lewenberg.
15:35:01 3
15:35:02 4 #EXHIBIT RC972B - (Redacted version.)
15:35:03 5
15:35:05 6 #EXHIBIT RC973A - (Confidential) Statement of Gary
15:35:08 7 Livermore.
15:35:09 8
15:35:10 9 #EXHIBIT RC973B - (Redacted version.)
15:35:12 10
15:35:12 11 #EXHIBIT RC974A - (Confidential) Statement of Colin Lovitt.
12
15:32:37 13 #EXHIBIT RC974B - (Redacted version.)
14
15:32:37 15 #EXHIBIT RC975A - (Confidential) Statement of Judge Greg
15:35:19 16 Lyon.
17
15:32:37 18 #EXHIBIT RC975B - (Redacted version.)
15:35:21 19
15:35:23 20 #EXHIBIT RC976A - (Confidential) Statement of David
15:35:26 21 O'Doherty.
22
15:32:37 23 #EXHIBIT RC976B - (Redacted version.)
15:35:28 24
15:35:28 25 #EXHIBIT RC977A - (Confidential) Statement of Robert
15:35:32 26 Richter.
27
15:32:37 28 #EXHIBIT RC977B - (Redacted version.)
29
15:32:37 30 #EXHIBIT RC978A - (Confidential) Statement of an Alan
15:35:37 31 Swanwick.
15:35:37 32
15:35:39 33 #EXHIBIT RC978B - (Redacted version.)
15:35:41 34
15:35:42 35 #EXHIBIT RC979A - (Confidential) Statement of Jim Valos.
15:35:46 36
15:35:46 37 #EXHIBIT RC979B - (Redacted version.)
15:35:48 38
15:35:50 39 #EXHIBIT RC980A - (Confidential) Statement of Warren
15:35:53 40 Peacock.
15:35:54 41
15:35:55 42 #EXHIBIT RC980B - (Redacted version.)
15:36:05 43
15:36:05 44 MR WINNEKE: Commissioner, I think that's all the evidence
15:36:08 45 we have for this year, sadly. Can I just say one thing, I
15:36:13 46 put to Mr Overland I think at one point during
15:36:16 47 cross-examination apropos of a meeting on 3 June 2010,

15:36:22 1 where the whiteboard was being discussed, I think I put to
15:36:27 2 him that at that stage Mr McRae was not aware that Ms Gobbo
15:36:31 3 had been a human source between 2005 and 2008 or 9. That
15:36:36 4 may not be entirely accurate, it may be somewhat accurate
15:36:41 5 but not entirely accurate. Mr Holt points out to me that
15:36:44 6 in Mr McRae's statement he says that during stage he was
15:36:49 7 discovering that Ms Gobbo had become a human source,
15:36:52 8 although it's not clear to me having read his statement
15:36:54 9 whether he was aware at that time whether it was strictly
15:36:57 10 between those dates.

15:36:59 11
15:37:00 12 MR HOLT: My friend puts it fairly, it was just was put as
15:37:04 13 a firm proposition and that's not borne out by the same.

15:37:06 14
15:37:07 15 COMMISSIONER: All right then. Before we adjourn I'd like
15:37:08 16 to thank the wonderful transcribers who have done such a
15:37:13 17 good job under difficult conditions and also our wonderful
15:37:17 18 technical staff and the Commission staff. I'd also like to
15:37:22 19 thank counsel and their teams for their good humour, for
15:37:28 20 assisting me wherever possible to hold the hearings in
15:37:32 21 public and their good grace, even in the light of agist
15:37:42 22 jokes, Mr Chettle.

15:37:44 23
15:37:45 24 MR CHETTLE: As the oldest person here, Commissioner, can I
15:37:49 25 wish you a Merry Christmas.

15:37:50 26
15:37:51 27 COMMISSIONER: Thanks Mr Chettle. I'd also like to thank
15:37:53 28 the media for their support in ensuring that as much as
15:37:58 29 possible of this Commission can be held in public and also
15:38:02 30 for their sensitivities to abiding by the various
15:38:10 31 suppression orders and other orders that have been made and
15:38:15 32 their recognition of the importance of those orders in the
15:38:18 33 light of protecting the physical safety of human beings
15:38:24 34 that are mentioned in this Commission.

15:38:26 35
15:38:26 36 So I wish everybody a happy end of year break and a
15:38:32 37 refreshing break and we'll see you all next year at 9.30 on
15:38:39 38 21 January. Adjourn, thank you.

15:38:39 39
15:39:08 40 <(THE WITNESS WITHDREW)

15:39:08 41
15:39:09 42 ADJOURNED UNTIL TUESDAY 21 JANUARY 2020

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